distinguished subcommittee chairman is speaking about, but I would call to his attention the fact that the extension of the life of the Federal Energy Administration affects both section 1 and section 2. Therefore, it seems to me that in the normal, orderly process of the business of the House, we ought to offer this amendment at the earlier time.

We should note that the amendment that has been offered clearly indicates that in section 1, section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976," which is in section 1, and extending it to another date which is 15 months hence. Therefore, Mr. Chairman, I think what we now have to decide is whether or not we can proceed to debate a matter which we can alter and come out halfway between the Schroeder position and the Dingell position. That, it seems to me, is not altogether unreasonable, Mr. Chairman. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentlewoman from Colorado (Mrs. Schroeder) is an amendment in the nature of a substitute for the entire bill and the Schroeder amendment is open to amendment at any point. The amendment offered by the gentleman from Indiana (Mr. Fithian) simply changes the date in the Schroeder amendment when FEA is to be abolished. It simply provides for a change of date.

The amendment is germane to the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder). The Chair, therefore, overrules the point of order.

§ 3. Amendment as Relating to Subject Matter Under Consideration

A broad requirement of the germaneness rule is that an amendment relate to the subject matter under consideration. It has been stated that,

> The fundamental test of germaneness . . . is that a proposition submitted must be akin and relative to the particular subject matter to which the proposition is offered as an amendment.[19]

Thus, an amendment relating to a subject to which there is no reference in the text to which offered may not be germane to the bill.[20]

Of course, the fact that two subjects are related does not necessarily render them germane to each other.[1] "Germaneness," as has been noted,[2] implies more than "relevance." For example, it has been held that, to a proposal to authorize certain activities, an amendment proposing to investigate the advisability of undertaking such activities is not germane.[3]

---

19. See § 3.26, infra.

20. See § 5.8, infra.

1. See, for example, § 3.57, infra.

2. See § 1, supra.

3. See § 5.29, infra.

Amendment Affecting Excess-Profits Tax Credits Offered to Bill Relating to Settlement of Strikes

§ 3.1 To a bill relating to the settlement of labor disputes and strikes, an amendment was held to be not germane which proposed reduction of excess-profits tax credits of employers in an amount determined by the duration of any work stoppages resulting from labor disputes on the employers' premises.

In the 79th Congress, during consideration of a bill[4] relating to the settlement of labor disputes, the following amendment was offered:[5]

> Amendment offered by Mr. [Herman P.] Eberharter [of Pennsylvania] to the Case amendment: Page 15, after line 8, add a new section, as follows:
>
> EXCESS-PROFITS TAX CARRY-BACK CREDITS AS AFFECTED BY STRIKES
>
> Sec. 14. If in any taxable year ending after December 31, 1945, there exists a stoppage of work at any time during such taxable year because of a labor dispute at the factory, establishment, or other premises of the taxpayer, who is an employer under any of the provisions of this act, the unused excess-profits credit for such taxable year shall be reduced by an amount which is such part of the unused excess-profits credit as the number of days during which such stoppage was in effect is of the total number of days in such taxable year prior to January 1, 1947.

After Mr. Francis H. Case, of South Dakota, made the point of order that the amendment was not germane, Mr. Eberharter stated:

> . . . [T]he amendment applies only to those employers who are taxpayers and whose plant or establishment is affected by a strike or by a work stoppage. Therefore, it brings them entirely within the provisions of both the committee bill and the Case amendment.

The Chairman,[6] in ruling on the point of order, stated:

> . . . [A]fter having examined all the bills that have been introduced, including the declarations of policy, the opening paragraphs, and all the remainder of the bills, as far as the Chair can discover there is not one word mentioned about taxes or the disposition of taxes. Although the rule and the action of the House in adopting the rule opened the whole question to a very wide interpretation, the Chair does not feel that the question of the disposition of excess profits is within the purview of any of the bills. The Chair, therefore, sustains the point of order.

4. H.R. 4908 (Committee on Labor).

5. 92 CONG. REC. 1009, 79th Cong. 2d Sess., Feb. 6, 1946.

6. Emmet O'Neal (Ky.).

Amendment Declaring Intent of Congress as to Suspension of Tax Measures Offered to Bill Relating to Settlement of Strikes

§ 3.2 To a bill relating to the settlement of labor disputes and strikes, an amendment declaring the intent of Congress that certain tax measures be suspended for the duration of any strikes that impair the economy was held not germane.

In the 79th Congress, during consideration of a bill[7] relating to the settlement of labor disputes, the following amendment was offered:[8]

> Amendment offered by Mr. [Cleveland M.] Bailey, of West Virginia, to the Case substitute for H.R. 4908: On page 3, line 18, after the word "arbitration", strike out the period, insert a comma, and insert "And in this connection it is the declared intent of the Congress that all subsidies now being paid out of the United States Treasury in the form of tax refunds, tax rebates, and 'carry back' payments to individuals, companies, or corporations, be suspended for the duration of any strike or strikes now existing or that may occur during the calendar year that lead to industrial unrest, delay reconversion, and otherwise impair our national economy."

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

> MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, the amendment is clearly out of order. It is not germane to the bill. There is nothing in this bill that has anything to do with the carry-back.

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

> MR. BAILEY: The Congress is being asked for a two-page declaration of policy contained in the proposed Case substitute to H.R. 4908 to make known its intent as regards strikes in industry. This declaration of policy is also predicated on the assumption that the speedy end of strikes will be in the public welfare and tend also to stabilize our post-war economy.

The Chairman, Emmet O'Neal, of Kentucky, in ruling on the point of order, stated:[9]

> In the opinion of the Chair, the amendment offered by the gentleman from West Virginia [Mr. Bailey] deals with both taxation and the disposition of taxes, and is not germane to the pending amendment.
>
> The point of order is sustained.

Bill Relating to Settlement of Strikes—Amendment to Federal Corrupt Practices Act Concerning Political Contributions of Labor Organizations

§ 3.3 To a bill relating to the settlement of labor disputes

7. H.R. 4908 (Committee on Labor).
8. 92 CONG. REC. 854, 79th Cong. 2d Sess., Feb. 4, 1946.
9. *Id.* at p. 855.

and strikes, an amendment seeking to amend the Federal Corrupt Practices Act and concerning political contributions of labor organizations was held to be not germane.

In the 79th Congress, during consideration of a bill[10] relating to settlement of labor disputes, the following amendment was offered:[11]

> Amendment offered by Mr. [Ralph E.] Church [of Illinois]: Page 15, line 9, of the Case amendment, insert the following:
>
> Section 13 of the Federal Corrupt Practices Act, 1925, is hereby amended to read as follows:
>
> Sec. 13. It is unlawful . . . for any corporation . . . or any labor organization to make any contribution . . . or levy any assessments on its . . . members . . . in connection with any election at which Presidential and Vice Presidential electors, or a Senator or a Representative in . . . Congress are to be voted for. . . .

Mr. Francis H. Case, of South Dakota, having raised the point of order that the amendment was not germane, the Chairman[12] without elaboration held that the amendment was not germane to the bill.

Amendment Prohibiting Compensation to Persons Forcibly Seeking To Prevent Workmen From Returning to Work Offered to Amendment Prohibiting Compensation to Defense Employees Participating in Strikes

§ 3.4 To an amendment prohibiting compensation to persons participating in strikes while employed in the production of defense articles, a substitute prohibiting compensation under specified circumstances to any person "who assists in maintaining a picket line or otherwise seeks forcibly to prevent the return of workmen" to work, was held not germane.

In the 77th Congress, during proceedings relating to the Military Appropriations Bill of 1942,[13] the following proposition[14] was under consideration:

> Amendment offered by Mr. [Joe] Starnes [of Alabama]: On page 71, after line 12, insert a new section, as follows:
>
> Sec. 11. No part of any appropriation contained in this act shall be available

10. H.R. 4908 (Committee on Labor).
11. 92 CONG. REC. 1020, 79th Cong. 2d Sess., Feb. 6, 1946.
12. Emmet O'Neal (Ky.).
13. H.R. 4965 (Committee on Appropriations).
14. See 87 CONG. REC. 4837, 4838, 77th Cong. 1st Sess., June 6, 1941.

for the payment of compensation to any person by whomsoever employed who, while employed directly or indirectly, in the manufacture or production of any defense article, as defined in Public Act No. 11, Seventy-seventh Congress, shall hereafter stop work for a period in excess of 10 days by reason of being a voluntary participant in any strike called in any plant manufacturing or producing defense articles.

The following substitute amendment was offered:[15]

Substitute amendment for the Starnes amendment by Mr. [Francis H.] Case of South Dakota:

Sec. 13. No part of any appropriation contained in this act shall be available for the payment of compensation to any person for services in a plant engaged in the manufacture or production of any defense article . . . who assists in maintaining a picket line or otherwise seeks forcibly to prevent the return of workmen after the National Mediation Board shall have certified to the President that further stoppage of work in that plant will critically impede the national-defense program.

The following proceedings[16] then took place with respect to a point of order raised against the amendment:

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

THE CHAIRMAN:[17] . . . The Chair . . . is clearly of the opinion that the substitute amendment is not in order by reason of the fact that it is not germane to the amendment offered by the gentleman from Alabama [Mr. Starnes]. The amendment as offered by the gentleman from Alabama has to do with the stoppage of work, by its terms saying "shall hereafter stop work for a period in excess of 10 days," and so forth, whereas the amendment offered by the gentleman from South Dakota has to do with picketing and picketing lines, which is quite different from a stoppage of work.

For that reason the substitute is not in order, inasmuch as it is not germane to the amendment offered by the gentleman from Alabama [Mr. Starnes]. On the ground that it is not germane, the Chair holds it is out of order.

Bill To Promote Cotton Research and Marketing—Amendment Affecting Labor in Cotton Industry

§ 3.5 To a bill establishing a cotton research program and promoting the marketing of cotton, an amendment providing for research with respect to training and utilization of displaced farm labor in the cotton industry, was held to be not germane.

The following exchange,[18] which occurred during consideration of the Cotton Research and

15. 87 CONG. REC. 4887, 77th Cong. 1st Sess., June 9, 1941.

16. *Id.* at pp. 4887, 4888.

17. Fritz G. Lanham (Tex.).

18. 112 CONG. REC. 4838, 4839, 89th Cong. 2d Sess., Mar. 3, 1966.

Promotion Act of 1966,[19] concerned the propriety of amendments offered by Mr. William F. Ryan, of New York:

MR. [HAROLD D.] COOLEY [of North Carolina]: [The amendments] are not germane. They provide for research and development projects and studies with respect to training or retraining and utilization of displaced farm labor engaged in the growing of cotton. . . .

The bill under consideration deals only with cotton and the promotion and research in the field of cotton. The bill has nothing whatever to do with farm labor. . . .

MR. RYAN: Mr. Chairman, I know of nothing more germane or relevant to a bill which deals with the increased productivity of cotton, which deals with the question of competitive efficiency, than at the same time to deal with the question of what happens to individuals engaged in the farming of cotton who are affected by that increased productivity. . . .

[Section 6(b) of H.R. 12322] provides for research and development projects and studies with respect to production and distribution to make marketing more efficient and cotton generally more competitive.

My amendment is a companion to that section. It calls for research and development projects and studies with respect to training . . . of displaced farm labor engaged in the growing of cotton. . . .

THE CHAIRMAN:[20] The Chair is of the opinion that the amendment deals with persons in farm labor, and the bill itself deals with commodities and the promotion of commodities, and that the amendment is not germane and sustains the point of order.

Provision Abolishing Federal Energy Administration—Amendment Delaying Termination

§ 3.6 To an amendment abolishing the Federal Energy Administration on a date certain and transferring some of its functions to other agencies at that time, an amendment delaying the termination date of that agency for one year was held to be germane.

On June 1, 1976,[1] during consideration of H.R. 12169 (Federal Energy Administration extension), in response to a point of order, the Chair held the following amendment germane to the matter to which it was offered:

The Clerk read as follows:

Amendment offered by Mr. Fithian to the amendment in the nature of a substitute offered by Mrs. Schroeder: Strike out "That the Federal Energy Administration is abolished" and insert in lieu thereof the following section:

"Sec. 1. Section 30 of the Federal Energy Administration Act of 1974 is amended by striking out 'June 30,

19. H.R. 12322 (Committee on Agriculture).

20. John J. McFall (Calif.).

1. 122 CONG. REC. 16025, 16026, 94th Cong. 2d Sess.

1976' and inserting in lieu thereof 'September 30, 1977'."

On line 3 of section 2 insert after "shall be abolished" the words "effective September 30, 1977".

On line 4 of section 3 strike the colon and insert the words "effective September 30, 1977:"

THE CHAIRMAN:[2] Does the gentleman from Michigan reserve his point of order?

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

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

MR. DINGELL: I do, Mr. Chairman.

THE CHAIRMAN: The Chair will be glad to hear the gentleman.

MR. DINGELL: Mr. Chairman, the amendment must be not only germane to the amendment in the nature of a substitute and to the bill but it must be germane to the particular part of the bill to which it is addressed.

Mr. Chairman, if we will read the bill, we will observe there are two parts. There is a section 1 and a section 2. Section 1 relates to authorizations for appropriations, and section 2 relates to the extension of the life of the agency. The provisions relating to the extension of the agency itself, we will observe, are in section 2, which appears at page 10 of the bill, and while it might be desirable to have the amendment that the gentleman offers set forth as a policy from his point of view, the fact of the matter is that the amendment should be offered to the later part of the bill, section 2, printed at page 10, and not to the Schroeder amendment as offered. . . .

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I recognize what the distinguished subcommittee chairman is speaking about, but I would call to his attention the fact that the extension of the life of the Federal Energy Administration affects both section 1 and section 2. Therefore, it seems to me that in the normal, orderly process of the business of the House, we ought to offer this amendment at the earlier time.

We should note that the amendment that has been offered clearly indicates that in section 1, section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976," which is in section 1, and extending it to another date which is 15 months hence. Therefore, Mr. Chairman, I think what we now have to decide is whether or not we can proceed to debate a matter which we can alter and come out halfway between the Schroeder position and the Dingell position. That, it seems to me, is not altogether unreasonable, Mr. Chairman. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentlewoman from Colorado (Mrs. Schroeder) is an amendment in the nature of a substitute for the entire bill and the Schroeder amendment is open to amendment at any point. The amendment offered by the gentleman from Indiana (Mr. Fithian) simply changes the date in the Schroeder amendment when FEA is to be abolished. It simply provides for a change of date.

The amendment is germane to the amendment in the nature of a substitute offered by the gentlewoman

2. William H. Natcher (Ky.).

from Colorado (Mrs. Schroeder). The Chair, therefore, overrules the point of order.

Provision To Establish Termination Date for Energy Agency—Substitute Providing Reorganization Plan

§ 3.7 For an amendment establishing a termination date for the Federal Energy Administration, a substitute not dealing with the date of termination but providing instead a reorganization plan for that agency was held to be not germane.

On June 1, 1976,[3] during consideration of a bill[4] extending the Federal Energy Administration Act, an amendment was offered which sought to change a provision of the bill relating to the date of termination of the Federal Energy Administration. A substitute for that amendment was then offered. The proceedings were as follows:

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fithian: Page 10, line 4, strike out "September 30, 1979" and insert in lieu thereof "December 31, 1977". . . .

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Indiana (Mr. Fithian). . . .

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by Mr. Fithian: On page 10, after line 4, add the following:

"Sec. 3. Section 28 of the Federal Energy Administration Act of 1974 is amended by inserting the following, in lieu thereof,

"Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, as provided for in Section 30 of this Act, all functions of the Federal Energy Administration shall be transferred to existing departments, agencies or offices of the Federal Government, or their successors. The President, through the Director of the Office of Management and Budget, shall file, 12 months before the termination of this Act, a plan and program with the Speaker of the House of Representatives and the President of the Senate, to provide for the orderly transfer of the functions of the Federal Energy Administration to such departments, agencies or offices. Within 90 days after the submission of this plan and program, either House of Congress may pass a resolution disapproving such plan and program.' ". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, my point of order is in several parts. The first, Mr. Chairman, is that the amendment must be germane to the Fithian amendment. I make the point that it is not.

Mr. Chairman, the Fithian amendment, if the Chair will note, simply relates to the termination of the exist-

3. 122 CONG. REC. 16051, 16055, 16056, 94th Cong. 2d Sess.

4. H.R. 12169.

ence of the FEA as an agency and sets a date for the expiration thereof.

This amendment goes much further, and if the Chair will consult the amendment, the Chair will find that it relates to the compensation of executives, that it relates and fixes the levels at which executives' salaries and compensation will be held. It deals with the administration being able to employ and fix the compensation of officers and employees and it limits the number of positions which may be at different GS levels.

It goes much further. It deals with section 527 of the Energy Policy and Conservation Act, which is not referred to in the Fithian amendment and, indeed, which is not referred to elsewhere in the bill.

Mr. Chairman, it deals with the fixing of the compensation of Federal employees. It deals with the powers of the President, the duties and powers of the Director of the Office of Management and Budget functioning through and under the President. It deals with the filing of the plans for the termination of the act with the Speaker of the House of Representatives and it provides a plan to deal with the orderly transfer of functions to the Federal Energy Administration to such Departments and so forth.

It goes further and effectively amends the Reorganization Act by providing that the plan may be approved or disapproved by either House of Congress in a fashion in conformity with the requirements of the Reorganization Act. . . .

MR. MYERS of Pennsylvania: . . . This amendment simply deals with the termination of the FEA after 15 months. The only difference between my amendment and the amendment of the gentleman from Indiana (Mr. Fithian) would be that it does indicate that the President should through OMB present to the Congress a plan. . . .

The Chairman:[5] The Chair is ready to rule.

The amendment offered by the gentleman from Indiana (Mr. Fithian) goes solely to the question of the date of termination of the FEA. The substitute amendment offered by the gentleman from Pennsylvania, now before the Committee, goes beyond that issue to the question of reorganization of that agency. Therefore, it is not germane as a substitute. The point of order would have to be sustained; but the gentleman's amendment might be in order following the Fithian amendment as a separate amendment to the Committee proposal.

Appropriations for Programs Administered by Department of Energy—Amendment Appropriating Funds for Program Under Department of Agriculture

§ 3.8 To a portion of an appropriation bill containing funds for a certain purpose to be expended by one government agency, an amendment containing funds for another government agency for the same general purpose may not be germane al-

5. William H. Natcher (Ky.).

though authorized by law; thus, to a title of a general appropriation bill containing funds for energy programs administered by the Department of Energy, an amendment appropriating a portion of those funds for a pilot wood utilization program authorized by law to be conducted by the Department of Agriculture was held not germane.

On July 24, 1981,[6] during consideration of the Energy and Water Development Appropriations, fiscal 1982,[7] in the Committee of the Whole, Chairman Anthony C. Beilenson, of California, sustained a point of order against the following amendment:

MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Weaver: Page 16, line 19, insert immediately before the period the following: ", and *Provided further*, That $5,000,000 of the funds provided herein shall be made available to the Secretary of Agriculture for the establishment of pilot wood utilization projects and demonstrations as authorized by the Wood Residue Utilization Act of 1980, Public Law 96–554.".

MR. [TOM] BEVILL [of Alabama]: Mr. Chairman, I make a point of order against the gentleman's amendment. . . .

The amendment is not germane to this paragraph of the bill nor to the bill as a whole. The wood residue program is authorized by Public Law 96–554, and clearly is to be administered by the Forest Service, Department of Agriculture, which is funded under the Interior appropriations bill.

This program was not authorized to be administered or funded by the Department of Energy, which is where the gentleman's amendment applies.

Under clause 7, rule XVI, it is stated that it is not in order during consideration in the House to introduce a new subject by way of amendment, and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered.

I contend this amendment is not germane to this paragraph or this bill and is in violation of clause 7, rule XVI. . . .

MR. WEAVER: . . . [T]he Department of Energy now funds wood utilization programs. This bill is law. We are not changing existing law. We are referring only to existing law and it is an energy manufacturing program and, therefore, definitely germane to this bill.

THE CHAIRMAN: The Chair is prepared to rule on the point of order made by the gentleman from Alabama (Mr. Bevill).

For the purposes stated by the gentleman from Alabama, the distinguished chairman of the subcommittee, the point of order is sustained and the amendment is held not germane to the pending title of the bill, which relates only to the Department of Energy.

6. 127 CONG. REC. 17226, 97th Cong. 1st Sess.

7. H.R. 4144.

Proposition To Authorize Gasoline Rationing—Amendment Establishing User Charge for Gasoline

§ 3.9 To a section of an amendment in the nature of a substitute which amended section 4 of the Emergency Petroleum Allocation Act of 1973 to authorize the President to establish priorities, including rationing of gasoline, among users of petroleum products, an amendment providing that any rationing proposal for individual users of gasoline should include payment of a user charge to qualify for additional allocations was held to constitute a tax which was not within the category of rationing authority in the substitute and was held to be not germane.

During consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole on Dec. 14, 1973,[8] the Chair ruled that an amendment to an amendment in the nature of a substitute was not germane. The proceedings were as follows:

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

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

"(h)(1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare). . . .

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

MR. [JAMES G.] MARTIN of North Carolina: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Martin of North Carolina to the amendment

8. 119 CONG. REC. 41750, 93d Cong. 1st Sess.

in the nature of a substitute offered by Mr. Staggers: On page 6, at line 6, strike the period, and add: "; *Provided, however,* That any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic non-discriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel upon payment of a fee or user charge on a per unit basis to the Federal Energy Administration."

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. . . .

I make the point of order on the amendment on the ground that it authorizes a user's fee in the nature of a tax and that is not supposed to come within the jurisdiction of our committee. That authority is delegated to the Ways and Means Committee.

MR. MARTIN of North Carolina: Mr. Chairman, I believe that the amendment is germane and pertinent to the section dealing with gasoline rationing. . . .

This amendment does not propose a tax as such and so does not run afoul of the prerogatives of the honorable Committee on Ways and Means. Instead it proposes an administrative fee to be charged, much as fees are charged by the National Park Service under the Golden Eagle plan for use of our park resources. This fee as I propose it would be charged for preferential use of any extra limited fuel resources.

THE CHAIRMAN:[9] The Chair is constrained to sustain the point of order on the ground that this amendment in effect would result in a tax not directly related to the rationing authority conferred by the amendment in the nature of a substitute.

9. Richard Bolling (Mo.).

Provisions Authorizing Rationing Plans and Monitoring of Fuel Supplies—Amendment to Set Aside Fuel for Agriculture.

§ 3.10 To a bill authorizing the imposition of rationing plans by the President to conserve energy, providing mechanisms to avoid energy marketing disruptions, and broadened by amendment to provide for monitoring of middle distillates and supplies of diesel oil, an amendment adding a new section to require a set-aside program to provide middle distillates for agricultural production was held to be germane.

On Aug. 1, 1979,[10] during consideration of the Emergency Energy Conservation Act of 1979,[11] Chairman Dante B. Fascell held that the test of germaneness of an amendment adding a new section at the end of a bill is its relationship to the bill as a whole, as perfected by the Committee of the

10. 125 CONG. REC. 21967, 21968, 96th Cong. 1st Sess.

11. S. 1030.

Whole. The proceedings were as follows:

Amendment offered by Mr. [Thomas J.] Tauke [of Iowa]: Page 50, after line 2, insert the following new section:

MONITORING OF MIDDLE DISTILLATE SUPPLY AND DEMAND

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall establish and maintain a data collection program for monitoring, at the refining, wholesale, and retail levels, the supply and demand levels of middle distillates on a monthly basis in each State.

(b) The program to be established under subsection (a) shall provide for—

(1) the prompt collection of relevant demand and supply data under the authority available to the Secretary of Energy under other provisions of law;

(2) making such data available to the Congress, as well as to appropriate State agencies and the public in accordance with otherwise applicable law, beginning on the 5th day after the close of the month to which it pertains, together with projections of supply and demand levels for the then current month; and

(3) the review and adjustment of such data and projections not later than the 15th day after the initial availability of such data and projections under paragraph (2).

(c) For purposes of this section, the term "middle distillate" has the same meaning as given that term in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

(d) The program established under this section shall not prescribe, or have the effect of prescribing, margin controls or trigger prices for purposes of the reimposition of price requirements under section 12(f) of the Emergency Petroleum Allocation Act of 1973.

Redesignate the following sections accordingly.

After some debate, Mr. Tauke made a request, as follows, and the amendment was agreed to, as modified: (12)

MR. TAUKE: Mr. Chairman, I ask unanimous consent to modify my amendment as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

THE CHAIRMAN: Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk will report the modification to the amendment.

The Clerk read as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Iowa (Mr. Tauke), as modified.

The amendment, as modified, was agreed to.

Thereafter, Mr. Tauke offered the following amendment: (13)

Amendment offered by Mr. Tauke: Page 50, after line 2, insert the following new section:

---

12. 125 CONG. REC. 21966, 96th Cong. 1st Sess.

13. *Id.* at p. 21967.

NATIONAL MIDDLE DISTILLATE SET-ASIDE PROGRAM FOR AGRICULTURAL PRODUCTION

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the President shall establish and maintain a national set-aside program to provide middle distillates for agricultural production.

(b) The program established under subsection (a) shall—

(1) be made effective only if the President finds that a shortage of middle distillates exists within the various regions of the United States generally, or within any specific region of the United States, and that shortage—

(A) has impaired or is likely to impair agricultural production; and

(B) has not been, or is not likely to be, alleviated by any State set-aside program or programs covering areas within that region;

(2) provide that, in regions in which such program is effective, prime suppliers of such fuel be required to set aside each month 1 percent of the amount of the middle distillates to be supplied during that month in that area;

(3) provide that amounts of fuel set aside under such program be directed to be supplied by such prime suppliers to applicants who the President determines would not otherwise have adequate supplies to meet requirements for agricultural production;

(4) provide that such prime suppliers may meet such responsibilities for supplying fuel either directly or through wholesale purchasers who resell fuel, but only in accordance with the requirements established under such program; and

(5) shall not supersede any State set-aside program for middle distillates established under the Emergency Petroleum Allocation Act of 1973.

(c) For purposes of this section—

(1) The term "agricultural production" has the meaning given it in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this section, and includes the transportation of agricultural products.

(2) The term "prime supplier", when used with respect to any middle distillate, means the supplier, or producer, which makes the first sale of the middle distillate into any region for consumption in that region.

(3) The term "middle distillate" has the same meaning as given that term in such section 211.51.

(4) The term "region" means any PAD district as such term is defined in such section 211.51. Redesignate the following sections accordingly.

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

Mr. Chairman, I insist upon my point of order.

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

MR. DINGELL: Mr. Chairman, the bill before us is a conservation bill. It deals with conservation of petroleum and petroleum products and energy. It deals also with rationing.

Mr. Chairman, if the chairman will observe the amendment before him, he will notice it creates a national middle distillate set-aside program for agricultural production. Now, Mr. Chairman, it is quite possible this is a highly desirable thing but that is not the ques-

tion before the Chair. The question before the Chair is, Does this bill deal with the set-aside of middle distillates or set-asides of other petroleum products? The answer to that question is a resounding no. The legislation, S. 1030 before us, contains nothing relating to set-aside of petroleum products or matters relating to set-aside of petroleum products.

The members of the committee could not have reasonably expected set-aside amendments to be laid before them on the basis of the legislation which lies before us; so the purposes of the bill and the purposes of the amendment are quite different and distinct. I would, therefore, urge on the chair that this amendment is not germane.

I would further state that the proposal goes on to deal with a number of set-aside matters which are not included in the proposal before us, but which are embodied in other statutes, such as the Emergency Petroleum Allocation Act. The legislation deals with the term "agricultural production" as defined in section 211.51 of title X, which is not under the jurisdiction of the Commerce Committee.

The proposal deals with and defines the term prime supplier of middle distillate and the term defines a number of other matters which are not found in the legislation here.

As a matter of fact, it would convert the legislation before us from essentially a conservation program to an allocation program, something which would not be the intention of the committee, as opposed to a rationing program which was. . . .

MR. TAUKE: . . . Mr. Chairman, in this particular measure that we are considering, we have taken great pains during the past several hours to provide specific consideration for certain businesses that are part of our economy. We considered, for example, nursing homes and health institutions. We have considered with the last amendment of the gentleman from Michigan a whole host of other special businesses in this country. This is a special consideration for the agricultural industry.

In addition, I think it is appropriate to note that in this measure that the bill has been dealing with the allocation of fuels when supplies are scarce. That is what is the exact purpose of this amendment is, to deal with the allocation of fuels at a time when supplies are scarce.

So in view of both of those items, it occurs to me that it is appropriate that this amendment be considered a part of this measure. . . .

MR. [CHARLES] PASHAYAN [Jr., of California]: The point of order, I believe, has something to do with the substance of the amendment as it relates to the bill. The point I am making is that although this is dealing with the set aside, that is only the form. The substance, in fact, relates to the bill, because it is the only way agriculture can be protected under the bill; whereas other businesses do not need set asides and that is the only way we can protect agriculture, so I do think it relates to the substance of the bill. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . Mr. Chairman, this bill before us deals with EPCA in the rationing section and adds a section on conservation.

Now, EPCA stands for the Emergency Energy Policy and Conservation Act. It is in the conservation parts of this bill that we have the Tauke amendment offered.

The Department of Energy regulations, based on the Emergency Energy Policy and Conservation Act, include those DOE regulations based on that act, include set aside programs for energy conservation or energy usage; so it seems to me that the amendment of the gentleman from Iowa is clearly germane in that he is dealing with set asides as a method of conservation, but from the standpoint of concern about the agricultural community and whether or not the agricultural community will have adequate energy to meet its needs in the interests of the society. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I would like to be heard in favor of the point of order.

Mr. Chairman, I just would like to point out briefly that this is, unlike the other amendments we have had which deal with hospitals, nursing homes and the whole other host of special interests sought to be protected, those all sought to be protected under conservation plans that might be put forward under this bill and the limitation of Presidential powers to put forward such plans.

This amendment is quite different. It seeks to set up an allocation plan specifically to set aside certain amounts of fuel for agriculture.

Therefore, it seems to me quite different from anything else in this bill. It is unrelated and I believe it clearly is out of order. . . .

