Chapter CXXVI.

THE HOUSE RULE THAT AMENDMENTS MUST BE GERMANE.

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5801. A rule of the House requires that an amendment must be germane.—Section 7 of Rule XVI[2] provides:

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

5802. A decision in the Senate that an amendment need not, under the parliamentary law, be germane.[3]**—**On November 22, 1877[4] the Senate were considering the following resolution:

Resolved, That the Committee on Privileges and Elections be discharged from the consideration of the credentials of M. C. Butler, of South Carolina.

Mr. George F. Edmunds, of Vermont, moved to strike out "M. C. Butler" and insert "William P. Kellogg," and to strike out "South Carolina" and insert "Louisiana."

Mr. William A. Wallace, of Pennsylvania, made the point of order that the amendment was not germane.

Mr. Edmunds said that the parliamentary law did not require an amendment to be germane.

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[1] See also section 4375 of Volume IV.

[2] For full form and history of this rule, see sections 5753, 5767 of this volume.

[3] See also section 5825 of this chapter.

[4] First session Forty-fifth Congress, Record, p. 603.

The Vice-President [1] overruled the point of order.[2]

5803. Whether or not an amendment be germane should be judged from the provisions of its text rather than from the purposes which circumstances may suggest.—On January 15, 1901,[3] the river and harbor bill (H. R. 13189) was under consideration in Committee of the Whole House on the state of the Union.

Mr. Frank W. Mondell, of Wyoming, proposed an amendment appropriating a sum of money for the construction of three reservoirs at the headwaters of the Missouri River—

For the purpose of holding back the flood waters of said stream with a view of minimizing the formation of bars and shoals and other flood-formed obstructions to navigation, and to aid in the maintenance of an increased depth and uniform flow of water for navigation during the dry season.

Mr. Theodore E. Burton, of Ohio, made the point of order that the amendment was not germane to the bill, since the means proposed could not affect navigation, but rather related to the improvement of arid lands.

After debate the Chairman [4] said:

The Chair holds that as the amendment is framed it is germane to the subject-matter of the bill and the subject-matter over which the River and Harbor Committee has jurisdiction. Now, whether that correctly presents the facts of the case is to be determined on the merits. But as the amendment is presented and read by the Clerk it appears to the Chair that it is entirely proper and germane to the bill, and therefore the Chair will overrule the point of order.

5804. An amendment which would have changed a resolution of inquiry to one of instruction was held to be not germane.—On February 14, 1882,[5] Mr. Godlove S. Orth, of Indiana, from the Committee on Foreign Affairs, reported adversely this resolution:

Resolved, That the President of the United States, if not incompatible with the public service, be requested to communicate to this House all correspondence with the British Government on file in the State Department with reference to the case of D. H. O'Connor, a citizen of the United States, now imprisoned in Ireland.

Mr. Orth's motion to lay this resolution on the table having been decided in the negative, Mr. S. S. Cox, of New York, submitted the following amendment in the nature of a substitute:

That the President be, and he is hereby, requested to obtain for D. H. O'Connor and other American citizens now imprisoned under a suspension of the habeas corpus by the British Government in Ireland, without trial, conviction, or sentence, a speedy and fair trial or a prompt release.

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[1] William A. Wheeler, of New York, Vice-President.

[2] The Senate formerly had no rule in regard to amendments being germane, and a Senator might offer an amendment on any subject. (See decision of the Presiding Officer, Feb. 24, 1853, second session Thirty-second Congress, Globe, p. 820.) The Senate now has a rule requiring amendments to general appropriation bills to be germane. Section 3 of Rule XVI:

"No amendment which proposes general legislation shall be received to any general appropriation bill, nor shall any amendment not germane or relevant to the subject-matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate."

[3] Second session Fifty-sixth Congress, Record, pp. 1052–1054.

[4] Albert J. Hopkins, of Illinois, Chairman.

[5] First session Forty-seventh Congress, Journal, p. 577; Record, p. 1133.

Mr. Thaddeus C. Pound, of Wisconsin, made the point of order that the amendment was not germane.

After debate the Speaker said:

The Chair[1] is of the opinion that the amendment is one covering a matter which is hardly competent to be introduced as an original House resolution. It is perhaps unnecessary for the Chair to decide whether it is within the power of either House of Congress by resolution to instruct the President as to his duty. The Chair would be inclined to think that would not be within the power of the House.

Mr. Randall having suggested that this would be for the House to determine, not the Chair, the Speaker continued:

The Chair is not called upon to decide that question, and only refers to it incidentally in determining whether this amendment is in order to a resolution of inquiry which has certain privileges under the rules of the House. The amendment proposed is to change the whole character of the pending resolution, which is a simple resolution of inquiry, and make it a resolution of instruction to the President of the United States. The Chair thinks it is not germane and not in order.

5805. An amendment simply striking out words already in a bill may not be held not germane.

Where a paragraph which changes existing law has been by general consent allowed to remain it may be perfected by any germane amendment.

On March 31, 1904,[2] the sundry civil appropriation bill was under consideration in Committee of the Whole House on the state of the Union when the Clerk read this paragraph:

Expenses of judges of the circuit courts of appeals, not to exceed $10 per day; of meals and lodgings for jurors in United States cases, and of bailiffs in attendance upon the same, when ordered by the court; and of compensation for jury commissioners, $5 per day, not exceeding three days for any one term of court, $165,000.

Mr. Charles E. Littlefield, of Maine, moved to strike out the words "in United States cases."

Mr. James A. Hemenway, of Indiana, made the point of order that the amendment would change law and would not be germane. He stated that the effect of the amendment would be to pay for meals and lodgings of jurors in civil cases.

It appeared from the debate that there was no general law providing for meals and lodgings of jurors in any cases.

The Chairman[3] held:

The Chair would call attention to the fact that on Monday a similar question arose here in which the rules and decisions were referred to. A precedent seems to have been established in the Committee of the Whole that where a paragraph which changes existing law has been by general consent allowed to remain it may be perfected by any germane amendment.

If that rule is to be followed, this amendment is in order, and the Chair overrules the point of order. The Chair also thinks the rule to be that an amendment striking out a portion of a paragraph is not subject to a point of order. Form, and not effect, should be considered. Germaneness refers to words added rather than to those taken away. The Chair would further suggest that this question of whether payment should be made for meals and lodgings for jurors in cases other than United States cases is rather a question for the Committee to decide; a question of policy rather than a question for the Chair to decide on a point of order.

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[1] J. Warren Keifer, of Ohio, Speaker.

[2] Second session Fifty-eighth Congress, Record, pp. 4059, 4060.

[3] Theodore E. Burton, of Ohio, Chairman.

Mr. Hemenway thereupon said:

Mr. Chairman, here is a case where we provide for the payment for meals and lodging of jurors in United States cases where the Government is a party to the case. Now, then, is it germane to say that we shall also pay for meals when the Government is not a party to the case, where it is a question purely between individuals?

The Chairman said:

The Chair would state that that is merely a question for the Committee to consider. It is to be noted that this amendment consists not in adding to the language of the paragraph, but in striking out certain words which constitute a portion of the paragraph.

5806. To a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill was held not to be germane.

The rule that amendments shall be germane applies to amendments reported by committees.

On April 24, 1900,[1] Mr. Henry A. Cooper, of Wisconsin, from the Committee on Insular Affairs, reported a joint resolution (S. R. 116) "to provide for the administration of civil affairs in Porto Rico pending the appointment and qualification of civil officers provided for in the act approved April 12, 1900, entitled," etc., with amendments in relation to the granting of franchises proposed by the Committee on Insular Affairs.

Mr. Ebenezer J. Hill, of Connecticut, rising to a point of order, said:

I make the point of order, in the first place, that the amendments are not germane to the resolution; in the second place, that the joint resolution cannot be so amended; in the third place, that if so amended it must be considered in Committee of the Whole, and in the fourth place, that the joint resolution is temporary in its character and that the amendments are permanent.

In the debate it was urged that the amendments relating to franchises were in order because they were germane to the law which it was proposed to amend, if not the particular resolution under consideration.

The Speaker[2] said that he should overrule all the points of order except that relating to germaneness. After citing on this point the decision of February 6, 1891,[3] he said:

The Chair thinks that much of the difficulty in the minds of Members comes from the fact that the joint resolution sent from the Senate and the amendments added by the Committee on Insular Affairs all refer to the same statute, the Porto Rican bill, that became a law some time ago. The question as to whether these sections are germane can not be determined by the title alone, as has been suggested, because an act amending an act will always describe the title amended, although it may only touch one feature or part of the law; but the whole resolution has to be considered and the amendments to the resolution. If this was not clear, possibly the title would be brought into consideration. But there is not a particle of doubt as to the purpose of this resolution or as to the purpose of the amendments.

The resolution is for the sole purpose of extending the time in regard to the putting in operation of the new government of Porto Rico. The amendments are entirely outside of that question and enter upon amendments of the law in respect to matters entirely outside of that question. They have no relation in any shape or form to the proposition of the joint resolution. It will not be contended, if the Committee on Rules brought in a report to amend one rule, that thereby, by an amendment, you would open up for consideration of the House all the rules. A suggestion has been made by one gentleman as to the authority cited, and it is seldom within the power of the Chair to find an authority so completely on all

[1] First session Fifty-sixth Congress, Record, p. 4615; Journal, pp. 500–501.

[2] David B. Henderson, of Iowa, Speaker.

[3] See section 5807 of this chapter.

fours like this. In that case the bill treated on the forefeiture of land grants, and the amendment was a regulation as to the forfeiture of lands, bearing upon the same subject, and that therefore they are not similar.

The case that the Chair has cited shows clearly that it was an amendment on the subject of the time when certain regulations went into operation. This joint resolution is for the same purpose. The amendments here are for wholly another purpose; and every Member of the House must see that no one of these amendments is germane to the original resolution. Suppose the original resolution was before the House for consideration and a Member should move to recommit with instructions to add these amendments. The point of order could be made at once that they were not germane and that the motion to recommit could not be held to be in order when it was asked to do in the House what could not be done in the committee. The case is perfectly parallel with the other. The Chair profoundly regrets that he has to sustain the point of order that it is not germane.[1]

5807. On February 6, 1891,[2] the Speaker laid before the House the bill of the Senate (S. 4814) to amend an act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes. The object of this bill was explained by Mr. Lewis E. Payson, chairman of the Committee on the Public Lands:

The general forfeiture bill passed in the last session of Congress provided that as to certain characters of lands, which were in possession of parties claiming under the settlement law, they should have the right to perfect their entry within six months from the date of the passage of the act. That act became a law in September last. In order to effect the operations of the bill, it became necessary to frame a set of instructions in the General Land Office for the guidance of the officers of the local land offices the country over. Owing to the pressure of business in that Department, it was impossible for the Secretary of the Interior to prepare these instructions even down to this time. And the six months within which the settlers were to have the prior right of asserting their claims have now almost expired; and to meet that point, and that point alone, the Senate bill was passed.

To this bill Mr. Thomas H. Carter, of Montana, moved an amendment providing for a method of classification to determine the mineral or nonmineral character of lands selected by railroads.

Mr. Payson made the point of order that the amendment was not germane to the bill, and therefore not in order.

After debate the Speaker[3] sustained the point of order, making the following statement in so doing:

The Chair can only consider in determining the question whether the amendment be germane to the bill before the House and the proposition therein contained. The pending bill relates solely to the time when a period named in the original act shall begin to run. The amendment proposed relates to a reclassification of lands, a subject so remote from that of the bill that it can be justified only by a claim that any amendment germane to this act proposed to be altered would be germane to this bill. But the very claim is its own answer. The test must be the bill before the House, for that is the bill which is to be amended.

5808. On April 23, 1902,[4] the Senate amendments to the bill (H. R. 9206) relating to oleomargarine and other imitation dairy products were under consideration in Committee of the Whole House on the state of the Union, when Mr. James R.

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[1] The point of order was overruled, however, on other grounds. On January 10, 1884 (first session Forty-eighth Congress, Record, pp. 347, 348), Mr. Speaker Carlisle held that an amendment reported by a committee and not germane was not in order. (See also sec. 5906.)

[2] Second session Fifty-first Congress, Journal, p. 219; Record, pp. 2254, 2255.

[3] Thomas B. Reed, of Maine, Speaker.

[4] First session Fifty-seventh Congress, Record, p. 4597.

Mann, of Illinois, proposed a further amendment to a law, of which a Senate amendment proposed to amend a certain portion.

Mr. James A. Tawney, of Minnesota, having made a point of order, the Chairman [1] held:

Senate amendment No. 5 reads thus:

"Section 3 of said act is hereby amended by adding thereto the following:"

And then follows a certain proviso. The amendment offered by the gentleman from Illinois is to add at the end of that proviso these words:

"*And provided further*, That the artificial coloration provided for in the preceding paragraph shall not include colored butter."

The "preceding paragraph" referred to, as the Chair understands, is section 3 of a former act of Congress, which is not now before the Committee of the Whole.

On page 323 of the Manual the Chair finds this language:

"To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was offered and ruled not to be germane."

That ruling was made by Speaker Reed. The Chair thinks that it covers this case. The amendment of the gentleman from Illinois, while it may be germane to the preceding paragraph of section 3 of the earlier act of Congress to which it refers, is not germane to the proviso which constitutes the Senate amendment, and therefore the Chair sustains the point of order.