MR. BROWN of Ohio: . . . One other point that omitted my attention until the staff drew it to my attention, and it is that the very rationing part of this bill was added as an amendment to the basic legislation in the subcommittee. Therefore, making the legislation quite broad in its approach and for that reason of breadth and for the reason that we accepted that rationing amendment or that rationing portion as an amendment in the subcommittee, it seems to me that the offering of the gentleman from Iowa is very appropriate in the full House at this time.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has examined the amendment offered by the gentleman from Iowa and considered the point of order as to its germaneness to the bill raised by the gentleman from Michigan.

The [test of the germaneness of a new section is its relationship] to the bill as read to this point and in that case we have a bill at this point in which section 2 deals with rationing.

Section 3 deals with conservation and market disruption, specifically the purpose which the gentleman from Indiana pointed out on page 24 which establishes mechanisms to alleviate disruptions in gasoline and diesel oil markets; in addition to which, a new section 4 has been agreed to by the committee which provides for the monitoring of middle distillates and supply of diesel oil.

Therefore, the scope of the bill as read to this point is significantly broadened and it is now considerably more diverse than any one section thereof.

The Chair, therefore, overrules the point of order and holds that the amendment is germane.

Energy Conservation Bill—Amendment Prohibiting School Busing; Imposing Criminal Penalties

§ 3.11 To a title of a bill designed to enable agencies of the government to formulate policies of energy conservation, an amendment prohibiting certain uses of fuel (for school busing) by any person and imposing criminal penalties for such use was held not germane to the fundamental purpose of the title.

On Sept. 17, 1975,[14] it was demonstrated that the test of the germaneness of an amendment in the form of a new section to a title of a bill being read by titles is the relationship between the amendment and the pending title. The proceedings during consideration of the Energy Conservation and Oil Policy Act of 1975[15] in the Committee of the Whole were as follows:

The Clerk read as follows:

Amendment offered by Mr. Collins of Texas: Page 273, insert after line 4 the following new section:

ENERGY CONSERVATION THROUGH PROHIBITION OF UNNECESSARY TRANSPORTATION

Sec. 450. (a)(1) No person may use gasoline or diesel fuel for the transportation of any public school student to a school farther than the public school which is closest to his home offering educational courses for the grade level and course of study of the student and which is within the boundaries of the school attendance district wherein the student resides.

(2) Any person who violates subsection (1) of this section shall be fined not more than $5,000 or imprisoned not more than one year, or both, for each violation of such subsection. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I make a point of order against the amendment. . . .

[T]his is clearly beyond the scope of the matters that are dealt with in this title of the bill. It would very substantially introduce administrative duties that are not provided for in any way in the bill, and it is clearly beyond the jurisdiction of this committee. . . .

MR. [JAMES M.] COLLINS of Texas: Mr. Chairman, we have had a similar amendment in conservation bills before which have passed the House before, and in this particular bill. It comes in conjunction with sections on energy conservation through van pooling arrangements, through the use of car pools. It is an identical type of conservation measure as the limitation of limousines we discussed earlier, and the conservation of gasoline.

This is very much consistent because what we are talking about here in conservation, the unnecessary and unneeded uses of transportation. Also, we have the jurisdiction over the FEA, and it seems to me that we would be concerned with this. . . .

THE CHAIRMAN:[16] The gentleman from New York makes a point of order

14. 121 CONG. REC. 28925–27, 94th Cong. 1st Sess.

15. H.R. 7014.

16. Richard Bolling (Mo.).

against the amendment offered by the gentleman from Texas (Mr. Collins) on grounds that it is not germane to title IV. The gentleman from Texas, in responding to the point of order, has cited certain amendments that have been adopted to the bill during debate, and the Chair is not clear as to whether he is talking only about this bill or about earlier bills.

MR. COLLINS of Texas: Mr. Chairman, I understand that specifically this bill itself, in this particular bill itself on page 270, we have a section of this bill which says, "Energy Conservation Through Van Pooling Arrangements."

On page 271, we have a section called "Use of Carpools." We just adopted the Santini amendment, which is related to it. We talked about limousines. We have been talking about transportation and vehicles. Here we are talking about conservation, and we could conserve a great deal of gasoline and diesel fuel. . . .

MR. [JOHN D.] DINGELL [of Michigan): . . . I would point out that the bill before us relates to allocation of gasoline. It relates to the conservation of energy. But this amendment adds a criteria category and purpose to the bill which is above, apart and different from anything else found anywhere else in the bill, and that is a specific prohibition of the use of fuels for a particular purpose, which carries us beyond the purposes of the bill.

Again, Mr. Chairman, I would cite to the Chair that the nature of the amendment must be such as to notify the House that it might reasonably anticipate it and might be related to the purposes for which the bill is drawn.

Mr. Chairman, I might add further that the amendment adds criminal sections, imposing, for example, penalties on bus drivers of school buses, and goes well beyond the allocation powers or the conservation powers which are vested in the Federal Government, adding, essentially, a new criminal section of the bill which was not previously before us and which is not in the bill. . . .

MR. [M. G.] SNYDER [of Kentucky]: Mr. Chairman, I would like to call the attention of the Chair to title VI of the bill, particularly section 605, where we have a section that prohibits the use of natural gas as boiler fuel for the generation of electricity.

It would seem to me that here we have a similar type of fuel—gasoline—and the gentleman from Texas (Mr. Collins) by his amendment would prohibit the use of that fuel in transporting school children. . . .

MR. COLLINS of Texas: Mr. Chairman, there is one further thing I wish to say. We have talked about whether there were penalties or not provided in this bill.

In the bill itself, in previous sections, violations were set out and there were penalties of $5,000. There are several sections in the FEA sections that provide for penalties. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would like to state at the outset that the point of order made by the gentleman from New York (Mr. Ottinger) against the amendment offered by the gentleman from Texas (Mr. Collins) is on the ground that the amendment is not germane to title IV, and we are in effect limited in our consider-

ation to the matters contained in title IV.

As will be clear in the statement which the Chair will make, the ruling that the present occupant of the Chair made under seemingly similar circumstances on an earlier bill is different.

The amendment would prohibit the use by any person—and that is the key to the ruling of the Chair—of gasoline or diesel fuel for certain transportation of public school students, and would establish a criminal penalty for violation of the amendment's provisions. The Chair has noted the Chair's ruling, cited in Deschler's Procedures, chapter 28, section 26.9, that an amendment restricting the regulatory authority of the President, who was authorized by the bill to establish priorities among users of petroleum products, was germane where the amendment required the product so allocated be used only for certain transportation of public school students.

It appears to the Chair that the ruling on that occasion was specifically directed to the fact that the bill conferred certain regulatory authority upon the President, and that the amendment placed a specific limitation and direction on the power so delegated. The amendment now in question does not address itself to the authority of an agency of Government, except in its last subsection relating to certain determinations by the Administrator of the Federal Energy Administration. But the direct thrust of the amendment is to prohibit certain uses of fuel by any person.

It is true that the title to which the amendment is offered deals with the subject of the conservation of energy, but the provisions of title IV address the goal of conservation through actions and encouragement by an agency of Government, not through prohibitions on the use of fuel by any person.

The Chair is unable to discover in title IV or in the basic act being amended criminal prohibitions applicable to any person using the fuel in a certain way.

The Chair, therefore, finds that the amendment is not germane to the fundamental purposes of the title to which offered and sustains the point of order.

Proposition To Require Study of Energy Conservation—Amendment Requiring Study of Effect of Regulations on Energy Shortage

§ 3.12 To an amendment in the nature of a substitute establishing a Federal Energy Administration and directing that agency to conduct a comprehensive study of energy conservation, an amendment directing that agency to conduct another study as to whether regulations issued under the Economic Stabilization Act were contributing to the energy shortage was held to be germane.

During consideration of the Energy Emergency Act[17] in the Committee of the Whole on Dec.

17. H.R. 11450.

14, 1973,[18] the Chair held that to a proposition establishing an executive agency and conferring broad authority thereon, an amendment directing that agency to conduct a study of a subject within the scope of that authority was germane:

MR. [JAMES R.] JONES of Oklahoma: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Jones of Oklahoma to the amendment in the nature of a substitute offered by Mr. Staggers:

On page 9, after line 22, section 104 is amended by inserting the following new subsection after subsection (c), and redesignating the subsequent subsections:

Sec. 2. Price Control and Shortages. The President and the Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of petroleum products, coal, natural gas, and petrochemical feedstocks, and of materials associated with the production of energy supplies, and equipment necessary to maintain and increase the exploration and production of coal, crude oil, natural gas, and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act. . . .

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

Mr. Chairman, as the Chair will note, the amendment before us imposes the duty upon the President to perform a study related to the effectiveness and the effects of another statute, namely, the Economic Stabilization Act. As the Chair notes, the Economic Stabilization Act and studies under the Economic Stabilization Act lie in the jurisdiction of another committee, namely the Committee on Banking and Currency.

I am sure the Chair is also aware that nowhere else in this statute appears the Economic Stabilization Act.

While I recognize the merits of the amendment offered by the gentleman from Oklahoma and salute him for an awareness of a problem of considerable importance, nevertheless the rules of this House do not permit this committee to amend the Economic Stabilization Act, referring to the Committee on Interstate and Foreign Commerce, and indeed the Economic Stabilization Act is not mentioned anywhere else in the bill.

Of course, it follows the committee of which we are now a part may not direct studies relating to the effect of that under the guise of amending the bill H.R. 11882, because it deals with different matters.

I make a point of order against the amendment on the grounds of germaneness. . . .

MR. JONES of Oklahoma: I think the amendment is germane to this bill, because in the first place it does fit into the overall concept of the bill in trying to ease our energy problems and fits in with the title of the bill.

Second, it does not amend the Economic Stabilization Act in any way but

18. 119 CONG. REC. 41752, 93d Cong. 1st Sess.

merely calls for a study to give to this Congress information that will be necessary in case an amendment to that act is necessary in the future.

So I believe it is germane to this bill, because it does fit into the overall objective.

THE CHAIRMAN:[19] The Chair is prepared to rule.

The amendment offered by the gentleman from Oklahoma (Mr. Jones) only provides for a study of certain effects of actions taken under the Economic Stabilization Act. The amendment in the nature of a substitute in its present form is replete with various studies.

Therefore the Chair overrules the point of order.

Permanent Direction to Agency To Promulgate Regulations Based on Study

§ 3.13 While an amendment to an annual authorization bill which requires a study to be made with a portion of the authorized funds may be germane, a permanent direction to the agency or department in question to promulgate regulations based on such study is not germane.

The proceedings of Oct. 12, 1979, relating to H.R. 3000, the Department of Energy authorizations for fiscal 1980 and 1981, are discussed in Sec. 24.3, infra.

19. Richard Bolling (Mo.).

Proposition Requiring Agency To Conduct Study—Amendment Requiring Agency To Propose Legislation

§ 3.14 To a proposition directing that a study be conducted to determine the feasibility of establishing certain standards of fuel economy for automobiles, an amendment requiring submission by the investigating agency of proposed legislation implementing the conclusions of such study was held to be germane.

On Dec. 14, 1973,[20] during consideration of H.R. 11450, the Energy Emergency Act, the Committee of the Whole had under consideration a section of an amendment in the nature of a substitute that directed the Environmental Protection Agency to conduct a study of the feasibility of establishing a fuel economy improvement standard of twenty percent for 1980 and subsequent model year automobiles. An amendment was offered to that section, requiring submission by the Agency of proposed legislation which would affirmatively establish a fuel economy improvement standard of twenty-five percent or

20. 119 CONG. REC. 41747, 41748, 93d Cong. 1st Sess.

as close thereto as was deemed feasible in the light of criteria specified in the amendment:

MR. [PAUL G.] ROGERS [of Florida]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Rogers to the amendment in the nature of a substitute offered by Mr. Staggers: Page 67, after line 26, add the following . . .

"(b)(1)) Subject to paragraph (2) and (3), not later than 30 days after submission of the results of the study under subsection (a), the Administrator shall submit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Public Works of the Senate proposed legislation which would establish a 25 per centum fuel economy improvement standard applicable to 1980 and later model new motor vehicles. . . .

"(2) If the Administrator determines that establishing a fuel economy improvement standard of 25 per centum for 1980 and later model new motor vehicles—

(A) is technologically or economically unfeasible,

(B) cannot be complied with safety and without interferring with applicable emission requirements, or

(C) will have unreasonably disruptive impact on employment or the economy,

he shall propose legislation establishing such lesser fuel economy improvement standard which he determines is as close to 25 per centum as possible without having any of the effects described in subparagraphs (A), (B), or (C). . . .

MR. [JAMES T.] BROYHILL of North Carolina: Mr. Chairman, I make the point of order that this amendment is not germane, that we have no other subject matter such as this in the bill, and, furthermore, that the House of Representatives or the Congress in prior action has authorized another Department of the Federal Government to undertake the same study, and thus this amendment is not in order. . . .

MR. ROGERS: Mr. Chairman, actually this simply carries out part of the provision in the law which provides for a study on how this can be accomplished.

All this amendment does, in connection with that study, is to say the following: Where that study says, "He shall report to the Congress," this simply says or sets forth the manner in which he shall do that, by proposing specific legislative proposals that we ourselves would rule on, as the results of a study. And then he proposes how we can save fuel mileage.

That is all it is doing. It is set at 1980, and it simply carries out what we are trying to do in that study by having him report to the Congress.

It simply tells him how he shall make his report to the Congress, that it is proper and economically feasible. . . .

THE CHAIRMAN:[1] For the reasons stated by the gentleman from Florida (Mr. Rogers), the Chair overrules the point of order.

Parliamentarian's Note: Although an amendment which directs that certain actions or activities be undertaken is not germane

1. Richard Bolling (Mo.).

to a proposal merely to investigate the subject matter involved,[2] the amendment offered by Mr. Rogers in the above instance required simply the submission of proposed legislation as a follow-up of the study.

Bill Prescribing Standards for Educational Agencies Administering Programs—Amendment Providing Remedies Where Agencies Deny Equal Educational Opportunity

§ 3.15 To an Education and Labor Committee amendment in the nature of a substitute extending and amending several laws relating to federal assistance to state and local educational agencies and prescribing standards to be followed by educational agencies in the administration of federally funded educational programs, an amendment proscribing educational agencies from denying equal educational opportunity to public school students and providing judicial and administrative remedies for denials of equal educational opportunity and of equal protection of the laws was held germane.

During consideration of H.R. 69[3] in the Committee of the Whole on Mar. 26, 1974,[4] the Chair held that to a proposition amending several laws providing federally funded assistance, an amendment restricting the activities of the state and local agencies which are the recipients of those funds and also providing a judicial remedy where the restrictions imposed upon those agencies are not complied with is germane. The proceedings were as follows:

> The Clerk will report the amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Esch to the committee substitute amendment: Page 58, after line 18, insert a new Title II (and number the succeeding Titles and Sections accordingly):
>
> "TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES
>
> Sec. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974".
>
> PART A—POLICY AND PURPOSE
>
> Sec. 202. (a) The Congress declares it to be the policy of the United States that—
>
> (1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

2. See 8 Cannon's Precedents § 2989.

3. A bill to amend and extend the Elementary and Secondary Education Act.

4. 120 CONG. REC. 8262–64, 8269, 8270, 93d Cong. 2d Sess.

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system. . . .

PART B—UNLAWFUL PRACTICES

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

Sec. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools . . .

PART C—ENFORCEMENT

CIVIL ACTIONS

Sec. 207. An individual denied an equal educational opportunity, as defined by this title may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General . . . may also institute such a civil action on behalf of such an individual. . . .

PART [D]—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

Sec. 213. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

Sec. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws . . . a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers; . . .

TRANSPORTATION OF STUDENTS

Sec. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student. . . .

MR. [LLOYD] MEEDS [of Washington]: Mr. Chairman, it is settled that while a bill may be brought before the House embracing different subjects, as does the bill now under consideration, it is not in order to introduce a new subject (V, 5825), which is precisely what the gentleman's amendment would do. The fundamental purpose of H.R. 69 is to extend, modify and create educational programs; the fundamental purpose of the gentleman's amendment is to limit the power of Federal courts to determine what constitutes a denial of equal protection of the laws under the Constitution. Therefore, the amendment is not germane (VIII, 2911). Going beyond the fundamental purposes of H.R. 69 and the gentleman's amendment,

there is not even a specific provision of his amendment which deals with educational programs, which, along with administrative provisions governing such programs and two or three studies, are the only subjects dealt with in H.R. 69. The facts permit only one conclusion; the gentleman's amendment must be ruled out of order by reason of clause 7 of rule XVI. . . .

This amendment can in no way be described as dealing with educational programs, in whole or in part. It is, as previously stated, nothing less than a straightforward attempt to limit the jurisdiction and power of our courts to interpret the 14th amendment to the Constitution and to fashion appropriate remedies for its violation. While I would, on another occasion, argue that this represents a "backdoor" attempt to amend the Constitution—on the theory that a right for which there is no enforceable remedy is no right at all—that is not my purpose today. I wish only to point out in some detail both the particular and the fundamental purposes of the gentleman's amendment so that the Chair might better understand why they are completely unrelated to the bill under consideration which, as I have said, deals entirely with various educational programs. . . .

MR. [MARVIN L.] ESCH [of Michigan]: . . . Mr. Chairman, I think we should point out that the amendment offered by me, on behalf of others and myself, is clearly in order to H.R. 69. I would refer the Chair to the fact that H.R. 69 not only amends the Elementary and Secondary Education Act of 1965, but also amends the General Education Benefit Act on which the Commissioner of Education has specific authority to deal on all matters pertaining to elementary and secondary education.

Furthermore, it also amends the Emergency School Aid Act. Indeed, in title IX under section 901, there are specific amendments to the Emergency School Aid Act referring to the question of integrated schools and even going specifically to the point as to the number of minority group children which comprise the makeup of a minority school.

So, clearly an amendment which would be related to the education in segregated or nonsegregated schools would be clearly in order.

It should also be pointed out that such matter pertains specifically to the transportation of pupils, which is also a part of this act. Furthermore, it is interesting to note that there are many other extraneous matters even apart from the Elementary and Secondary Education Act, such as the amendment extending adult education sections, which surely do not pertain to the K through 12 programs, and even on the study of the need for athletic trainers in secondary schools and institutions of higher education, which clearly are far beyond the boundary of merely amendments to Elementary and Secondary Education Act. . . .

MR. [WILLIAM A.] STEIGER of Wisconsin: . . . Section 2995 of volume VIII of the Precedents of the House clearly states that it is up to the maker of an amendment to prove germaneness. I do not think that is possible. H.R. 69 deals with various forms of Federal aid to education. Every provision of the bill is related to that purpose. On the other hand, the amendment offered by the gentleman from

Michigan does not in any way deal with Federal aid or with aid of any sort to education. The sole purpose of the amendment is to define unlawful practices as they relate to the segregation of schoolchildren. A further major section of the amendment places restrictions on Federal courts and directs the Attorney General to take certain actions. The heart and substance of the amendment is aimed at limiting the transportation of students. H.R. 69 does not touch upon that subject matter in any way. Clearly transportation is not germane to H.R. 69.

On September 22, 1914, the Chairman of the (Committee of the) Whole ruled that to be germane an amendment must be "akin to, or near to, or appropriate to or relevant to and germane amendments must bear such relationship to the provisions of the bill as well as meet the other tests; that is, that they be in a natural and logical sequence to the subject matter and propose such modifications as would naturally, properly and reasonably be anticipated."

Certainly there is no logical sequence between providing Federal aid on the one hand and restricting the powers of the courts on the other.

I would also call the attention of the Chair also to a ruling on May 24, 1917, by Chairman Hamlin that if any portion of an amendment is not germane then the whole amendment must go. Certainly, the section of the amendment which limits court orders is not germane to H.R. 69 nor is the section directing intervention by the Attorney General.

I would point out further that the amendment does not amend existing law; it merely adds new language to the bill—another clear sign of the nongermane nature of the amendment. . . .

MR. [JAMES G.] O'HARA [of Michigan]: . . . (The bill) deals with educationally deprived children, with libraries, with learning results from educational innovation, with support and assistance to federally impacted school districts, with adult education, with community education, education for the handicapped, bilingual education, the study of rate funding, the study of the need for athletic trainers, the amendments to the General Education Provisions Act, and, finally, amendments to the Emergency School Aid Act, which deals with the same subject, that is, methods by which equal educational opportunities may be obtained.

The mere fact that this seeks to achieve those objectives by different means and with different enforcement mechanisms cannot render the amendment not germane to the bill before us. Mr. Chairman, I believe and I assert that the amendment is germane to the bill and I hope that the Chair will so rule. . . .

MR. MEEDS: Mr. Chairman, I agree with the gentleman from Michigan (Mr. O'Hara) that the Elementary and Secondary Education Act covers a great deal of education. That is precisely my point of order.

Nowhere does it deal with the court's interpretation of the 14th amendment rights, and that is what the amendment offered by the gentleman from Michigan (Mr. Esch) seeks to do.

Second, the gentleman from Michigan (Mr. Esch) is urging that because

his amendment amends the Emergency School Aid Act, which is also amended by H.R. 69, this is sufficient to overcome the question of germaneness.

There is a very slight amendment which deals with a totally different matter in this bill. As a matter of fact, there are two minor matters involved. But neither of these minor amendments is in any sense connected with the fundamental purpose of the gentleman's amendment. . . .

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

The gentleman from Washington (Mr. Meeds) makes the point of order that the amendment offered by the gentleman from Michigan (Mr. Esch) is not germane to the committee substitute amendment for H.R. 69.

The committee substitute amendment for H.R. 69 has as its major purpose the extension and amendment of several statutes relating to Federal assistance to State and local educational agencies.

The committee amendment contains many diverse sets of guidelines to be followed by State and local educational agencies in the administration of those federally funded educational programs.

The amendment offered by the gentleman from Michigan does, as the gentleman from Washington suggests, go to the delineation of Federal court jurisdiction over constitutional questions of what constitutes a denial of equal educational opportunity and of equal protection of the laws; but it also contains broad directives to State and local educational agencies which would prohibit those agencies from implementing plans which deny, in several enumerated ways, equal educational opportunity. The remedies to be imposed for the violations by State agencies are not limited to court proceedings but include Federal departmental and agency proceedings as well, such as those of the Office of Education.

The Chair would like to point out that while committee jurisdiction is not an exclusive test of germaneness, the Committee on Education and Labor has considered bills similar in text to the amendment offered by the gentleman from Michigan.

The Chair would also point out that under the precedents it is not the function of the Chair to construe the legal effect of an amendment. That is left to the committee itself. The Chair feels because the amendment operates, in part, as a direct restriction on the State and local educational agencies whose activities are being funded and directed in many diverse ways by the committee amendment that the amendment is germane, and the Chair overrules the point of order.

Title Restricting Federal Control Over Education—Amendment Denying Use of Funds for Abortion Counselling

§ 3.16 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 con-

5. Melvin Price (Ill.).

trol over education, an amendment denying the use of funds under federal programs to assist the teaching or counseling of 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,[6] the Chair sustained a point of order against an amendment to a title of a bill[7] 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 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

6. 125 CONG. REC. 14464, 14465, 96th Cong. 1st Sess.

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

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:[8] 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 pro-

8. Lucien N. Nedzi (Mich.).

visions 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.

Title Establishing Administrative Structure of Department of Education—Amendment Relating to Transportation of Students To Establish Racial Balance

§ Sec. 3.17 To a title of a bill establishing a new Department of Education, which only addresses the administrative structure of the Department and not its authority to carry out the programs transferred to it, an amendment prohibiting the Department from withholding federal funds to force the transportation of students or teachers to establish racial or ethnic balance was held to be not germane.

During consideration of the Department of Education Organization Act of 1979[9] in the Committee of the Whole on June 12, 1979,[10] Chairman Lucien N. Nedzi, of Michigan, held an amendment to title II of the bill to be not germane. The proceedings were as follows:

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

Sec. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under

9. H.R. 2444.

10. 125 CONG. REC. 14466, 14485, 14486, 96th Cong. 1st Sess.

the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary. . . .

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

The Clerk read as follows:

> Amendment offered by Mr. Dornan: Page 58, after line 6, insert the following new section:
>
> PROHIBITION AGAINST THE WITHHOLDING BY THE SECRETARY OF FUNDS TO FORCE RACIAL-ETHNIC QUOTA BUSING
>
> Sec. 201(c). The Secretary and the Department may not withhold any funds, grants, contracts or awards otherwise authorized to be granted because of failure to transport students or teachers (or to purchase equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or because of the failure to transport students or teachers (or to purchase equipment for such transportation) in order to carry out such a plan in any school or school system. . . .

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

Under the test imposed by rule XVI, clause 7, it is not germane. . . .

MR. [JACK] BROOKS [of Texas]: . . . I make the point of order on the amendment under rule XVI, clause 7, requiring that amendments be germane to the subject under consideration. To be germane, the amendment must have the same fundamental purpose of the bill under consideration. The purpose of H.R. 2444 to establish a Department of Education deals only with the organizational structure of that Department. Amendments affecting programs or assigning new duties to the Secretary or his assistants or employees that are not now authorized by law are not consistent with that organizational purpose and, therefore, should be ruled out of order.

THE CHAIRMAN: Does the gentleman from New York (Mr. Horton) desire to be further heard on the point of order?

MR. HORTON: I just wanted to make the point that this is in the section that has to do with the establishment of the Department and that this is a matter that is not within the jurisdiction of the Committee on Government Operations, and it is not involved in the organization of this Department, and, therefore, it should be ruled not germane.

MR. [DANTE B.] FASCELL [of Florida]: Mr. Chairman, I would like to add something to the point of order, if I may.

It occurs to me that the manner in which the amendment is written, Mr. Chairman, is limitation of the jurisdiction of a court of competent jurisdiction. It goes far beyond the scope of this bill and not only affects the court of competent jurisdiction, but in effect tells and directs the Secretary of Education to ignore and disobey the orders of the court.

MR. DORNAN: Mr. Chairman, I have a final thought. On page 56 of H.R.

2444 we say in line 12 "(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;".

All I am doing with this amendment is merely limiting the scope of the Secretary of this new Department of Education, and the statement that I just read increases the accountability of this Federal program to the Congress.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would point out to the gentleman that the matters alluded to in his final argument pertain to title I. The amendment which the gentleman has offered is to title II which deals with the structure of the new Department of Education. Title II does not go to the basic question whether substantive educational programs should be retained and to the purposes for which funds under those programs may be expended. Accordingly the Chair sustains the point of order.

Amendment Relating to Wage Discrimination Based on Race, Offered to Bill To Eliminate Wage Discrimination Based on Sex of Employee

§ 3.18 To a bill seeking to eliminate wage discrimination based on the sex of the employee, an amendment to make the provisions of the bill applicable to discrimination based on race was held to be not germane.

In the 87th Congress, during consideration of a bill[11] prohibiting wage discrimination based on sex of an employee, the following amendment was offered:[12]

Amendment offered by Mr. [Charles S.] Joelson [of New Jersey]:

After section 4, add the following:

Sec. 5. Whenever the word "sex" is used in this Act, the words "or race" shall be added immediately thereafter.

A point of order was made, as follows:

MRS. [EDITH] GREEN of Oregon: . . . The amendment offered by the gentleman from New Jersey is not germane to the bill under discussion, which has to do with equal pay for equal work. It does not cover the subject which the gentleman from New Jersey has covered in his amendment.

The Chairman[13] sustained the point of order.

Bill Providing for Reorganization of Executive Agencies—Amendment Relating to President's Term of Office

§ 3.19 To a bill providing for reorganization of the executive departments and agencies of the government, an

11. H.R. 11677 (Committee on Education and Labor).
12. 108 CONG. REC. 14778, 87th Cong. 2d Sess., July 25, 1962.
13. Edna F. Kelly (N.Y.).

amendment concerned with the term of office of the President was held not germane.

In the 75th Congress, during consideration of a government reorganization bill,[14] the following amendment was offered:[15]

> Amendment offered by Mr. [Hamilton] Fish Jr., [of New York]: Page 82, after line 15, add a new section, as follows:
>
> Sec. 429. That it is the sense of the Congress that the precedent established by Washington and other Presidents of the United States in retiring from the Presidential office after their second term has become by universal concurrence a part of our republican system of government . . . and that the Congress commends the observance of this precedent.

Mr. James M. Mead, of New York, having made the point of order that the amendment was not germane, Mr. Fish responded:

> Mr. Chairman, this bill has to do with the reorganization of the executive departments of the Government and the executive agencies of the Government. If this bill goes through, the President will be clothed with vast powers to preserve and perpetuate himself in office. . . .

The Chairman, Jere Cooper, of Tennessee, in ruling on the point of order, stated:[16]

> There is nothing in the pending bill relative to the term of office of the President of the United States.
>
> The point of order is sustained.

Bill To Remove Federal Loan Agencies From Department of Commerce—Amendment Relating to Term of Federal Loan Administrator

§ 3.20 To a bill proposing to remove federal loan agencies from the Department of Commerce, an amendment relating to the term of office and removal from office of the Federal Loan Administrator was held not germane.

In the 79th Congress, a bill[17] was under consideration which provided in part:[18]

> Be it enacted, etc., That the Federal Loan Agency, created by section 402 of the President's Reorganization Plan No. 1 under authority of the Reorganization Act of 1939, shall continue as an independent establishment of the Federal Government and shall continue to be administered under the direction and supervision of the Federal Loan Administrator in the same manner and to the same extent as if Executive Order 9071, dated February 24, 1942, transferring the functions of the Federal Loan Agency to the Depart-

14. S. 3331 (Select Committee on Government Organization).

15. 83 CONG. REC. 5114, 75th Cong. 3d Sess., Apr. 8, 1938.

16. *Id.* at p. 5115.

17. S. 375 (Committee on Banking and Currency).

18. See 91 CONG. REC. 1184, 79th Cong. 1st Sess., Feb. 16, 1945.

ment of Commerce, had not been issued.

The following amendment was offered to the bill:

Amendment offered by Mr. [Louis E.] Graham [of Pennsylvania]: Page 2, line 2, insert a new subsection as follows:

Section 1. (a) The term of office of the Federal Loan Administrator created by section 402 of the President's Reorganization Plan No. 1 under authority of the Reorganization Act of 1939, shall be for the period of 1 year, unless he is sooner removed by the President, upon reasons to be communicated by him to the Senate, and he shall receive a salary at the rate of $12,000 per annum.

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

MR. [BRENT] SPENCE [of Kentucky]: I make the point of order that the amendment is not germane to the bill. It goes far beyond any purpose of the bill in that it changes the organic law of the lending agency and is not germane to this legislation.

In defense of the amendment, the proponent stated as follows: (19)

MR. GRAHAM: . . . [T]here is no broadening of this act by this amendment. It does not create a new agency; it does not create a new administrator; the title remains the same, the Agency is still in effect, the Administrator is still designated as the Federal Loan Administrator, and the salary remains the same. Only two changes are embodied in my amendment. One is fixing a definite term, which is surely within the power of the legislative branch of the Government to do, and the other is the protection to the individual named by the President that he shall not be removed except upon reason communicated by the President.

The Chairman, Alfred L. Bulwinkle, of North Carolina, in ruling on the point of order, stated: (20)

. . . The amendment offered by the gentleman from Pennsylvania [Mr. Graham] provides that the Federal Loan Administrator shall hold office for a year and be confirmed by the Senate. The bill under consideration has but one object, that is, to remove from the Department of Commerce all of the Federal loan agencies. Therefore, the Chair holds that the amendment is not germane. The point of order is sustained.

—*Amendment Relating to Management of Import-Export Bank*

§ 3.21 To a bill having for its sole purpose the removal of federal loan agencies from the Department of Commerce, an amendment relating to management of the Export-Import Bank of Washington by a board of directors was held not germane.

In the 79th Congress, a bill (1) was under consideration to pro-

19. *Id.* at pp. 1184, 1185.

20. *Id.* at p. 1185.

1. S. 375 (Committee on Banking and Currency).

vide for the effective administration of certain lending agencies of the federal government. The following amendment was offered to the bill:[2]

> Amendment offered by Mr. (Jesse P.) Wolcott (of Michigan): Page 2, line 20, at the end of section 4, add a new section as follows:
>
> Sec. —. (a) The management of the Export-Import Bank of Washington shall be vested in a board of directors consisting of five persons appointed by the President of the United States by and with the advice and consent of the Senate. . . .
>
> (c) No functions, powers, or duties of the Export-Import Bank of Washington except as provided in Executive Order 9361, dated July 15, 1943, and Executive Order 9880, dated September 15, 1943, shall be transferred to or consolidated with any other department, agency, or corporation of the Government unless the Congress shall otherwise by law provide.
>
> (d) All acts and Executive orders or parts of the same which are in conflict with the provisions of this section are hereby repealed and rescinded.

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

> MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I make the point of order that the amendment is not germane to this section or to the bill. The bill attempts merely to lift the Reconstruction Finance Corporation out of the Commerce Department unchanged. This is an attempt to change the organic law under which it was created. It goes further than the bill contemplates. It has no relation to the purposes of the bill, and, in my opinion, is not germane.

The Chairman, Alfred L. Bulwinkle, of North Carolina, sustained the point of order,[3] referring to a prior ruling in which he had found an amendment not to be sufficiently related to the sole object of the bill, to "remove from the Department of Commerce all of the Federal loan agencies."[4]

Bill Requiring Percentage of Automobiles To Be Manufactured Domestically and Mandating Diverse Studies of Impact of Manufacturers' Practices—Amendment Requiring Study of Antitrust Implications of Practices

§ 3.22 To a bill mandating that a certain percentage of automobiles sold in the United States be manufactured domestically, imposing an import restriction on any person violating that requirement, and requiring diverse studies of the impact of the bill and of discriminatory practices of manufacturers

2. 91 CONG. REC. 1191, 79th Cong. 1st Sess., Feb. 16, 1945.

3. *Id.* at pp. 1191, 1192.

4. *Id.* at p. 1185.

affecting domestic production of automobile parts, an amendment directing the Attorney General to study the antitrust and tax implications of automobile manufacturers' sale-lease price differentials was held not germane as relating to a subject (antitrust and tax law) beyond the scope of studies and requirements contained in the bill.

During consideration of the Automotive Products Act of 1983[5] in the Committee of the Whole on Nov. 2 and 3, 1983,[6] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

SEC. 9. STUDY OF DISCRIMINATORY PRACTICES AFFECTING DOMESTIC PRODUCTION OF MOTOR VEHICLE PARTS.

Within eighteen months after the date of the enactment of this Act, the Secretary and the Federal Trade Commission shall jointly undertake an investigation, and submit to Congress a written report, regarding those policies and practices of vehicle manufacturers that are used to persuade United States motor vehicle dealers, in choosing replacement parts for motor vehicles, to favor foreign-made parts rather than domestically produced parts. Such report shall include, but not be limited to, recommended administrative or legislative action that the Secretary and the Federal Trade Commission consider appropriate to assure that domestic producers of replacement parts are accorded fair access to the United States market for such parts.

SEC. 10. IMPACT STUDY REGARDING MOTOR VEHICLE DEALERSHIPS.

(a) In General.—The Secretary, in consultation with the Advisory Council, shall conduct a continuing study of the extent to which this Act has affected employment in any way at retail motor vehicle dealerships located in the United States including, but not limited to, dealerships which have either—

(1) franchises for at least one make of motor vehicle manufactured by domestic manufacturers for sale and distribution in interstate commerce and at least one make of motor vehicle imported into the United States for such sale and distribution; or

(2) franchises for one or more makes of motor vehicles imported into the United States for sale and distribution in interstate commerce but no franchises for any make of motor vehicle manufactured by domestic manufacturers for sale and distribution in interstate commerce.

The study shall identify and consider all factors affecting such employment and shall establish an employment base period for all such dealerships which the Secretary shall utilize in the conduct of the study. . . .

MR. [JAMES J.] FLORIO [of New Jersey]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Florio: On page 36, after line 4, insert the following new section:

5. H.R. 1234.

SEC. 11. IMPACT STUDY REGARDING UNFAIR PRICE DISCRIMINATION.

(a) The Attorney General, in consultation with the Advisory Council, shall conduct a study of the antitrust and tax implications and of the impact on retail motor vehicle dealerships and consumers of the practice whereby manufacturers sell or lease, or offer to sell or lease, any passenger car, truck, or station wagon to any person (including any other automobile dealer) during any period of time at a price which is lower than the price at which the same model of passenger car, truck or station wagon, similarly equipped, is sold or leased, or offered for sale or lease, to such retail dealers during the same period. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order that the amendment offered by the gentleman from New Jersey is out of order in accordance with rule XVI, clause 7, the rule of germaneness.

The gentleman has offered as an amendment a form of a bill which is pending before the gentleman's subcommittee which deals with the question of how leasing companies buy automobiles through dealerships and under what circumstances. . . .

The findings of the bill say that there has been serious injury due to increases in imports. The purposes of the bill are declared as they are going to remedy the serious injuries by not allowing foreign-made merchandise to be sold in the United States.

Clearly, this amendment, which deals with domestic-sales arrangements of domestic companies, has nothing whatever to do with the bill and should be declared out of order. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, as salutory as the purpose of this amendment is, I certainly would support it under other circumstances. It gives responsibilities to the Attorney General that are not in the bill. It requires a study of antitrust matters which are not at all pertinent to the bill before us and it deals with pricing.

For all those reasons, I believe it is nongermane and, therefore, regrettably, I have to assert a point of order.

THE CHAIRMAN:[7] Does the gentleman from New Jersey wish to be heard on the point of order? . . .

If not, the Chair is prepared to rule.

The basic test of germaneness is the question of whether the amendment relates to the basic subject matter of the bill. The basic subject matter of the bill before the House relates to the domestic content of automobiles.

This particular amendment, in part, provides for a study of antitrust and tax implications of manufacturers sale-lease practices.

In the opinion of the Chair, that takes it beyond the subject matter covered by the bill and it is not related to that subject matter.

Therefore, under rule XVI, clause 7, the Chair finds that the amendment is not germane and sustains the point of order.

Study of Impact of Regulations on Automobile Industry—Amendment To Require Study of Feasibility of Alternatives to Automobiles

§ 3.23 To a bill authorizing loan guarantees to a private

6. 129 CONG. REC. 30527, 30781, 30782, 98th Cong. 1st Sess.

automobile manufacturer, amended to require a study of the economic impact of federal regulations on the entire automobile industry, an amendment requiring another study of that corporation's long-term involvement in the automobile industry and also the feasibility of its production of advanced alternatives to automobiles was held germane as within the scope of the bill as amended.

On Dec. 18, 1979,[8] during consideration of H.R. 5860[9] in the Committee of the Whole, it was held that to a proposition providing financial assistance to an individual business entity, broadened by amendment to address the issue of government regulation of the entire industry of which that entity is a part, a further amendment relating to the future role of that business entity within the industry is germane. The proceedings were as follows:

MR. [GERALD B.] SOLOMON [of New York]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Solomon to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: On page 23, after line 5, insert the following new subsection (c):

"(c) The Board shall have the power to require the Secretary of Transportation to complete, within six months of such request, an assessment of the economic impact on the automobile industry of Federal regulatory requirements and the necessity thereof."

THE CHAIRMAN:[10] The question is on the amendment offered by the gentleman from New York (Mr. Solomon) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. Moorhead).

The amendment to the amendment in the nature of a substitute was agreed to.

MR. [ANDREW] MAGUIRE [of New Jersey]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Maguire to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: Insert the following new Section 11 immediately after line 6, page 22 and renumber the following sections accordingly;

LONG-TERM PLANNING STUDY

Sec. 11. (a) The Secretary of Transportation, after consultation with other appropriate federal agencies, shall submit to the Board and to the Congress as soon as practicable, but not later than six months after enactment of this Act, an assessment of the longterm via-

8. 125 CONG. REC. 36822–24, 96th Cong. 1st Sess.

9. A bill authorizing loan guarantees to the Chrysler Corporation.

10. Richard Bolling (Mo.).

bility of the Corporation's involvement in the automobile industry.

(b) The Secretary of Transportation shall conduct a study to assess the feasibility of the Corporation producing advanced alternatives to existing automobiles which can be manufactured at reasonable cost, for a broad market, and which incorporate the best conservation, safety, and environmental characteristics of the experimental motor vehicles designed under contract to the National Highway Traffic Safety Administration. The study shall include the feasibility of federal, state, and local governments, and private corporations contracting, over the next three to five years, with the Corporation for the purchase of such advanced automobiles. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make the point of order that the amendment is not germane. Mr. Chairman, under the guise of having here a direction to the Secretary of Transportation to make certain additions to the financing plan, the gentleman would impose on an officer of Government, little mentioned in the legislation, the responsibility of doing a number of things: First, consulting with other agencies; second, submitting to the Board and the Congress an assessment of the long-term viability of the corporation; but in addition to that it would require them to conduct a broad study to assess the feasibility of the corporation's producing advanced alternatives to existing automobiles which may be manufactured at a reasonable cost, for a broad market, and which incorporate the best conservation, safety and environmental characteristics, and so forth.

The study shall include the feasibility of State and Federal Government's engaging in certain actions, including private corporations contracting, over the next 3 to 5 years, with the corporation for the purchase of such advanced automobiles.

Mr. Chairman, we have a situtation where we have, first of all, essentially a lengthy study to be completed, and recommendations with regard to the purchase of advanced automobiles, something which is nowhere in contemplation of the Board. They are not to engage in the purchase of automobiles, and it would just occur to me, Mr. Chairman, that this goes beyond the language in the legislation which is simply to afford loan guarantees to Chrysler and not to set up lengthy studies for the Department of Transportation.

As a matter of fact, Mr. Chairman, were this amendment to be introduced to stand on its own, it would have been referred to an entirely different committee, probably the Committee on Interstate and Foreign Commerce. For that reason, Mr. Chairman, it is both nongermane as relates to the general purposes of the bill, which are to set up a program of loan guarantees for Chrysler; but, second, it is not even within the jurisdiction of the committee which has considered this matter and reported it to the House. . . .

MR. MAGUIRE: . . . Mr. Chairman, I really do not think that the lengthiness of a study goes to the issue of whether or not an amendment is germane. . . .

The amendment is germane because it relates to the subject matter that is before us in this bill, and I would simply say that I think the gentleman has failed to sustain his case.

THE CHAIRMAN: . . . [T]he Chair is prepared to rule.

The Chair would like to make two points: First, the amendment requires a study of just the Chrysler Corp., and that is certainly pertinent to the bill; but, in addition to that, the Committee of the Whole has already adopted in the Solomon amendment a study dealing with the economic impact of the whole automobile industry on a variety of things. The Chair, therefore, believes that this amendment is germane, and he overrules the point of order.

Bill Reforming Economic Regulation of Railroads—Amendment Requesting Study of Impact of Tax Law Changes on Railroads

§ 3.24 Where a bill reforming the economic regulation of railroads was being read for amendment by titles, and the title under consideration, entitled "railroad inter-carrier practices" dealt with diverse subjects, including bankruptcy and employee protection issues, an amendment to such title which (1) addressed those issues as well as railroad rates and rate-making, (2) included provisions requesting a study of the impact of possible tax law changes on railroads, and (3) conferred certain powers on the Interstate Commerce Commission, the Secretary of Transportation and other officials, was held germane even though portions of the amendment indirectly affected a previous title of the bill already perfected by amendment.

On Sept. 5, 1980,[11] the Committee of the Whole had under consideration H.R. 7235, the Rail Act of 1980. Title II of the bill, which had been perfected by amendment, related to the following subjects:

TITLE II—RAILROAD RATES, PROFITS, AND REINVESTMENT

Sec. 201. Regulation of railroad rates in the absence of effective competition.

Sec. 202. Determination of the absence of effective competition.

Sec. 203. Investigation and suspension of rates.

Sec. 204. Contracts.

Sec. 205. Demand sensitive rates.

Sec. 206. Phaseout of capital incentive rates.

Sec. 207. Permissive limited liability rates.

Sec. 208. Rate discrimination.

Sec. 209. Exemption.

Sec. 210. Intrastate rates.

Sec. 211. Transition rate adjustments and inflation-based rate increases.

Sec. 212. Customer solicitation expenses.

Sec. 213. Safe railroad reinvestment requirements.

11. 126 CONG. REC. 24375–97, 96th Cong. 2d Sess.

Title III, under consideration, related to the following subjects:

TITLE III—RAILROAD INTER-CARRIER PRACTICES

Sec. 301. Compensatory joint rate relief.

Sec. 302. Rate bureaus.

Sec. 303. Long and short haul transportation.

Sec. 304. Railroad entry.

Sec. 305. Service during periods of peak demand.

Sec. 306. Reciprocal switching.

Sec. 307. Car service compensation.

Sec. 308. Car service orders for exigent circumstances.

Sec. 309. Employee protection.

An amendment was offered to Title III:

THE CHAIRMAN:[12] When the Committee of the Whole House rose on Thursday, July 24, 1980, title III was open to amendment at any point.

Are there any amendments to title III? . . .

The Clerk read as follows:

Amendment offered by Mr. Staggers: Page 125, strike out line 14 and all that follows through line 17 on page 138 (including the material between lines 17 and 18)) and insert in lieu thereof the following . . .

Page 98, strike out the item in the table of contents relating to section 301 and insert in lieu thereof the following new items:

Sec. 301. Compensatory joint rate relief.

Sec. 302. Expedited division of revenues proceedings.

Sec. 303. Regulation of railroad rates.

Sec. 304. Determination of market dominance.

Sec. 305. Zone of rate flexibility.

Sec. 306. Rate regulation proceedings and study.

Sec. 307. Inflation-based rate increases.

Sec. 308. Investigation and suspension of rates.

Sec. 309. Contracts.

Sec. 310. Demand sensitive rates.

Sec. 311. Phaseout of capital incentive rates.

Sec. 312. Permissive limited liability rates.

Sec. 313. Rate discrimination.

Sec. 314. Exemption.

Sec. 315. Intrastate rates.

Sec. 316. Customer solicitation expenses.

Sec. 317. Efficient marketing.

Redesignate the following items in the table of contents for title III accordingly.

Page 98, at the end of the items relating to title III in the table of contents, insert the following new item:

Sec. 326. Safe railroad reinvestment requirements.

Sec. 327. Rock Island and Milwaukee Railroad amendments.

Sec. 328. Loan guarantees.

Sec. 329. Amendment to the Regional Rail Reorganization Act of 1973.

Sec. 330. Savings provisions.

Sec. 331. Relationship to title II.

Sec. 332. Rail Technology and Shipper Needs Board; other shipper assistance. . . .

REGULATION OF RAILROAD RATES

Sec. 303. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10701 the following new section:

§ 10701a. Standards for rates for rail carriers.

12. Les AuCoin (Ore.).

"(a) Except as provided in subsection (b) or (c) of this section and unless a rate is prohibited by a provision of this title, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate for transportation or other service provided by the carrier. . . .

INTRASTATE RATES

Sec. 315. (a) Section 11501(a) of title 49, United States Code, is amended—

(1) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(2) by striking out "subchapter I or subchapter IV" and inserting in lieu thereof "subchapter IV";

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) by striking out paragraph (2). . . .

"EMPLOYEE PROTECTION AGREEMENTS

"Sec. 106. (a) Not later than 5 days after the date of enactment of the Harley O. Staggers Rail Act of 1980, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances. . . .

"CONGRESSIONAL FINDINGS

"Sec. 102. The Congress finds that—

"(1) the Railroad Revitalization and Regulatory Reform Act of 1976 was not intended to imply that there would be no labor protection in the event of a total abandonment by a major rail carrier and the Milwaukee Railroad Restructuring Act requires the imposition of employee protection in all abandonments when the rail carrier is in bankruptcy whether such carrier is being reorganized or has been ordered to be liquidated. . . .

LOAN GUARANTEES

Sec. 328. (a) To promote competition in the transportation of coal, the Secretary of Transportation shall, no later than 45 days after the date of enactment of this Act, take final action of any application for loan guarantees, under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to be used in connection with joint ownership, construction, or rehabilitation of any facilities (including support facilities) for a second rail carrier to serve the Powder River Coal Region in Montana and Wyoming.

(b) The Secretary of Transportation may waive the provisions of section 511(g) of the Railroad Revitalization and Regulatory Reform Act of 1976 in making the loan guarantees described in subsection (a) of this section. . . .

RELATIONSHIP TO TITLE II

Sec. 331. In any case in which any provision of or amendment made by title II of this Act conflicts with any provision of or amendment made by this title, the provision of or amendment made by this title shall control.

RAIL TECHNOLOGY AND SHIPPER NEEDS BOARD; OTHER SHIPPER ASSISTANCE

Sec. 332. (a)(1) There is hereby established a Rail Technology and Shipper Needs Board (hereinafter in

this section referred to as the "Board"), which shall be composed of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, and the Chairman of the Interstate Commerce Commission. The Secretary of Transporation shall serve as Chairman of the Board and shall have the responsibility for expediting the proceedings of the Board. . . .

(g)(1) The Secretary of Transportation and the Secretary of the Treasury shall jointly submit to the Congress, within 9 months of the effective date of this Act, a comprehensive report on the anticipated effect (including the loss of revenue to the Federal Treasury) of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines. Such report shall also include such criteria as may be necessary to prevent the abuse of such special tax status. . . .

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, in considering the point of order, the nature of the amendment must be considered. The salient question is whether or not by amending title III, a title dealing with the question of railroad intercarrier practices, and by including in that amendment a number of specific matters which I will deal with later in my point of order, and including provisions on title II dealing with railroad rates, profits, and reinvestment, whether or not the Staggers amendment is germane to the provisions in title III. That is the essential question.

In an amendment offered in this way, which, incidentally, is a very, very unusual way of offering an amendment, or a substitute, the question is not only one of the germaneness to the bill as a whole, but the question of whether or not the amendment is germane to the title sought to be amended. Such would not be true had an amendment of this nature been offered after the completion of title III and as a new title to the bill, or had the amendment been offered as a full substitute altering the provisions previously put into effect under title II.

The first point I wish to make is the broadest point upon which my point of order rests, and that is that the general subject matter of title II is quite different from the subject matter dealt with in title III. Essentially title II is what its title says it is. It is a title dealing with railroad rates, profits, and reinvestment. . . .

. . . If the Staggers-Rahall-Lee amendment in the nature of a substitute deals with a different subject matter not germane to the subject matter dealt with in title III, or if any part of the amendment in the nature of a substitute deals with some subject matter not germane to title III, then the whole amendment must fall. Title III, as I have pointed out, deals with railroad intercarrier practices. It is true, of course, that under that general heading there are several different categories that I think could be understood by the sections and their headings. . . .

The subject matter of title II deals primarily with a question involved with ICC within the brackets of control defined in that area and with the question of relationship between the carrier and the shipper, the most salient and sensitive of which is a situation involving what we call the captive shipper.

Therefore, we urge as a broad proposition, and the broadest proposition of our point of order, that provisions relating to the title II matters and in effect attempting to strike a compromise in that area of contracts, that is, the rate control area, the jurisdictional area of ICC, is not germane to the provisions dealing essentially with the intercarrier relationships and certain other provisions in title III. We are aware of the fact that there are instances where a miscellaneous section of the bill deals with such a wide variety of subjects that it may be said if that were an original bill, the provisions of another title of the bill would be germane to it, even though the subject matter of the other title has already been dealt with, but we urge that that is not the case here. This is not a wide variety of subject matter. It is a subject matter related to the question of interrailroad relations.

Where there are other subject matters involved, they are narrow and in most instances related to that broader topic. But the position we are taking here is not limited to that broad contention. There are other provisions in the Staggers substitute which deal with a variety of subjects not touched even in the original bill. These are sought to be brought under consideration or perhaps as a matter of compromise and sweetener to various groups, and they go far beyond the original area of title III. They actually would amend provisions of other laws besides those related to title III. It should be noted that the scope of title III is limited to provisions amending the codified Interstate Commerce Act, title 49 of the United States Code. In contrast, the Staggers-Rahall-Lee amendment in section 327 amends several other laws and titles of the United States Code. . . .

Section 327 fails to meet the test of germaneness for the same reasons that the Senate amendment was deemed nongermane. First, the section contains substantial amendments to existing laws which are not amended by title III. Second, in contrast to title III, the section provides for a substantial authorization of appropriations from the U.S. Treasury and significantly alters the rights of the United States as a creditor.

Moreover, the Milwaukee and Rock Island amendments are subjected to a point (of) order because the provision seeks to accomplish the purposes of title III by methods that are not closely allied to methods encompassed in title III. See Deschler's Procedure, chapter 28, section 33.11, providing that:

> To a bill designed to aid in the control of crime through the research and training, an amendment aimed at the control of crime through regulation of the sale of firearms and affecting laws not amended by the bill was held not germane.

While title III seeks to further railroad revitalization by revisions and regulatory requirements, section 327 seeks to accomplish this objective in part through a substantial expenditure of Federal funds. . . .

This provision enters into that field and purports to regulate through Federal law an area far beyond the original provision of title III. None of the title III provisions relate to the relationship between the Federal Government and State governments, or alter State jurisdiction over rules, classifications, and rates and practices in any

way. The scope of title III is limited to interstate transportation by rail carriers. Therefore, section 315 of the proposed amendment dealing with intrastate transportation is subject to a point of order.

Moreover, the scope of the intrastate amendment to title III is even broader than the intrastate language in title II. The title II language is limited to certain preemptions of intrastate rate-making, and as I have pointed out, this has been enlarged to classifications, rules, and practices. Thus, section 315 provides authority for a Federal Government to preempt State regulatory authority over virtually the entire operations of intrastate railcarriers. . . .

. . . We should deal with one subject matter and not inject into it other subject matters during the reading of the bill. There are ways to get to these points which I have alluded to, either by adding a new section or a new title, which would then fall within the germaneness rule with respect to the whole bill, or by offering a substitute amendment at the end.

But let us note the ingenious manner in which it is attempted to leave in place, without touching it, the provisions that this body with careful deliberation has established through the Eckhardt-Rahall amendment to title II. The language which is contained in this amendment that attempts to get by that is this:

> In any case in which any provision of or amendment made by title II of this Act conflicts with any provision of or amendment made by this title, the provision of or amendment made by this title shall control.

What is attempted to be done is to enter into the whole major subject matter of title II and reverse it by putting this in a title which does not have anything to do with the question of the jurisdictional scope and limitations of the ICC. . . .

Mr. Chairman, there is yet another section which is itself subject to the point of order. That is section 332. This is subject to a point of order under the committee jurisdiction test as well as the subject matter test.

In particular, section 322(g) requires the Secretary of the Treasury to submit a report on the anticipated effect of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines.

This matter is clearly within the jurisdiction of the Committee on Ways and Means, and, therefore, it is not germane to legislation within the jurisdiction of the Committee on Interstate and Foreign Commerce. See Deschler's Procedure, chapter 28, section 4.42, where it is said:

> To a title of a bill reported from the Committee on Interstate and Foreign Commerce containing diverse petroleum conservation, and allocation provisions, an amendment imposing quotas on the importation of petroleum products from certain countries was held to be a matter within the jurisdiction of the Committee on Ways and Means and was ruled out as not germane.

Mr. Chairman, for these many reasons, all of which are supported by reason and all of which are based upon the protection of the processes of this House, I urge that the Chair should rule the Staggers-Rahall-Lee amendment not germane. . . .

MR. [JAMES J.] FLORIO [of New Jersey]: . . . Mr. Chairman, title III, as reported by the Committee, is a diverse title dealing with many and diverse railroad issues, including surcharges and cancellations, rate bureaus, and employee protection in abandonment proceedings involving bankrupt carriers. The title has unrelated provisions dealing with many sections of the Interstate Commerce Act. These provisions were separated from title II simply to break up an otherwise unwieldy series of provisions. A quick synopsis of the provisions in title II will bear this out.

Section 301 permits carriers recovering less than 110 percent of their variable costs in a particular movement to surcharge or cancel such rates. Section 302 narrows the antitrust immunity railroads have under the Reed-Bulwinkle Act to establish rates collectively. Section 303 permits a railroad to charge more for a longer haul than a shorter haul in the same direction over the same route, contrary to existing law.

Section 304 allows one railroad to construct a new railroad line across another railroad. Section 305 provides that carriers which meet commitments on contracts do not violate their common carrier obligations.

Section 306 permits the ICC to order one railroad to pick up and deliver cars not on its own lines. Section 307 gives the ICC the discretion to grant antitrust immunity to shippers to discuss the compensation that will be paid for the use of their own cars.

Section 308 defines the conditions which must exist before the ICC may issue car service orders and limits the duration of such orders. Section 309 provides for employee protection in abandonment proceedings involving bankrupt rail carriers and amends title II of the United States Code which deals with bankruptcy proceedings for railroads.

It is clear from a mere recitation of the extent of this title that there is no common thread running through title III, except that all sections deal with railroad matters. The name of title III, the "Railroad Inter-Carrier Practices," was used primarily because section 301, the most important provision in the title, addresses such practices. The title was not intended to govern the subject matter of that entire title. The amendment we are offering is germane because it generally deals with railroads and it includes section 301 of the bill as reported by the committee with other minor changes.

The amendment contains minor changes in the present section 301 which are clearly germane to title III. It also contains sections dealing with regulation of rates by the ICC, the establishment of competition between a rail movement and existing or potential movements by rail or other modes, a study by the ICC on the extent to which competition should enter into the ICC decisionmaking process, the establishment of a percentage zone of permissible rate increases which is identical to a provision currently in title III relative to general rate increases, suspension or investigation of rates, contracts, exemption of rail carriers from most provisions of the act, specific changes to sections of title III which will be maintained, and changes to the Rock Island Transition and Employee Assistance Act.

Present title III amends and affects a great number of sections of the Interstate Commerce Act and other statutes, a list of which has been provided to the Parliamentarian, and including title II of the United States Code.

In conclusion, title III covers a broad range of railroad issues, as does the amendment. There is no unifying factor in title III, but they address matters affecting railroads and, accordingly, and under the precedents, the amendment is and does appear to us to be germane.

THE CHAIRMAN: The gentleman from Minnesota (Mr. Frenzel) reserved a point of order.

Does the gentleman from Minnesota wish to be heard on the point of order? . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I have a further point of order.

The point of order of the gentleman from Texas does deal with germaneness, and the argumentation by the subcommittee chairman also dealt with that.

Mr. Chairman, my point of order against this amendment is one of germaneness, as well. I invite the Chair's attention to section 328 of the proposed amendment dealing with loan guarantees. That section states as its purpose, and I quote, "to promote competition in the transportation of coal."

The purpose of the bill before us, according to its purpose in section 3, is "to provide for the restoration, maintenance and improvement of the physical facilities and financial stability of the rail system of the United States."

Nowhere in the bill are we dealing with promoting competition in the transportation of one particular item. The proposed amendment's purpose is, as I stated, "competition in the transportation of coal," and not the "rehabilitation (of) the rail system in order to meet the demands of interstate commerce and the national defense," as the bill proposes to do.

The chairman of the subcommittee argues that because there are a lot of different things in the bill, somehow it escapes the rules of germaneness. If we are to accept that kind of reasoning, any substitute, however gross, however nongermane, would somehow be declared germane.

This particular section, section 328, was not included in the original bill and cannot escape that rule of germaneness, Mr. Chairman.

The amendment specifically amends section 4(f) of the Department of Transportation Act and states that such section of the Department of Transportation Act shall not apply to any loan guarantee described in the loan guarantee section attempting to promote competition in the transportation of coal. The bill and the amendment in the nature of a substitute offered by the committee do not amend this provision of the law, and this new amendment is waiving a section of another law not contained in the original bill nor in the committee amendment.

This is an omnibus bill, I grant that. It does involve financing of the rail system. But the amendment proposed by the gentleman from West Virginia, and others, goes much farther than the bill and expands the scope to involve loan guarantees to promote competition in the transportation of a single commodity. . . .

MR. FLORIO: Mr. Chairman, on the point that has been raised, I think I have adequately addressed the question that the scope of this amendment and the scope of the bill, titles I and II, are sufficiently broad, related to railroad matters, that they are germane, and I would just renew our request that the Chair so rule. . . .

MR. [EDWARD R.] MADIGAN [of Illinois]: Mr. Chairman, I should like to be heard on the question of germaneness of the Staggers substitute. . . .

Mr. Chairman, I point out at the outset that in his argument the gentleman from Texas has referred to the Staggers substitute as containing a provision to amend the Internal Revenue Code.