5809. It is not in order to amend a pending privileged proposition by adding a matter not privileged and not germane to the original proposition.—On January 22, 1884,[2] Mr. Casey Young, of Tennessee, as a privileged question, from the Committee on Public Buildings and Grounds, under instructions of the House, submitted a report accompanied by a resolution requesting the Secretary of War to provide some suitable place for the public records in the large room in the basement of the Capitol, and that the said room be given to the Committee on Rivers and Harbors.

After debate Mr. Albert S. Willis, of Kentucky, submitted an amendment in the nature of a substitute, to the effect that the enrolling room of the House be set apart for the said committee.

Pending this Mr. William W. Rice, of Massachusetts, moved to amend the amendment by adding thereto the following words:

And that the Committee on Public Buildings and Grounds be instructed to inquire if other and additional accommodations can not be procured for the Library of Congress, by which the space in the Capitol now used for the Library can be used for committee rooms, and report the same.

Mr. Samuel J. Randall, of Pennsylvania, made the point of order that the amendment was not in order, not being germane to the pending amendment.

The Speaker [3] sustained the point of order on the ground that it was not competent when a privileged matter was under consideration to amend the pending proposition by adding instructions to a committee in relation to a matter not privileged and not germane to the original resolution.

5810. On February 13, 1885,[4] Mr. Barclay Henley, of California, as a privileged matter,[5] reported, from the Committee on the Public Lands, a preamble and resolution reciting that the California and Oregon Railroad Company had failed to

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[1] Marlin E. Olmsted, of Pennsylvania, Chairman.

[2] First session Forty-eighth Congress, Journal, p. 389.

[3] John G. Carlisle, of Kentucky, Speaker.

[4] Second session Forty-eighth Congress, Record, p. 1637; Journal, p. 546.

[5] Resolutions of inquiry are privileged by the rule.

earn its land grant; that a bill forfeiting that grant had passed the House and was in the Senate; that the President, knowing these facts and against protests, had appointed commissioners to examine the railroad and report, and requesting the President to inform the House of his reasons for the appointment of the commission.

Mr. William C. Oates, of Alabama, offered the following amendment:

Resolved, That the President of the United States is hereby respectfully requested not to confirm any favorable report which may be made by the commissioners recently appointed by him to inspect a section or sections lately completed of the California and Oregon Railroad, nor order patents to issue, until the Senate of the United States acts upon H. R. 5897, being a bill to forfeit certain lands granted to aid in the construction of said railroad, and which passed this House June 6, 1884, or until after the adjournment of the present Congress.

Mr. J. Warren Keifer, of Ohio, made the point of order that the amendment was not in order, for the reason that it was not a resolution of inquiry or germane to such a resolution nor within the terms of Clause I of Rule XXIV.[1]

The Speaker pro tempore[2] sustained the point of order on the ground that a privileged question on motion could not be amended by adding thereto matter not privileged or germane to the original resolution.

The Speaker pro tempore said:

The Chair does not think that it is competent by way of amendment to submit to the House for its action that which is not privileged in its character in lieu of that which has the right of privilege, and which besides is not germane to the matter which is submitted as a privileged report. The Chair sustains the point of order of the gentleman from Ohio and holds that it is not competent to bring in, in the nature of an amendment to the resolution of inquiry, which is privileged under the rule, a resolution such as that suggested by the gentleman from Alabama. * * * This is not a resolution of inquiry as submitted by the gentleman from Alabama and would not have been in order as a privileged matter unless it had been a resolution of inquiry reported back, as the resolution comes from the gentleman from California.

5811. Under the later decisions the principle has been established that an amendment should be germane to the particular paragraph or section to which it is offered.—On June 5, 1878,[3] the House was considering the bill (H. R. 4414) to amend the laws relating to internal revenue, and had reached the paragraph which defined a manufacturer of tobacco and established the requirement that he should pay a special tax.

To this paragraph Mr. James W. Covert, of New York, proposed an amendment, placing a certain internal-revenue tax on snuff, cigars, and smoking and chewing tobacco.

Mr. Omar D. Conger, of Michigan, made the point of order that the amendment was not in order, not being germane to the pending paragraph.

The Speaker pro tempore[4] overruled the point of order on the ground that it was not necessary that it should be germane to the pending paragraph, but to the general provisions of the bill.

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[1] This was the old numbering of the rule relating to resolutions of inquiry. It is now section 5 of Rule XXII.

[2] Joseph C. S. Blackburn, of Kentucky, Speaker pro tempore.

[3] Second session Forty-fifth Congress, Journal, p. 1230; Record, pp. 4161, 4162.

[4] John G. Carlisle, of Kentucky. Speaker pro tempore.

The record of debate shows that Mr. Conger, who made the point of order, said:

I make the point of order because, if there be a place in this bill where the amendment would be germane, it would be better to have the amendment come in its proper place, and not mix up one branch of the subject with another which is evidently not germane to it. My point of order is, that under the rules of the House this amendment can not come in at this place. If there be a place where the Chair shall hold that it would be germane, then it can be offered at that place.

The Speaker pro tempore said:

The Chair believes it has always been held that in determining whether or not an amendment is germane the Presiding Officer must look to the general subject to which the bill relates, and not merely to the particular provisions of the bill. Now the general subject to which this bill relates is the internal revenue system of the country. It contains a provision which is intended to increase the tax on spirituous liquors in one respect, by imposing that tax upon the fractional gallon. It also contains another provision, if the Chair remembers correctly, which is intended to diminish the tax on spirituous liquors in one respect, by exempting from a certain part of the tax distilleries which distill not exceeding a certain quantity in a certain time. It relates generally in all its provisions to the internal-revenue system; and the Chair is therefore of opinion that any amendment relating alone to that system is in order, while an amendment relating to that system and also to something else would not be in order.

5812. On March 26, 1897,[1] the tariff bill was under consideration in the Committee of the Whole House on the state of the Union, and the Clerk had read the first paragraph, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the 1st day of May, 1897, unless otherwise specially provided for in this act, there shall be levied, collected, and paid upon all articles imported from foreign countries or withdrawn for consumption, and mentioned in the schedules herein contained, the rates of duty which are by the schedules and paragraphs respectively prescribed, namely:

To this Mr. Alexander M. Dockery, of Missouri, proposed this amendment:

Provided, That when it is shown to the satisfaction of the Secretary of the Treasury that such articles are manufactured, controlled, or produced in the United States by a trust or trusts, the importation of such articles from foreign countries shall be free of duty until such manufacture, control, or production shall have ceased, in the opinion of the Secretary of the Treasury.

Mr. Nelson Dingley, of Maine, made a point of order against the amendment, saying:

An amendment placing on the free list, under certain conditions, articles that are now on the dutiable list is not germane to that portion of the bill which provides for the imposition of duties. Now, Mr. Chairman, it has been suggested that there has been a ruling in a former House, and attention has been called to it, to the effect that it does not necessarily follow—and please bear in mind the effect of that language that it does not necessarily follow—that an amendment proposed must be germane to the particular paragraph provided that it is germane to another part of the bill. But under what conditions was that ruling made? It was on an internal-revenue bill, a bill which provided for the imposition of duties on tobacco and certain other products of the country. It was entirely devoted to that particular subject. It was an internal tax, every section of which dealt with that particular subject and that only, and the one subject running through it all—that of the imposition of the tax. It did not necessarily follow that the amendment, therefore, should apply to any particular paragraph more than to another. It was applicable to any portion of the bill. But we have a different condition presented now. When a bill is before the House containing two or three very distinct subjects, one imposing a duty, the other placing certain articles upon the free list, and another imposing certain conditions, then, for the orderly pro

[1] First session Fifty-fifth Congress, Record, p, 353.

cedure of the business of the House and the orderly transaction of its business, it is incumbent upon the Chair to hold that each amendment shall be germane to that particular part of the bill to which it is proposed to apply it.

The Chairman[1] ruled as follows:

The pending bill is a bill to provide revenue for the Government and to encourage the industries of the United States.

Section 2 of the bill, on page 123, provides that after the 1st day of May the articles thereafter enumerated, when imported, shall be exempt from duty.

To the first paragraph the gentleman from Missouri [Mr. Dockery] offers an amendment providing that under certain conditions all articles upon the dutiable list shall be transferred to the free list. To that amendment the gentleman from Maine [Mr. Dingley] raises the point of order that it is not in order at that point in the bill. The gentleman from Texas [Mr. Bailey] cites a decision of the then Speaker in the Forty-fifth Congress, referred to upon page 271 of the Digest. That was a decision rendered by the distinguished gentleman from Kentucky, Mr. Carlisle, acting as Speaker pro tempore. The decision, as shown by the Congressional Record, does not carry out the statement upon page 271 of the Digest. That decision held that any amendment must be germane to the general provision of a bill. It did not hold that being germane to the provisions of a bill it was permissible at any point. It did hold that the amendment then presented to the bill at the point was admissible.

The question before the Chair here and now is not whether the committee is liable to reach page 123 of the bill. The Chair can not take into consideration that probability, as suggested by the gentleman from Missouri [Mr. Dockery], but must rule upon the question as it is now presented, to wit, Is the amendment presented germane to this provision? The Chair holds that the amendment is not germane, and therefore sustains the point of order.

Mr. Dockery having appealed from the decision, the committee sustained the Chair by a vote of 158 ayes to 104 noes.

5813. On March 30, 1897[2] while the tariff bill was under consideration in Committee of the Whole House on the state of the Union, Mr. Sereno E. Payne, of New York, offered to the appropriate paragraph an amendment relating to aniline and certain derivatives used in the making of coal-tar colors.

To this amendment Mr. Richard P. Bland, of Missouri, offered an amendment, as follows:

It shall be lawful to import into this country free of all duty foreign commodities that may be purchased or paid for by the avails of agricultural products of the United States exported and sold in foreign countries.

That the Secretary of the Treasury is hereby authorized and required to make such rules and regulations as may be necessary to carry this provision into effect.

Mr. Payne made the point of order that the amendment was not germane.

The Chair[1] sustained the point of order.

5814. On March 31, 1897,[1] the tariff bill being under consideration in Committee of the Whole House on the state of the Union, Mr. Charles H. Grosvenor, of Ohio, presented an amendment providing that in certain cases the duties named in the bill should be retroactive.

To this amendment Mr. Alexander M. Dockery, of Missouri, offered as an amendment a provision that articles manufactured, produced, or controlled by trusts should be admitted free of duty.

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[1] James S. Sherman, of New York, Chairman.

[2] First session Fifty-fifth Congress, Record, p. 474.

[3] First session Fifty-fifth Congress, Record, p. 529.

Mr. Dingley made the point of order that the amendment to the amendment was not germane.

The Chairman [1] sustained the point of order.

5815. On April 1, 1898,[2] the naval appropriation bill was under consideration by paragraphs in the Committee of the Whole House on the state of the Union, and the Clerk had read the paragraph:

For the installation of electric plants in gunboats numbered 10, 11, 12, and 13, $40,000.

To this Mr. Levin I. Handy, of Delaware, offered this amendment:

No money appropriated in this act shall, after the next vacancy occurs on the active list in his grade, be paid any officer on the retired list under the regular retiring age and not having the legal forty years' service, whom the Navy Department may deem able physically, mentally, and morally to resume on the active list the duties of his existing commission, and may order back to duty in the said active-list vacancy.

Mr. Charles A. Boutelle, of Maine, made a point of order against the amendment.

The Chairman [1] sustained the point of order on the ground that the amendment was not germane to the section.

5816. On April 29, 1898,[3] the House was in Committee of the Whole House on the state of the Union considering the bill (H. R. 10100) to provide ways and means to meet war expenditures.

The Clerk read section 27 of the bill, which gave authority to the Secretary of the Treasury to borrow $500,000,000, issuing therefor certain described bonds, under certain conditions.

To this section Mr. James Hamilton Lewis, of Washington, proposed an amendment levying a tax upon the franchises of all corporations.

Mr. Nelson Dingley, of Maine, made the point of order that the amendment was not germane to the section.

The Chairman [1] sustained the point of order.

5817. On December 5, 1900 [4] the bill (S. 4300) "An act increasing the efficiency of the military establishment of the United States" was under consideration in Committee of the Whole House on the state of the Union, and the Clerk had read the paragraph fixing the size and form of organization of the Army.

Mr. William P. Hepburn, of Iowa, proposed an amendment providing for filling vacancies in certain departments by appointments from civil life.

Mr. John A. T. Hull, of Iowa, made the point of order that the amendment was not germane to this paragraph, but would be in order in another portion of the bill.

The Chairman [5] sustained the point of order.

5818. On March 10, 1902,[6] while the Committee of the Whole House on the state of the Union was considering the bill (H. R. 11728) relating to the rural free-

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[1] James S. Sherman, of New York, Chairman.

[2] Second session Fifty-fifth Congress, Record, p. 3483.

[3] Second session Fifty-fifth Congress, Record, p. 4449.

[4] Second session Fifty-sixth Congress, Record, pp. 82, 83.