As a matter of fact, there is no such provision in the Staggers substitute. There is only a request for a study and a report of the results of that study.

Mr. Chairman, I believe the amendment is germane to title III of this bill. Title II affects a broad range of issues affecting railroads. It amends many provisions of the Interstate Commerce Act, both in subchapter 107, subchapter 109, subchapter 111, and subchapter 113, and it, as well, amends title 11 of the United States Code as it applies to railroads.

Similarly, the amendment affects a broad range of issues affecting railroads. It includes amendments to various subchapters of the Interstate Commerce Act and to title 45 of the United States Code as it affects railroads.

The only unifying factor in title III is that all of the provisions affect railroads. In the same way, the amendment is a diverse one which deals with many issues affecting railroads.

Title III was separated from other parts of this bill only so that the bill would be easier to follow. There is no logical distinction between the titles of the bill. The heading for title II, "Inter-Carrier Practices," was chosen because the most important provision in that title deals with how railroads divide revenues. The other provisions do not relate only to inter-railroad practices. . . .

MR. ECKHARDT: . . . I did not say that section 332(g) seeks to amend the Revenue Code. What I said, in particular, section 332(g) requires the Secretary of the Treasury to submit a report on the anticipated effect of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines.

I did not say that it amended the Code. I said precisely what it does. Yet I think it is quite clear that it calls upon the Secretary of the Treasury to make a recommendation. Such recommendation is clearly also within the jurisdiction of the Committee on Ways and Means.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Texas makes the point of order that the amendment offered by the gentleman from West Virginia (Mr. Staggers) is not germane to title III of H.R. 7235 but rather is an attempt to indirectly amend provisions already amended in title II of the bill which has been passed in the reading for amendment, and also to include extraneous provisions relating to railroads not addressed by title III.

First, the Chair would state that the Chair does not rule on the consistency

of amendments but rather on the substance of amendments.

Under the provisions of House Resolution 716 governing consideration of the bill pending, the bill is being considered by titles, and title III, not merely section 301, is now open to amendment at any point. Thus, the relevant test of germaneness of the amendment is its relationship to the entire pending text, title III, and not merely to section 301 relating to joint rates.

The Chair has had an opportunity to examine the scope of title III and basically agrees with the characterization of that title made by the gentleman from New Jersey that title III is diverse in its treatment of railroad regulation and employee protection and bankruptcy issues and is not merely confined to inter-carrier practices issues, as suggested by the title heading.

The Chair would also agree that the revenue provisions cited by the gentleman from Texas do not amend the Internal Revenue Code but do instead call for a study on taxation, which study, if submitted, would be referred to the Committee on Ways and Means.

In a similar situation, an amendment requesting a study of a possible change in tax law, but not amending the Internal Revenue Code, was held germane to a bill not reported by the Committee on Ways and Means; this ruling on October 18, 1979.

The Chair would also note that the loan guarantee provision cited by the gentleman from Minnesota relates to railroad carriers only although applicable to rail transportation of coal. The Chair would in this case rely on the precedent cited in Deschler's Procedure, chapter 28, sections 2.15 and 2.16, standing for the proposition that an amendment may be germane to more than one portion of the bill, and involving a comparable situation wherein a title of the bill in which the amendment would have been particularly germane had been passed in the reading for amendment. The amendment in that case was offered to a subsequent title of the bill containing miscellaneous provisions on a general subject; and Chairman Price stated at that time that while "an examination of the amendment shows that it would have been more appropriately offered to another title of the bill, the Chair does observe that the title which is under consideration is referred to as miscellaneous amendments, and it amends several other acts."

The Chair would state that there are two other precedents in chapter 28 of Deschler's that are applicable in this case. Section 14.3 states that an amendment may be germane at more than one place in the bill, thus where the first several sections of the bill pertain to one category within the subject under consideration and subsequent sections introduce other such categories, an amendment adding a further such category may be offered at either of two places, the point which in the reading of the text the sections dealing with the first category have been passed, or at the end of that part of the text where the other categories have been added.

Section 14.11 states that the test of germaneness of an amendment in the form of a new section to the title of the bill being read by titles is the relationship between the amendment and the pending title.

The Chair feels that title III is sufficiently broad in scope to admit as germane an amendment dealing, inter alia, with the subject of railroad rates and other railroad related employee protection, bankruptcy, and financial assistance provisions although they may only be applicable to specific railroads or to specific commodities transported by rail.

The Chair overrules the point of order.

Provision Requiring Study of Impact of Bill on Activities Not Directly Regulated by Bill—Amendment Imposing Conditions Relating to Such Activities

§ 3.25 Where an amendment seeks to make the effectiveness of a bill conditional upon factors not otherwise related to the subject matter of the bill, such amendment is not rendered germane merely because a study is required by the bill to be made regarding the impact of the bill upon factors or activities which are not directly regulated by the bill.

The proceedings of Nov. 2 and Nov. 3, 1983, relating to H.R. 1234, the Fair Practices and Procedures in Automotive Products Act of 1983, are discussed in § 31.20, infra.

Bill Affecting Income Tax Liability of Life Insurance Companies—Amendment Proposing Repeal of Certain Excise Taxes

§ 3.26 To a committee substitute relating to the income tax liability of life insurance companies, an amendment proposing the repeal of certain wartime excise tax rates on specified articles was held not germane.

In the 81st Congress, during consideration of a bill[13] relating to the income tax liability of life insurance companies for 1948 and 1949, Mr. Joseph W. Martin, Jr., of Massachusetts, offered an amendment[14] whose purpose he described as follows:[15]

> . . . This amendment repeals the wartime excise-tax rates on such articles as furs, jewelry, luggage, toilet preparations, lubrication oils, gasoline, tires and tubes, automobile trucks and buses, automobiles and motorcycles [and other articles].

The Chairman, Albert A. Gore, of Tennessee, in ruling on a point of order raised against the amendment, discussed the parliamentary question as follows:[16]

---

13. H.J. Res. 371 (Committee on Ways and Means).

14. 96 CONG. REC. 992, 993, 81st Cong. 2d Sess., Jan. 26, 1950.

15. *Id.* at p. 993.

16. *Id.* at p. 995.

The Committee of the Whole has under consideration House Joint Resolution 371 and a committee amendment thereto, to which the gentleman from Massachusetts [Mr. Martin] has offered an amendment. The gentleman from Tennessee[17] has made a point of order against the amendment to the amendment on the grounds that it is not germane. . . . House Joint Resolution 371, and the committee amendment thereto, deals with the Internal Revenue Code in one particular, to wit, the income tax liability of insurance companies. The amendment offered by the gentleman from Massachusetts deals with sundry and different parts of the Internal Revenue Code.

The fundamental test of germaneness . . . is that a proposition submitted must be akin and relative to the particular subject matter to which the proposition is offered as an amendment. . . .

The Chair feels that this fundamental test of germaneness is not met by the amendment offered by the gentleman from Massachusetts. Therefore, the point of order is sustained.

Bill Affecting Income Taxes—Amendment Seeking To Amend Law Respecting Inheritance Taxes

§ 3.27 To a bill providing for the current payment of individual income taxes, an amendment seeking to amend the law respecting inheritance taxes was held not germane.

In the 78th Congress, during consideration of the Current Tax Payment Bill of 1943,[18] an amendment was offered whose purposes were outlined by the proponent as follows:[19]

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, this is the provision that I have been urging for some time, and I expect to keep up the struggle until we reach these large fortunes that are now escaping taxes entirely.

Before the passage of the income tax amendment, large interests, through their shrewd lawyers, knowing that the American people were going to adopt an income- and inheritance-tax amendment, created these trusts and through them transferred their property, you might say, to future generations. In that way they have escaped all inheritance and income taxes on those inheritances.

A point of order was raised against the amendment, as follows:[20]

MR. [JERE] COOPER [of Tennessee]: . . . I make the point of order that the amendment is not germane to this bill.

This bill is one to provide for the current payment of individual income taxes. This amendment seeks to amend the estate tax law which is not touched in any way in this bill . . . There is nothing in this bill relating to the subject matter of the amendment.

---

17. Jere Cooper.

18. H.R. 2570 (Committee on Ways and Means).

19. 89 CONG. REC. 3940, 78th Cong. 1st Sess., May 4, 1943.

20. *Id.* at p. 3941.

Mr. Rankin stated in response:

> . . . The enacting clause of this bill reads:
>
> Be it enacted, etc., That (a) this act is to be cited as the current tax payment act of 1943.
>
> It seems to me, that inasmuch as this is a tax collection measure, my amendment would be in order. . . .

The Chairman,[1] in ruling on the point of order, stated:

> The Chair draws attention to the fact that the bill under consideration provides for the current payment of individual income taxes. The amendment offered by the gentleman relates to inheritance taxes.
>
> The point of order is sustained.

Provisions for Tax Credits—Senate Amendment Authorizing Rebates for Social Security Recipients

§ 3.28 To a proposition seeking to reduce tax liabilities of individuals and businesses by providing diverse tax credits within the Internal Revenue Code, an amendment to provide rebates to recipients under retirement and survivor benefit programs was held to be not germane.

Where a House bill contained several diverse amendments to the Internal Revenue Code to provide individual and business tax credits, that part of a Senate amendment in the nature of a substitute contained in a conference report which authorized appropriations for special payments to social security recipients was deemed not to be related to tax benefit provisions in the Internal Revenue Code and was held to be not germane. The proceedings of Mar. 26, 1975,[2] were as follows:

> SEC. 702. SPECIAL PAYMENT TO RECIPIENTS OF BENEFITS UNDER CERTAIN RETIREMENT AND SURVIVOR BENEFIT PROGRAMS.
>
> (a) Payment.—The Secretary of the Treasury shall, at the earliest practicable date after the enactment of this Act, make a $50 payment to each individual, who for the month of March, 1975, was entitled . . . to—
>
> (1) a monthly insurance benefit payable under title II of the Social Security Act,
>
> (2) a monthly annuity or pension payment under the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or
>
> (3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act; . . .
>
> (c) COORDINATION WITH OTHER FEDERAL PROGRAMS.—Any payment made

1. Alfred L. Bulwinkle (N.C.).

2. 121 CONG. REC. 8911, 8912, 8931, 94th Cong. 1st Sess. Under consideration was the conference report on H.R. 2166, the Tax Reduction Act of 1975.

by the Secretary of the Treasury under this section to any individual shall not be regarded as income (or, in the calendar year 1975, as a resource) of such individual (or of the family of which he is a member) for purposes of any Federal or State program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. . . .

MR. [BARBER B.] CONABLE [Jr., of New York]: I make a point of order against the conference report on the ground that it contains matter which is in violation of clause 7, rule XVI.

The nongermane matter I am specifically referring to is that section of the report dealing with a rebate to social security recipients. This section appears as section 702 of the conference report on page 55. . . .

There is clearly nothing in the House bill dealing with social security matters. There is nothing relating to a trust fund or the relationship of trust fund and general fund.

For that reason, Mr. Speaker, it seems to me that this . . . is clearly outside the scope of the House bill. . . .

MR. [AL] ULLMAN [of Oregon]: . . . In the House-passed bill there was a provision very specifically rebating funds to individuals under title I. The measure included in this conference report does not affect the trust fund in any way. It does not in any way amend the Social Security Code.

In the statement of the managers we say the following:

> The conferees emphasize that these payments are not Social Security benefits in any sense, but are intended to provide to the aged, blind, and disabled a payment comparable in nature to the tax rebate which the bill provides to those who are working.

Therefore, in a broadly based bill such as this kind, where various kinds of rebates are passed along to different segments of the public, it seems to me that this is perfectly within the scope of the bill and should be determined germane to the bill. . . .

THE SPEAKER:[3] The Chair is prepared to rule.

Title V of the Senate amendment in the nature of a substitute "Miscellaneous Provisions" contained sections which did not amend the Internal Revenue Code and which could not be considered germane to any portion of the House-passed bill or the bill as a whole. Specifically, section 501 of the Senate amendment providing a special payment to recipients of benefits under certain retirement and survivor benefit programs, a modification of which was incorporated into section 702 of the conference report, is not germane to the House-passed bill. That provision is not related to the Internal Revenue Code and would provide an authorization of appropriations from the Treasury.

For this reason, the Chair holds that the section 702 of the conference report is not germane to the House bill and sustains the point of order.

MR. CONABLE: Mr. Speaker, I move the House reject the nongermane amendment covered by my point of order.

---

3. Carl Albert (Okla.).

THE SPEAKER: The gentleman from New York is recognized for 20 minutes in support of his motion.

Bill Relating to Retirement of Supreme Court Justices—Amendment Subjecting Justices' Retirement Pay to Taxation

§ 3.29 To a bill relating to retirement of Justices of the Supreme Court, an amendment providing that their retirement pay shall be subject to taxation under the applicable federal income tax law was held not germane.

In the 75th Congress, a bill[4] was under consideration relating to retirement of Justices of the Supreme Court and stating in part:[5]

> Be it enacted, etc., That Justices of the Supreme Court are hereby granted the same rights and privileges with regard to retiring, instead of resigning, granted to judges other than Justices of the Supreme Court by section 260 of the Judicial Code (U.S.C., title 28, sec. 375), and the President shall be authorized to appoint a successor to any such Justice of the Supreme Court so retiring. . . .

The following amendment was offered to the bill:[6]

> Amendment offered by Mr. [Jed J.] Johnson of Oklahoma: Page 1, line 4, insert after the word "retiring" the words "except that their retired pay shall be subject to taxation under the applicable Federal income-tax law."

Mr. Hatton W. Sumners, of Texas, made the point of order that the amendment was not germane. The Chairman,[7] in ruling on the point of order, stated:

> The bill under consideration deals with the retirement of Justices of the Supreme Court, whereas the amendment offered by the gentleman from Oklahoma deals with the subject of taxation and salaries. In the opinion of the Chair the amendment is not germane, and the Chair sustains the point of order.

Bill Repealing Tax on Margarine—Amendment Relating to Cottonseed Oil Used in Margarine

§ 3.30 To a bill repealing a tax on oleomargarine, an amendment relating to the production of cottonseed oil for use in the manufacture of oleomargarine was held to be not germane.

In the 80th Congress, during consideration of a bill[8] repealing the tax on oleomargarine, the following amendment was offered:[9]

---

4. H.R. 2518 (Committee on the Judiciary).

5. See 81 CONG. REC. 1124, 75th Cong. 1st Sess., Feb. 10, 1937.

6. *Id.* at p. 1125.

7. Fritz G. Lanham (Tex.).

8. H.R. 2245 (Committee on Agriculture discharged).

9. 94 CONG. REC. 5003, 80th Cong. 2d Sess., Apr. 28, 1948.

Amendment offered by Mr. [H. R.] Gross [of Iowa]: Add the following new section at the end of the bill:

No cottonseed oil shall be used in the manufacture or production of oleomargarine unless such cottonseed oil shall have been produced from cottonseed grown in areas certified to be free from pink boll weevil worm infestation.

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

MR. [EDWARD A.] MITCHELL [of Indiana]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Pennsylvania is not germane. It is a frivolous amendment and has nothing to do with the measure itself. It relates to the production of raw material and has nothing to do with this bill.

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

MR. GROSS: . . . I contend it is entirely germane since it is going to deal with what goes into oleomargarine.

The Chairman,[10] in ruling on the point of order, stated:

The pending bill deals with the removal of a tax on oleomargarine, whereas the gentleman's amendment deals with the question of content.

The point of order is sustained.

Federal Aid Highway Bill—Amendment Commending Certain Military Personnel for Operations

§ 3.31 To an omnibus federal aid highway bill, an amendment in the form of a new section commending certain members of the armed forces for specified military operations was held to be not germane.

In the 91st Congress, during consideration of the Federal Aid Highway Act of 1970,[11] the following amendment was offered:[12]

Whereas, increasing numbers of American military personnel remain in captivity in North Vietnam in circumstances which violate the Geneva Convention of 1949. . . .

Now, therefore, be it resolved by the House of Representatives that the official command, officers and men involved in the military expedition of November 21, 1970, seeking release from captivity of United States prisoners-of-war . . . be commended for the courage they displayed in this hazardous and humanitarian undertaking. . . .

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

MR. [JOHN C.] KLUCZYNSKI [of Illinois]: Mr. Chairman, I rise to make a point of order against the amendment; that the amendment is not germane to the bill.

In defending the amendment, the proponent, Mr. Samuel S. Stratton, of New York, stated:[13]

---

10. Leslie C. Arends (Ill.).

11. H.R. 19504 (Committee on Public Works).

12. 116 CONG. REC. 38971, 91st Cong. 2d Sess., Nov. 25, 1970.

13. *Id.* at pp. 38971, 38972.

Mr. Chairman, this amendment seeks to enlist the support of this House for action taken in an effort to rescue these prisoners. . . .

The following exchange then took place:[14]

THE CHAIRMAN:[15] The gentleman from New York will suspend. This bill is a bill having to do with the highway system of the United States. . . .

MR. STRATTON: Mr. Chairman, allow me to make my point. . . .

THE CHAIRMAN: The gentleman has not addressed himself to the point of order and the Chair is constrained to rule that the gentleman is out of order.

MR. STRATTON: Mr. Chairman, let me explain. The resolution under which this bill is considered specifically waives points of order and, secondly, this is an amendment to the section of the emergency relief provision of the bill.

THE CHAIRMAN: The gentleman will suspend. There are no points of order waived on those things that are not germane to the bill. . . .

The Chair is constrained to rule the gentleman is speaking on an amendment that is not germane to the bill. The gentleman must suspend under the ruling of the Chair.

The Chair holds that the amendment is not germane and sustains the point of order.

—Amendment Permitting Governors To Divert Funds to Urban Mass Transportation

§ 3.32 To a bill authorizing funds for the federal aid highway program, an amendment permitting the governor of a state to divert funds from the highway program to urban mass transportation projects was held to be not germane.

During consideration of the Federal Aid Highway Act of 1968,[16] the following amendment was offered:[17]

Amendment offered by Mr. [William F.] Ryan [of New York]: On page 25, after line 7, insert the following:

USE OF CERTAIN FUNDS FOR URBAN MASS TRANSPORTATION PURPOSES

Sec. 6. (a) The Governor of a State may elect to have any funds apportioned to such State . . . made available, in a manner prescribed by regulations of the Secretary of Transportation, for urban mass transportation purposes within such State. . . .

A point of order was raised against the amendment, as follows:[18]

MR. [GEORGE H.] FALLON [of Maryland]: . . . I make a point of order against the amendment. . . . [T]he point of order is that this is the same amendment which was offered by the gentleman in 1966 in the Highway Act, which will use moneys from the highway trust fund for other modes of transportation.

---

14. *Id.* at p. 38972.

15. Chet Holifield (Calif.).

16. H.R. 17134 (Committee on Public Works).

17. 114 CONG. REC. 19926, 90th Cong. 2d Sess., July 3, 1968.

18. *Id.* at pp. 19926, 19927.

In defense of the amendment, the proponent stated as follows:[19]

> MR. RYAN: Mr. Chairman, on the point of order, on August 11, 1966, I offered a similar amendment. At that time, it was ruled out of order on the ground that it related to mass transportation and not highways. . . . So on August 16, 1966, I offered it as an amendment to the mass transit bill; and it was ruled out of order, on the ground that it related to highways and not to mass transportation.
>
> We cannot have it both ways. . . .

The Chairman,[20] in ruling on the point of order, stated:

> On August 11, 1966, the present occupant of the chair presiding at that time, in respect to a bill authorizing funds to Federal aid highways held that an amendment permitting the diversion of funds apportioned to a State from highway construction to urban mass transportation was not germane.[21]
>
> To a bill providing for the construction of highways, an amendment providing for grants for urban mass transportation was ruled out as not germane.
>
> The Chair, following those precedents, sustains the point of order.

19. *Id.* at p. 19927.

20. Daniel D. Rostenkowski (Ill.).

21. The ruling referred to, made during consideration of H.R. 14359 (the Federal-Aid Highway Act of 1966) is found at 112 CONG. REC. 19103, 89th Cong. 2d Sess.

Bill Modifying Requirements as to Gold Backing United States Currency—Amendment Establishing Strategic Gold Reserve Related to Credits for Foreign Governments

§ 3.33 To a bill modifying requirements relating to gold reserves held as backing for Federal Reserve notes and other United States currencies, an amendment to establish a strategic gold reserve and requiring deposits therein in amounts equal to any deposits of gold to the credit of foreign governments was held not germane.

In the 90th Congress, during consideration of a bill[1] relating to gold reserves and changing the domestic monetary relationship between gold and currency, the following amendment was offered:[2]

> Amendment offered by Mr. [Albert W.] Johnson of Pennsylvania: On page 4 following line 12 add three new sections:
>
> Sec. 13. From the total gold reserve available for the payment of foreign claims following the effective date of this Act, there shall be established a Strategic Gold Reserve to be main-

1. H.R. 14743 (Committee on Banking and Currency).

2. 114 CONG. REC. 3687, 3688, 90th Cong. 2d Sess., Feb. 21, 1968.

tained by the Secretary of the Treasury.

Sec. 14. Whenever for any reason any quantity of gold shall be removed from the Treasury for foreign shipment or for deposit to the credit of any foreign government, or . . . international organization within the United States, the Secretary of the Treasury shall immediately place an equal number of ounces of gold into the Strategic Gold Reserve.

Sec. 15. Gold placed in the Strategic Gold Reserve shall no longer be a part of the monetary reserves of the United States, and may be removed from the Strategic Gold Reserve only by Act of Congress.

In response to a point of order raised by Mr. Wright Patman, of Texas, Mr. Johnson stated:

Mr. Chairman, I respectfully insist that my amendment is germane to the bill under consideration. This bill eliminates the gold-reserve requirements on currency by repealing in part several statutory requirements. My amendment would place certain conditions on the ultimate disposition of any gold reserve to be authorized by the bill under consideration. . . . This amendment deals with gold and the subject matter of the bill is gold.

The Chairman,[3] in ruling on the point of order, stated:

The Chair would hold that the amendments offered by the gentleman from Pennsylvania are not dealing with the sole question involved in H.R. 14743; that is, reserves behind Federal Reserve notes and U.S. notes and Treasury notes of 1890. Therefore, it is not germane to the bill before the Committee, and the Chair sustains the point of order against the amendment.

Bill Amending Federal Reserve Act to Facilitate Expansion of Currency—Amendment Fixing Gold Weight of Dollar

§ 3.34 To a bill to facilitate currency expansion by amending the Federal Reserve Act, an amendment seeking to amend the Gold Reserve Act by fixing the gold weight of the dollar was held not germane.

In the 79th Congress, a bill[4] was under consideration to amend the Federal Reserve Act. The bill stated in part:[5]

Be it enacted, etc., That (a) the third paragraph of section 16 of the Federal Reserve Act, as amended, is amended by changing the first sentence of such paragraph to read as follows:

Every Federal Reserve bank shall maintain reserves in gold certificates of not less than 25 percent against its deposits and reserves in gold certificates of not less than 25 percent against its Federal Reserve notes in actual circulation. . . .

The following amendment was offered to the bill:[6]

3. James G. O'Hara (Mich.).

4. H.R. 3000 (Committee on Banking and Currency).

5. See 91 CONG. REC. 5285, 79th Cong. 1st Sess., May 29, 1945.

6. *Id.* at p. 5287.

Amendment offered by Mr. [Clair] Engle of California: On page 1, beginning with line 3, strike out through line 9 and the word "circulation" in line 10 on page 1 and insert in lieu thereof the following: "That the dollar consisting of nine and eleven twenty-firsts grains of gold nine-tenths fine shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity of value with this standard, and it shall be the duty of the Secretary of the Treasury to maintain such parity."

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

MR. [BRENT] SPENCE [of Kentucky]: . . . The amendment is not germane to the bill. . . . It would change the gold content of the dollar. It would make the value of an ounce of gold $56. It would give an unearned increment to the foreign holders of gold of $8,500,000,000. It would give those foreign holders credits in the United States to that extent if they desire to use it. It certainly goes far beyond the intention or the purport of the bill.

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

MR. ENGLE of California: . . . Mr. Chairman, the amendment does exactly the same as proposed by this bill. This bill would permit a certain currency expansion by reducing the reserve in back of the currency from 40 percent to 25 percent. My amendment will permit an equal currency expansion by reducing the gold content of the dollar in exactly the same proportion. In other words, in one instance you are reducing the gold reserve in back of the currency from 40 percent to 25 percent, and in the other you are simply taking the same percentage of gold out of the dollar. It has exactly the same purpose and would permit the identical amount of currency expansion.

The Chairman,[7] in ruling on the point of order, stated:

The gentleman from California (Mr. Engle) offers an amendment to the bill which proposes to modify the Gold Reserve Act, which is a subject foreign to the subject matter of the bill now before the Committee. Therefore, the Chair sustains the point of order.

Price Control Bill—Amendment Affecting Powers of Federal Reserve Board Over Currency

§ 3.35 To a bill intended to control prices of commodities, an amendment relating to certain powers of the Federal Reserve Board over currency and credit was held not germane.

In the 77th Congress, during consideration of a price control bill,[8] the following amendment was offered:[9]

---

7. Wilbur D. Mills (Ark.).

8. H.R. 5990 (Committee on Banking and Currency).

9. 87 CONG. REC. 9244, 77th Cong. 1st Sess., Nov. 28, 1941.

Amendment offered by Mr. [Horace J.] Voorhis of California: On page 20, line 20, at the end of title II, insert a new title to read as follows:

TITLE III

Section 1. (A) Section 207 of title II of the Banking Act of 1935 is amended to read as follows:

"Sec. 207. The sixth paragraph of section 19 of the Federal Reserve Act, as amended, is amended to read as follows:

"'Notwithstanding the other provisions of this section, the Board of Governors of the Federal Reserve System, in order to prevent injurious credit expansion or contraction, may by regulation change the requirements as to reserves to be maintained against demand or time deposits, or both, by member banks; but the amount of the reserves required to be maintained by any such member bank as a result of any such change shall not be less than the amount of the reserves required by law to be maintained by such bank on the date of enactment of the Banking Act of 1935.'". . .

In response to Mr. John Taber, of New York, who raised the point of order that the amendment was not germane, Mr. Voorhis stated:

Mr. Chairman, this amendment has to do with the fundamental problem of inflation and deflation. It has to do with the question of the control of the creation and destruction of what America now uses for its money, namely, demand bank deposits. . . .

The Chairman, Jere Cooper, of Tennessee, in ruling on the point of order, stated:[10]

The pending bill deals with price fixing or more specifically with a ceiling on prices of commodities, rents and so forth. The amendment offered by the gentleman from California deals with the Federal Reserve Board and its power of dealing with currency and credit matters. The Chair thinks this amendment is not closely enough allied with the pending bill to make it in order and, therefore, the point of order made by the gentleman from New York is sustained.

Modification of Mortgage Foreclosure Procedures—Amendment Providing Moratorium on Foreclosures in Depressed Areas

§ 3.36 Where an amendment in the nature of a substitute for a bill provided in part for amelioration of procedures relating to mortgage foreclosure under the National Housing Act, an amendment thereto providing for a moratorium on foreclosures of mortgages in economically depressed areas was held to be germane.

In the 86th Congress, during consideration of the Housing Act of 1959,[11] an amendment was offered substituting the text of another bill.[12] The substitute con-

10. *Id.* at p. 9245.

11. S. 57 (Committee on Banking and Currency).

12. 105 CONG. REC. 8636–42, 86th Cong. 1st Sess., May 20, 1959. The sub-

sisted in part of a title relating to avoidance of foreclosure in certain cases of default due to circumstances beyond the control of a mortgagor.[13]

Mr. Willard S. Curtin, of Pennsylvania, offered, as an amendment to the substitute, a new section providing for procedures by which an unemployed mortgagor residing in an economically depressed area could avoid foreclosure of a mortgage.[14]

In response to a point of order against the amendment raised by Mr. Howard W. Smith, of Virginia, the Chairman[15] stated:[16]

> The Chair is ready to rule. The Chair calls attention to the fact that the amendment offered by the gentleman from Pennsylvania is to section 601 which is under title VI of the amendment under consideration. This particular section deals with the avoidance of foreclosure and states the procedures and circumstances under which a foreclosure may be avoided. The amendment offered by the gentleman from Pennsylvania very definitely applies to that section because it states the term "unemployed mortgagor" means any individual who is a mortgagor under a mortgage insured under this act.
>
> The Chair rules that the amendment is germane. The point of order is overruled.

Bill Relating to Design of Coin Currency—Amendment Providing for Issuance of Commemorative Coin

§ 3.37 To a bill relating to the design of public coin currency, an amendment providing for issuance of a commemorative coin is not germane; thus, to a bill requiring public currency coins to bear a design and date emblematic of the Bicentennial of the American Revolution, an amendment providing for the issuance or sale of Bicentennial gold commemorative coins was held to be not germane.

On Sept. 12, 1973,[17] during consideration of H.R. 8789 in the Committee of the Whole, the Chair sustained a point of order against the following amendment, thus illustrating that one individual proposition is not germane to another individual proposition, although the two may belong to the same class:

H.R. 8789

Be it enacted by the Senate and House of Representatives of the United

---

stitute was the language of H.R. 7117.

13. *Id.* at p. 8641 (title VI).

14. *Id.* at pp. 8654, 8655.

15. Francis E. Walter (Pa.).

16. 105 CONG. REC. 8655, 86th Cong. 1st Sess., May 20, 1959.

17. 119 CONG. REC. 29376, 29377, 93d Cong. 1st Sess.

States of America in Congress assembled, That the reverse side of all dollars, half-dollars, and quarters minted for issuance on or after July 4, 1975, and until such time as the Secretary of the Treasury may determine shall bear a design determined by the Secretary to be emblematic of the Bicentennial of the American Revolution.

Sec. 2. All dollars, half-dollars, and quarters minted for issuance between July 4, 1975, and January 1, 1977, shall bear "1776–1976" in lieu of the date of coinage; and all dollars, half-dollars, and quarters minted thereafter until such time as the Secretary of the Treasury may determine shall bear a date emblematic of the Bicentennial in addition to the date of coinage.

MR. [PHILLIP M.] CRANE [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Crane: Page 2, after line 4, add the following new section and redesignate the succeeding sections accordingly:
>
> Sec. 3. Notwithstanding any other provision of law, rule, regulation, or order, the Secretary of the Treasury is authorized and directed to coin and issue or cause to be sold, between July 4, 1975, and January 1, 1977, special gold coins commemorating the Bicentennial of the American Revolution of such design, in such denomination, in such quantities (not exceeding sixty million pieces), and containing such other metals, as he determines to be appropriate. Notwithstanding any other provision of law, coins minted under this section may be sold to and held by the public, and the Secretary of the Treasury is authorized, by regulation, to limit the number of gold pieces which any one person may purchase. . . .

MRS. [LEONOR K.] SULLIVAN [of Missouri]: Mr. Chairman, I make a point of order against the language in this amendment, because under the Rules of the House, one individual proposition may not be amended by another individual proposition, even though the two belong in the same class.

This bill merely changes the designs of our existing coins. It does not change the content of the coin or of the denomination.

Further, Mr. Chairman, we are dealing here in this bill with currency and not commemorative coins.

Mr. Chairman, I insist upon my point of order. . . .

MR. CRANE: . . . It must be abundantly clear to one and all that we are not talking about coin of the realm when we talk about minting a gold coin with .13 ounces of gold that will be selling for $35. We are speaking exclusively about commemorative coins. If we were talking about minting coin of the realm and circulating that, we would have to sell the coins at a figure substantially half that figure of $35 which the Treasury ordered.

Second, with respect to the question of the action of this particular bill, it seems to me that there is something much more dramatic involved than overturning existing law on the subject of what shall be on the reverse or the obverse side of any coin, which at the present time regulations dictate cannot be altered except once every 25 years, and that the talk of creating another commemorative coin for distribution to those who wish to memorialize the Bicentennial is not nearly so radical a departure from the intent of this legislation and, in fact, is, indeed, germane. . . .

MR. [CHALMERS P.] WYLIE [of Ohio]: Mr. Chairman, I believe this amend-

ment is not germane to the bill before us and, therefore, think that a point of order on germaneness should lie. This bill does deal with coin of the realm. The entire purpose of having half dollars, dollars, and quarters minted into Bicentennial coin is because they are coins in general circulation at the present time.

Mr. Chairman, this amendment would create a whole new coin which would be a collector's item and not be coin of the realm, as the gentleman has suggested. Therefore, I do think that it changes the subject of the bill; changes the purpose of the bill, and, therefore, is not germane.

THE CHAIRMAN:[18] The Chair is prepared to rule.

The Chair having listened to the arguments made by the gentlewoman from Missouri (Mrs. Sullivan), the gentleman from Illinois (Mr. Crane), and the gentleman from Ohio (Mr. Wylie) recalls that on October 15, 1969, the Chair, while presiding over the debate on H.R. 14127, had a similar amendment offered, and at that time the Chair ruled that to a bill relating to the minting and issuance of public currency, as is the case proposed by H.R. 8789, an amendment providing for minting any coin for a private purpose or for a commemorative purpose was held not to be germane.

Accordingly, the Chair is constrained to sustain the point of order.

—Amendment Specifying Metal Content of Other Coins and Requiring Issuance in Uncirculated Proof Form

§ 3.38 To a bill relating to the design of certain coin currency, an amendment specifying the metal content of other coin currency and requiring its issuance in uncirculated proof form was held not germane.

During consideration of H.R. 8789 in the Committee of the Whole on Sept. 12, 1973,[19] Chairman Spark M. Matsunaga, of Hawaii, sustained points of order against two amendments (relating to the metal content of another currency coin) to a bill requiring certain coins to bear a design and date emblematic of the Bicentennial of the American Revolution:

MR. [PHILLIP M.] CRANE [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Crane: On page 2, following line 4, insert a new section 3 as follows and renumber the succeeding section accordingly:

Sec. 3. (a) Notwithstanding any other provision of law with respect to the design of coins, the Secretary of the Treasury shall mint and issue at face value through the Federal Reserve banks after July 4, 1975, and until such time as the Secretary of the Treasury may determine, one hundred and fifty million or more circulating one-dollar coins which shall bear a design determined by the Secretary of the Treasury to be emblematic of the bicentennial of the American Revolution. These one-dollar coins shall meet the following specifications:

18. Spark M. Matsunaga (Hi.).

19. 119 CONG. REC. 29377, 29378, 93d Cong. 1st Sess.

(A) a diameter of 1.500 inches;

(B) a cladding of an alloy of 800 parts of silver and 200 parts of copper; and

(C) a core of an alloy of silver and copper such that the whole coin weighs 24.592 grams and contains 9.837 grams of silver and 14.755 grams of copper.

(b) The Secretary of the Treasury shall mint and issue, in uncirculated proof form, the above-specified coin in quantities and prices as he shall determine to be appropriate. . . .

MRS. [LEONOR K.] SULLIVAN [of Missouri]: Mr. Chairman, I insist on my point of order. . . .

Mr. Chairman, I repeat what I said on the previous amendment. Under the Rules of the House, one individual proposition may not be amended by another individual proposition, even though the two belong in the same class. . . .

MR. CRANE: . . . Mr. Chairman, it strikes me that the gentlewoman's objections are not consistent. In the last one we were talking about striking an altogether new coin and minting gold coins. Under the provisions of this particular act we are planning to continue to mint a dollar denomination coin. All that is proposed is changing in the present legislation the imprint on the reverse side of that coin. What this particular amendment does is give the Secretary of the Treasury further instructions with respect to the content of that coin, stipulating that approximately 40 percent of this shall be made up of silver instead of the percentage of composition of copper and nickel in the present coinage. . . .

MR. [CHALMERS P.] WYLIE [of Ohio]: . . . I support the point of order made by the gentlewoman from Missouri. Again, the Eisenhower proof set dollar was not minted as coin of the realm. These 40-percent silver dollars were minted to be sold as collectors' items, as proof coins. As the gentleman in the well knows, they are being sold for $10 apiece. They are not in general circulation. They are not being minted for general distribution.

The bill before us specifically provides for the minting of general circulation coin of the realm. . . .

MR. CRANE: I am not suggesting, in response to the objection the gentleman raises, that these coins not be distributed as coin of the realm. Instead, they will be minted with only 40 percent of silver content. The Treasury can still make a profit by selling those at $1. So these are coin of the realm. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair, after listening to the arguments on both sides, is constrained to sustain the point of order for the reason that the bill now pending provides for a new coinage design that would be emblematic of the Bicentennial of the American Revolution and it applies to dollars, half-dollars, and quarters. The amendment goes to the metal content of the dollar coin, a matter not within the purview of the bill . . . and the Chair therefore is constrained to sustain the point of order.

Subsequently,[20] another amendment was offered:

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

20. 119 CONG. REC. 29378, 93d Cong. 1st Sess., Sept. 12, 1973.

The Clerk read as follows:

Amendment offered by Mr. Symms: On page 2, following line 4, insert a new section 3 as follows and renumber the succeeding section accordingly:

Sec. 3. (a) Notwithstanding any other provision of law with respect to the design of coins, the Secretary of the Treasury shall mint and issue at face value through the Federal Reserve banks after July 4, 1975, and until such time as the Secretary of the Treasury may determine, one hundred and fifty million or more circulating one-dollar coins which shall bear a design determined by the Secretary of the Treasury to be emblematic of the bicentennial of the American Revolution. These one-dollar coins shall meet the following specifications:

(A) a diameter of 1.500 inches;

(B) a cladding of an alloy of 800 parts of silver and 200 parts of copper; and

(C) a core of an alloy of silver and copper such that the whole coin weighs 24.592 grams and contains 9.837 grams of silver and 14.755 grams of copper.

MRS. SULLIVAN: Mr. Chairman, I make a point of order against this amendment. It goes to the metal content of the coin and not the design of the coin. . . .

MR. SYMMS: Mr. Chairman, I would say on the point of order, it is coin of the realm, and I would be willing to hear the ruling of the Chair.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair's previous ruling applies to the point of order against the amendment, that this amendment goes to the metal content of the coin whereas the bill pending before the committee pertains only to the design and date of the coin proposed to be minted. The Chair therefore sustains the point of order.

Amendment Relating to Military Personnel After Separation From Service Not Germane to Bill Providing Allowances for Military Dependents

§ 3.39 To a bill providing allowances and allotments for dependents of military personnel, an amendment relating to the pay of such military personnel after separation from the service was held not germane.

In the 78th Congress, during consideration of a bill[1] relating to allowances and allotments for dependents of military personnel, the following amendment was offered:[2]

Amendment offered by Mr. [Walter C.] Ploeser [of Missouri]: At the end of the bill insert a new section, as follows:

Sec. 16. That such act be amended by adding a new section to title I thereof to be numbered 122 and to read as follows:

"Sec. 122. That . . . every person who . . . is separated from (military) service . . . shall be paid monthly, for a period of 10 months in the case of a

1. S. 1279 (Committee on Military Affairs).

2. 89 CONG. REC. 8465, 78th Cong. 1st Sess., Oct. 18, 1943.

person receiving the base pay of an enlisted man and for a period of 5 months in the case of any other person, an amount equal to the monthly base pay plus one-half of dependency benefits payable under this act in the case of enlisted men, and an amount equal to the monthly base pay in the case of all other persons. . . ."

A point of order was raised against the amendment, as follows:[3]

MR. [ANDREW J.] MAY [of Kentucky]: . . . The point of order is that the amendment . . . is not germane to the pending bill and, in addition to that, the proposed amendment would amend the Pay Adjustment Act rather than the bill now pending before the committee. . . .

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

MR. PLOESER: . . . I submit that my intention is to extend into the post-war period for a brief . . . time such aid to dependents as may become necessary due to difficulties in reemployment. If this aid is to be extended to dependents, it becomes . . . necessary to extend into the post-war period the vehicle upon which dependency allowances are necessarily attached. . . . The dependency allowance is, by virtue of statute now, an attachment to the base pay. It therefore became necessary, in order to extend one to extend both.

The Chairman,[4] in ruling on the point of order, stated:

The amendment which the gentleman from Missouri [Mr. Ploeser] offers might apply to the Pay and Adjustment Act of 1942. However, the pay of the enlisted personnel of the Army cannot be germane to a bill which provides for maintenance to the Servicemen's Dependents Allowance Act of 1942.

The Chair sustains the point of order.

Benefits and Compensation for Reservists—Return to Civilian Jobs

§ 3.40 To that section of a bill providing for restoration to their former civilian jobs of certain persons completing active military duty, an amendment providing that each such employee be entitled to receive the benefits of any annual leave that would have accrued was held to be germane.

In the 76th Congress, a bill[5] was under consideration to strengthen the national defense and to authorize the President to order reservists and retired Army personnel into active military service. The bill stated in part:[6]

Sec. 3. (a) Any member of any reserve component of the land or naval forces who . . . may be assigned to active duty . . . who . . . completes the

3. *Id.* at p. 8466.
4. Alfred L. Bulwinkle (N.C.).
5. S.J. Res. 286 (Committee on Military Affairs).
6. 86 CONG. REC. 10438, 76th Cong. 3d Sess., Aug. 15, 1940.

period of service required under this joint resolution shall be entitled to a certificate to that effect. . . .

(b) In the case of [a] person who has left a position or by reason of being ordered into such active military service is required to leave a position . . . in the employ of any employer . . .

(A) if such position was in the employ of the United States Government . . . such person shall be restored to such position or to a position of like status and pay. . . .

The following amendment was offered to the bill:[7]

Amendment offered by Mr. [Eugene J.] Keogh [of New York]: On page 3, line 14, after "pay", insert the following: "and shall be entitled to receive his regular compensation for the period of any accrued annual leave to which he is or may be entitled, such leave to be computed from the day he is ordered into such active military service, the provisions of the acts of May 10, 1916, and August 29, 1916 (title 5, sec. 58, U.S.C.) to the contrary notwithstanding."

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

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that the amendment is not germane to the subject matter of the section involved.

THE CHAIRMAN:[8] Does the gentleman desire to be heard on the point of order? The section deals with benefits and compensation.

MR. TABER: Mr. Chairman, the amendment provides an additional and different method of paying the members of the Reserve and sets up something entirely different from what has been provided. The section provides for reemployment and the amendment provides for compensation and for credit in connection with retirement and sick leave. They are entirely different.

THE CHAIRMAN: The Chair is constrained to hold that section 3 is practically entirely devoted to the benefits and compensation which these men who are called into the service shall receive. It would appear to the Chair that the amendment offered by the gentleman from New York is certainly in line with that. Therefore the Chair overrules the point of order.

Bill Increasing Numbers in Military Ranks—Amendment Affecting Rank of Individual Upon Retirement

§ 3.41 To a bill making provision for a deputy chief of staff of the Army and increasing the number of certain ranks, an amendment providing that a certain official upon retirement from the Army be retired with the rank of major general was held not germane.

In the 76th Congress, during consideration of a bill[9] making provision for a deputy chief of staff, the following amendment was offered:[10]

7. *Id.* at p. 10442.

8. Clifton A. Woodrum [Va.].

9. S. 2222 (Committee on Military Affairs).

10. 84 CONG. REC. 8707, 76th Cong. 1st Sess., July 6, 1939.

Amendment offered by Mr. [Dow W.] Harter of Ohio: Add a new section as follows:

Sec. 2. That the present incumbent of the position of president of the Mississippi River Commission shall, upon retirement from active service in the Army, be retired with the rank of major general and with the pay and allowances authorized by law for an officer on the retired list of such rank.

Mr. James W. Wadsworth, Jr., of New York, made the point of order against the amendment that it was not germane. The Speaker pro tempore,[11] in ruling on the point of order, stated:

. . . The rule of germaneness applies to a committee amendment just the same as to an amendment offered by a Member in his individual capacity.

. . . The bill before the House confines itself to one subject, and the amendment attempts to inject into the bill an entirely different subject from that which is contained in the bill pending before the House. In the opinion of the Chair the amendment is not germane to the pending bill, and for that reason the Chair sustains the point of order.

Bill Authorizing Construction of Ships for Navy—Amendment Defining Naval Frontier of United States

§ 3.42 To a bill authorizing the construction of certain ships for the Navy, an amendment defining the naval frontier of the United States and providing for its protection by the Navy was held not germane.

In the 75th Congress, during consideration of a naval authorization bill,[12] the following amendment was offered:[13]

Amendment offered by Mr. [Robert] Crosser [of Ohio]: After section 11 add a new section, as follows:

Sec. 12. The naval forces of the United States shall be employed to maintain inviolate the frontier against any foreign foe, the naval frontier of the United States being defined as extending from Bering Strait to [specified points], but in their operations shall not go beyond the limits of that part of the Western Hemisphere which lies west of the meridian running through the twentieth degree of west longitude . . . excepting when on friendly visits, except in the event of military attack upon the United States or any of its possessions, and except in case of the violation of . . . the Monroe Doctrine.

Mr. Carl Vinson, of Georgia, made the point of order against the amendment that it was not germane to the bill.

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

MR. CROSSER: . . . I say it is perfectly silly to talk about building any

11. John W. McCormack (Mass.).

12. H.R. 9218 (Committee on Naval Affairs).

13. 83 CONG. REC. 3707, 75th Cong. 3d Sess., Mar. 18, 1938.

number of ships unless you state for what purpose they are being built. This is all the amendment does. We say that is for the purpose of defending our frontiers and say nothing about establishing any policy whatever.

The Chairman,[14] in ruling on the point of order, stated:

. . . The amendment, in effect, attempts to define the naval frontiers of the country or some boundary lines in the oceans. The bill under consideration is one pertaining to the building of warships. There is nothing in the bill which goes to setting any boundary lines pertaining to the country. The amendment is therefore not germane to the bill, and the Chair sustains the point of order.

—*Amendment Directing Investigation of Navy Accounting System*

§ 3.43 To that section of a bill relating to contracts for construction of vessels for the Navy, an amendment directing the Comptroller General to make an investigation of the accounting system of the Navy and to report his findings to Congress was held not germane.

In the 75th Congress, a naval authorization bill[15] was under consideration which stated in part:[16]

Sec. 7. The allocation and contracts for construction of the vessels herein authorized and the replacement thereof, as well as for the procurement and construction of airplanes and spare parts, shall be in accordance with the terms and conditions provided by the act of March 27, 1934 (48 Stat. 503), as amended.

The following amendment was offered to the bill:[17]

Amendment offered by Mr. [Everett McK.] Dirksen [of Illinois]: Add a new section to be designated as section 8:

The Comptroller General of the United States is authorized and directed to make a thorough investigation of the accounting system employed by the Navy Department in securing compliance with the act of March 27, 1934, and to submit a special report to Congress not later than March 15, 1939, embodying the findings of the Comptroller General, together with his recommendations for enforcing compliance with that act.

Mr. Dirksen, speaking in response to a point of order raised by Mr. Carl Vinson, of Georgia, stated:[18]

. . . Section 7 of the act deals entirely with allocations and contracts for construction of vessels in the pending bill. It relates to the fact that these vessels must be built in accordance with the act of March 27, 1934. The amendment seeks only to make effective and to secure substantial compliance with the act of 1934 that is stated in the bill.

14. John J. O'Connor (N.Y.).

15. H.R. 9218 (Committee on Naval Affairs).

16. 83 CONG. REC. 3687, 75th Cong. 3d Sess., Mar. 18, 1938.

17. *Id.* at p. 3696.

18. *Id.* at p. 3697.

The Chairman,[19] in ruling on the point of order, stated:

> . . . The amendment in substance directs the Comptroller General to investigate the accounting system used by the Navy Department in carrying out the provisions of the act of March 27, 1934. While that act is referred to in the proposed bill, the amendment brings in another branch of the Government than the Navy Department, namely, the Comptroller General, and directs him to perform certain duties. For that reason the amendment is not germane to the bill or to the section, and the Chair sustains the point of order.

Bill Increasing Loans for Veterans' Housing—Amendment Increasing Interest Rate

§ 3.44 To a bill encouraging new residential construction for veterans' housing by increasing the authorized maximum for direct loans, an amendment increasing the authorized interest rate on direct loans was held to be germane.

Under consideration on Mar. 25, 1957, was a bill[20] to encourage new residential construction for veterans' housing. The above ruling[1] of Chairman Robert L. F. Sikes, of Florida, is to be distinguished from a prior contrary ruling with respect to a similar amendment which sought to affect the interest rate on "guaranteed" loans. With respect to the earlier amendment, Chairman Sikes had stated:[2]

> The bill before us deals solely with direct loans, as is clearly shown in the title and in the bill itself. To bring in guaranteed loans in addition would be to bring in a new class of loans. . . .

Provisions Establishing Study of Use of Merchant Marine in Defense—Amendment Waiving Coastwise Trade Laws for Two Vessels

§ 3.45 To a title of a bill containing diverse provisions relating to the authority of the Secretary of Defense, amended to establish a study of the use of the merchant marine for defense purposes, an amendment waiving the coastwise trade laws (a matter within the jurisdiction of the Committee on Merchant Marine and Fisheries) for not more than two undesignated commercial passenger vessels was held germane, where the amendment was not in the form of a private

19. John J. O'Connor (N.Y.).
20. H.R. 4602 (Committee on Veterans' Affairs).
1. See 103 CONG. REC. 4314, 85th Cong. 1st Sess.
2. *Id.*

bill and was related to national security issues.

On May 30, 1984,[3] during consideration of H.R. 5167 (the Department of Defense authorization bill for fiscal 1985), it was demonstrated that the germaneness of an amendment is determined by the relationship between its text and the portion of the bill to which offered, and is not judged by motives for offering the amendment which circumstances may suggest, when the Chair overruled a point of order against the following amendment:

MR. [MARIO] BIAGGI [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi: On page 157, line 18, add the following section:

"SEALIFT MOBILITY

"Sec. 1010. (a) In recognition of the projected shortfall of our national sealift capacity and the critical role in supporting our sealift mobility played by the U.S. merchant marine in transporting troops and supplies during the times of national emergency and war, and in recognition of the immediate need for auxiliary sealift capacity pending the results of the recommendations of the Commission on Merchant Marine and Defense, compliance with sections 12106 and 12107 of title 46, United States Code, and section 27 of the Act of June 5, 1920, Ch. 250 (46 App. U.S.C. 883) shall be waived for national security purposes for not more than two passenger vessels that the Secretary of Transportation in consultation with the Secretary of Defense determines, within one year of the date of enactment of this Act, meet the following criteria. The vessel:

"(1) has a passenger capacity in excess of 750; . . .

"(4) entered passenger cruise service after 1974.

"(b) In order to insure its availability and utility for national defense purposes, each vessel qualifying under this section—

"(1) shall have all alterations, repairs, and rebuilding of that vessel that are necessary to bring the vessel into compliance with part B of Subtitle II of title 46, United States Code, done in the United States, and shall comply with all other requirements of law;

"(2) shall have all non-emergency alterations, repairs, or rebuilding of that vessel done in the United States;

"(3) shall operate on routes that benefit its defense utility purpose and shall not operate on routes presently being served by other comparable, similarly qualified passenger vessels;". . . .

MR. [JACK M.] FIELDS [of Texas]: Mr. Chairman, I make a point of order that the amendment before the House is out of order because it is nongermane and because it is a private bill.

It is not germane because it has no legitimate defense rationale and because it has tax and revenue dimensions. No vessel need also have coastwise privileges with its tax advantages in order to fly the U.S. flag.

It is a private bill because it is actually H.R. 4333, the effect of which would be to admit to American registry and to coastwise privileges two British

3. 130 CONG. REC. 14493–96, 98th Cong. 2d Sess.

steamship vessels, the Cunard *Countess* and the Cunard *Princess*, and which the Parliamentarian advised would be subject to objection as a private bill. That was because H.R. 4333 is merely an attempted public version of H.R. 2883 which was introduced as a private bill and which was returned to committee by unanimous consent because it was subject to objection. . . .

But, private legislation presented as an amendment to a public bill is out of order in accordance with the precedents of the House. Even a casual reading of the precedents establishes that "it is not in order to amend a private bill by adding provisions general and public in character.". . .

Private legislation is defined as legislation "for the interest of individuals, public companies, or corporations, a parish, city or county or other locality." If there was ever a bill which satisfied that definition it is the one presented to us in the form of the so-called Troop Transport or Sealift Mobility amendment. . . .

MR. BIAGGI: . . . To begin with, nowhere in this bill are two vessels named. The fact of the matter is, the two vessels selected will be done by the Secretary of Defense, together with the Secretary of Transportation.

The vessels that are available so far for consideration are at least a minimum of five, and perhaps even greater. . . .

So clearly the argument whether this is a private bill does not hold water.

The amendment specifies two vessels, and those vessels will be designated, as I said before, by the Secretary of Defense and Secretary of Transportation.

The gentleman also raises the question of taxes. He would have you believe that this is the first time that this event ever took place. The fact of the matter is, it happens often. But the circumstances are individually considered by the Committee on Merchant Marine and Fisheries. There has never been that question raised before.

I believe my amendment is germane. To assess the germaneness of an amendment to this defense bill, we have to first look at the very close relationship between the merchant marine and national defense.

A principal basis of our current defense policy is the ability of our armed forces to deploy men and supplies from the United States to overseas locations. Upward of 95 percent of all movements required in an overseas emergency will be by sealift.

There is a demonstrated shortfall of sealift capacity. The Jones amendment, which was just passed within the last hour establishing a Commission on Merchant Marine and Defense has already been accepted and is directed at assessing the Nation's sealift requirements for cargo and personnel. The Commission measure was considered—as H.R. 3289—by the Armed Services and Merchant Marine Committees. . . .

Mr. Chairman, the linkage between defense policy and maritime policy is clearest in the area of domestic waterborne commerce. . . .

Only vessels of the United States may operate in the domestic commerce. With rare exceptions those vessels must be constructed in the United

States. The ability to operate in the coastwise market—a protected market—provides economic viability to a commercial operation that is essential if the operator's vessels are to be available for sealift purposes. By having our fleet close by our shores our military will have at hand useful vessels to transport men and supplies to the theatre of action should the need arise. While U.S. flagships in the foreign commerce are also important, it is much more difficult to be assured of their immediate availability because so much of their time is spent on the high seas or in foreign ports.

The exceptions to the requirement that vessels be built in the United States are predominantly those based on national defense needs.

In one instance, Congress provided that, where required for national defense, the Secretary of Defense could order waiver of compliance with those laws that would otherwise restrain certain vessels from operating as vessels of the United States.

Another example of this waiver authority can be found in title 50 of the U.S. Code—the war and national defense title. That law authorizes the Secretary of Transportation to requisition, purchase, or charter foreign vessels lying idle in the jurisdiction of the United States when those vessels are necessary to the National Defense.

The substance of my amendment is to implement the portion of the defense authorization bill relating to sealift capacity. The national defense aspect of these vessels has been recognized by the Office of the Chief of Naval Operations, which supports initiatives that would add passenger ships to the U.S. flag fleet. The letter of support was directly addressing H.R. 4333, a bill very similar to my amendment. . . .

Finally, the amendment meets the several tests that are employed to judge whether an amendment is germane. It meets the subject matter test. The subject matter of H.R. 5167 is broad. It has been further broadened by the Jones amendment establishing a commission on merchant marine and defense.

My amendment meets the committee jurisdiction test. If introduced separately my amendment would have been referred to the Merchant Marine Services Committee. Adoption of the Jones amendment causes the bill to overlap the jurisdiction of the two committees as well.

This amendment meets the fundamental purposes test. The adoption of the Jones Commission amendment has broadened the fundamental purpose of H.R. 5167. One of its purposes is to study and examine the capability of the merchant marine to meet national defense needs during an emergency including transportation of cargo and personnel. My amendment provides support to the national defense by commercial merchant vessels—vessels that could be used to transport personnel during wartime. . . .

MR. [HERBERT H.] BATEMAN [of Virginia]: Mr. Chairman, I would like to comment very briefly on the germaneness aspect. I believe the question of the private versus public bill has been expounded. I am sure the Chair will be prepared to rule on it.

With reference to the germaneness question, Mr. Chairman, I think it is a very serious one. May I say, and very

briefly, but for the fact that there is a Jones Act in title 46, an act and a provision of law falling under the jurisdiction of the Merchant Marine Committee, there would be absolutely no purpose for this bill being on the floor.

This bill is here, needs to be here, and has as its only real purpose the granting of an exemption under the provisions of the Jones Act. That is a matter for the jurisdiction of the Merchant Marine Committee; not a matter of jurisdiction for the Armed Services Committee.

I suggest that the matter before us is not germane to the purposes of the Defense Department authorization bill. . . .

THE CHAIRMAN:[4] The Chair is ready to rule on the gentleman's point of order, and germaneness is the only relevant point of order.

Whether or not an amendment is germane should be judged from the provisions of its text rather than from the motives which the circumstances may suggest. The burden of proof is on the proponent of an amendment to establish its germaneness.

The Chair will observe that title X, basically a broad general provisions title of the bill, has been, as the gentleman from New York has pointed out, further broadened by the adoption of numerous other amendments. The subject matter of title X has also been broadened within the jurisdiction of another committee, and it has been added by an amendment.

The Jones amendment establishing a commission has introduced the subject of sealift capacity. The Chair feels that the pending amendment is drafted to emphasize only that the waivers of law have defense-related ramifications, and the Chair does not feel that he looks behind the language of an amendment to the intent or motive of its author. Therefore, the Chair overrules the point of order and recognizes the gentleman from New York to explain his amendment.

The point of order is overruled.

Bill Authorizing Foreign Developmental and Economic Assistance—Amendment Establishing Center to Promote Assistance to Foreign and Domestic Business Enterprise

§ 3.46 To a bill reported from the Committee on International Relations amending laws and authorizing appropriations relating to foreign developmental and economic assistance, an amendment establishing within the Agency for International Development a minority resources center to coordinate and promote assistance to minority business enterprise in domestic programs as well as in the foreign assistance programs covered by the bill, was held not germane.

During consideration of the International Development and Food Assistance Act of 1978[5] in

4. Dan Rostenkowski (Ill.).

5. H.R. 12222.

the Committee of the Whole, the Chair sustained a point of order against the amendment described above, holding that the amendment was broader in scope than the bill and beyond the scope of the reporting committee. The proceedings of May 12, 1978,[6] were as follows:

MR. [PARREN J.] MITCHELL of Maryland: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mitchell of Maryland: Page 42, insert the following new section after line 25 and redesignate the succeeding sections accordingly:

MINORITY BUSINESS ENTERPRISE

Sec. 402. (a) Chapter 1 of part III of the Foreign Assistance Act is amended by inserting after section 602 the following new section:

"Sec. 602A. Minority Business Enterprise.—(a) In order to increase the participation of minority business enterprises in activities funded by the agency primarily responsible for administering part I of this Act, the Administrator of such agency shall, within 90 days after the effective date of this section, establish a Minority Resource Center (hereafter in this section referred to as the 'Center').

"(b) The Center shall—

"(1) establish and maintain, and disseminate information from, an international information clearinghouse for minority business enterprises, for purposes of furnishing to such businesses information with respect to business opportunities involving the implementation of the general policy set forth in section 101 of this Act;

"(2) assist minority business enterprises in obtaining investment capital and debt financing by utilizing such financial vehicles as minority enterprise small business investment companies, minority banks, and minority trade associations . . .

"(7) participate in and cooperate with all Federal programs and other programs designed to provide financial, management, and other forms of support and assistance to minority business enterprises. . . .

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I reserve a point of order against the amendment . . .

THE CHAIRMAN:[7] Does the gentleman from Ohio (Mr. Ashbrook] insist on his point of order?

MR. ASHBROOK: Yes, Mr. Chairman, I do. . . .

Title IV, as presented to us on page 41 of this bill, goes to current procurement methods. The amendment of the gentleman from Maryland would create a new office in the United States ostensibly for the purpose of boosting minority sales and business participation.

Mr. Chairman, I believe that title IV would not be a proper vehicle by which to do that. This amendment goes beyond the scope of the title of the bill and is not germane. . . .

MR. MITCHELL of Maryland: . . . The amendment is clearly within the scope of the bill. Throughout the bill there are references to facilitating our relationships with the various countries that receive assistance under this bill; and certainly the establishment of

6. 124 CONG. REC. 13498, 13499, 95th Cong. 2d Sess.

7. Elliott Levitas (Ga.).

minority businesses helps to facilitate those relationships. . . .