[5] John Dalzell, of Pennsylvania, Chairman

[6] First session Fifty-seventh Congress, Record, p. 2580.

delivery service in the Post-Office Department, Mr. George W. Smith, of Illinois, offered an amendment to a certain paragraph of the bill.

Mr. Claude A. Swanson, of Virginia, made the point of order that the amendment was not germane to this portion of the bill, but would be germane to the fourth paragraph.

The Chairman [1] said:

The Chair is clearly of the opinion that inasmuch as the bill is now being considered by paragraphs, and inasmuch as the amendment offered by the gentleman is expressly covered by paragraph 4, toward the close of the bill, this amendment is germane to that paragraph and not to the paragraph now under consideration. * * * It seems to the Chair that the admission which the gentleman has made would indicate quite clearly that this amendment is in order, not to the pending paragraph, but to paragraph 4, because the gentleman says that paragraph would have to be stricken out if this were adopted. The Chair rules that it is not now in order, but that it would be in order when paragraph 4 is reached.

5819. On May 26, 1902,[2] the House was considering the bill (S. 493) to amend an act entitled "An act to establish a code of law for the District of Columbia," when the following paragraph was read:

Amend section 3 by adding at the end of said section the words: "No justice of the peace during his term of office shall engage in the practice of the law, subject to the penalty of removal from his office."

Thereupon Mr. Joseph G. Cannon, of Illinois, proposed an amendment to another portion of the section of the code so as to change the number of the justices.

The Speaker [3] said:

If the Chair can have the attention of the gentleman from Illinois a moment, the Chair sees what the gentleman from Illinois is seeking to accomplish. There have been a number of decisions bearing upon this question, some by the Chair in the last Congress, and others before that. It seems to the Chair that the gentleman can reach the matter that he seeks to reach by an amendment to this bill in section 3, where the justices of the peace are treated of, by a proviso that there shall not be more than eight, or whatever number he wishes, so long as the amendment is aimed at the pending bill. Of course, the House can revise the code if it wants to; but it has here simply the amendments of the Senate. Those amendments are the subject-matter now before the House.

5820. On March 25,1904, [4] the Post-Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. Marlin E. Olmsted, of Pennsylvania, proposed an amendment relating to the duties of carriers in the rural free-delivery service.

Mr. Jesse Overstreet made the point of order that the amendment was not germane.

The Chairman [5] held:

The Chair thinks that on the question of germaneness the question of comparison as arising in the arrangement of a bill comes in; that if an amendment is more appropriate to one paragraph than to another it is not to be considered germane to t1re paragraph to which it is less appropriate. Section 3 relates to securing revenue from the rural delivery service. The amendment offered by the gentleman from Pennsylvania [Mr. Olmsted] refers to soliciting which may be done by the carrier. The Chair feels quite clear that this amendment would more properly come in as an amendment to the paragraph relating to the privileges of free-delivery carriers. Therefore the point of order is sustained.

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[1] Frederick H. Gillett, of Massachusetts, Chairman.

[2] First session Fifty-seventh Congress, Record, pp. 5938, 5939.

[3] David B. Henderson, of Iowa, Speaker.

[4] Second session Fifty-eighth Congress, Record, pp. 3710, 3711.

[5] H. S. Boutell, of Illinois, Chairman.

5821. A bill being considered under exceptional circumstances, an amendment germane to the bill, but not strictly germane to the section, was admitted.

Forms of special orders.

On June 25, 1906,[1] Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, reported the following resolution, which was agreed to by the House, ayes 151, noes 59.

Resolved, That immediately upon the adoption of this order the House shall resolve-itself into Committee of the Whole House on the state of the Union for consideration of the bill (S. 4403) "To amend an act entitled 'An act to regulate the immigration of aliens into the United States,' approved March 3, 1903," and in the Committee of the Whole the amendment in the nature of a substitute reported by the Committee on Immigration and Naturalization shall be read through, after which section I of the said amendment shall be considered for not longer than one hour under the five minute rule for amendments; and at the end of the consideration of section I section 38 shall in the same way be considered for not longer than two hours, with the provision that amendments pending at the end of the two hours shall be voted on by the committee; and immediately after the vote on the said specified amendments to section 38 the Committee of the Whole shall rise and the Chairman shall report the bill and substitute amendment, whereupon a vote shall be taken on the substitute and bill to the final passage, without intervening motion or repeal. General leave is given to print, to be confined to a discussion of the bill, within five legislative days from to-day.

During the consideration of the said section 38, which provided for an educational test in the admission of immigrants, Mr. Charles H. Grosvenor, of Ohio, proposed an amendment to strike out the section and insert a new section providing that there be created a commission to study the whole subject of immigration.

Mr. Augustus P. Gardner, of Massachusetts, made the point of order that the amendment was not germane to the section.

The Chairman[2] held:

The Chair will state that, in the opinion of the present occupant of the chair, the amendment is in order. There is not a uniformity of decisions on this question. In times past it has been held that an amendment of this character must be germane to the section and at other times it has been held that it is in order if it be germane to any portion of the bill. Under the circumstances which exist, because of the adoption of the rule by the House under which this bill is being considered in the Committee of the Whole and by reason of the fact that the amendment offered by the gentleman from New York [Mr. Littauer] was not strictly in order, for, at least, it was a question whether or not it was in order, and the committee did not see fit to make a point of order, and itself fixed the rule in this instance, the Chair believes that the amendment is in order, and therefore overrules the point of order made by the gentleman from Massachusetts. The Chair will further state that this being in the nature of a substitute, it is not in order until the section shall have been perfected by amendment, and not in order for voting, and therefore will not rise until the expiration of the two hours given for the consideration of this section.

5822. An amendment inserting an additional section should be germane to the portion of the bill where it is offered.—On August 11, 1852,[3] during consideration of the civil and diplomatic appropriation bill in Committee of the Whole House on the state of the Union, Mr. Edward Stanly offered as an additional section a provision for the completion of the hospital at Cleveland, Ohio.

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[1] First session Fifty-ninth Congress, Record, pp. 9152–9166.

[2] James E. Watson, of Indiana, Chairman.

[3] First session Thirty-second Congress, Globe, p. 2191.

Mr. George S. Houston, of Alabama, made the point of order that the amendment was not in order at this portion of the bill.

The Chairman[1] said:

The Chair decides that we have passed the point in the bill at which it might have been offered. We shall never finish the bill unless some rule of this kind be observed. There is a provision in the bill for the completion of marine hospitals, and after that clause of the bill was passed, the Chair ruled that amendments properly applicable to that clause of the bill at the time it was under consideration could not be received or entertained by the committee afterwards. The Chair so ruled upon an amendment which was offered, proposing to amend the first clause of this bill, in relation to appropriations for the pay of the legislative department of the Government, but that amendment was received by universal consent.

5823. An amendment germane to a bill as a whole but hardly germane to any one section may be offered at an appropriate place with notice of motions to strike out following sections which it would supersede.—On January 26, 1901,[2] the bill (H. R. 13423) for the codification of the postal laws, was under consideration in Committee of the Whole House on the state of the Union, when the Clerk read the section authorizing positions and salaries for a Superintendent of the railway mail service, a chief clerk, and certain division superintendents and assistant division superintendents in the same service.

To this Mr. James A. Tawney, of Minnesota, offered an amendment, striking out the section as read and inserting a comprehensive scheme of classification for the railway mail service, dealing not only with the superintendent and his assistants, but with all the personnel of the service.

Mr. Eugene F. Loud, of California, made the point of order that the amendment was not germane to the section under consideration, although he admitted that it was germane to the bill.

The Chairman[3] said:

This is one of the embarrassments in the consideration of a codification bill. It covers very much territory. If it is germane to the bill and in some degree germane to the section also, as well as to other sections of the bill, the gentleman offering the amendment, the Chair thinks, would have the privilege of attaching it to any one of the particular sections to which it is in part germane and would then have an opportunity, or should have an opportunity, of moving to strike out the other sections which the amendment supplants. * * * The Chair overrules the point of order.

5824. To a bill amending a general law in several particulars an amendment providing for the repeal of the whole law was held to be germane.—On June 17, 1902,[4] the House was considering the bill (H. R. 13679) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, when Mr. David A. De Armond, of Missouri, offered the following amendment:

Amend by striking out all after the enacting clause and insert the following in lieu thereof:

"That the act approved July 1, 1898, entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' be, and the same is hereby, repealed: *Provided,* That nothing herein shall in any way affect proceedings under said act begun prior to the taking effect of this act, and this act shall take effect ninety days after the approval thereof."

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[1] John S. Phelps, of Missouri, Chairman.

[2] Second session Fifty-sixth Congress, Record, pp. 1532, 1533.

[3] John F. Lacey, of Iowa, Chairman.

[4] First session Fifty-seventh Congress, Journal, pp. 818, 819; Record, pp. 6948–6952.

Mr. George W. Ray, of New York, made the point of order that the amendment was not germane.

After debate the Speaker pro tempore [1] ruled:

The bill before the House is a bill "to amend an act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' approved July 1, 1898." To that bill the gentleman from Missouri offers an amendment * * *. To this proposed amendment the point is made that it is not germane.

It is apparent from even a casual examination of the bill that it is a general amendatory bill. Section 1 relates to clause 15 of section 1 of the existing bankruptcy law; section 2 relates to clause 5 of section 2 of the existing bankruptcy law; section 3 relates to clause 4 of subdivision A of section 3 of the bankruptcy law; section 6 relates to section 17, and section 10 relates to section 40, and so on, skipping from section to section throughout the entire law, without regard to the particular relation of these sections to each other. In other words, 16 sections in all of the 70 sections of the bankruptcy law are here sought to be amended, or more than one-fourth of the entire law.

While the Chair has been unable to find any precedents on this question, it has deduced some general principles from former decisions that throw some light upon it. In the Fifty-first Congress it was held that to a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was not germane.[2] The bill in question was an amendment to a general land-forfeiture bill fixing the time when the original act should take effect, and the amendment offered was an amendment providing for the method of classification of the lands described in the original act, so as to determine the character of the land selected by the railroad. The decision, which was made by Speaker Reed, was upon the ground that the bill related only to one certain specific point and did not involve the general features of the bill sought to be amended.

Substantially the same principle was recognized by Speaker Henderson in a case [3] where amendments were offered of a general character to the Senate joint resolution providing for the administration of civil affairs in Porto Rico pending the appointment and qualification of the civil officers provided for in the act approved April 24, 1900. The same distinction was there drawn between the germaneness of an amendment which was offered to a bill having a single purpose and an amendment to a bill covering several purposes or one general subject. On the other hand, but illustrating the same general principle, recently in the discussion on the omnibus statehood bill it was held by the gentleman from Indiana [Mr. Hemenway], the chairman of the Committee of the Whole, that an amendment offered to include the Indian Territory was germane, because the pending bill related not to one particular Territory but was a general statehood bill, including Oklahoma, New Mexico, and Arizona.[4]

Had the bill been to admit a State the amendment would not have been in order, but it being a bill to admit States the subject of admission generally made the amendment competent. In the light of the principles thus announced, the Chair is inclined to think that any amendment that would be germane to the law sought to be amended would be germane to the pending bill.

It needs no argument to show that it would be competent to amend the pending bill, disposing of it section by section. For example, section 1 may be amended by striking out the words "amended so as to read as follows" and by substituting the word "repealed;" so that the section would read: "That clause 15 of section 1 of an act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' approved July 1, 1898, be, and the same is hereby, repealed."

The same method may be followed in the case of each and all of the sections of the bill in their order. And this process, in the opinion of the Chair, may be made to reach to other paragraphs of the bankruptcy law than those specifically referred to in the pending amendatory bill, because all the sections of the bankruptcy law are germane to each other.

For example, it would be in order to amend the bill by adding additional sections amendatory of sections of the bankruptcy law not referred to in the bill.

If this be so, then it would be equally in order to amend the bill by adding additional sections repealing sections of the bankruptcy law not referred to in this bill. If this process of reasoning be correct,

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[1] John Dalzell, of Pennsylvania, Speaker pro tempore.

[2] See section 5807 of this chapter.

[3] See section 5806 of this chapter.

[4] See section 5838 of this chapter.

then it is clear that by resort to the methods suggested the entire bankruptcy law may be repealed by indirection. As it is, one of the purposes of parliamentary rules is to provide for the most direct method of disposing of legislation, and as by the process described the effect intended by this amendment can be reached, the Chair is of the opinion that the amendment must be germane, and therefore overrules the point of order.

5825. To a bill making deficiency appropriations for the Government Printing Office, among which was none relating to the salary of the Public Printer, an amendment legislating in relation to the selection of that official was held not to be germane.

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

Review of the history of the rule requiring amendments to be germane.

Under the common parliamentary law amendments need not be germane.[1]

On March 17, 1880,[2] the House was considering "a bill making appropriations to supply certain deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1880, and for other purposes," when Mr. Otho R. Singleton, of Mississippi, offered an amendment for the purpose of repealing the law making the Public Printer an officer appointed by the President; making the Public Printer an elective officer of the House of Representatives, etc.

Mr. John A. McMahon, of Ohio, made a point of order against the amendment.

After debate the Chairman[3] ruled.

The amendment submitted by the gentleman from Mississippi [Mr. Singleton], under instructions from the Committee on Printing, is objected to upon two grounds: First, that it is not germane to the subject-matter of the bill under consideration; and, secondly, that it is in substance the same as a bill heretofore reported by the Committee on Printing and now pending before the House.

Notice of this amendment was given several days since, and during the general debate in the Committee of the Whole the Chair was advised that a point of order would be raised against it; so that a reasonable opportunity has been afforded to examine the subject, and the Chair will now state the conclusions at which he has arrived.

In the absence of an express rule, the amendment would not be liable to a point of order upon the ground that it was inconsistent with or not germane to the subject under consideration, for, according to the common parliamentary law of this country and of England, a legislative assembly might by an amendment, in the ordinary form or in the form of a substitute, change the entire character of any bill or other proposition pending. It might entirely displace the original subject under consideration, and in its stead adopt one wholly foreign to it, both in form and in substance.

But ever since the 4th of March, 1789, this House has had a rule which changed the common parliamentary law in this respect, at least as to substitutes, and ever since 1822 as to amendments in any form. The Congress of the Confederation, in 1781, adopted a rule in the following words:

"No new motion or proposition shall be admitted under color of amendment as a substitute for a question or proposition under debate until it is postponed or disagreed to."

The House of Representatives of the First Congress, on the 4th of March, 1789, adopted the following rule upon this subject:

"No new motion or proposition shall be admitted under color of amendment as a substitute for the motion or proposition under debate."

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[1] See also section 5802 of this chapter.

[2] Second session Forty-sixth Congress, Record, p. 1651.

[3] John G. Carlisle, of Kentucky, Chairman.

It will be observed that each of these rules admitted amendments introducing new motions or propositions, if they were not offered as substitutes for the motion or proposition under debate. But in March, 1822, the House changed the rule of 1789 so as to make it read as follows:

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

And in this form the rule has stood ever since, and now constitutes a part of the seventh clause of Rule XVI in the recent revision. The rule does not prohibit a committee reporting a bill from embracing in it as many different subjects as it may choose; but after the bill has been reported to the House no different subject can be introduced into it by amendment, whether as a substitute or otherwise.

When, therefore, it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is simply that it (the proposed amendment) is a motion or proposition on a subject different from that under consideration. This is the test of admissibility prescribed by the express language of the rule; and if the Chair, upon an examination of the bill under consideration and the proposed amendment, shall be of the opinion that they do not relate to the same subject, he is bound to sustain the objection and exclude the amendment, subject, of course, to the revisory power of the Committee of the Whole on appeal.

It is not always easy to determine whether or not a proposed amendment relates to a subject different from that under consideration, within the meaning of the rule; and it is especially difficult to do so when, as in the present instance, the amendment may, by reason of the terms it employs, appear to have a remote relation to, the original subject.

The subject to which the bill now under consideration relates is very clearly set forth in its title. It is "a bill making appropriations to supply certain deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1880, and for other purposes." The appropriations "for other purposes" contained in the bill do not relate at all to any of the subjects embraced in the amendment, and therefore need not be noticed. The words "for other purposes" are used here, as they usually are, to embrace subjects outside of the main subjects to which the bill relates, and which are reported by the committee itself.

The bill relates to no other subjects than appropriations of money for the purpose stated, "to supply deficiencies in the appropriations for the service of the Government." One of the deficiencies which the bill provides for is the Government Printing Office. But the bill carefully enumerates the items for which the appropriation is to be made, and the salary of the Public Printer is not among them.

The proposed amendment has no relation to the appropriation of money for any purpose. It neither increases nor diminishes the amount proposed to be appropriated by the bill; nor does it in any manner affect the expenditure of the money proposed to be appropriated by the bill. The salary of the Public Printer for the current fiscal year has already been provided for in full, and it does not appear that there is any deficiency on that account.

The amendment relates solely to the method of choosing a Public Printer; to the nature of the duties to be performed by him, and to the amount of his salary. As already stated, the original bill embraces none of these matters; and consequently none of these subjects are now under consideration. It seems quite clear, therefore, that the proposed amendment, if admitted, would introduce for consideration one or more new subjects, and is for that reason prohibited by the express language of the rule.

Under the rule as it stood prior to 1822 the amendment, although on a subject different from that under consideration, would be in order, for it is not offered as a substitute for the bill or for the clause under consideration. But as already noticed, the prohibition applies now as well to ordinary amendments as to substitutes.

Since the adoption of the rule in its present form there have been several decisions under it; and so far as the Chair has been able to discover, in every instance where an amendment proposed to introduce an entirely new subject it has been excluded. The Chair refers to the Journal of the House, Twenty-seventh Congress, first session, page 223, for a decision by Mr. Speaker White; Journal of the House, Thirtieth Congress, first session, page 737, a decision by Mr. Speaker Winthrop; Journal of the House, Thirtieth Congress, second session, page 645 (Speaker Winthrop overruled); Journal of the House, Thirty-first Congress, first session, pages 1509 and 1510, a decision by Mr. Speaker Cobb.

Having disposed of the point of order upon the first ground presented it is unnecessary to express an opinion upon the second ground, and the Chair prefers not to do so.

The fourth clause of Rule XXI provides that "no bill or resolution shall at any time be amended by annexing thereto or incorporating therewith the substance of any other bill or resolution pending before the House."[1] Where a proposed amendment differs in any respect from a bill or resolution pending before the House, it will always be more or less difficult to determine whether or not they are substantially the same; and the Chair thinks he ought not to attempt to decide such a question unless it be absolutely necessary to do so.

The point of order is sustained, and the amendment is excluded.

5826. To a bill for the relief of one individual an amendment providing a similar relief for another individual is not germane.—On February 18, 1886,[2] the previous question had been ordered on the passage of the bill for the relief of Fitz-John Porter by appointing him to a certain rank in the Army and placing him on the retired list, when Mr. William Warner, of Missouri, moved to recommit the bill to the Committee on Military Affairs with instruction to add a second section, authorizing the President to appoint Andrew J. Smith a brigadier-general in the Army of the United States and place him upon the retired list.

Mr. Bragg, of Wisconsin, made the point of order that this proposition was not germane to the subject of the bill.

After debate the Speaker[3] ruled:

The bill under consideration is a private bill, the title of which is "An act for the relief of Fitz-John Porter." So far as the Chair knows, it has always been held in the House that a bill for the benefit of one private individual could not be amended so as to extend its provisions to another by an amendment offered upon the floor, and the present occupant of the chair has had occasion to decide very frequently that it is not competent to do indirectly, by recommitting a bill with instructions, that which could not be done directly by an amendment.

5827. On March 3, 1853,[4] Mr. Albert G. Brown, of Mississippi, submitted by unanimous consent this resolution:

Resolved, That the Clerk of the House, in executing so much of the resolution passed this day as relates to John Lewis Hickman, shall only compute the number of days that said Hickman has been actually employed during the sittings of Congress.

Thereupon Mr. Thomas Y. Walsh, of Maryland, moved to amend the same by adding thereto a provision for the increase of the compensation paid to Francis Reilly for his services as a laborer in the Clerk's office.

Mr. James L. Orr, of South Carolina, made the point of order that the amendment was not germane and consequently not in order.

The Speaker pro tempore[5] sustained the point of order and decided the amendment to be out of order.

On an appeal the Chair was sustained.

5828. On April 17, 1896,[6] Mr. Andrew R. Kiefer, of Minnesota, by unanimous consent, presented the following bill:

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[1] This is no longer a rule of the House.

[2] First session Forty-ninth Congress, Record, pp. 1619, 1620; Journal, pp. 702, 703.

[3] John G. Carlisle, of Kentucky, Speaker.

[4] Second session Thirty-second Congress, Journal, p. 414.

[5] Isham G. Harris, of Tennessee, Speaker pro tempore.

[6] First session Fifty-fourth Congress, Record, p. 4096.

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized and directed to donate one condemned cannon and four pyramids of condemned cannon balls to the cemetery association in the city of St. Paul, Minn., for the purpose of placing the same at or near the monument erected to the memory of Union soldiers who are buried in the said cemetery.

To this Mr. William A. Stone, of Pennsylvania, proposed the following amendment:

And also three condemned cannon for the Grand Army of the Republic Post, No. 121 (Col. John M. Patterson Post), for the purpose of decorating the soldiers' plat in the South Side Cemetery, Pittsburg, Pa.

Mr. James D. Richardson, of Tennessee, made a point of order against this amendment.

The Speaker [1] sustained the point of order.

5829. On July 27, 1894,[2] by unanimous consent, on motion of Mr. William J. Bryan, of Nebraska, the Committee of the Whole House was discharged from the consideration of the bill (S. 463) to reimburse the State of Nebraska the expenses incurred by that State in repelling a threatened invasion and raid by the Sioux in 1890 and 1891, and the same was considered and was read twice.

Mr. John A. Pickler, of South Dakota, submitted the following amendment:

Add to the bill the following: "And also audit and report as to like expenditures for the same time incurred by the State of South Dakota."

Mr. Joseph D. Sayers, of Texas, made the point that the amendment was not germane to the bill.

The Speaker [3] sustained the point of order, holding that it was not in order to ingraft upon a bill for the relief of one individual or State a provision for the relief of another.

5830. To a provision for an additional judge in one Territory an amendment providing for an additional judge in another Territory was held not to be germane.—On April 22, 1897,[4] the House was considering, in Committee of the Whole House on the state of the Union, the Senate amendments to the Indian appropriation bill, the particular amendment before the Committee being one to provide for the appointment of two additional judges for Indian Territory.

Mr. H. B. Fergusson, of New Mexico, moved to concur in this amendment, with an amendment providing for an additional judge for the Territory of New Mexico.

Mr. Nelson Dingley made the point of order that the amendment was not germane.

The Chairman [5] held:

The amendment of the Senate provides for additional judges for the Indian Territory. The amendment of the gentleman from New Mexico proposes, as the Chair understands, to authorize a new judge for the Territory of New Mexico. That would not be germane to the amendment of the Senate. The Chair therefore sustains the point of order.

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[1] Thomas B. Reed, of Maine, Speaker.

[2] Second session Fifty-third Congress, Journal, pp. 514, 515; Record, pp. 7940, 7941.

[3] Charles F. Crisp, of Georgia, Speaker.

[4] First session Fifty-fifth Congress, Record, p. 814.

[5] Sereno E. Payne, of New York, Chairman.

5831. For a time a different principle prevailed in rulings of this class.—On March 4, 1852,[1] the House was considering a bill (H. R. 214) granting land to the State of Wisconsin to aid in the construction of a railroad and granting a right of way.

Mr. Ben Edwards Grey, of Kentucky, moved to amend the same by adding thereto a provision for a grant of lands to Kentucky in aid of certain railroads.

Mr. George W. Jones, of Tennessee, made the point of order that the amendment was not germane to the bill under consideration.

The Speaker[2] stated that, inasmuch as the bill provided for a donation of lands to a State for railroads therein, it was competent to amend it by a provision for a donation to other States for similar purposes. He therefore overruled the point of order.

Mr. Cyrus L. Dunham, of Indiana, having appealed, the appeal was laid on the table.

Again, on July 29, 1852,[3] Mr. Speaker Boyd, in a case involving the same conditions, reaffirmed the principles of this ruling.

On March 2, 1857, Mr. Speaker Banks decided that, to a bill granting land to Minnesota for railroad purposes, an amendment granting land to Alabama was germane.[4]

5832. To a bill providing for extermination of the cotton boll weevil an amendment including the gypsy moth was held not to be germane.— On January 8, 1904,[5] the House was considering a proposition to make available for combating the ravages of the boll weevil and other insects destructive to the cotton plant an appropriation hitherto made for combating the foot-and-mouth disease among cattle.

Mr. Frederick H. Gillett, of Massachusetts, proposed an amendment authorizing the use of a further sum for combating the gypsy moth.

Mr. James W. Wadsworth, of New York, made the point of order that the proposed amendment was not germane.

After debate the Speaker[6] said:

The effect of this bill is to make an appropriation which was made by the act of March 3, 1903, to stamp out the foot-and-mouth disease, also available to stamp out the boll weevil, and for that purpose only—a single purpose. Now, the point of order is made that this proposed amendment to the bill, to add the gypsy moth, is not germane.

The Chair is not without precedents touching this point of order. On page 324 of the Manual the following decisions are found:

"To a bill providing for the admission of one Territory an amendment providing also for the admission of several other Territories was offered, and held not to be in order.[7]

"To a bill admitting one Territory into the Union an amendment relating to the statehood of another Territory is not germane.

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[1] First session Thirty-second Congress, Journal, p. 427; Globe, p. 673.

[2] Linn Boyd, of Kentucky, Speaker.

[3] First session Thirty-second Congress, Journal, p. 967.

[4] Third session Thirty-fourth Congress, Journal, p. 621.

[5] Second session Fifty-eighth Congress, Record, p. 575; Journal, p. 118.

[6] Joseph G. Cannon, of Illinois, Speaker.

[7] See section 5837 of this chapter.

"It is not in order to ingraft upon a bill for the relief of one State a provision for the relief of another." [1]

And various others along the same line. It has frequently been held that a bill to pension A is not amendable by a provision to pension B. Now, when you apply the former practice of the House and the decisions made by the Chair and concurred in by the House, it is evident that this amendment is not germane under the precedents; and the Chair sustains the point of order.