MR. ASHBROOK: . . . Mr. Chairman, my point of order is that the gentleman is creating an entire new office, that title IV only relates to administrative provisions and goes to current procurement methods, and that using this bill as a vehicle to create an entire new office and an entire new section goes far beyond the scope of title IV. . . .

MR. MITCHELL of Maryland: Mr. Chairman, if I may reply to that objection, I think we have established precedent in this House for the kind of action I am taking today.

If the Members will recall, last year we added onto the Department of Transportation bill a whole new section establishing a minority business resource service. If I may continue for just a moment, that section was added on under the general title of "Administrative Provisions of DOT," so that a precedent has been established. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Ohio makes the point of order that the amendment offered by the gentleman from Maryland is not germane to title IV or to the bill.

The bill under consideration relates to development and economic aid programs for the assistance of foreign countries. The amendment would direct the Administrator of the Agency for International Development to establish a minority resources center and would authorize that center to perform a variety of functions to assist minority business enterprises. Although such assistance is required under some of the designated functions of the center to bear a relationship to the general policy of the International Development and Food Assistance Act of 1977, the amendment does not specifically limit such assistance and participation to foreign aid programs.

For example, in subsection (a) of the amendment, there is provision that in order to increase the participation of minority business enterprises in activities funded by the agency primarily responsible for administering part I of this act, the administrator of such agency shall, within 90 days from the effective date of this section, establish a minority resource center.

That appears to the Chair to be within the general scope of the act itself, and would not of itself render this amendment nongermane.

However, several of the designated functions which follow in subsection (b) go beyond this, and appear to be entirely domestic in character. For example, paragraph (b)(4) of the amendment would allow the use of domestic investment companies, banks, and trade associations.

Paragraph (b)(7) requires the center to participate in all Federal programs, domestic and otherwise, designed to provide support and assistance to minority enterprises.

It, therefore, appears to the Chair that the amendment, as it is presently drafted, is far broader in scope than the bill, and in part beyond the jurisdiction of the reporting committee. For the reasons stated, the Chair sustains the point of order.

Prohibition on Use of Armed Forces to Evacuate American Civilians From Sinai—Amendment Interpreting Bill as Not Authorizing Any New Use of Armed Forces Generally

§ 3.47 For an amendment providing that United States armed forces may not be used to remove United States technicians placed in the Sinai region under the provisions of the joint resolution under consideration, a substitute stating that authority contained in the joint resolution does not permit introduction of United States troops in a manner not already permitted by existing law was held to be germane, dealing with the same issue (the use of United States troops) in a related but less specific manner.

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

THE CHAIRMAN:[9] The Clerk will read.

The Clerk read as follows:

> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized to implement the "United States Proposal for the Early-Warning System in Sinai": *Provided, however,* That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary. . . .

MR. [RONALD V.] DELLUMS [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Dellums: Page 2, line 7, immediately before "in the event" insert ", without the use of the Armed Forces of the United States unless expressly authorized by the United States Congress,". . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Eckhardt as a substitute for the amendment offered by Mr. Dellums: On page 2, on line 10 after the period, add the following: "Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the

8. 121 CONG. REC. 32417, 32427, 32428, 94th Cong. 1st Sess.

9. K. Gunn McKay (Utah).

introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: . . . [T]he substance of the gentleman's amendment is not germane to the amendment offered by the gentleman from California. . . .

MR. ECKHARDT: . . . The proposal by the gentleman from California (Mr. Dellums) is that no Armed Forces be permitted to be used in connection with the evacuation of the technicians, period. I mean, that is an absolute prohibition.

What this amendment says is that no authority that the President does not now have to remove technicians is granted by virtue of this resolution. Now, the difference is obvious, but the two go to the same point. This is a restriction on the limitation of the Dellums amendment.

THE CHAIRMAN: The Chair has reviewed the point of order made by the gentleman from Pennsylvania, and it appears to the Chair that the argument made by the gentleman from Texas is well taken and that his amendment is germane as a substitute, dealing with the same question of the use of armed forces to evacuate civilian technicians.

Therefore, the Chair overrules the point of order made by the gentleman from Pennsylvania.

Bill Authorizing Military Assistance—Amendment Permitting Use of Funds to Influence Political Activities in Foreign Nation

§ 3.48 To a bill authorizing military assistance to foreign nations, an amendment permitting funds authorized in the bill to be used to carry out assassinations or to influence political activities in foreign nations was held germane as a related use to which foreign military assistance could be put.

On Mar. 3, 1976,[10] during consideration of the International Security Assistance Act of 1976[11] in the Committee of the Whole, Chairman Frank E. Evans, of Colorado, overruled a point of order and held the following amendment to be germane:

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. John L. Burton: Page 59, immediately after line 15, insert the following new section:

LIMITATION ON COVERT ACTIVITIES

Sec. 417. Section 662(a) of the Foreign Assistance Act of 1961 is amended—

10. 122 CONG. REC. 5234, 5235, 94th Cong. 2d Sess.

11. H.R. 11963.

(1) by inserting "(1)" immediately after "(a)"; and

(2) by inserting at the end thereof the following new paragraph:

"(2) funds appropriated under the authority of this Act may be expended (A) for planning or carrying out any assassination, or (B) to finance, directly or indirectly, any foreign political activity or to otherwise influence any foreign election.". . .

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

Mr. Chairman, there is no funding in this bill for the CIA or for covert operations. The amendment is certainly not germane to this bill. . . .

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Chairman, as I understand the committee chairman's position, it is that there are no funds in this authorization and no funds authorized for the activities described, but as I understand further, the funds for this particular agency are not treated in the authorization, so it seems to me the Chair is ill disposed to take cognizance of what the funds are for.

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

The language in the amendment offered by the gentleman from California (Mr. John L. Burton) is an amendment directing how funds within the bill itself shall be expended. Thus, the amendment directly relates to the subject matter of and the funds within the bill, and the point of order is overruled.

Parliamentarian's Note: Mr. Burton had earlier offered a similar amendment but with the opposite effect—prohibiting the use of funds in the bill to carry out assassinations. When the Committee rejected that amendment (which was also germane as a limitation on use of funds in the bill) he offered the amendment permitting such use of military assistance funds.

Bill Providing for Evacuation of Vietnamese—Amendment Prohibiting Evacuation to Any State Without Consent of Congress

§ 3.49 To a bill dealing with the evacuation of certain individuals, an amendment prohibiting their evacuation to any of the states of the United States without the consent of Congress, was held to relate to the evacuation process, not to immigration policy, and was therefore germane.

During consideration of the Vietnam Humanitarian and Evacuation Assistance Act[12] in the Committee of the Whole on Apr. 23, 1975,[13] the Chair overruled a point of order against the following amendment:

MR. [BOB] CASEY [of Texas]: Mr. Chairman, I offer an amendment.

12. H.R. 6096.

13. 121 CONG. REC. 11546, 94th Cong. 1st Sess.

The Clerk read as follows:

> Amendment offered by Mr. Casey: Page 3, after line 3, insert (e) none of the "other foreign nationals" referred to in paragraph (d) shall be evacuated to any of the States of the United States, without the express consent of Congress. . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment in that the amendment is not germane. It deals with the immigration policy, and would change the standards on immigration. . . .

MR. CASEY: . . . Mr. Chairman, this amendment would change no standards on immigration except that the classified people under paragraph (d) of section 4 which says that—

> . . . none of the other foreign nationals referred to in paragraph (d) shall be evacuated to any of the States of the United States without the express consent of the Congress.

It is certainly germane, because it has to do with the evacuation of these people under section (d) of section 4.

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

The language of the amendment does not limit the operation of the bill. It pertains strictly to the evacuation process. It does not mention immigration policy. It simply says that persons in a certain category of evacuees contained in the bill cannot be evacuated to any of the States of the United States without the consent of the Congress. Therefore the amendment is germane, and the point of order is not sustained.

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

Provisions Authorizing Humanitarian Assistance for War Victims—Amendments Stating Sense of Congress as to Causes of Condition

§ 3.50 To a substitute providing humanitarian and evacuation assistance to victims of war in South Vietnam, amended to deny any such assistance to designated groups allegedly responsible for the war, two amendments containing Congressional foreign policy declarations with respect to the roles of other nations in causing and ending that war were held to go beyond the scope of the purpose of the bill and were ruled out as not germane; subsequently, a more narrowly drawn amendment (which stated that actions by the groups denied assistance under the substitute had necessitated the relief to be provided), was held germane as an expression of foreign policy not extending beyond the purposes of the substitute as amended.

On Apr. 23, 1975, during consideration of H.R. 6096, the Vietnam Humanitarian and Assist-

ance Act, an amendment[15] denying assistance to particular groups was agreed to:

MR. [JOHN M.] ASHBROOK [of Ohio]: 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. Ashbrook to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: Insert new section 8 and renumber following sections:

"Sec. 8. To insure that the assistance is provided to such persons throughout South Vietnam no funds authorized in this Act shall be used, directly or indirectly, to aid the Democratic Republic of Vietnam (DRV) or the Provisional Revolutionary Government (PRG) nor shall any funds authorized under this Act be channeled through or administered by the DRV or the PRG."

Amendments subsequently offered, expressing the sense of Congress relative to the causes of circumstances addressed by the bill's provisions, and including broad declarations of foreign policy, were ruled out of order as not germane, the bill being limited to relief for a specific situation. The first of the amendments was offered by Mr. Robert E. Bauman, of Maryland:[16]

MR. BAUMAN: 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. Bauman to the substitute amendment offered by Mr. Eckhardt for the amendment in the nature of a substitute offered by Mr. Edgar: At the end of the substitute and renumber accordingly; add the following new section:

"Sec. —. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam; further, the Congress condemns in the strongest possible terms this aggression as well as the support given to the North Vietnamese by the Union of Soviet Socialist Republics and the People's Republic of China, both of which share responsibility for the faithful observance of the Paris Agreement; and further, the Congress views the attitude of the governments of the Soviet Union and the People's Republic of China towards this aggression as a critical test of good faith, and calls upon them immediately to use their influence to end the aggression by the North Vietnamese and the Viet Cong.". . .

MR. [ROBERT W.] EDGAR [of Pennsylvania]: Mr. Chairman, I raise the point of order that the amendment is not germane to the bill; that it includes information that does not have any indication that it relates to the object of what is being done in the substitute amendment.

THE CHAIRMAN:[17] Does the gentleman from Maryland desire to be heard?

15. 121 CONG. REC. 11507, 11508, 94th Cong. 1st Sess.

16. *Id.* at p. 11510.

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

MR. BAUMAN: . . . I would say that while this amendment may not be pleasing to the 71 Members who voted against the Ashbrook amendment, it goes to the very heart of the matter which is contained in this bill, which deals with humanitarian aid and evacuation procedures. By reason of the amendment offered by the gentleman from Mississippi (Mr. Montgomery) it now includes the problem of prisoners of war and missing in action and accountability.

In fact, it deals with policy in that matter. The scope of the bill has broadened considerably, and it is all within the jurisdiction of the Committee on International Relations and deals directly with the reason that this legislation must be offered today and acted upon. In fact, that is the very reason for this amendment. . . .

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, I seek recognition on the point of order.

Mr. Chairman, the amendment offered by the gentleman from Maryland (Mr. Bauman) does this: It intends to direct international policy, to direct the State Department to provide general provisions controlling the policy of the United States in matters far beyond the Vietnamese question.

The substitute on the floor does none of these things. It essentially provides, in its major provisions, which are similar to the committee bill, means by which certain persons may be removed from Vietnam, that is, citizens of the United States and dependents, persons entitled to come over because of their connection with the U.S. nationals. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined the amendment and in the opinion of the Chair, the amendment, particularly the language, "the Congress views the attitude of the governments of the Soviet Union and the People's Republic of China toward this aggression as a critical test of good faith," does, in fact, go far beyond the scope of the legislation before us.

The point of order is sustained.

MR. [JOHN H.] BUCHANAN [Jr., of Alabama]: 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. Buchanan to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: On page 3, after line 9, add the following new section:
>
> "Sec. 8. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam; further, the Congress condemns in the strongest possible terms this aggression as well as the support given to the North Vietnamese by the Union of Soviet Socialist Republics and the People's Republic of China, both of which share responsibility for the faithful observance of the Paris Agreement.". . .

MR. EDGAR: Mr. Chairman, I make the point of order on the same grounds I stated before. This amendment is not germane. This piece of legislation raises issues which should not be dealt with in this fashion. . . .

MR. BUCHANAN: . . . I have stricken from the original amendment the language to which the Chair earlier referred. I believe all the remaining language deals specifically with what the provisions of this legislation do and why they are necessary. . . .

THE CHAIRMAN: The Chair is ready to rule.

While it is true that the Chair did refer particularly to certain language in the earlier amendment, the Chair does not indicate that if that particular language had not been there, the amendment would have been found to be in order.

The language of the amendment still goes far beyond the scope of the bill.

The point of order is sustained.

A more narrowly drawn amendment was then offered, and the Chair, overruling a point of order, held that, to the proposition designed to provide assistance for Vietnam war victims, perfected by amendment to prohibit use of that assistance to a specified group, a further amendment stating that the necessity for the relief provided had been caused by the actions of the group denied assistance was germane:[18]

MR. [JOHN H.] ROUSSELOT [of California]: 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. Rousselot to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: On page 3, after line 9, add the following new section:

"Sec. 8. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam. . . .

MR. [ROBERT W.] EDGAR [of Pennsylvania]: Mr. Chairman, I make the point of order on the same grounds I stated before. I object to this amendment because it is not germane. . . .

MR. ROUSSELOT: . . . We have stricken from this language all the basic objections the Chair has raised. Also, it does very much refer to this legislation. It discusses the Paris peace agreements and the necessity for the use of military forces.

It is totally germane on the basis of the Chairman's own statement.

THE CHAIRMAN: The Chair is ready to rule.

The Chair finds that the present amendment is narrowly drawn. It refers to the situation in Vietnam to which this substitute in its perfected form is directed, and the Chair overrules the point of order.

Provisions Authorizing Humanitarian Assistance for War Victims and Naming Parties Responsible for War—Amendment Requiring Negotiations With Such Parties

§ 3.51 To a bill dealing with humanitarian and evacu-

18. 121 CONG. REC. 11511, 94th Cong. 1st Sess.

ation assistance to war victims in South Vietnam, broadened by amendment to deny any such assistance to designated parties allegedly responsible for the war, to assert that the necessity for the relief provided has been caused by the actions of the group denied assistance, and to require negotiations to account for Americans missing in action, a further amendment requiring negotiations with that designated group to end the war and resolve the status of those missing was held germane to the bill as so amended.

On Apr. 23, 1975,[19] during consideration of H.R. 6096, the Vietnam Humanitarian and Evacuation Assistance Act, the following amendments were agreed to:

Amendment offered by Mr. (John H.) Rousselot (of California): On page 3, after line 9, add the following new section:

"Sec. 8. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam.". . .

Amendment offered by Mr. [G. V.] Montgomery [of Mississippi]: Page 3, immediately after line 14, add the following new section:

Sec. 9. It is the sense of the Congress that as the humanitarian aid provided under this Act is made available in South Vietnam, the President is requested to use all appropriate diplomatic means at his disposal to obtain (1) an updated accounting of Americans listed as missing in action in Southeast Asia, and (2) the return of the remains of known American dead. The President is further requested to report to the Congress within 30 days after aid is made available in Southeast Asia, the diplomatic actions being taken. . . .

Amendment offered by Mr. (John M.) Ashbrook (of Ohio): On page 3, line 13, add the following section 7 and renumber the following sections accordingly:

"Sec. 7. No funds authorized in this Act shall be used, directly or indirectly, to aid the Democratic Republic of Vietnam (DRV) or the Provisional Revolutionary Government (PRG) nor shall any funds authorized under this Act be channeled through or administered by the DRV or the PRG."

Subsequently, a further amendment was offered, as follows:[20]

Mr. John L. Burton (of California): Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. John L. Burton: On page 3, add section 8: "The Secretary of State is directed to initiate immediate discussions with representatives of the Provisional Revolutionary Government of the Re-

19. 121 CONG. REC. 11545, 11546, 94th Cong. 1st Sess.

20. *Id.* at p. 11550.

public of South Vietnam, to declare the support of the United States for all political goals of the agreement and protocols on ending the war and restoring peace in Vietnam, including specifically the terms of Article 12 and to determine the precise conditions under which the Provisional Revolutionary Government would agree to establishment of a cease-fire and to a political settlement of the conflict. The Secretary is further directed to discuss with the Provisional Revolutionary Government of the Republic of South Vietnam the status of any Americans who are presently listed as missing in action in Vietnam.

"Within seven days, the Secretary shall advise the United States Congress and appropriate officials in Vietnam, including the legislative branch of the government in Saigon and principle Third Force leaders, of the progress and results of these discussions."

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I have a point of order against the amendment because it goes much further than the scope of the bill and it is not germane. . . .

MR. JOHN L. BURTON: . . . I think that the amendment is in order. It certainly deals with the whole problem of the bill. We had something dealing with those missing in action, and this deals with trying to get the information on the missing in action. . . .

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

In the judgment of the Chair, the addition of the amendments by the gentleman from California (Mr. Rousselot) and the gentleman from Mississippi (Mr. Montgomery) which is very similar to the second part of the pending amendment, did adequately broaden the scope of this bill so that the amendment of the gentleman from California (Mr. John L. Burton) would be in order. The Chair overrules the point of order.

Provisions for Assistance to Refugees—Amendment To Postpone Effective Date Pending President's Report to Congress

§ 3.52 An amendment, offered to a substitute, postponing the effective date of provisions for humanitarian and evacuation assistance for South Vietnam refugees until the President determines and reports to Congress on the ownership of gold sought to be removed from Cambodia and South Vietnam was held to be not germane.

On Apr. 23, 1975,[2] during consideration of the Vietnam Humanitarian Assistance and Evacuation Act,[3] in the Committee of the Whole, a point of order was sustained against an amendment offered to a substitute, as indicated below:

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment

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

2. 121 CONG. REC. 11511, 11512, 94th Cong. 1st Sess.

3. H.R. 6096.

to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. John L. Burton to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: At the end add a new section:
>
> "This Act shall become effective when the President determines and reports to Congress whether the 16 tons of gold that Lon Nol and former President Thieu tried to send to Switzerland was American property or their own personal gold.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I raise a point of order that the amendment is not germane to the amendment in the nature of a substitute. . . .

MR. JOHN L. BURTON: . . . It is an amendment that sets an active triggering date for the legislation. It is not more different than saying that it shall take effect on a certain date. We are just saying in this amendment that we are setting this date for the determination whether or not that 16 tons of gold with American money is just a limitation on the executive power of the bill.

The Chairman: [4] The Chair is ready to rule. A similar situation arose in the 93d Congress on a bill authorizing military assistance to Israel and funds to be used in an emergency force when an amendment was offered postponing the availability of those funds until the President certified the existence of a designated level of energy supplies. (Deschler's, chapter 28, section 24.18).

The amendment in question is not germane to the purposes of the substitute and the point of order is sustained.

Bill Providing Foreign Aid—Amendment Providing Aid for Areas in United States

§ 3.53 To a bill providing aid to foreign countries, an amendment providing aid for certain areas in the United States held to be not germane.

In the 84th Congress, during consideration of a bill [5] to amend the Mutual Security Act of 1954, the following amendment was offered: [6]

> Amendment offered by Mr. [Cleveland M.] Bailey [of West Virginia]: On page 20, after line 25, insert a new subsection as follows:
>
> (b) It is the sense of the Congress that where there are areas within the continental United States in which unemployment statistics as certified by the Secretary of Labor exceed 15 percent of the labor force in such area or areas, the areas in question are hereby declared to be eligible for assistance under the provisions of this act.

Responding to a point of order by Mr. James P. Richards, of South Carolina, that the amendment was not germane, the proponent stated:

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

5. S. 2090 (Committee on Foreign Affairs).

6. 101 CONG. REC. 9663, 84th Cong. 1st Sess., June 30, 1955.

. . . I should argue the point of germaneness . . . by calling attention to the fact that the title to the act itself invites just such an amendment as mine: "To amend the Mutual Security Act of 1954, and for other purposes."

Let me ask, Mr. Chairman, if this amendment . . . is ruled out of order, where, then, may I inquire, is the mutuality? Is not the United States a part of this pact that we are setting up here?

The Chairman[7] stated:

. . . The Chair invites attention to the fact that the pending bill is to amend the Mutual Security Act of 1954. The bill relates entirely to aid to foreign countries. The amendment offered by the gentleman from West Virginia relates entirely to assistance to areas in this country. Certainly, there can be no connection between the two. . . .

[T]he Chair sustains the point of order.

—*Amendment to Discourage Establishment of Foreign Chanceries in Residential Areas*

§ 3.54 To a bill authorizing new foreign aid programs and extending and revising existing mutual security laws, an amendment intended to discourage the establishment of foreign chanceries in residential areas of the District of Columbia was ruled out as not germane.

In the 87th Congress, during consideration of the Mutual Security Act of 1961,[8] the following amendment was offered:[9]

Amendment offered by Mr. [Carroll D.] Kearns [of Pennsylvania]: Page 5, after line 25, insert the following:

(j) It is the policy of the Congress that, since the United States is generally required, in locating its chanceries abroad, to observe applicable laws and zoning regulations, foreign nations with which the United States maintains diplomatic relations should, in the interest of comity (a necessary foundation for the achievement of the objectives of the Mutual Security Act of 1961), observe the laws and zoning regulations (in the District of Columbia) and locate their chanceries in business areas. . . .

Ruling on a point of order raised by Mr. Wayne L. Hays, of Ohio, with regard to the amendment's germaneness, the Chairman[10] stated:

. . . The amendment does seem to the Chair to have something to do with the zoning laws of the District of Columbia, a subject matter which is not encompassed in the bill H.R. 8400; therefore, the Chair sustains the point of order.

---

7. Jere Cooper (Tenn.).

8. H.R. 8400 (Committee on Foreign Affairs).

9. 107 CONG. REC. 16059, 87th Cong. 1st Sess., Aug. 16, 1961.

10. Wilbur D. Mills (Ark.).

Provisions Requiring Notice to Congress of Curtailment of Agricultural Exports—Amendment Requiring Payments to Farmers in Case of Curtailment.

§ 3.55 To a section requiring notice to Congress of curtailment of export of agricultural commodities, contained in a title of a bill reported from the Committee on International Relations extending and amending the Export Administration Act, an amendment requiring domestic payments to farmers having in storage commodities for which exports have been suspended was held not germane as beyond the scope and subject matter of the section or title.

On Apr. 20, 1977,[11] during consideration of H.R. 5840[12] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

Sec. 105. Section 4(f) of the Export Administration Act of 1969, as amended by section 104 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(3) If the authority conferred by this section is exercised to prohibit or curtail the exportation of any agricultural commodity in order to effectuate the policies set forth in clause (B) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. . . .

MR. [KEITH G.] SEBELIUS [of Kansas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Sebelius: Page 8 after line 21, insert the following:

"(4)(A) Notwithstanding any provision of law, whenever the President of the United States or any other member of the executive branch of the Federal Government suspends or causes a suspension of export sales of corn, wheat, soybeans, grain sorghum, or cotton, the Secretary of Agriculture shall make payments described in subsection (B) and (C) to any farmowner or operator who has in storage at the beginning of the suspension any amount of the commodity for which export sales have been suspended; except that no such payments may be made with regard to any such commodity unless, at the close of the calendar month preceding the calendar month in which the suspension is initiated, the price received by producers of such commodity was less than the parity price.

11. 123 CONG. REC. 11437, 11440, 11441, 95th Cong. 1st Sess.

12. The Export Administration Amendments of 1977.

"(B) The first payment described in subsection (A) shall become payable at the initiation of the suspension of export sales of the commodity concerned. Such payment shall be made at a rate of 10 per centum of the parity price per bushel or bale of the commodity concerned which was produced by the farm owner or operator and which is held in storage by him at the time of the initiation of the suspension. . . .

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, apparently the amendment the gentleman from Kansas (Mr. Sebelius) has presented is a parity amendment pending in the part of the bill before the Agriculture Committee.

MR. SEBELIUS: That is right.

MR. ZABLOCKI: It is not germane to section 105, which deals solely with existing authority of the President to limit export controls for foreign policy purposes under the Export Administration Act.

Second, the amendment gives the President new authority where export controls are imposed for new purposes under a new act.

And, third, this new authority deals solely with domestic matters which are within the jurisdiction of another country.

As I said, it is a parity amendment.

Lastly, this is a farm subsidy issue, not an issue of foreign affairs.

This bill does not deal with agricultural parity, it does not deal with support controls.

Therefore, Mr. Chairman, I submit that the amendment is not in order. . . .

THE CHAIRMAN:[13] The Chair is ready to rule.

H.R. 5840 is a bill to amend the Export Administration Act of 1969 in order to extend the authorities of that act, improve the administration of export controls under that act, and to strengthen the antiboycott provisions of that act.

Section 105 of the bill as amended amends the procedure by which the Secretary of Commerce can notify the Congress of the exercise of authority curtailing exports of agricultural products. It thereafter gives the Congress a certain period of time within which to disapprove if it so chooses.

The amendment offered by the gentleman from Kansas (Mr. Sebelius) goes beyond the purview of the title and the section to which offered, in that it would require payments by the Secretary of Agriculture to any farm-owner or operator who has in stowage at the beginning of the suspension any amount of the commodity for which export sales have been suspended.

For the reasons stated by the Chair and the reasons given by the gentleman from Wisconsin, the point of order is sustained.

Bill Prohibiting Transportation of Foreign Convict-Made Goods—Amendment Prohibiting Imports From Country Not in Conformity With Minimum Wage Requirements

§ 3.56 To a bill amending the Wages and Hours Act and containing provisions governing transportation of foreign goods made by convicts,

13. Frank E. Evans (Colo.).

an amendment prohibiting the importation from any foreign country of any goods produced under conditions not compatible with United States law governing wages and hours was held to be germane.

In the 76th Congress, during consideration of a bill[14] comprising amendments to the Wage-Hour Law, the following amendment was offered:[15]

> Amendment offered by Mr. [John C.] Schafer of Wisconsin: Page 17, line 4, after the period insert a new section as follows:
>
> Sec. 21. In order to protect the minimum-wage and maximum-hour standards prescribed in sections 6 and 7 it shall be unlawful for any person to import . . . from any foreign country . . . any goods . . . produced . . . in foreign countries unless such imports are produced . . . under the same minimum-wage and maximum-hour provisions which would be applicable if they were . . . produced . . . in the United States.

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

> MR. [ROBERT C. W.] RAMSPECK [of Georgia]: Mr. Chairman, I make the point of order that the amendment is not germane to this bill. The amendment deals with the question of foreign commerce. The bill deals only with interstate commerce, with wage and hour provisions within this country.

The following exchange then occurred:

> MR. SCHAFER of Wisconsin: . . . [T]he gentleman who made the point of order apparently is not familiar with the bill, which, on page 16, section 20, proposes to regulate and prohibit convict-produced goods, not only produced in the United States but in foreign lands. It specifically refers to foreign convict-produced goods; and even though the point of order had been made at the proper time it could not be sustained because this amendment is clearly germane to the bill, as it also relates to foreign production.
>
> THE CHAIRMAN:[16] The Chair will ask the gentleman to point out the particular language in the bill to which he refers.
>
> MR. SCHAFER of Wisconsin: I will read. Page 16, lines 13 to 17:
>
> > * * * the United States, or place noncontiguous but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, Puerto Rico, Virgin Islands, or district of the United States, or place noncontiguous but subject to the jurisdiction thereof.
>
> This language of the bill specifically refers to foreign commerce and foreign products and has a prohibition with reference to convict-produced foreign goods moving into this country.

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

> The section under discussion, known as section 12, page 16, is headed "Pro-

14. H.R. 5435 (Committee on Labor).

15. 86 CONG. REC. 5275, 76th Cong. 3d Sess., Apr. 30, 1940.

16. Claude V. Parsons (Ill.).

hibition against interstate transportation of convict-made goods," and in the course of describing what shall be prohibited the section does prohibit the transportation in interstate commerce of penal- or reformatory-institution-made goods from the States, Territories, and any district of the United States or from any foreign country.

The amendment offered by the gentleman proposes to prohibit the importation into this country of any goods manufactured, mined, or otherwise, from any foreign country that does not comply with our minimum wage rates.

The Chair thinks that in construing this amendment to section 20 it is clearly germane, because it prohibits the importation of foreign-made goods that does not prescribe minimum rates. The point of order is overruled.

Bill Imposing Conditions on Use of Agricultural Products for Relief—Amendment Adding Further Restrictions

§ 3.57 To a bill relating to emergency relief to India and requiring in part that the Secretary of Agriculture certify that the procurement of any agricultural product for such purpose would not impair the fulfillment of vital needs of the United States, an amendment requiring that such procurement not lead to curtailment of domestic use of such products was held to be not germane.

In the 82d Congress, a bill[17] was under consideration relating to emergency relief assistance to India and containing the provision described above. The following amendment was offered to the bill:[18]

> Amendment offered by Mr. [Thruston B.] Morton [of Kentucky]: Page 2, line 16, after "United States", insert "nor require [the Secretary of Agriculture] to promulgate regulations for the curtailment of the domestic use of such products during the period of such procurement."

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

> MR. [JAMES P.] RICHARDS [of South Carolina]: Mr. Chairman, I make the point of order that the gentleman's amendment is not germane. . . . [It seems] to me that the sense of this amendment is that we are dealing with a phase of our domestic economy here that would not come within the scope of the bill.
>
> MR. MORTON: . . . The bill specifically provides that the Secretary of Agriculture shall certify that such procurement will not impair the fulfillment of the vital needs of this country. I just go one step further and say that if he certifies that it does not impair the vital needs of this country he cannot, while this grain is being purchased, go ahead and pass a lot of reg-

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

18. 97 CONG. REC. 5832, 82d Cong. 1st Sess., May 24, 1951.

ulations on the excuse that we had to ship this grain to India. . . . He has to give his certification, and this qualifies the certification and tightens it up. . . .