5833. To a paragraph appropriating for a clerk to one committee an amendment providing for a clerk to another committee was held not to be germane.—On April 16, 1904,[2] the general deficiency appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when the Clerk read:

For clerk to the Committee on Industrial Arts and Expositions during the fiscal year 1905, $2,000.

Mr. George W. Smith proposed to amend the paragraph by adding a provision so that it would read as follows:

For clerk to the Committee on Industrial Arts and Expositions and for clerk to the Committee on Private Land Claims during the fiscal year 1905, $2,000 each, in all, $4,000.

Mr. James A. Hemenway, of Indiana, having made a point of order, the Chairman [3] held:

The Chair is of opinion that the point of order must be sustained. The amendment has no kind of relation to the paragraph, although it is the same kind of a proposition. If a bill were pending before the committee providing for the payment of a private pension to one individual, an amendment providing for a pension for another individual also would not be germane, although it would be of the same class of legislation. So here we have a proposition to pay a clerk for one designated committee, and an amendment to include another committee is not germane. The rule may be otherwise if the paragraph sought to be amended embraced a number of committees.

5834. A resolution from the Committee on Rules providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another and not germane subject.

It is not in order to do indirectly by a motion to recommit with instructions what may not be done directly by way of amendment.

On May 6, 1897,[4] the House was considering a resolution reported from the Committee on Rules providing that "from and after this day the House shall meet only on Monday and Thursday of each week until the further order of the House."

Mr. Joseph W. Bailey, of Texas, moved to recommit the resolution, with instruction to report as a substitute a resolution providing a time for the consideration of the bankruptcy bill (S. 1035).

Mr. John Dalzell, of Pennsylvania, made a point of order against this motion.

The Speaker [5] ruled:

The point of order being raised, the Chair thinks the amendment is not germane. * * * Here is a proposition that the House shall meet on Mondays and Thursdays. Here is an amendment requesting that a particular bill shall be considered under certain conditions and formalities. Now,

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[1] See section 5829 of this chapter.

[2] Second session Fifty-eighth Congress, Record, p 4951.

[3] Edgar D. Crumpacker, of Indiana, Chairman.

[4] First session Fifty-fifth Congress, Record, p. 939.

[5] Thomas B. Reed, of Maine, Speaker.

if that is germane to the other, it would be difficult to limit the range of germaneness anywhere on earth, it seems to the Chair. It has been decided by one of the predecessors of the present Speaker that this motion was not in order at all; but the present Speaker has decided otherwise, and, he believes, with the approval of the House, giving the House more complete control over such matters; but it has been decided by all his predecessors that no proposition can be offered as an instruction to a committee that would not have been admissible as an amendment if it had been offered at the proper time. Now, will any gentleman of the House say that this would be a proper amendment to the original resolution? The Chair thinks that it could not be.

5835. On January 21, 1891,[1] Mr. Joseph G. Cannon, of Illinois, from the Committee on Rules, reported a resolution providing for the immediate consideration of the District of Columbia appropriation bill.

Mr. Richard P. Bland, of Missouri, moved that the resolution be recommitted to the Committee on Rules with instructions to report back a resolution providing for the consideration of the bill (S. 4675) to provide a unit of value and for the coinage of gold and silver, etc.

Mr. Cannon made the point of order that the proposed instructions, not being germane to the resolution, were not now in order.

The Speaker[2] sustained the point of order, holding that the instructions were not germane to the subject-matter of the resolution.

Mr. Bland appealed from the decision of the Chair. Mr. Cannon moved to lay the appeal on the table, and the question being put, it was decided in the affirmative, yeas 146, nays 122.

5836. On February 24, 1891,[3] Mr. William McKinley, jr., of Ohio, from the Committee on Rules, reported a resolution providing for the consideration of the bill (S. 172) to credit and pay to the several States and Territories and District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861.

Mr. Nelson Dingley, jr., of Maine, offered an amendment to provide that immediately after the consideration of that bill the House should resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3738) "to place the American merchant marine engaged in the foreign trade upon an equality with that of other nations."

Mr. James H. Blount, of Georgia, made the point of order that the amendment was not germane to the subject-matter of the resolution.

The Speaker[2] sustained the point of order.

5837. To a bill for the admission of one Territory an amendment providing also for the admission of several other Territories was held not to be germane.—On January 17, 1889,[4] the House was considering a bill of the Senate providing for the admission of the Territory of Dakota into the Union. The consideration of the bill was governed by a special order, which specified that the bill of the House (H. R. 8466) might be offered as a substitute. Instead of this bill, however, there was offered by Mr. William M. Springer, of Illinois, a substitute

[1] Second session Fifty-first Congress, Journal, p. 165; Record, p. 1638.

[2] Thomas B. Reed, of Maine, Speaker.

[3] Second session Fifty-first Congress, Journal, p. 295; Record, p. 3215.

[4] Second session Fiftieth Congress, Journal, pp. 270, 293; Record, pp. 905, 907.

different in form and containing, with a provision relating to Dakota, other provisions providing for the admission of Montana, Washington, and New Mexico.

Mr. Julius C. Burrows, of Michigan, made the point of order that the proposed amendment was not germane.[1]

After debate the Speaker[2] held:

When the gentleman from Michigan made the point of order, the Chair supposed that the gentleman from Illinois had offered as a substitute the bill H. R. 8466, which is the bill mentioned in the order made by the House. Of course, if the gentleman has not offered that bill, the question which the Chair proposed to submit to the House has not yet arisen. The Chair supposes that a mere technical difference between the two bills would not be material—for instance, a correction of a mere clerical error, or something of that sort. But it seems that the proposed substitute now offered by the gentleman from Illinois contains provisions of a substantial character and not contained in the original House bill. The Chair thinks, therefore, that the order does not apply to it, and believes that in accordance with the practice of the House and its rules, ever since the House overruled its own decision in the case of California,[3] that this substitute is not in order under the rules. The Chair holds, therefore, that the substitute sent to the desk by the gentleman from Illinois does not come within the terms of the order made by the House, and hence is not in order under the rules and practice of the House.

5838. To a bill admitting several Territories into the Union an amendment adding another Territory is germane.—On May 8, 1902,[4] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12543) providing for the admission into the Union of the Territories of Oklahoma, Arizona, and New Mexico.

Mr. Thomas C. McRae, of Arkansas, proposed an amendment providing for the addition of the Indian Territory to Oklahoma.

Mr. James T. Lloyd, of Missouri, raised the question of order that the proposed amendment was not germane.

After debate the Chairman[5] held:

The Chair is ready to rule. If this were a bill for the admission of Oklahoma Territory alone as a State, there would be no doubt as to the position taken by the gentleman from Missouri being correct. An amendment to admit some other Territory as a State would not be in order. But this is a general bill covering three different Territories, and an amendment as suggested by the gentleman from Alabama [Mr. Underwood] to admit Alaska as a State would be in order on this bill.

For instance, a private claim bill for the allowance of a single claim would not be subject to an amendment allowing some other claim, but a general claims bill, such as often comes before this House, can be amended by adding another claim. So with public building bills. A bill to erect a public building at Birmingham, Ala., could not be amended by a proposition to erect a public building at Indianapolis, Ind.; but a bill providing for a number of public buildings could be amended by adding another public building. One is a general bill, the other is a bill for a single object: and as the Chair said, if this were a bill to admit Oklahoma alone as a State, this amendment would not be in order. On the other hand, it is a general bill proposing to admit three Territories as States.

In the Thirty-fourth Congress a decision was made by the Speaker that covers this point clearly.[6] On July 17, 1856, Mr. Elihu B. Washburne, of Illinois, reported from the Committee on Commerce a

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[1] Mr. Burrows gave an interesting citation of early precedents. (Second session Fiftieth Congress, Record, p. 906.)

[2] John G. Carlisle, of Kentucky, Speaker.

[3] First session Thirty-first Congress, Journal, pp. 1415, 1417; Speaker Cobb overruled. (See footnote of sec. 5859 of this chapter.)

[4] First session Fifty-seventh Congress, Record, pp. 5187–5189.

[5] James A. Hemenway, of Indiana, Chairman.

[6] See section 5840 of this chapter.

resolution of the Senate for enlarging the custom-house and post-office and court-house at Milwaukee, Wis., and at Detroit, Mich., and for the construction of a public building for the same purpose at Dubuque, Iowa, with an amendment providing for some public buildings at Toledo, Ohio, Ogdensburg, N. Y., Ellsworth, Me., Chicago, Ill., Nashville, Tenn., and other points.

Mr. James L. Orr, of South Carolina, made the point of order that the amendment was not germane to the original resolution, inasmuch as it provided for the construction and enlargement of public buildings in different cities and States from those mentioned in the resolution to which the amendment was offered. The Speaker overruled the point of order. There was the exact question. There was a public-building bill providing for two or more buildings. An amendment was offered to add another building in another State.

The point of order was made, and the Speaker of the House, Nathaniel P. Banks, jr., of Massachusetts, overruled the point of order. There is no doubt, in the opinion of the Chair, that the amendment offered by the gentleman from Arkansas [Mr. McRae] is in order on this bill, this being a general bill for the admission of Territories. The Chair therefore overrules the point of order.

5839. To a resolution embodying two distinct phases of international relationship an amendment embodying a third was held to be germane.— On January 27, 1896,[1] the House was considering a concurrent resolution of the Senate, which, after a recital in the preamble, was as follows:

Resolved by the Senate of the United States (the House of Representatives concurring), That it is an imperative duty, in the interest of humanity, to express the earnest hope that the European concert brought about by the treaty referred to may speedily be given its just effect in such decisive measures as shall stay the hand of fanaticism and lawless violence, and as shall secure to the unoffending Christians of the Turkish Empire all the rights belonging to them, both as men and Christians and as beneficiaries of the explicit provisions of the treaty above recited.

Resolved, That the President be requested to communicate these resolutions to the Governments of Great Britain, Germany, Austria, France, Italy, and Russia.

Resolved further, That the Senate of the United States, the House of Representatives concurring, will support the President in the most vigorous action he may take for the protection and security of American citizens in Turkey, and to obtain redress for injuries committed upon the persons or property of such citizens.

To this Mr. William P. Hepburn, of Iowa, offered the following amendment:

That for the purpose of emphasizing our protest against the murders and outrages above recited the President is directed to furnish the Turkish minister his dismissal as a representative of the Sultan at this capital, and to at once terminate all diplomatic relations with the Government of Turkey.

Mr. James B. McCreary, of Kentucky, made the point of order that the amendment was not germane.

The Speaker[2] said:

While the matter is not free from doubt, the Chair overrules the point of order.

5840. To a bill providing for the construction of a building in each of two cities an amendment providing for similar buildings in several other cities was held to be germane.—On July 7, 1856,[3] Mr. Elihu B. Washburne, of Illinois, reported from the Committee on Commerce the resolution of the Senate (S. R. 17) "for enlarging the custom-house, post-office, and court-house at Milwaukee, Wis., and at Detroit, Mich., and for the construction of a building for the same purposes at Dubuque, Iowa," with an amendment providing for similar public

[1] First session Fifty-fourth Congress, Record, pp. 1000, 1008, 1009.

[2] Thomas B. Reed, of Maine, Speaker.

[3] First session Thirty-fourth Congress, Journal, pp. 1168, 1169, 1171, 1173; Globe, pp. 1555, 1557.

buildings at Toledo, Ohio, Ogdensburg, N. Y., Galena, Ill., Ellsworth, Me., Chicago, Ill., Nashville, Tenn., and Perth Amboy, N.J.

Mr. James L. Orr, of South Carolina, made the point of order that the amendment was not germane to the original resolution, inasmuch as it provided for the construction and enlargement of public buildings in different cities and States from those in the resolution to which it was an amendment.

The Speaker [1] overruled the point of order.

Mr. Orr having appealed, on the succeeding day the appeal was laid on the table, yeas 136, nays 49.

5841. To a bill relating to commerce between the States an amendment relating to commerce within the several States was offered and held not to be germane.—On September 13, 1888,[2] the House was considering the bill (S. 2851) to amend an act entitled "An act to regulate commerce" approved February 4, 1887, and Mr. Knute Nelson, of Minnesota, offered this amendment:

Provided further, That any railroad company or other common carrier heretofore or hereafter created or incorporated under the laws of the United States shall, as to the transportation of passengers or property from one place or station to another place or station in the same State, over a route wholly in that State, be subject and amenable to the laws of such State relating to the transportation of passengers and property, the same as though it were a railroad company or common carrier created or incorporated under the laws of that State.

Mr. Charles F. Crisp, of Georgia, made the point of order that the amendment was not germane to the bill.

The Speaker [3] sustained the point of order upon the grounds that the bill under consideration was one relating solely to commerce between the States, while the proposed amendment related solely to commerce within the States severally, and was, therefore, not germane to the bill.

5842. To a bill relating to corporations engaged in interstate commerce an amendment relating to all corporations was held not to be germane.— On February 7, 1903,[4] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 17) requiring all corporations engaged in interstate commerce to file returns with the Secretary of the Treasury, disclosing their true financial condition, and of their capital stock, and imposing a tax upon such as have outstanding capital stock unpaid in whole or in part.

Mr. Henry D. Clayton, of Alabama, offered an amendment:

SEC.—There is hereby levied and shall be assessed and collected annually the following taxes on all corporations, whether domestic or foreign, doing business in the United States for profit or gain and having a capital stock of $200,000 or more, at the rate of 10 per cent on its capital stock. The amount of the capital stock of any taxable corporation for the purposes of taxation shall be estimated according to its par value fixed by the charter, or by resolution of its board of stockholders or directors, and shall include all assets owned by such corporation which are reserved or funded or set aside for the benefit of its stockholders.

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[1] Nathaniel P. Banks, jr., of Massachusetts, Speaker.

[2] First session Fiftieth Congress, Journal, p. 2772; Record, p. 8584.

[3] The Journal indicates that this ruling was made by Mr. Speaker Carlisle. The Record indicates that it was by Speaker pro tempore James B. McCreary, of Kentucky.

[4] Second session Fifty-seventh Congress, Record, p. 1913.

Mr. Marlin E. Olmsted, of Pennsylvania, made the point of order that the amendment was not germane, saying:

The original bill proposes a tax upon corporations engaged in interstate commerce having unpaid capital stock outstanding. This bill relates entirely to corporations engaged in interstate commerce, and prohibits them from making unlawful discriminations or entering into unlawful or injurious combinations to control prices, etc. That is all right. It is also proper to control such corporations or trusts by way of taxation. But the gentleman from Alabama introduces an entirely new subject. This proposed amendment imposes a tax of 10 per cent on the entire capital stock of every corporation, big and little, in the United States, whether engaged in interstate commerce or not.

The Chairman [1] sustained the point of order.

5843. To a bill for the benefit of a single individual or corporation, an amendment embodying general provisions applicable to the class represented by the individual is not germane.—On March 7, 1884,[2] the previous question had been demanded on a bill to appoint and retire Alfred Pleasanton as a major-general. Pending this demand, Mr. George W. Steele, of Indiana, moved to recommit the bill to the Committee on Military Affairs with instructions to report a bill to place upon the retired list of the Army all officers and soldiers who served in the late civil war and were honorably discharged, who are suffering from total disabilities from wounds received in the line of duty with the rank of colonel, together with the bill restoring Alfred Pleasanton as colonel on the retired list of the Army.

On which motion Mr. Martin Maginnis, of Montana, made the point of order that the same was not in order, for the reason that it converted a private into a public bill.

The Speaker [3] sustained the point of order on the ground that the motion of Mr. Steele could not have been in order as an amendment to the bill, and also on the ground that it was not in order to convert a private into a public bill.[4]

5844. On April 23, 1894,[5] the House was considering the bill (H. R. 6171) to authorize the Metropolitan Railroad Company to change its motive power for the propulsion of cars.

The bill was ordered to be engrossed and was read a third time.

Mr. John S. Williams, of Mississippi, moved to recommit the bill to the Committee on the District of Columbia with instructions to report a general bill applicable to all street-railway corporations seeking franchises, renewal of franchises, extension of franchises, increase of franchises, or amendment of charters, providing for the sale at public auction, for terms of years to the highest bidders, after due advertisement, of all such street-railway franchises to be hereafter exercised within the District, subject to provisions for existing equities.

Mr. James D. Richardson, of Tennessee, made the point of order that the instruction proposed by Mr. Williams, of Mississippi, was not in order.

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[1] Henry S. Boutell, of Illinois, Chairman.

[2] First session Forty-eighth Congress, Journal, p. 761.

[3] John G. Carlisle, of Kentucky, Speaker.

[4] So also in a case where it was proposed to recommit a private pension bill with instructions to inquire whether a general pension bill should be reported. (Second session Forty-eighth Congress, Journal, p. 621.)

[5] Second session Fifty-third Congress, Journal, pp. 350, 351 Record, p. 4011.

The Speaker pro tempore[1] sustained the point of order, for the reason that it was not in order to amend a bill for the benefit of an individual by inserting therein general provisions of law.

5845. On April 12, 1850,[2] the bill from the Senate (No. 128) for the relief of Margaret L. Worth, widow of the late General Worth, of the Army of the United States, having been read a first and second time, Mr. George W. Jones, of Tennessee, moved to amend the same by adding thereto the following:

Be it further enacted, That all pensions which have been granted, or which shall hereafter be granted, to the widow of any officer, noncommissioned officer, musician, or private, in consequence of the death of the husband of such widow while in the military service of the United States, or in consequence of the death of the husband of any such widow in consequence of wounds received or of disease contracted while in the military service of the United States, shall be for and during the natural life of the widow to whom granted, to commence on the day of the death of the husband.

Be it further enacted, That the widow of every officer, noncommississioned officer, musician, or private, whose husband has heretofore or shall hereafter die while in the military service of the United States, shall be entitled to a pension of half the monthly pay to which her husband was entitled at the time of his death, for and during her natural life, from the date of the death of her husband.

The Speaker[3] decided that the amendment was out of order, on the ground that the bill provided for the relief of a single individual, and the amendment sought to establish a general provision of law.

From this decision of the Chair Mr. Jones appealed; and the question being put, "Shall the decision of the Chair stand as the judgment of the House?" it was decided in the affirmative.

5846. On February 23, 1894,[4] the pending question was the motion of Mr. Thomas B. Reed, of Maine, to discharge Mr. Robert Adams, jr., of Pennsylvania, from custody.

Mr. Richard P. Bland, of Missouri, offered the following substitute for the motion of Mr. Reed:

That all Members who have been arrested by the Sergeant-at-Arms by authority of the resolution of the House adopted on the 19th instant be, and they are hereby, discharged from arrest.

Mr. Reed made the point of order that it was not in order to move as a substitute for a proposition excusing one Member a proposition to excuse several Members.

The Speaker pro tempore[5] expressed the opinion that the point was well taken; whereupon Mr. Bland withdrew the amendment.

5847. To a bill establishing a standard of time for the District of Columbia an amendment for distributing the benefits to the nation at large was held to be not germane.—On March 10, 1884,[6] the House was considering the bill (S. 616) to establish a standard of time in the District of Columbia.

Mr. John D. White, of Kentucky, proposed an amendment appropriating a sum of money for transmitting standard time from Washington to various portions of the country.

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[1] Alexander M. Dockery, of Missouri, Speaker pro tempore.

[2] First session Thirty-first Congress, Journal, p. 784; Globe, p. 714.

[3] Howell Cobb, of Georgia, Speaker.

[4] Second session Fifty-third Congress, Journal, p. 194; Record, p. 2377.

[5] James D. Richardson, of Tennessee, Speaker pro tempore.

[6] First session Forty-eighth Congress, Journal, p. 793; Record, p. 1763.

Mr. William. M. Springer, of Illinois, made the point of order that the amendment changed the character of the bill, making a general one out of a local one intended for the District of Columbia.

The Speaker[1] sustained the point of order on the ground that the pending bill was simply to establish a standard of time for this District, while the amendment proposed would make it a general law and would appropriate $25,000 for the purpose; which amendment under the rule would send the bill to the Committee of the Whole House on the state of the Union.

5848. To a resolution authorizing a class of employees in the service of the House an amendment providing for the employment of a specified individual was held not to be germane.—On March 1, 1890,[2] Mr. Henry J. Spooner, of Rhode Island, reported this resolution from the Committee on Accounts:

Resolved, That the Doorkeeper of the House be, and he is hereby, authorized to employ ten additional laborers in the folding room of the House for the purpose of folding public documents, at a compensation at the rate of $60 each per month, to be paid out of the contingent fund of the House: *Provided*, That all such employees shall be dropped from the rolls of the Doorkeeper at a period not later than one month from the expiration of the present session of Congress.

Mr. John M. Brower, of North Carolina, moved to amend the resolution by adding thereto the following:

That Henry G. Williams be appointed second assistant superintendent of the House document room, and shall receive the same salary as the assistant superintendent of said room.

Mr. Spooner made the point of order that the amendment was not germane to the resolution; which point of order was sustained by the Speaker.[3]

5849. On January 7, 1896,[4] Mr. J. Frank Aldrich, of Illinois, from the Committee on Accounts, submitted this resolution:

Resolved, That the Chairmen of Committees on Military Affairs, Naval Affairs, and Interstate and Foreign Commerce be, and they are hereby, authorized to each appoint an assistant clerk for their respective committees.

Mr. James A. Tawney, of Minnesota, offered this amendment:

Resolved, That the Doorkeeper of the House be, and he is hereby, authorized and directed to appoint Lauritz Olson a messenger to the House gallery, at a salary of $1,200 per annum.

Mr. Aldrich made the point of order that the amendment was not germane.

The Speaker[3] sustained the point of order.

5850. To a bill authorizing the Court of Claims to adjudicate a claim an amendment providing for paying the claim outright was held not to be germane.—On January 14, 1898,[5] the House was in Committee of the Whole House, considering the bill (S. 629) to confer jurisdiction on the Court of Claims in the case of The Book Agents of the Methodist Episcopal Church South against the United States. This bill directed that the claim with the accompanying petitions and papers should be referred to the Court of Claims; that the court should render

[1] John G. Carlisle, of Kentucky, Speaker.

[2] First session Fifty-first Congress, Journal, p. 293.

[3] Thomas B. Reed, of Maine, Speaker.

[4] First session Fifty-fourth Congress, Record, p. 513.

[5] Second session Fifty-fifth Congress, Record, pp. 627, 638, 842.

judgment against the United States and in favor of said corporation for whatever sum might be found due; that in the trial the affidavits on file before Congress should be admitted as competent evidence, etc.

To this bill Mr. S. B. Cooper, of Texas, proposed as an amendment in the nature of a substitute a bill authorizing and requiring the Secretary of the Treasury to pay the sum of $288,000 in full satisfaction of the claim.

Mr. John Dalzell, of Pennsylvania, made the point of order that this amendment was not germane.

On January 21, after debate, the Chairman [1] decided:

Prior to the adoption of any rules upon the subject it was in order to offer any amendment to the bill, whether it was germane or not, by way of substituting another bill or by way of an amendment. In March, 1789, the House made a rule which changed general parliamentary law upon the subject, and that rule was in these words:

"No new motion or proposition shall be admitted under color of amendment as a substitute for the question or proposition under debate until it has been postponed or disagreed to."

That simply went to the substitute, and not to the amendment of the proposition; and I suppose that under that, until the adoption of a new rule by the House of Representatives, an amendment which was not in the nature of a substitute would have been in order. In 1822 the House adopted this rule:

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

And that rule has been the rule of the House of Representatives from that day to this, and is now clause 7 of Rule XVI, under which this point of order is raised.

The bill before the House is an act to confer jurisdiction on the Court of Claims in the case of The Book Agents of the Methodist Episcopal Church South against The United States; and the act provides not only to confer jurisdiction, but gives the court authority to render judgment for any amount, and further provides that either party may appeal from the judgment that is so rendered. That is the whole scope of the bill which is now before the Committee. The substitute offered is, briefly, an appropriation of some $288,000—the Chair does not recollect the precise amount—to be paid to The Book Agents of the Methodist Episcopal Church South. That is the whole scope of the substitute that is offered as an amendment. The question is whether, under the language of the rule, this is a proposition on a subject different from that under consideration. If it is, it can not be admitted as an amendment. If it is not, of course it would be in order as an amendment. * * * There is one precedent [2] that seems to bear almost exactly upon the ease before the Committee, and that was the precedent cited the other day by the gentleman from Maine [Mr. Dingley] in the Forty-eighth Congress. A bill was before the House restoring General Pleasonton to the Army and putting him on the retired list, in order that he might draw the pay of a retired officer. It might have been a bill entitled "For the relief of General Pleasonton," but it was entitled a bill to restore him to the Army and place his name on the retired list.

When that bill was before the Committee of the Whole House, the gentleman from New York, the late Mr. Cox, an able parliamentarian, was in the chair. During the progress of the bill the gentleman from Indiana, the late Mr. Browne, offered an amendment striking out all after the enacting clause and authorizing the Secretary of the Interior to place his name on the pension list and pay him a pension at the rate of $100 a month. That question was debat*COM008*ed somewhat in Committee of the Whole, and the Chairman of the Committee [Mr. Cox], the point of order having been raised by the late Mr. Bayne, of Pennsylvania—and the House will observe the controversy was between two Republicans, Mr. Browne and Mr. Bayne, while the Chairman was of opposite politics, so that it would seem that no politics could enter into that question at that time—the Chair stated that he felt compelled to sustain the point of order, as it changed the whole character of the bill.

That, of course, defeated the amendment in Committee of the Whole. The bill was finally reported to the House, and the gentleman from Indiana again obtained the floor and moved to recommit the bill

[1] Sereno E. Payne, of New York, Chairman.

[2] See section 5843 of this chapter.

with directions to report back the bill with the same amendments that he had submitted. It was again debated in the House, and Mr. Carlisle in the chair held that it was obnoxious to clause 7 of Rule XVI and not germane to the original bill, and he sustained the point of order.

Now, what is the proposition before the Committee? The title to the bill is to give the Court of Claims jurisdiction for the trial of this claim, with the further provision that an appeal may be taken by either party to the Supreme Court. The offer is to substitute for this a bill appropriating money to the Methodist Book Concern. It changes the whole character of the bill, and, as was well said by Mr. Cox of the bill before the Committee at that time, it is an entirely different bill, and to hold that it was germane and could be offered as an amendment to this bill, in the opinion of the Chair, would almost, if not entirely, abrogate clause 7 of Rule XVI. Therefore the Chair sustains the point of order.