THE CHAIRMAN:[19] The Chair is ready to rule. The gentleman from Kentucky offers an amendment which, in the words of the gentleman from Kentucky, goes one step further than the pending bill, and also in the words of the gentleman from Kentucky, makes an additional proviso. The gentleman from South Carolina makes the point of order that the additional proviso is not germane. Clause 7 of rule XVI says that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. The test of germaneness, it seems to the Chair, is whether or not a new subject matter is introduced by way of amendment. The gentleman from Kentucky makes the point of order that his additional proviso is related to the proviso in the bill. The Chair would cite to the gentleman the precedent on page 88, volume 9, of Cannon's Precedents which says this:

> The fact that two subjects are related does not necessarily render them germane.

Under the rule cited and the precedent cited, and others at hand, the Chair is constrained to sustain the point of order.

Bill Authorizing Loan to United Nations—Amendment to Encourage Supporters to Purchase United Nations Bonds

§ 3.58 To a bill authorizing a loan to the United Nations, an amendment inviting Members who support the measure to purchase United Nations bonds was held to be not germane.

In the 87th Congress, during consideration of a bill[20] authorizing a loan to the United Nations, the following amendment was offered:[1]

> Amendment offered by Mr. [H. R.] Gross [of Iowa]: On page 3, after section 6, insert a new section 7 reading as follows: "Provided further, That Members of the Congress who vote affirmatively for the bill and thereby express their satisfaction therewith shall be invited and encouraged to invest not less than $1,000 each in United Nations bonds and shall be reimbursed under the terms and conditions set forth in section 3 for reimbursement of the United States Government."

The Chairman, Francis E. Walter, of Pennsylvania, ruling on a point of order raised by Mr. Thomas E. Morgan, of Pennsylvania, held that the amendment was not germane.[2]

Bill Providing for Admission of Hawaii—Amendment Affecting Boundaries of Hawaii

§ 3.59 To a bill providing for the admission of the State of

19. Albert A. Gore (Tenn.).

20. S. 2768 (Committee on Foreign Affairs).

1. 108 CONG. REC. 19477, 87th Cong. 2d Sess., Sept. 14, 1962.

2. *Id.* at p. 19478.

Hawaii, an amendment to allow certain other Pacific islands either to be constituted into another state with the consent of the United States and Hawaii, or to be included as part of the State of Hawaii, was held to be germane.

In the 86th Congress, during consideration of a bill[3] to provide for the admission of Hawaii into the Union, an amendment was offered as described above, for purposes stated by the proponent as follows:[4]

> MR. [WILLIAM R.] POAGE [of Texas]: . . . [This legislation] leaves hanging as a part of no State, some portions of that Territory that was once ruled by the royal line of Hawaii. It leaves without any statehood status other islands and territories in the Pacific Ocean over which the American flag flies and over which we claim jurisdiction.
>
> This amendment, if adopted, will provide not for the immediate incorporation of areas that may not presently fit into the organization of the new State, but it does provide an opportunity for the ultimate inclusion of every acre of American territory in the Pacific Ocean to be organized into the State of Hawaii.

A point of order was raised against the amendment, as follows:[5]

> MR. [WAYNE N.] ASPINALL [of Colorado]: . . . The bill with which we are dealing, S. 50, deals with the immediate admission of a new State into the Union. . . . [Subsection (a) of the amendment offered by the gentleman from Texas] deals with the enlargement of that State at some indefinite time in the future under totally different circumstances. . . .
>
> Subsection (b) [of the amendment] anticipates that these island areas may, at some future time, seek to become a separate State. It provides that they may become such if they so vote, and if the State of Hawaii consents, and if the Congress agrees. This situation is entirely foreign to the purposes of S. 50. . . .

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

> MR. POAGE: Mr. Chairman, basically the amendment which has been offered is one that changes the boundaries of the proposed State of Hawaii. The boundaries of the State of Hawaii are defined in the legislation before us. . . .
>
> We are . . . fixing a different set of boundaries from those that were outlined in the original bill. We are providing that some of those boundaries shall be in effect today; that others of them shall be in effect at future dates upon the happening of future events.

The Chairman, Paul J. Kilday, of Texas, in ruling on the point of order, stated:[6]

> In ruling on the first portion of the amendment, the Chair will point out

3. S. 50 (Committee on Interior and Insular Affairs).

4. 105 CONG. REC. 4034, 86th Cong. 1st Sess., Mar. 12, 1959.

5. *Id.* at p. 4035.

6. *Id.* at pp. 4035, 4036.

that it seeks to add additional language to the last sentence of section 2 of the bill. Section 2 of the bill and the sentence to which it is proposed to add language deals with the boundaries of the new State of Hawaii to be admitted under this bill, and the language of the proposed amendment likewise deals with the boundaries of the State to be admitted. As to paragraph B of the proposed amendment, the Chair would point out that this language would grant to the new State of Hawaii a right over land not included within the boundaries proposed in this bill but land outside of the boundaries, so that it would be granting to the new State of Hawaii a right over those lands which she does not now possess and would be one of the conditions on which she is admitted.

The Chair is constrained to hold that the amendment is germane to the bill and overrules the point of order.

Bill Relating to Administration of Parkway Lands—Amendment Authorizing Secretary of Interior to Permit Certain Uses of Lands

§ 3.60 To a bill relating to maintenance and administration of certain parkway lands, an amendment authorizing the Secretary of the Interior to permit such use of the parkway lands as he may determine to be consistent with the use of the lands for parkway purposes, was held germane.

In the 75th Congress, the Natchez Trace Parkway Bill[7] was under consideration, stating in part:[8]

> Be it enacted, etc., That all lands and easements . . . conveyed to the United States by the States of Mississippi, Alabama, and Tennessee for the right-of-way for the projected parkway between Natchez, Miss., and Nashville, Tenn., together with sites acquired . . . for recreational areas in connection therewith . . . shall be administered and maintained by the Secretary of the Interior through the National Park Service. . . .

The following amendment was offered to the bill:

> Amendment offered by Mr. [Aaron L.] Ford of Mississippi: Page 2, after section 1, insert:
>
> Sec. 2. In the administration of the Natchez Trace Parkway the Secretary of the Interior may lease or authorize the use of parkway lands for such purposes and under such terms and conditions as he may determine to be not inconsistent with the use of such lands for parkway purposes.

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

> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the bill. There is noth-

7. H.R. 6652 (Committee on Public Lands).

8. 83 CONG. REC. 1433, 75th Cong. 3d Sess., Feb. 2, 1938.

ing in the bill with reference to leasing lands or anything of that character. This is an entirely new feature and it is not germane to the bill.

The Chairman,[9] in ruling on the point of order, stated:

The Chair feels that the bill deals with lands and easements that have been conveyed to the United States by the State of Mississippi, the State of Alabama, and the State of Tennessee for a right-of-way for a parkway. The amendment merely authorizes the Secretary of the Interior to lease or authorize the use of these parkway lands, which have been conveyed to the United States by these States. In other words, the amendment simply authorizes the Secretary of the Interior to deal in some way with the title to that property. The Chair, therefore, feels that the amendment is germane and overrules the point of order.

Parliamentarian's Note: Prior to the above ruling, Mr. Ford had offered a similar amendment which he conceded not to be germane; the amendment had made reference to the administration of the "Blue Ridge" Parkway as well as that of the Natchez Trace Parkway.

Bill Providing for Tunnel Under Potomac—Amendment Relating to Cost of Approach Roads

§ 3.61 To a bill providing for a tunnel under the Potomac River, an amendment requiring the District of Columbia and the State of Virginia to pay costs of approach roads was held to be germane.

In the 85th Congress, a bill[10] was under consideration to amend legislation authorizing the construction of bridges over the Potomac River. The following amendment was offered to the bill:[11]

Amendment offered by Mr. [H. R.] Gross [of Iowa]: On page 4, strike out all of lines 4 through 15 and insert the following:

Sec. 105. The cost of construction, reconstruction . . . and repair of all facilities and related works, including streets, if any, and roads, which are changed or made necessary incident to the construction of said tunnel, approach ramps and connecting roads, shall be paid out of funds made available for the construction of said tunnel, approach ramps and connecting roads for all of which the State of Virginia shall pay the full costs on the Virginia side of the Potomac River and the District of Columbia shall pay the full costs on the District of Columbia side of the Potomac River. . . .

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

MR. [HOWARD W.] SMITH [of Virginia]: Mr. Chairman, I make the point

9. Harold G. Mosier (Ohio).

10. H.R. 6763 (Committee on the District of Columbia).

11. 103 CONG. REC. 13497, 85th Cong. 1st Sess., Aug. 2, 1957.

of order against the amendment offered by the gentleman from Iowa on the ground it is not germane to the bill. I do not know anyone in this body who happens to be a member of the General Assembly of Virginia and therefore can tell the Virginia Assembly how much money it can appropriate for anything.

In defense of the amendment, the proponent stated:

Mr. Chairman, the amendment deals with language contained in the bill, section 101, on page 2, wherein there are designated certain duties and responsibilities on the part of the State of Virginia on the Virginia side of the Potomac River and so forth.

The Chairman[12] overruled the point of order.

Bill Designating Wilderness Areas—Amendment Giving Employment Benefits to Those Affected

§ 3.62 To a bill reported from the Committee on Interior and Insular Affairs designating certain wilderness areas in Oregon, an amendment adding a new title to provide a program of unemployment benefits to persons affected by such wilderness designations was held to be not germane as addressing a subject not contained in the bill and one within the jurisdiction of other committees of the House.

On Mar. 21, 1983,[13] during consideration in the Committee of the Whole of H.R. 1149 (Oregon wilderness designations), a point of order was raised and sustained as indicated below:

Sec. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands, as generally depicted on maps, appropriately referenced, dated December 1982 (except as otherwise dated), are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Mount Hood National Forest, which comprise approximately forty thousand nine hundred acres, are generally depicted on a map entitled "Columbia Gorge Wilderness—Proposed", and shall be known as the Columbia Gorge Wilderness . . .

Sec. 6. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of Oregon and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

12. Richard W. Bolling (Mo.).

13. 129 CONG. REC. 6339, 6341, 6344, 6346, 98th Cong. 1st Sess.

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Oregon, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Oregon. . . .

An amendment was offered:

Amendment offered by Mr. Young of Alaska: Insert before section 2 the heading "TITLE I—DESIGNATION OF WILDERNESS AREAS".

Sec. 2. Add after section 6 the following:

"TITLE II—DEFINITIONS

"Sec. 20. As used in this title, the term—

"(1) 'Secretary' unless otherwise indicated, means the Secretary of the Department of Labor;

"(2) 'expansion area' means the Mount Hood, Willamette, Siuslaw, Umpqua, Rogue River, Siskiyou, Deschutes, Winema, Fremont, Ochoco, Wallowa-Whitman, Malheur, and Umatilla National Forests, and the Salem District of the Bureau of Land Management;

"(3) 'employee' means a person employed by an affected employer and, with such exceptions as the Secretary may determine, in an occupation not described by section 13(a)(1) of the Fair Labor Standards Act (29 U.S.C. 213(a)(1)); . . .

"Sec. 22. The total or partial layoff of a covered employee employed by an affected employer during the period beginning the date of enactment and ending September 30, 1986, other than for a cause that would disqualify an employee for unemployment compensation, except as provided in section 24, is conclusively presumed to be attributable to the expansion of the Oregon portion of the National Wilderness preservation system. . . .

"Sec. 23. (a) The Secretary shall provide, to the maximum extent feasible, for retention and accrual of all rights and benefits which affected employees would have had in an employment with affected employers during the period in which they are affected employees. The Secretary is authorized and shall seek to enter into such agreements as he may deem to be appropriate with affected employees and employers, labor organizations representing covered employees, and trustees of applicable pension and welfare funds, or to take such other actions as he deems appropriate to provide for affected employees (including the benefits provided for in section 26(d)) the following rights and benefits:

"(1) retention and accrual of seniority rights, including recall rights (or, in the case of employees not covered by collective-bargaining agreements, application of the same preferences and privileges based upon length of continuous service as are applied under the affected employer's usual practices) under conditions no more burdensome to said employees than to those actively employed; and

"(2) continuing entitlement to health and welfare benefits and accrual of pension rights and credits based upon length of employment and/or amounts of earnings to the same extent as and at no greater cost to said employees than would have been applicable had they been actively employed. . . .

"Sec. 31. (a) A relocation allowance shall be paid upon application by an affected employee during the applicable period of protection if—

"(1) the Secretary determines that said employee cannot reasonably be expected to obtain suitable work in

the commuting area in which said employee resides; and

"(2) the employee has obtained—

"(A) suitable employment affording a reasonable expectation of long-term duration in the area in which said employee wishes to relocate. . . .

MR. [JOHN F.] SEIBERLING [of Ohio]: Mr. Chairman, I make a point of order that the amendment is not germane, and also that it violates the provisions of the Budget Act. . . .

MR. [DON] YOUNG [of Alaska]: . . . Mr. Chairman, I argue that the amendment is germane. It has been heard before and has passed on previous actions of this body. I want to state that if the Parliamentarian will go back to the history of the House, this House has acted on the same exact amendment on a similar type bill in previous years. . . .

So my argument is that the amendment is germane to the bill, and it is relevant to the subject and the topic we are discussing today. We should give an opportunity to this body to decide, if the eastern establishment is going to have this wilderness, they are going to pay for it through their tax dollars to those who will be unemployed. . . .

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

The Chair has reviewed the amendment offered by the gentleman from Alaska.

H.R. 1149 does not relate to the question of unemployment relief to employees impacted by the wilderness designations in the bill.

The amendment contains matter not addressed on the bill and within the jurisdiction of other committees of the House and, therefore, is not germane to H.R. 1149.

The Chair sustains the point of order.

Parliamentarian's Note: Since the Chair sustained the point of order under the germaneness rule, he was not obliged to rule on the point of order under the Budget Act. The amendment provided new entitlement authority effective in fiscal year 1984 and thus violated sec. 303(a)(4) of the Budget Act, no budget resolution for that year having yet been adopted.

Bill Authorizing Activities in Department of Agriculture Previously Carried in Appropriation Bills—Amendment To Refund Certain Payments Under Agricultural Adjustment Act

§ 3.63 To a bill authorizing certain activities in the Department of Agriculture that had previously been carried in annual appropriation bills without specific authorization, an amendment seeking to refund certain payments under the Agricultural Adjustment Act of 1938 was held to be not germane.

14. James L. Oberstar (Minn.).

In the 78th Congress, a bill[15] was under consideration relating to control and eradication of certain animal and plant pests and diseases. The following amendment was offered to the bill:[16]

> Amendment offered by Mr. [Ross] Rizley [of Oklahoma]: At the end of the bill add a new section to be known as section 713 to read as follows:
>
> "That all penalties collected by the United States under the Agricultural Adjustment Act of 1938 . . . or under the joint resolution entitled 'Joint resolution relating to wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended' . . . with respect to the marketing of any wheat from the 1941 or 1942 crops of wheat shall be refunded to the persons who bore the burden of the payment of such penalties. . . ."

In discussing the amendment, the proponent stated:[17]

> In my opinion, my amendment will not require any new appropriation if it is accepted as a part of this bill. All we need is an authorization, and this is an authorization bill, so that the Appropriations Committee can authorize the Secretary of Agriculture to reappropriate this identical fund. . . .
>
> If my amendment is agreed to, I take the position that all that will then be necessary will be an authorization. It will be an authorization to the Appropriations Committee to reappropriate funds that are already on hand. . . .

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

> MR. [STEPHEN] PACE [of Georgia]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill. . . .
>
> Mr. Chairman, the purpose of the pending legislation is to set up legislative authority for numerous items heretofore carried in the agriculture appropriations bill which have not heretofore been authorized by law.
>
> In the first place, there is no provision in the agriculture appropriations bill having to do or treating with the subject of refunding penalties that might have been invoked on any particular crop. This amendment seeks solely to authorize the refund of penalties on the wheat crop for 2 years.
>
> Secondly, Mr. Chairman, as was pointed out on yesterday, this bill is for the purpose of setting up organic law for the Department of Agriculture. Certainly there is no provision in this amendment and nothing organic in this amendment, as it relates to only one crop and for a period of only 2 years. It does not seek—if it did seek, I think the situation would be different—it does not seek to establish as permanent law that all penalties on all crops under certain conditions shall be refunded, but the amendment simply seeks to refund the penalties on a particular crop for a particular year. . . .

In defense of the amendment, the proponent stated:

> . . . It is true that this is a bill which within its strictest construction

15. H.R. 4278 (Committee on Agriculture).

16. 90 CONG. REC. 2334, 78th Cong. 2d Sess., Mar. 7, 1944.

17. *Id.* at p. 2335.

is an authorization bill authorizing appropriations that have heretofore not been authorized by law, as I understand, for various and sundry matters pertaining to the Department of Agriculture. . . .

As stated, this bill refers to the Domestic Allotment Act of 1938, part of which is included under the terms of my amendment. What this will do will be to authorize the Appropriations Committee not to make a new appropriation but to reappropriate this fund which has been collected as a penalty under the provisions of the Wheat Penalty Act. . . .

The Chairman, Alfred L. Bulwinkle, of North Carolina, in ruling on the point of order, stated:[18]

The amendment offered by the gentleman from Oklahoma seeks to refund certain payments under the Agricultural Adjustment Act of 1938. The pending bill merely authorizes certain activities that have heretofore been carried in annual appropriation bills without specific authority or authorization at all.

The amendment offered by the gentleman from Oklahoma does not come within that category and, therefore, the Chair holds that it is not germane to the bill.

A subsequent exchange concerned a parliamentary inquiry.

MR. [FRANCIS H.] CASE [of South Dakota]: The inquiry I should like to propound, Mr. Chairman, is whether or not if the amendment were offered as a new title to the bill . . . would it then not be in order? . . .

THE CHAIRMAN: The Chair calls the attention of the gentleman to the fact that merely making it another title in the bill would not make it in order because it still would not be germane to the pending bill.

Bill Amending Commodity Exchange Act—Senate Amendments Relating to Forest Lands; Wheat Program

§ 3.64 To a House passed bill amending the Commodity Exchange Act to authorize appropriations and to make technical improvements therein, a Senate amendment authorizing the transfer of certain national forest lands is not germane, nor is a Senate amendment amending another law changing the wheat program.

The proceedings of Oct. 15, 1986, relating to H.R. 4613, the Futures Trading Act of 1986, are discussed in § 26.31, infra.

Bill Concerning Application of Freight Rates—Amendment Relating to Notice Required Prior to Rate Increase

§ 3.65 Where a bill prescribed conditions relative to the application to common carriers of certain provisions of law

18. *Id.* at p. 2336.

governing freight rates, an amendment which concerned the posting of notices in connection with the establishment of rates was held to be germane.

In the 75th Congress, a bill[19] was under consideration which stated in part:[20]

> Be it enacted, etc., That paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C., title 49, sec. 4), be and it is hereby, amended to read as follows:
>
> (1) That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation as a through rate than the aggregate of the intermediate rates subject to the provisions of this act: Provided, That the Commission may from time to time prescribe the extent to which common carriers may be relieved from the operation of this section: And provided further, That rates . . . existing at the time of the passage of this amendatory act by virtue of orders of the Commission . . . shall not be required to be changed by reason of the provisions of this section until the further order of . . . the Commission. . . .

To this bill an amendment was offered, as follows:[1]

> Amendment offered by Mr. [Schuyler O.] Bland [of Virginia]: Page 2, line 17, insert a new paragraph, as follows:
>
> No application for any increase in rates . . . or charges shall be . . . considered by the Interstate Commerce Commission unless and until the applicant . . . shall show to the Commission that at least 30 days prior to making said application the applicant has filed with the Governor of each State in which said increase will apply a copy of the tariff schedule showing all increases sought . . . with a memorandum . . . explaining each . . . increase requested. . . .

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

> MR. [CARL E.] MAPES [of Michigan]: Mr. Chairman, I make a point of order against the amendment that it is not germane to the paragraph under consideration. This amendment applies to all fares and rates. The bill relates only to the long-and-short-haul clause.

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

> MR. BLAND: Mr. Chairman, the amendment is in accord with the Interstate Commerce Act and with the particular section under consideration. The amendment relates to any rates, fares, or charges that may involve a greater or shorter distance. It is not limited to any particular point. It is rates, fares, and charges generally, and the amendment deals with the procedure for the protection of the public, so that they shall know that increases are sought.

The Chairman,[2] in ruling on the point of order, stated:

---

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

20. See 81 CONG. REC. 3480, 75th Cong. 1st Sess., Apr. 14, 1937.

1. *Id.* at p. 3484.

2. James M. Wilcox (Fla.).

The bill now before the Committee, in line 10, page 1, provides that the Commission may from time to time prescribe the extent to which common carriers may be relieved from the operation of this section; that is, relative to compensation, freight rates, or freight charges.

The amendment offered by the gentleman from Virginia deals with the establishment of rates and the posting of notice in connection therewith, and, in the opinion of the Chair, is germane. The point of order is therefore overruled.

Parliamentarian's Note: Mr. Bland explained the "long-and-short haul" provision and the effect of the bill as follows:

The long-and-short haul provision is the simple, equitable provision that you shall not charge less for the haul from terminus to terminus than the aggregate of the charges for the intermediate hauls. This bill would do away with this provision.

Bill Amending Act Relating to Apportionment—Amendment Changing Total Number of Representatives

§ 3.66 To a bill proposing to amend an act in several particulars, an amendment proposing to modify the act in a respect not related to the terms of the bill is not germane.

In the 76th Congress, a bill[3] was under consideration relating to the time for transmission of a census report to Congress under an act providing for apportionment of Representatives.[4] An amendment was offered by Mr. James W. Mott, of Oregon, for purposes of reducing the total number of Representatives. A point of order was raised against the amendment, as follows:[5]

MR. [LINDSAY C.] WARREN [of North Carolina]: . . . [S]ection 1 merely provides for the time that the President shall report to Congress. The act of 1929, which this bill today seeks to amend, provides for an apportionment based on a House membership of 435. The amendment offered by the gentleman from Oregon [Mr. Mott], of course, would change the entire procedure of the act of 1929, and it is certainly not germane to this bill. . . .

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

MR. MOTT: . . . The act of June 18, 1929, sets up the formula and the machinery for apportionment. It provides in that connection that the President within 1 week thereafter of the second regular session, and so forth, shall file a statement showing the whole number of persons in each State, as ascertained under the fifteenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives.

3. S. 2505 (Committee on the Census).

4. See 86 CONG. REC. 4382, 76th Cong. 3d Sess., Apr. 11, 1940.

5. *Id.* at p. 4383.

> The act provides that the representation shall be apportioned on a basis of the then existing number of 435 Members. This amendment simply changes that basis from 435 to 300. This is offered as an amendment to the act of 1929. The bill the committee now has under consideration is also offered as an amendment to the act of 1929. They are both amendments to the same act, and both amendments relate to the same subject. I feel, therefore, that an amendment along this line would be perfectly germane. . . .

The Chairman, John M. Jones, of Texas, in ruling on the point of order, stated:[6]

> . . . The precedents . . . seem to be very definite on the proposition that when a bill proposes to amend an act in several particulars an amendment proposing to modify the act but not related to the bill is not germane. . . .
>
> The pending section of the bill does not in any way affect the total number of Members of the House but only proposes to change the time when the statement of the President must be transmitted to Congress. The Chair is of the opinion therefore that the amendment is not germane and sustains the point of order.

Resolution to Reform Structure and Procedures of Committees—Amendment Affecting Procedures in Committee of the Whole

§ 3.67 To a proposition reorganizing House committees and dealing with the committee stage of the legislative process, amended to delete reference to consideration of legislation in Committee of the Whole, an amendment relating to voting procedures in the Committee of the Whole was held to be not germane.

On Oct. 8, 1974,[7] the Committee of the Whole had under consideration House Resolution 988, to reform the structure, jurisdiction and procedures of House committees. Pending was an amendment in the nature of a substitute amending Rules X and XI and making conforming changes in other rules to reform the structure, jurisdiction and procedures of committees, and containing miscellaneous provisions reorganizing certain institutional facilities of the House. The amendment had been perfected by amendment to eliminate a revision of Rule XVI which had proposed changes in Committee of the Whole procedure. Pursuant to a point of order, the amendment in the nature of a substitute was held not to be sufficiently broad in scope to admit as germane an amendment to Rule VIII to permit

6. *Id.* at pp. 4383, 4384.

7. 120 CONG. REC. 34415, 34416, 93d Cong. 2d Sess.

pairs on recorded votes in Committee of the Whole.

MR. [JONATHAN B.] BINGHAM [of New York]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Bingham to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington: On page 53, after line 2, insert the following:

"PAIRS IN COMMITTEE OF THE WHOLE

"Sec. 209. The first sentence of clause 2 of rule VIII of the Rules of the House of Representatives is amended by inserting 'by the House or Committee of the Whole' immediately before the first comma." . . .

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I make a point of order against the amendment for the reason that it is an amendment to rule VIII, whereas the principal resolution under consideration here, House Resolution 988, attempts to amend rules X and XI only. Therefore, the amendment is not germane. . . .

MR. BINGHAM: . . . This would amend title II of the resolution, which is headed, "Miscellaneous and Conforming Provisions." That title of the resolution is not limited to changes in rules X and XI. It affects other rules, section 207, for example, amendment to rule XVI, and under the heading of "Miscellaneous and Conforming Provisions," it would seem to me that a simple amendment to rule VIII would clearly be in order.

THE CHAIRMAN:[8] The Chair is ready to rule.

On hearing the gentleman from Iowa (Mr. Smith) and the gentleman from New York (Mr. Bingham), the Chair is of the opinion that there is nothing in the Hansen amendment in the nature of a substitute, as perfected, relating to voting procedures in the Committee of the Whole. The miscellaneous provisions in the Hansen amendment, as perfected by the Waggonner amendment, do not broaden the Hansen amendment to the extent suggested by the gentleman from New York.

Therefore, the point of order must be sustained, and the point of order is sustained.

—*Amendment Relating to Committee Reports on Appropriation Bills Offered to Amendment in Nature of Substitute Addressing Content of Committee Reports*

§ 3.68 To an amendment in the nature of a substitute amending Rules X and XI and making conforming and miscellaneous changes in other rules to reorganize House committees, and including requirements as to content and filing of committee reports, an amendment to Rule XXI (which relates to appropriation bills and reports) to require the committee report accompanying any bill containing an appropriation to state the direct or indirect changes in

8. William H. Natcher (Ky.).

law made by the bill and to prohibit such report from containing any directive or limitation affecting the appropriation that was not also contained in the bill was held germane, since the issue of the content of committee reports was within the purview of the amendment in the nature of a substitute.

During consideration of House Resolution 988 (to reform the structure, jurisdiction and procedures of House committees) it was held that to a proposition amending two House rules relating to the interrelation of House committees and imposing requirements for filing and content of committee reports, an amendment to another House rule but dealing with the content of reports from the Committee on Appropriations and having as a fundamental purpose a separation of jurisdictional responsibility between that committee and legislative committees was germane. The proceedings of Oct. 8, 1974,[9] were as follows:

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

The Clerk read as follows:

Amendment offered by Mr. Dingell to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington: Page 37, immediately following line 20, insert the following new section and redesignate ensuing sections accordingly:

"APPROPRIATIONS BILLS

"Sec. 201. Rule XXI of the Rules of the House of Representatives is amended by inserting the following new Clause, and renumbering ensuing Clauses accordingly:

"'3. A committee report accompanying any bill making an appropriation for any purpose—

"'(a) shall not contain any directive or limitation with respect to such appropriation unless such directive or limitation is set forth in the accompanying bill, and

"'(b) shall contain a concise statement describing fully the effect of any provision of the accompanying bill which directly or indirectly changes the application of existing law.'". . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: . . . Mr. Chairman, the resolution before us amends rules X and XI. I am told the Hansen provision by a special rule was permitted to include a provision that would affect rule XVI. The amendment offered by the gentleman from Michigan (Mr. Dingell) goes, according to its wording, to rule XXI and I respectfully submit that it is not germane to the matter before us. There are many, many reasons why this should be, Mr. Chairman, because a reading of the gentleman's amendment would mean that no longer would there be any reports submitted by any committee in connection with any bill because of having to be included in the bill there would be no need for the report.

For example, in the case of the Subcommittee on Defense Appropriations I

9. 120 CONG. REC. 34416, 34417, 93d Cong. 2d Sess.

suspect the bill would be about as thick as three Sears Roebuck catalogs, and that of the public works would be probably as big a one.

The fact is that the matter before us which limits it to rules X and XI, with the special exception of rule XVI, which was stricken, but which was included by reason of a special rule, so that the amendment offered by the gentleman from Michigan (Mr. Dingell) directed as the gentleman would in that amendment to rule No. XXI, is nongermane to the matter before us, the subject matter, and therefore should be ruled out of order. . . .

MR. DINGELL: . . . Mr. Chairman, I have before me House Resolution 988, and House Resolution 1248. The question before the body is whether or not the amendment would be germane either to House Resolution 1248 or House Resolution 988. The question which must be considered in establishing the germaneness of the amendment is . . . whether [the] amendment [is] germane either to the amendment, or to the resolution?

The question of germaneness is not related simply to the particular rules to which either House Resolution 988 would address itself, or House Resolution 1248 would address itself, but rather to whether on a fair reading of the entirety of the two proposals that the proposal would be germane to the amendment to House Resolution 988 and House Resolution 1248, which is at this moment before the House. . . .

If the Chair will look at the language of the amendment it first of all deals with appropriation bills, the work product of the Committee on Appropriations, and the powers and prerogatives of the Committee on Appropriations under the rules. If the Chair will consult both House Resolution 988 and House Resolution 1248 the Chair will find that there is a miscellaneous section there too. This amendment is directed at the miscellaneous section. I would inform the Chair that word "miscellaneous" means broad, diverse, and manyfold.

I would point out that not only do the provisions of both the miscellaneous section and the rest of the bill deal not only specifically with rules X and XI, and with other portions of the rule not enumerated or named, but treated in a general fashion, but that the miscellaneous section deals with a large number of items within the rules of the House.

More specifically, both of the resolutions deal with the powers and prerogatives of the Committee on Appropriations as well as the duties and the responsibilities. And so a section to be added relating to the powers and the prerogatives of the Committee on Appropriations would at least in my view, therefore, be fully appropriate and germane, because the function of the amendment as offered is to deal with the powers and prerogatives of the Committee on Appropriations and, Mr. Chairman, in contrast to what my good friend, the gentleman from Mississippi said, not just the powers of all the committees, but only the powers of the Committee on Appropriations since the amendment relates to the question of how appropriation bills shall be reported to the House, and the main rule is the one relating to the powers of the Committee on Appropriations in legislating.