5851. To a proposition to pay a claim an amendment proposing to send the claim to the Court of Claims was held not to be germane.—On March 8, 1904,[1] the Committee of the Whole House were considering this bill:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, directed to pay to N. F. Palmer, jr., & Co., the sum of $63,620.59, out of any money in the Treasury not otherwise appropriated, in full of their claim for damages and losses incurred in the construction of the armored cruiser *Maine*, that being the amount recommended to be paid by the Secretary of the Navy.

Mr. Sereno E. Payne, of New York, proposed this amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That the bill (S. 334) entitled 'A bill for the relief of N. F. Palmer, jr., & Co.,' together with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims, in pursuance of the provisions of an act entitled 'An act to provide for the bringing of suits against the Government of the United States,' approved March 3, 1887; and the said court shall proceed with the same in accordance with the provisions of such act, and report to the House of Representatives in accordance therewith."

Mr. Jack Beall, of Texas, made a point of order against the amendment.

The Chairman[2] held:

The amendment proposed by the gentleman from New York provides for sending the whole matter to the Court of Claims for adjudication. The Chair is of the opinion that the point of order against the amendment is well taken. The Chair bases his judgment upon a decision[3] made by the gentleman from New York [Mr. Payne] in the second session of the Fifty-fifth Congress, where a bill was pending referring a claim to the Court of Claims and an amendment was offered providing for the payment of the claim outright, and the gentleman from New York, as Chairman of the Committee of the Whole, held that the amendment was not germane and sustained the point of order. Upon that precedent the Chair sustains the point of order.

5852. A revenue amendment is not germane to an appropriation bill.— On January 28, 1851,[4] the House was in Committee of the Whole House on, the state of the Union considering the deficiency appropriation bill, when the Chairman[5] rendered the following decision on a point of order which had been raised when the committee was last in session:

When the committee last rose the gentleman from Pennsylvania [Mr. William Strong], had moved an amendment as a separate clause—to modify the existing tariff law—to come in at the end of the bill, and on that amendment the gentleman from Tennessee [Mr. George W. Jones], had raised a point

[1] Second session Fifty-eighth Congress, Record, p. 3007.

[2] Edgar D. Crumpacker, of Indiana, Chairman.

[3] See section 5850 of this chapter.

[4] Second session Thirty-first Congress, Globe, p. 366.

[5] Richard K. Meade, of Virginia, Chairman.

of order. The Chair decides that the amendment offered by the gentleman from Pennsylvania is out of order. The amendment is in violation of the common law of Parliament. * * * The bill that was referred to the Committee of the Whole had for its object the appropriation of money to supply deficiencies. That was the subject referred to the Committee of the Whole. The amendment offered by the gentleman from Pennsylvania has not only a different object but quite an opposite one; it being in part to levy a tax, and in part to take off a tax. Hence, the Chair is of the opinion that it is entirely irrelevant, and can not be entertained by this committee. The Fifty-fifth rule[1] of the House reads thus: "No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment." The Chair can not conceive a proposition more irrelevant or more opposite to the one under consideration than that in the amendment of the gentleman from Pennsylvania to the bill pending before the committee.

The Constitution of the United States is very careful in throwing guards around the tax-imposing power; and hence it requires that all bills imposing taxes shall originate in the House of Representatives. The one hundred and thirty-second rule[2] of the House, in pursuance of this jealous policy of the Constitution, declares, that "no increase of tax shall be voted by the House until it has been discussed and voted in Committee of the Whole on the state of the Union;" the object being to secure full discussion upon every question involving the taxing power. The Chair, therefore, is of opinion that the amendment offered by the gentleman from Pennsylvania is contrary to the parliamentary law, irrelevant to the question under consideration, and opposed to the general policy of the Constitution, and the rules made in pursuance of it, and must be ruled to be out of order.

Mr. Strong having appealed, the decision of the Chair was sustained, yeas 102, nays 87.

5853. To a proposition giving a committee power to investigate tariff subjects an amendment commending tariff revision was held not to be germane.—On December 31, 1827,[3] Mr. Rollin C. Mallary, of Vermont, presented this resolution from the Committee on Manufactures:

Resolved, That the Committee on Manufactures be vested with the power to send for persons and papers.

It was explained that the committee wished this power in order to acquire information to be used in framing a tariff bill.

Mr. Andrew Stewart, of Pennsylvania, proposed an amendment to strike out all after the word "Resolved" and insert, "That it is expedient to amend the present existing tariff by increasing the duties on the following importations, raw wool and woolens, bar iron, etc."

Mr. John Floyd, of Virginia, made a point of order against the amendment.

The Speaker[4] decided that the amendment was not in order, inasmuch as the proposition was on a subject different from that under consideration, and consequently inadmissible, under color of amendment, by the rules and practice of the House.

5854. To a bill relating to the classification for customs purposes of worsted goods as woolens, an amendment relating to duties on wools and woolens and worsted cloths was held not to be germane.—On April 29, 1890,[5] the House being in Committee of the Whole House on the state of the Union

[1] See section 5767 of this volume for this rule.

[2] See section 4792 of Vol. IV for changes in this rule.

[3] First session Twentieth Congress, Journal, p. 1037; Debates, p. 865.

[4] Andrew Stevenson, of Virginia, Speaker.

[5] First session Fifty-first Congress, Record, pp. 3996, 3997.

considering a bill (H. R. 9548) relating to the classification of worsted goods as woolens,

Mr. W. C. P. Breckinridge, of Kentucky, offered an amendment providing:

That all wools, hair of the alpaca, goat, and other like animals, wool on the skin, woolen rags, mungo, waste, and flax shall be admitted, when imported, free of duty. That on and after the 1st day of October, 1890, in lieu of the duties now imposed on the articles hereinafter mentioned, there shall be levied, collected, and paid on woolen and worsted cloths and all manufactures of wool of every description made wholly or in part of wool 35 per cent ad valorem.

Mr. Nelson Dingley, jr., of Maine, made the point of order that the amendment related to a subject different from that with which the bill dealt.

The Chairman [1] ruled as follows:

The latter part of clause 7 of Rule XVI, provides:

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

The subject under consideration in this bill is the classification of worsted cloths as woolen cloths. That is the subject. The proposition of the gentleman from Kentucky is to put wool on the free list as an amendment. It seems to the Chair that that is a different subject. The Chair remembers, in the last Congress, when a proposition was made on a bill for the admission of Dakota to amend it by adding the Territory of New Mexico, and the point was made that that was on a subject different from the one under consideration, the then Speaker of the House (Mr. Carlisle), decided [2] that it was a different subject, although relating to the same general subject. The Chair therefore sustains the point of order and rules the amendment out of order.

On a vote by tellers an appeal having been taken this decision was sustained–74 ayes to 36 noes.

5855. On the question being submitted the House admitted a provision relating to duties as an amendment to an internal-revenue bill although the point of order that it was not germane had been made.

Instance wherein the Speaker submitted a question of order to the decision of the House.

On June 3, 1870,[3] the House resumed the consideration of the bill of the House (H.R. 2045) to reduce internal taxes, and for other purposes, the pending question being on the forty-fifth section of the same.

Mr. James Brooks, of New York, proposed to submit the following amendment:

Add to the section the following proviso:

"*Provided further,* That on and after the first day of January next the duties levied upon the articles hereafter named, imported from foreign countries, shall be reduced as follows:

"On sirup of cane juice, or melado, or molasses from sugar-cane, and on all sugars, and on salt, thirty-three and a third per cent.

"On coffee and on tea, twenty percent; and on pig and scrap iron, twenty-two and a half percent.

"And all imported goods, wares, and merchandise here described, which may be in the public stores or bonded warehouses on the day of the year this act shall take effect, shall be subjected to no other duty upon the entry thereof for consumption than if the same were imported, respectively, after that date .[3]

The same having been read,

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[1] Julius C. Burrows, of Michigan, Chairman.

[2] See section 5837 of this chapter.

[3] Second session Forty-first Congress, Journal, p. 907; Globe, pp. 4072, 4073.

Mr. Charles A. Eldredge, of Wisconsin, made the point of order that the amendment was not in order, because it was an independent and new proposition for a tax upon the people, and must be first discussed in Committee of the Whole, and also because the amendment was not germane to the bill.

The Speaker[1] stated that the House had given unanimous consent for the consideration of this bill in the House, that would cover all amendments considered germane, and hence that the only question at issue is, whether the amendment be germane. In his judgment the amendment was germane, from the very necessities of the case; for it might be of the utmost importance, in determining the internal revenue to be derived from any article, to determine also what the external revenue shall be from the same article. He would, however, submit to the House the question, "Will the House entertain an amendment of the kind proposed as germane to the bill under consideration?"

And the question being put, it was decided in the affirmative.

5856. To a bill relating to reciprocal trade relations between the United States and Cuba, the Committee of the Whole, overruling the Chair, added an amendment relating to the duties on sugar generally; but sustained the Chair in holding not germane amendments relating to the general duties on hides and iron manufactures.—On April 18, 1902,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12765) "to provide for reciprocal trade relations with Cuba," when Mr. Page Morris, of Minnesota, offered the following amendment:

Insert after "countries," line 22, page 2, the following:

"And upon the making of the said agreement, and the issuance of said proclamation, and while said agreement shall remain in force, there shall be levied, collected, and paid, in lieu of the duties thereon now provided by law on all sugars above No. 16 Dutch standard in color, and on all sugar which has gone through a process of refining, imported into the United States, 1 cent and eight hundred and twenty-five one-thousandths of 1 cent per pound."

Mr. Sereno E. Payne, of New York, made the point of order that the amendment was not germane to the bill.

The point of order was debated at length, especial stress being laid on the intimation of Mr. Speaker Blaine, on June 3, 1870, on the bill to reduce the internal taxes.[3] Mr. Charles E. Little-field, of Maine, further argued that the customs regulations concerning sugar were peculiar, and because of this peculiarity the ordinary principles of germaneness would in this case be modified. He said:

Any legislation that tends to disturb the tariff equilibrium in connection with this sugar schedule by disturbing the differential or otherwise, destroys the equilibrium and makes the consideration of the other branch of the proposition absolutely necessary in order to preserve and maintain the equilibrium. Unrefined sugar has one tariff, refined sugar another, to-day. If you shorten or diminish the unrefined-sugar tariff, you shorten one of the legs upon which the proposition stands; and if you increase it, you lengthen the leg upon which the proposition stands, and either process destroys alike the legislative equilibrium which ought to and economically must exist between the two tariffs.

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[1] James G. Blaine, of Maine, Speaker.

[2] First session Fifty-seventh Congress, Record, pp. 4405–4414, 4415, 4416.

[3] See section 5855.

At the close of the debate the Chairman [1] ruled:

The closing portion of section 7 of Rule XVI, which has been already read in the debate in the committee, reads:

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

The bill now before us is entitled "A bill to provide for reciprocal trade relations with Cuba." It authorizes the President to enter into negotiations with the government of Cuba when established for the purpose of securing reciprocal trade relations with Cuba, and when an agreement is made that, in his judgment, is reciprocal and equivalent, to proclaim the fact, "and thereafter until December 1, 1903, the imposition of the duties now imposed by law on all articles imported from Cuba, the products thereof, shall be suspended, and in lieu thereof 80 per cent of the duty imposed upon such articles coming from other countries shall be collected."

Clearly this is simply and solely a bill to provide for reciprocal relations with Cuba, and Cuba only. An amendment can then be in order only if it relates to trade between Cuba and the United States. In other words, it must be germane. A long line of decisions, covering a period of three-quarters of a century—because the present rule is worded precisely as it was adopted in 1822—made by distinguished Speakers of the House, from various sections of this country, have all emphasized the real intent and meaning of the rule above quoted.

These decisions have been based upon its literal construction. Except a decision of Speaker Cobb, in the Thirty-first Congress, later in the same Congress reversed by the House,[2] seemingly by the Speaker's acquiescence, these decisions are all in one direction. Speaker Blaine made no decision upon this question. He did emphatically express his judgment upon a like proposition, and after expressing his judgment, he referred the matter to the committee for decision. So that he made no decision overruling the long line preceding.

Mr. Blackburn, presiding in Committee of the Whole, or Speaker pro tempore, I think, did not make the ruling that the gentleman from Tennessee says that he made. The gentleman is mistaken in the statement. He decided that the point of order was raised too late for consideration. Here is the exact wording of Speaker Blackburn's ruling:

"The Chair will state to the gentleman from Michigan that he is not prepared to say that he would not have sustained his point of order and ruled the amendment of the gentleman from Tennessee out of order as not being germane to the subject-matter of the bill, if it had been made in time."

Speaker Blackburn held that the point of order was not raised in time. He expressly states that he does not hold that he would not have excluded it as not germane had it been raised in time.

If the Chair might be permitted to make a brief citation of very many decisions made by former Speakers—and the Chair will refer in the main to the decisions made by Speakers, and not by chairmen of the Committee of the Whole—Ithink the committee will see that practically an unbroken line of precedents is in favor of the literal construction of the rule of germaneness.