So I think it ought to be clearly ascertained that we put, through the

proposed amendment—or the proposed amendment would put—further restrictions on the powers of the Committee on Appropriations to legislate. I would address myself to that in the appropriate fashion when the Chair has disposed of the point of order. . . .

MR. [BOB] ECKHARDT [of Texas]: . . . Rule XXI is a rule which prevents the circumventing of jurisdiction of all the committees. Rule XXI cannot be divorced from the general question of assignment of jurisdictional responsibility to the major committees of this House. If it were not for rule XXI, the Committee on Appropriations would be in a position, because it deals with so many bills from so many committees, to insert new material at the appropriations level. All of the bills before us deal with the Committee on Appropriations, but, more importantly, all of the bills before us deal with the question of protecting and establishing jurisdiction of the major committees of the House. In addition to that, all of the bills before us deal with the assignment of jurisdictional authority by the Speaker and in the case of the Bolling bill, by the Committee on Rules—and ultimately by the House—of bills to committees.

It is utterly impossible to separate this web of provisions, including the rules covered by these three bills and rule XXI.

Therefore, it would seem to me, Mr. Chairman, that the amendment is germane. Most of the arguments made against it seem to me to be arguments on the merits. . . .

MR. [DAVID T.] MARTIN of Nebraska: . . . I should like to point out that in the original resolution, House Resolution 132, which was adopted by the House on January 31, 1973, the second paragraph stated as follows:

> The Select Committee is authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of Rules X and XI of the Rules of the House.

This amendment is directed to rule XXI. The select committee was not instructed to make any changes in rule XXI. Therefore, I raise a point of order also in regard to the gentleman's amendment.

THE CHAIRMAN:[10] The Chair is ready to rule.

The amendment offered by the gentleman from Michigan (Mr. Dingell) is drafted to the miscellaneous portion of the amendment offered by the gentlewoman from Washington (Mrs. Hansen). That portion of the amendment refers to several rules of the House, even though the Waggonner amendment deleted all reference to rule XVI. The amendment as offered, relates to the content of reports filed by the standing Committee on Appropriations, a matter within the scope of the Hansen amendment in the nature of a substitute. The Chair has carefully considered the point of order and the arguments of those who have spoken on the point of order, and it is the opinion of the Chair that the point of order must be overruled, and that the amendment is in order to the Hansen amendment in the nature of a substitute.

The Chair recognizes the gentleman from Michigan.

---

10. William H. Natcher (Ky.).

—Proposal to Study Needs for Facilities for Congress; Amendment Directing Speaker To Set Aside Office Space in New Library Building

§ 3.69 To an amendment in the nature of a substitute proposing changes in the structure, jurisdiction and procedures of House committees, and containing miscellaneous provisions to improve the institutional operations of the House, including a Commission to study facility and space requirements of Members and committees, an amendment directing the Speaker to ensure that a portion of a newly constructed Library of Congress building would be utilized for House office space until other additional space could be provided was held to be not germane.

During consideration of House Resolution 988 in the Committee of the Whole, it was held that to a proposition establishing a commission to study a matter, an amendment directing an official to undertake and accomplish that matter is not germane. The proceedings of Oct. 8, 1974,[11] were as follows:

The Clerk read as follows:

> Amendment offered by Mr. Gibbons to the amendment offered as a substitute by Mr. Martin of Nebraska: On page 92 after line 5, insert the following:
>
> Sec. —. The Speaker of the House of Representatives is authorized and directed to take whatever steps necessary to insure that a portion of the James Madison Memorial Library Building that is now under construction be utilized by the House of Representatives for additional office space until the House can acquire sufficient additional space for its orderly function.

MR. [LLOYD] MEEDS [of Washington]: Mr. Chairman, I make a point of order against the amendment. . . .

The point of order is based on the fact that none of the resolutions deal with the acquisition of space in any buildings but only the study of the needs of the House of Representatives for space. Therefore, it is not germane. . . .

MR. [SAM M.] GIBBONS [of Florida]: . . . Mr. Chairman, we are amending the rules of the House to provide for the procedures of the House and for the operation of the House. All three of the amendments that have been offered are proposals, of course, that are very broad. They go to staffing and to allowances and to travel, and they go to the entire operation of the House. This amendment is just directed toward that purpose. . . .

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

The amendment offered by the gentleman from Florida (Mr. Gibbons) directs the Speaker to take action toward

11. 120 CONG. REC. 34458, 93d Cong. 2d Sess.

12. William H. Natcher (Ky.).

the acquisition of committee and office space. The substitute before this Committee at this time does not contain any provision allocating office space although it establishes a commission to study the problem. There is no provision in any of the amendments directing the allocation of space for committees or space for offices. Therefore, the amendment is not germane, and the Chair will have to sustain the point of order.

The point of order is sustained.

—Provision To Restrict Use of Funds for Committee Expenses Outside U.S.; Amendment To Restrict Use of Funds for Travel Expenses of Retiring Members

§ 3.70 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 held to be not germane, since it waived provisions of law not necessarily related to House committee travel.

On Oct. 8, 1974,[13] during consideration of House Resolution 988 (to reform the structure, jurisdiction and procedures of House committees) in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

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 28, line 21, insert "(1)" after "(n)".

Page 29, line 7, strike out "(1)" and insert "(A)".

Page 29, line 11, strike out "(2)" and insert "(B)".

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

13. 120 CONG. REC. 34463, 34464, 93d Cong. 2d Sess.

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. . . .

THE CHAIRMAN:[14] 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 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.

§ 3.71 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 in the United States and providing that no 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,[15] 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:

14. William H. Natcher (Ky.).

15. 120 CONG. REC. 34465, 93d Cong. 2d Sess.

"(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:[16] 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.

16. William H. Natcher (Ky.).

General Rule as to Germaneness of Amendment Expressing Sense of Congress

§ 3.72 An amendment expressing the sense of Congress on a subject must relate to the subject matter of the bill under consideration to the same extent as a substantive amendment on that subject.

The proceedings of Aug. 1, 1990, relating to H.R. 1180, the Housing and Community Development Act, are discussed in Sec. 4.59, infra.

Bill Addressing Intelligence Activities—Amendment Addressing Relationship Between Executive and Congress With Respect to Such Activities

§ 3.73 To a bill addressing diverse subjects relating to intelligence activities of the government (including congressional oversight of certain intelligence activities), an amendment addressing the relationship between the Executive branch and the Congress with respect to in-

telligence activities is germane.

The proceedings of Oct. 17, 1990, relating to H.R. 5422, the Intelligence Authorization Act of 1991, are discussed in Sec. 35.102, infra.

Proposition To Require Disclosure by Lobbyists—Amendment To Require Reference to Committee of Information on Contributions

§ 3.74 To a proposition having as its fundamental purpose registration and public disclosure by lobbyists of their activities and affiliations, but not the regulation or prohibition of those activities, an amendment requiring the Comptroller General to refer to the Committee on Standards of Official Conduct information on contributions by lobbyists to House Members and employees for possible investigation by that committee, but not requiring an investigation and not regulating such contributions, was held germane as a further disclosure requirement.

During consideration of the Public Disclosure of Lobbying Act of 1976[17] in the Committee of the Whole on Sept. 28, 1976,[18] Chairman Richard Bolling, of Missouri, overruled a point of order against an amendment to the pending amendment in the nature of a substitute. The proceedings were as follows:

> MR. [ABNER J.] MIKVA [of Illinois]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Mikva to the amendment in the nature of a substitute offered by Mr. Bennett: On page 10, lines 8 and 9, strike out ", but not including' and insert in lieu thereof the following: ": *Provided*, That the Comptroller General shall refer to the Committee on Standards of Official Conduct for investigation of any expenditures by an organization reportable under this subsection to or for the benefit of any federal officer or employee (under the jurisdiction of said Committee) that exceed $100 in value in the aggregate in any calendar year to determine if the receipt of such expenditure is acceptance of a gift of substantial value, directly or indirectly, from an organization having a direct interest in legislation before the Congress as prohibited under the Rules of the House of Representatives; but such expenditures shall not include"'. . . .
>
> MR. [WALTER] FLOWERS [of Alabama]: . . . Mr. Chairman, I should like to interpose a point of order on this amendment . . . . I think that the point of order would lie, Mr. Chairman, in that there are duties here that are

17. H.R. 15.

18. 122 CONG. REC. 33085, 33086, 94th Cong. 2d Sess.

not contemplated in the purposes of the legislation, in that the gentleman from Illinois would require additional duties of the Committee on Standards of Official Conduct, to which there are none within the purview of the legislation of either the Committee on the Judiciary or the Standards Committee. . . .

MR. MIKVA: Mr. Chairman, I would like to point out that this amendment that I have just offered imposes no prohibitions or anything else. The statute has been referred to over and over again by the distinguished gentleman from Alabama as a disclosure statute. It seems to me that the people are entitled to know why we are disclosing these things. We have rules in the House. One of the rules of the House says that no Member or other employee shall receive a gift of substantial value.

All this amendment suggests is that where gifts of substantial value are given, they ought to be referred to the appropriate committee for investigation. If we are not doing that, I think the people are entitled to inquire just what it is we propose to do with all of this information.

This does not impose any prohibitions or any criminal sanctions on anybody. It does not add to the breadth of the bill in any manner, shape, or form. It merely says any gifts over a certain amount which are required to be reported under the bill should be referred to the committee to see whether they violate the rule. If they do not, there is no requirement that they do anything except to look to see if the rules of the House of Representatives are being enforced.

THE CHAIRMAN: The Chair is ready to rule.

For the reasons stated by the gentleman from Illinois, the Chair believes that the point of order is not good and therefore overrules the point of order.

—*Amendment To Require Wearing of Name Tags*

§ 3.75 To a proposition having as its fundamental purpose registration and public disclosure by lobbyists but not the regulation of their activities, an amendment requiring lobbyists within a certain distance of the House and Senate Chambers to wear tags displaying their names and affiliations was construed as a further information disclosure requirement and was held germane.

On Sept. 28, 1976,[19] during consideration of the Public Disclosure of Lobbying Act of 1976 (H.R. 15) in the Committee of the Whole, the following amendment to the pending amendment in the nature of a substitute was held germane:

MR. [GARRY] BROWN of Michigan: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Brown of Michigan to the amendment in the

19. 122 CONG. REC. 33082, 94th Cong. 2d Sess.

nature of a substitute offered by Mr. Bennett: On page 5 line 20 strike the period and insert a colon. On page 5 following line 20, insert the following: *Provided however,* That any officer, agent or employee of an organization regulated as a lobbyist by this Act who influences, or attempts to influence, any Member of Congress with respect to any legislative matter, shall prominently display on his or her person an identification name tag, stating in clearly discernible print, his or her full name and the organization he or she represents; said name tag shall be printed in not less than 24 point type; *Provided further however,* This requirement shall only be applicable to those persons who influence, or attempt to influence, Members within 50 feet of any entrance to either Chamber of the Congress while such is in session. . . .

MR. [CHARLES E.] BENNETT [of Florida]: Mr. Chairman, I make a point of order against the amendment because I do not think it has any relevancy to the bill.

The distance of how far away one is or whether he or she is wearing a badge of 24-point type has nothing to do with the bill. There are a lot of things it is pertinent to, but not that. . . .

MR. BROWN of Michigan: . . . I respectfully disagree with the gentleman from Florida (Mr. Bennett).

This is a disclosure bill. We require people to register and to identify themselves. It seems to me that if we are going to have a piece of disclosure legislation that is effective, we ought to be able to associate names and faces; and that is all that this amendment does. It just implements the disclosure requirements of this legislation. . . .

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

The Chair has examined this amendment, and it is not the same as the one on which the Chair ruled before.

The Chair would have to say that this amendment would seem to have as its purpose the disclosure of information by lobbyists and to come within the fundamental purposes of the amendment to which it has been offered.

Therefore, the Chair overrules the point of order.

—*Amendment Placing Ceiling on Contributions*

§ 3.76 To an amendment requiring registration and public disclosure by lobbyists but not regulating or prohibiting their activities, an amendment placing a ceiling on their monetary contributions to federal officials is not germane.

On Sept. 28, 1976,[1] during consideration of the Public Disclosure of Lobbying Act of 1976[2] in the Committee of the Whole, it was demonstrated that the fundamental purpose of an amendment must relate to the fundamental purpose of the proposition to which it is offered when a point of order against the following amendment was sustained:

MR. [ABNER J.] MIKVA [of Illinois]: Mr. Chairman, I offer an amendment.

20. Richard Bolling (Mo.).

1. 122 CONG. REC. 33085, 94th Cong. 2d Sess.

2. H.R. 15.

The Clerk read as follows:

Amendment offered by Mr. Mikva to the amendment in the nature of a substitute offered by Mr. Bennett: On page 20, immediately after line 13, insert the following new subsection:

"(e)(1) No organization shall make expenditures reportable under section 6 to or for the benefit of any Federal officer or employee that exceed $100 in value in the aggregate in any calendar year: *Provided* That, for the purposes of this limitation all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization: *Provided further,* That this limitation shall not apply to any loan of money in the ordinary course of business on terms and conditions that are no more favorable than are generally available or to any honorarium within the meaning of section 328 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(i)).

"(2) Any organization which knowingly and willfully violates this subsection shall be fined not more than $10,000 for each such violation.". . .

MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, my point of order against the amendment offered by my friend, the gentleman from Illinois (Mr. Mikva), lies, I think, because the gentleman's amendment violates the central purpose of the proposed legislation and that is to provide a method of lobbying disclosure and not in any wise, Mr. Chairman, regulating amounts or providing any ceiling or floor or anything else but disclosure.

The amendment offered by my friend, the gentleman from Illinois (Mr. Mikva), clearly violates the intent of the statute in that it imposes duties upon the Comptroller General that would not otherwise be imposed by this statute, or duties of a different kind.

It imposes a different penalty that would be imposed than otherwise in this statute. It is not clear whether it is a civil or a criminal penalty.

For all of these reasons, Mr. Chairman, I make a point of order against the amendment. . . .

MR. MIKVA: Mr. Chairman, I am not sure what my distinguished colleague on the Committee on the Judiciary is referring to, but there is nothing in this amendment that talks about the Comptroller General. He may be a little precipitous about something else. What this says, very simply, is that there ought to be a $100 limitation on the amount lobbyists can give as gifts. It excludes honoraria; it excludes political contributions; it excludes all of the nonreportable items. The rules now existing in this House of Representatives—already the Rules of this House—make it clear that no gifts of any substantial value shall be given by a lobbyist to a Member. What this does is define that substantial interest in terms of $100. It is put in the sanctions section, and it deals with the other sanctions that are already in the bill. . . .

MR. FLOWERS: Mr. Chairman, might I be heard one moment further here on the point of order?

Mr. Chairman, the gentleman extends the bill much further than it is already intended, in that he says:

> That, for the purposes of this limitation—
>
> And again a limitation which is not a part of the purpose of the bill—
>
> —all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization.

This is a concept not within the proposed legislation, and we think, Mr. Chairman, clearly that this does extend the purpose of the legislation far beyond that of the substitute or H.R. 15, as amended. We feel that the point of order ought to be sustained.

THE CHAIRMAN:[3] The Chair is ready to rule.

For the reason first stated by the gentleman from Alabama and by the Chair in an earlier ruling on the Ashbrook amendment, the point of order is sustained.

Bill Authorizing President to Allocate Funds Among Agencies—Amendment Allocating Funds to Specific Agency

§ 3.77 To a bill appropriating a sum of money and authorizing the President to make allocations therefrom among certain agencies of the government, an amendment proposing that a certain part of such sum be allocated to another agency of the government was held to be germane.

In the 75th Congress, during consideration of a relief appropriations bill[4] as described above, the following amendment was offered:[5]

Amendment offered by Mr. [Millard F.] Caldwell [of Florida]: On page 2, line 20, after the semicolon, add: "*Provided,* That from the amount specified for the foregoing classes $300,000,000 shall be allocated to the Federal Emergency Administration of Public Works."

Mr. John Taber, of New York, having raised a point of order against the amendment, the Chairman[6] ruled as follows:

In this bill it is provided that the President may make allocations to certain agencies of the Government.

The amendment . . . provides that part of the appropriation in this bill shall be allocated to one of the agencies of government, the Federal Administration of Public Works.

The Chair is of the opinion that the amendment is germane to the bill, and therefore overrules the point of order.

Grants for Purchase of Photographic and Fingerprint Equipment—Amendment Adding Funds To Purchase Bulletproof Vests

§ 3.78 To an amendment authorizing law enforcement administration grants to states and localities for the purchase of photographic and fingerprint equipment for law enforcement purposes, an amendment including assistance for the purchase of bulletproof vests

3. Richard Bolling (Mo.).
4. H.J. Res. 361 (Committee on Appropriations).
5. 81 CONG. REC. 5012, 75th Cong. 1st Sess., May 25, 1937.
6. John J. O'Connor (N.Y.).

was held to be directed toward a different category of law enforcement equipment concerned with physical protection rather than information-gathering and was therefore beyond the scope of the amendment and not germane; the decision of the Chairman on the germaneness of the amendment was upheld on appeal by a voice vote.

On Oct. 12, 1979,[7] during consideration of the Justice System Improvement Act of 1979[8] in the Committee of the Whole, Chairman Mike McCormack, of Washington, held that to an amendment providing financial assistance for a certain class of law enforcement equipment (for informational purposes), the following amendment adding financial assistance for another class (for protection of law enforcement officers) was not germane:

> MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Volkmer: Page 164, lines 24 and 25, amend the bill by adding the following after the word "project," "including photographic equipment, and fingerprint equipment, for law enforcement purposes.".
>
> MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment to the amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Ashbrook to the amendment offered by Mr. Volkmer: Insert after the word "including" "bullet-proof vests,". . .
>
> MR. [PETER A.] PEYSER [of New York]: . . . When we previously discussed this with the Parliamentarian the point was made that it could not be amended on the other side by having the bulletproof vest amendment amended by adding cameras and other equipment. It is not a germane fact to this issue and the type of equipment we are dealing with and discussing, and for that reason it should be ruled out of order. . . .
>
> MR. VOLKMER: . . . I would like to speak on the point of order. As to the question of germaneness, as I understand it my amendment says, "including photographic equipment, fingerprint equipment," and then the words "for law enforcement purposes."
>
> Therefore, in my opinion anything that would be in there for law enforcement purposes would be germane. In other words, if somebody would offer an amendment for pistols, or offer an amendment for bullets, or offer an amendment for police caps or cars or anything else for law enforcement purposes, it is germane. This is not restricted just to a certain type of equipment. We have photographic equipment and fingerprint equipment. They are not related at all. Bulletproof vests are for law enforcement purposes.

7. 125 CONG. REC. 28123, 28124, 96th Cong. 1st Sess.

8. H.R. 2061.

THE CHAIRMAN: The Chair is prepared to rule.

The question really comes down to how to define and segregate categories of law enforcement equipment. The Chair is persuaded that the term, "photographic equipment and fingerprint equipment" is a generic category that deals with information rather than protection of law enforcement officers.

Bulletproof vests are within the different category of equipment for the protection of law enforcement officers. The Chair recognizes that this is a fine line, but rules that under the precedents the amendment is not germane to the pending amendment and the point of order is sustained. . . .

MR. ASHBROOK: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The question is, Shall the Chair's ruling stand as the judgment of the Committee?

The question was taken; and the Chairman announced that the ayes appeared to have it.

MR. ASHBROOK: Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

THE CHAIRMAN: Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device. . . .

THE CHAIRMAN: Three hundred and twelve Members have answered to their names, a quorum is present, and the Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. Ashbrook) for a recorded vote appealing the decision of the Chair.

Does the gentleman from Ohio (Mr. Ashbrook) insist upon his demand for a recorded vote?

MR. ASHBROOK: I do not, Mr. Chairman.

Bill Restricting Antitrust Remedies Against Local Governments—Senate Amendment Relating to Funds for Antitrust Activities of Federal Agency

§ 3.79 To a House bill restricting remedies under existing antitrust law against local governments, but not addressing authority of a federal agency to prosecute antitrust actions or the availability of appropriated funds to that agency for that purpose, a Senate amendment included in a conference report repealing a limitation in an appropriation law for that year on the use of funds by that agency to conduct antitrust actions against local governments was held not germane, since the amendment related to agency ac-

tivities and funds not addressed in the House bill.

The proceedings of Oct. 11, 1984, relating to the conference report on H.R. 6027, to clarify the application of the federal antitrust laws to the official conduct of local governments, are discussed in § 26.25, infra.

Imposition of Different Classes of Penalties

§ 3.80 To a bill relating to the imposition of penalties of a certain class, all falling within the jurisdiction of one committee, an amendment relating to another class of penalties falling within the jurisdiction of another committee is not germane.

The proceedings of Sept. 29, 1983, relating to H.R. 3231, the Export Administration Amendments Act of 1983, are discussed in § 4.55, infra.

Bill Relating to Acquisition of Buildings by Federal Government—Amendment To Provide Grants to Public and Private Agencies for Hospital Facilities

§ 3.81 To a bill relating to acquisition of buildings for use by the federal government, an amendment relating to grants to public and private agencies for hospital facilities was held not germane.

In the 79th Congress, a bill [9] was under consideration granting certain powers to the Federal Works Administration. The following amendment was offered: [10]

> Committee amendment offered by Mr. [Fritz G.] Lanham [of Texas]: At the end of the bill add the following new section:
>
> Sec. 13. In order to alleviate the acute shortage of hospital facilities outside the District of Columbia, the Federal Works Administrator is hereby authorized to make grants to public and private agencies for hospital facilities. . . .

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

> MR. [JAMES W.] WADSWORTH [Jr., of New York]: . . . It is apparent that this bill as reported by the Committee on Public Buildings and Grounds relates solely to the acquisition of buildings or facilities needed by the Federal Government, and for the use of the Federal Government alone. . . . This amendment, however, goes far beyond the field occupied by the bill and proposes that the Federal Government embark upon the building of hospitals by grants to the States . . . .

---

9. H.R. 5407 (Committee on Public Buildings and Grounds).

10. 92 CONG. REC. 2373, 79th Cong. 2d Sess., Mar. 18, 1946.

The Chairman, William F. Cravens, of Arkansas, in ruling on the point of order, stated:[11]

The original bill deals solely with Federal Government construction for exclusive Government uses. The amendment is a departure and would bring in new matter not covered by the original bill.

Therefore, in the opinion of the Chair, it is not germane. The point of order is sustained.

Bill Authorizing Military Assistance for Israel and Funds for UN Forces—Amendment Expressing Sense of Congress With Respect to Peace Negotiations in Middle East

§ 3.82 To a bill authorizing military assistance for Israel and funds for the United Nations Emergency Force in the Middle East, an amendment was held to be not germane which sought to express the sense of Congress that the President should make every effort to bring about negotiations leading to a treaty of peace in the Middle East and to a resumption of diplomatic and trade relations between Israel and the Arab countries, and between the United States and the Arab countries.

During consideration of H.R. 11088[12] in the Committee of the Whole on Dec. 11, 1973,[13] a point of order was sustained against the following amendment:

MR. [ROBERT L. F.] SIKES [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Sikes: On page 4, after line 10, add a new Section 7:

It is the sense of Congress that every reasonable effort be made by the President to bring about meaningful negotiations between Israel and the Arab states directly concerned leading to a treaty of peace in the Middle East and to a resumption of diplomatic and trade relations between the United States and the Arab countries, and between Israel and the Arab countries."

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I reserve a point of order on the amendment.

THE CHAIRMAN:[14] Does the gentleman from Iowa insist on his point of order?

MR. GROSS: I do, Mr. Chairman. This amendment is window dressing. It calls upon the President to resume diplomatic and trade relations between certain nations and clearly goes beyond the scope of this bill.

MR. SIKES: Mr. Chairman, this amendment expresses the hope and

11. *Id.* at p. 2374.

12. A bill providing for emergency military assistance to Israel and Cambodia.

13. 119 CONG. REC. 40842, 40843, 93d Cong. 1st Sess.

14. John M. Murphy (N.Y.).

asks the President to move to bring to the Middle East. It expresses the hope that we will be able to resume normal trade relations with all nations, and that other nations, the Arabs and the Israelis, will be able to resume diplomatic and normal trade relations. I feel that it does not impose additional requirements. I feel that it adds to and supplements the language of the bill, and that the point of order should not be sustained.

THE CHAIRMAN: The Chair has studied the amendment and will state that the amendment goes to the question of negotiations involving Arab and United States trade and diplomatic relations and is not within the purview of this legislation. The Chair sustains the point of order of the gentleman from Iowa. Are there further amendments? If not, under the rule, the Committee rises.

Bill Establishing Price Supports for Agricultural Commodities—Amendment Relating to Acreage Allotments and Marketing Quotas

§ 3.83 To a bill establishing one year price support levels for several agricultural commodities, an amendment relating to acreage allotments and marketing quotas, as well as price supports, of another commodity for that year was held to go beyond the scope of the bill and was held to be not germane.

On Mar. 20, 1975,[15] during consideration of a bill concerning emergency price supports for 1975 crops,[16] a point of order was sustained against the following amendment offered in the Committee of the Whole:

MR. [PETER A.] PEYSER [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Peyser: Page 3, immediately after line 16, insert the following new section:

"Sec. 3. Notwithstanding any other provision of law, there shall be no acreage allotment, marketing quota or price support for rice effective with the 1975 crop of such commodity." . . .

MR. [THOMAS S.] FOLEY [of Washington]: . . . The amendment is not germane to the bill, and violates rule XVI, clause 7.

H.R. 4296 deals with price supports, established prices, and loan rates for wheat, feed grains, cotton, and milk under sections 103, 105, 107, and 201 of the Agricultural Act of 1949.

The bill does not relate to acreage allotments, or marketing quotas on any commodity. The amendment offered would affect the provisions of the Agricultural Adjustment Act of 1938.

Accordingly, the amendment is not germane to the bill, and I therefore press my point of order against the amendment. . . .

MR. PEYSER: . . . The reason I offered the amendment was because of

15. 121 CONG. REC. 7666, 94th Cong. 1st Sess.

16. H.R. 4296.

the ruling of the Chair dealing with the Conte amendment some hour or so ago, where we were discussing it, and the Chair ruled in favor of nuts and fruits, and some other items, and I therefore felt that introducing the question of rice would be substantially within the germaneness of this bill as the other items that have been offered, and that the Chair had ruled in favor of.

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

The Chair has heard the point of order made by the gentleman from Washington (Mr. Foley), and has listened to the response made by the gentleman from New York (Mr. Peyser).

The Chair would observe in respect of its earlier ruling on the amendment offered by the gentleman from Massachusetts that the earlier amendment was a price support amendment. The purpose of the bill under consideration, as the gentleman from Washington has already pointed out, runs to price supports. Acreage and allotments and marketing quotas are not within the scope of the bill, and the Chair rules, therefore, that the amendment is not germane, and sustains the point of order.

Bill Prohibiting Certain Kinds of Interference With Elections—Amendment To Prohibit Poll Taxes

§ 3.84 To a bill seeking to prevent pernicious political activities by making it unlawful for certain individuals to use their authority for the purpose of interfering with or affecting the election or nomination of any candidate for certain public offices, an amendment making it unlawful to require the payment of state poll taxes as a prerequisite for voting was held not germane.

In the 76th Congress, a bill[18] was under consideration which sought to prevent "pernicious political activities." The bill included a committee amendment[19] making it unlawful for certain federal and state employees to use their official authority for the purpose of interfering with or affecting the election or nomination of candidates for designated public offices. The following amendment was offered to the bill:[20]

> Sec. 1. (a) It is unlawful for any person, whether or not acting under the authority of the laws of a State or subdivision thereof, to require the payment of a poll tax as a prerequisite for voting or registering to vote at any election for a President or Vice President or Presidential elector or Member of the Senate or Member of the House of Representatives of the United States.

17. John Brademas (Ind.).

18. S. 3046 (Committee on the Judiciary).

19. See 86 CONG. REC. 9446, 76th Cong. 3d Sess., July 10, 1940.

20. *Id.* at p. 9455. The amendment was offered by Mr. Lee E. Geyer (Calif.).

With respect to such amendment, the following proceedings took place:[1]

> MR. [SAM] HOBBS [of Alabama]: Mr. Chairman, I make a point of order against the amendment that it is not germane to that section of the bill or those sections of the bill to which it is addressed nor to any section of the bill. . . .
>
> THE CHAIRMAN:[2] . . . The Chair is of the opinion that the amendment offered by the gentleman from California is in no way related to the provisions of the pending bill; that is, in no way related so as to make the amendment germane in accordance with and under the rules of the House. The amendment relates to the franchise of the voters in the several States, and the bill under consideration so far as the Chair can observe, and the Chair has read it carefully, in no way enters that field. For the reasons stated, and principally and wholly upon the ground that the amendment is not related to the bill under consideration, and wholly eliminating the constitutional question or any other question, the Chair holds that the amendment is not germane, and sustains the point of order.

§ 4. Committee Jurisdiction of Subject Matter as Test

In ruling on the germaneness of amendments to bills, the Chair has frequently considered whether the subject matter of the amendment falls within the jurisdiction of the committee reporting the bill. Thus, in some cases, lack of such committee jurisdiction may at the outset cause the Chair to uphold a point of order against the amendment. On the other hand, in other cases, even the fact that a subject has in fact been considered by a committee during its markup of a particular bill does not determine the germaneness of an amendment concerning such subject when offered on the House floor.[3]

The fact that an amendment is offered in conjunction with a motion to recommit the bill with instructions does not affect the requirement that the subject matter of the amendment be within the jurisdiction of the committee reporting the bill.[4]) Committee jurisdiction of a subject is not necessarily determinative on questions of germaneness, however; the modern tendency seems to be to view such jurisdiction as but one factor in the determination of the germaneness of amendments.

In particular, Committee jurisdiction is not determinative as a test of germaneness of an amendment, where the text to which it is

1. *Id.* at pp. 9455, 9456.
2. John W. McCormack (Mass.).
3. See § 8.16, infra.
4. See § 23.3, infra.