In the Thirtieth Congress, the resolution providing for an investigation to obtain information upon which to frame a tariff bill, an amendment was offered striking out all after the resolving clause and inserting "that it is expedient to amend the present existing tariff by increasing the duties" on certain commodities. Speaker Stevenson, of Virginia, held the amendment to be inadmissible because on a subject different from that under consideration.[3]

In the Twenty-seventh Congress to a bill under consideration authorizing the issue of Treasury notes, an amendment was offered providing that so much of the act of September 4, 1841, as provided for the distribution of the proceeds of the sale of public land among States and Territories be suspended, and the said fund be applied to the payment of outstanding Treasury notes, outstanding as well as those issued under the act, Mr. Hopkins, of Virginia, decidedly a clear and strong parliamentarian, held that the amendment was not germane.[4]

In the Thirtieth Congress, during the pendency of a bill locating military land warrants in Virginia, it was proposed to amend by providing that these land warrants might be located on any public land subject to entry. Speaker Winthrop, of Massachusetts, held this amendment not to be germane.

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[1] James S. Sherman, of New York, Chairman.

[2] See footnote to section 5859.

[3] See section 5853 of this volume.

[4] See section 5883 of this volume.

And in the same Congress the same Speaker held an amendment to a resolution to ascertain and equalize the salaries of United States district judges so as to include marshals and district attorneys not in order, and upon an appeal the Chair was sustained.

In the Thirty-fifth Congress, while a bill was pending granting preemption to settlers upon public lands, an amendment was offered donating 160 acres free, upon certain conditions as to occupancy and cultivation. Speaker Orr, from South Carolina, held the amendment not to be germane.[1]

In the Fiftieth Congress, to the bill for the admission of Dakota as a State, an amendment was offered to include New Mexico, Montana, and Washington. The question was discussed at considerable length. The gentleman from Michigan, Mr. Burrows, now a Senator from that State, a gentleman justly famed as a parliamentarian, in arguing in support of the point of order that the amendment was not germane, fully reviewed the history of the rule and its application. Speaker Carlisle, an able parliamentarian, to whose great ability and fairness I gladly testify, held the amendment not to be germane and sustained the point of order.[2]

On the 7th of this month, only the other day, while we were considering the Chinese-exclusion bill in the Committee of the Whole, the gentleman from Massachusetts [Mr. Moody] in the chair, an amendment prohibiting the employment of Chinese labor on American ships was held not to be germane to a bill regulating the admission of Chinese into this country.[3]

These are but a few of the decisions which all are on one side, all covering a period of more than seventy-five years.

It has been said that the Speaker, on the day this bill was taken up for consideration, held that this was a revenue bill. The Speaker did not so hold. The Speaker did, in reply to a parliamentary inquiry, say that this was a bill affecting the revenue, and stated that it has been the custom of this House to consider bills affecting the revenue as privileged matters, and this holding of the Speaker is sustained by a direct holding upon that very proposition by Speaker Reed in the Fifty-first Congress, and by many other decisions made at prior dates.

The argument of the gentleman from Maine that we must maintain the "equilibrium," and that to maintain the "equilibrium" this amendment is in order, is not, as it seems to the Chair, tenable. As well might he say that when a bill to appropriate $50,000,000 for rivers and harbors is under consideration we must, in order to maintain the "equilibrium," attach to it a provision to raise revenue, to bring money into the Treasury, to provide for that which is going out; and that proposition has been distinctly held in this House in the Thirty-first Congress not to be in order.

The argument of the gentleman from Maine might and probably would and probably does affect the judgment of members of the committee, so far as the merits of the proposition are concerned, but with the merits of any proposition the Chair has not to do in applying the rules to a question of order which is raised for him to dispose of.

Applying the rule, applying the precedents, applying to it the construction it has received for more than seventy-five years, it seems to the Chair just as clear as the hands of the clock before him are distinct, that this amendment, which relates to the duties upon sugar from the entire world, is not germane to a bill providing for reciprocal trade relations with Cuba, and is not in order as an amendment to the bill, and therefore the Chair sustains the point of order.

Mr. James A. Tawney, of Minnesota, having appealed, the Chairman put the question, "Shall the decision of the Chair stand as the judgment of the committee?"

And there appeared on a vote by tellers, ayes 130, noes 171. So the decision of the Chair was overruled.

Very soon thereafter Mr. Earnest W. Roberts, of Massachusetts, offered the following amendment:

Add a new section, as follows:

"SEC. 2. On and after the passage of this act the raw or uncured hides of cattle, whether the same be dry, salted, or pickled, shall, when imported, be exempt from duty.

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[1] See section 5877 of this chapter.

[2] See section 5837 of this chapter.

[3] See section 5874 of this chapter.

"Paragraph 437, Schedule N, of the act entitled 'An act to provide revenue for the Government and to encourage the industries of the United States,' approved July 24, 1897, is hereby repealed."

Mr. Sereno E. Payne, of New York, made the point of order that the amendment was not gername.

The Chairman said:

The Chair desires to say that under the ruling of the committee overruling the Chair a few moments ago quite likely that would be in order; but the Chair's views have not been modified by the action of the committee, and the Chair holds the amendment not germane and out of order.

Mr. Roberts having appealed, the decision of the Chair was sustained, yeas 183, nays 70.

Soon thereafter Mr. James D. Richardson, of Tennessee, offered an amendment proposing a general reduction of duties on manufactures of iron.

Mr. William H. Graham, of Pennsylvania, made the point of order that the amendment was not germane.

The Chairman said:

The Chair thinks the point of order is well taken. Enough has been read to convince the Chair that, in line with his first ruling of to-day, the amendment is not in order, as not being germane to the bill.

Mr. Richardson announced that he would not appeal.

5857. To a bill relating to the tariff between the United States and the Philippine Islands an amendment relating to the tariff between the United States and all other countries was held not to be germane.—On January 16, 1906,[1] the Philippine Tariff bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. Champ Clark, of Missouri, proposed an amendment as follows:

Amend by inserting in line 6, page 2, after the word "aforesaid," the following: "Except on Philippine sugar there shall, after the approval of this bill by the President of the United States, be levied, collected, and paid in lieu of the duties now provided by law on all sugar above No. 16 Dutch standard and on all sugar which has gone through a process of refining, imported into the United States 1 cent and eight hundred and twenty-five one-thousandths of 1 cent per pound."

Mr. Sereno E. Payne, of New York, made the point of order that the amendment was not germane.

After debate at length, the Chairman[2] ruled:

A rule of this House provides that "no motion or proposition on a subject different from that under consideration shall be admitted under color of an amendment." The question for the Chair to decide in the first instance, and possibly afterwards the committee, is not as to the wisdom of that rule nor whether it shall be changed, but whether this amendment is obnoxious to that rule. The Chair first will call attention to the antiquity of the rule, which has existed in its present form under every Administration in power since 1822, and will take occasion to refer very briefly to a few decisions showing the strictness with which it has been interpreted. The Chair will not refer to decisions by Chairmen of the Committee of the Whole, but to Speakers of this House. In the Fifty-first Congress there was a bill before the House called a "pure-food bill," regulating lard and its products or compound lard. An amendment was offered relating to all food products, just as this bill relates to certain products and the amendment seeks to extend it over a general class, and yet the Speaker, Thomas B. Reed, ruled that the amendment was not germane.[3] In the Fifty-third Congress a proposition was made to discharge a Member of the House from

[1] First session Fifty-ninth Congress, Record, pp. 1156–1161.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] See section 5866 of this chapter.

the custody of the Sergeant-at-Arms. An amendment was offered discharging another Member or other Members. It was ruled not to be germane.[1] That ruling, it is true, was by the Chairman of the Committee of the Whole, but a most distinguished parliamentarian, Mr. Richardson, of Tennessee, who subsequently received the vote of his party for the office of Speaker.

Again, Speaker Reed ruled that to a paragraph providing for annual clerks to Senators an amendment providing clerks for Members was not in order.[2] And it has been held that to a bill relating to one Territory an amendment relating to another Territory was not germane. That was ruled, not by a Chairman of the Committee of the Whole, but by no less a distinguished parliamentarian than Speaker Carlisle. And, again, it was ruled in the Fifty-third Congress that to a bill admitting one Territory into the Union an amendment relating to the admission of another Territory was not germane. That was not ruled by a Chairman of the Committee of the Whole, but by the last Speaker who came from the minority side of the House, Mr. Crisp. He made two rulings upon that subject in the same session. Mr. William Jennings Bryan having offered a bill for the relief of the State of Nebraska to reimburse it for expenditures incurred in repelling an invasion of the Sioux Indians, an amendment was offered extending the provisions to the State of South Dakota, which had suffered in precisely the same way and from the same cause. Mr. Bryan argued that it would be as well to put all the bills on the Calendar into one bill as to accept that amendment as germane. His point of order was sustained by Speaker Crisp.[3] It was held by Speaker Reed that, to a bill to protect trade and commerce against trusts, an amendment authorizing the suspension of duties upon articles handled by trusts was not germane.

For instance, Speaker Reed also ruled that to a provision excluding all immigrants who could not read and write an amendment excluding all foreign-born laborers was not germane.[4] And so the Chair might go through a long list of similar rulings. But it is said that in the Fifty-seventh Congress a ruling was made, and upon appeal overruled,5 and that the action of the House in the Committee of the Whole on that occasion ought to be binding upon the present occupant of the chair.

It is true that when there was pending a bill providing for reciprocal duties with Cuba, not only upon sugar, but also upon hides, and, indeed, including all products of that island, an amendment was offered touching the duties upon sugar from all the countries of the world. And it is true that that amendment having been held not germane by the very distinguished parliamentarian who then occupied the chair, Mr. Sherman of New York, his ruling was upon appeal reversed by the committee. But the Chair finds that immediately afterwards an amendment touching hides was offered, whereupon the same point of order was again made, when the same Chairman said:

"The Chair desires to say that under the ruling of the committee overruling the Chair a few moments ago quite likely that would be in order, but the Chair's views have not been modified by the action of the committee, and the Chair holds the amendment not germane and out of order."

Thereupon, an appeal having been taken, the committee sustained the Chair by a vote of 183 to 70, or more than 2 to 1, distinctly overruling its previous action.

Then, again, this very morning, upon the appeal of the gentleman from Massachusetts, this committee sustained the Chair in a ruling entirely in line with the ruling then sustained as to the duty on hides. So that if the present occupant of the chair felt bound by rulings of the committee he would feel bound by the last two, rather than by the one which the committee itself seems to have reversed. But the Chair desires to call attention distinctly to the fact that the amendment now pending, offered by the gentleman from Missouri, is by no means on a par with the amendment concerning which the reversal occurred in the previous Congress. That, as the Chair has stated, was a bill providing for reciprocal duties with Cuba. It provided for a certain proclamation to be made by the President, and the amendment was ingeniously worded so as to provide that "upon the making of said agreement and the issuance of said proclamation, and while said agreement shall remain in force, there shall be levied, collected, and paid, in lieu of the duties on sugar," certain other duties.

It was ingeniously interwoven and connected with, had relation to, and included some matters in the original bill to which it was offered as an amendment.

But the amendment offered by the gentleman from Missouri [Mr. Clark] and now pending is surely upon a different subject-matter from the bill, because it by exception clearly excludes everything that is touched by the bill. The Chair will call attention to the wording of the amendment:

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[1] See section 5846 of this chapter.

[2] See section 5900 of this chapter.

[3] See section 5829 of this chapter.

[4] See section 5870 of this chapter.

[5] See section 5856 of this chapter.

"Amend by inserting the following: 'Except on Philippine sugar there shall, after the approval of this bill by the President of the United States, be levied, collected, and paid"

Certain duties on all sugars.

It does not even touch sugar coming from the Philippines or any of the products of the Philippines, which are the only subjects of the bill to which it is offered as an amendment. This amendment relates only to sugar which does not come from the Philippine Islands. Clearly it is a different subject-matter from that in the bill, which relates only to sugar and other products coming from the Philippine Islands.

Mr. Clark having appealed, the decision of the Chair was sustained, ayes 220, noes 120.

5858. On January 16,1906,[1] the Philippine tariff bill (H. R. 3) was und4r consideration in Committee of the Whole House on the state of the Union, when Mr. Edward W. Pou, of North Carolina, proposed an amendment as follows:

Amend by adding to end of section 1: "*And provided further,* That whenever the President of the United States shall ascertain to his satisfaction that any article manufactured in the United States and enumerated in the act of July 24, 1897, being chapter 11, Acts of the Fifty-fifth Congress, first session, and acts amendatory thereto, is sold in any foreign country at a price less than the same article is sold within the United States, the President, in such event, is hereby authorized and empowered to order a reduction of the import duty now collected upon similar articles brought into the United States from abroad, equal, as nearly as possible, to the difference in price ascertained by the President to exist between the aforesaid article sold abroad and the same article sold within the United States."

Mr. Sereno, E. Payne, of New York, made the point of order that the amendment was not germane.

The Chairman[2] held:

The Chair would not feel like violating the rules even to serve the most worthy purpose. The bill before the House is confined in its provisions strictly to the tariff relations between the Philippines and the United States. The amendment offered by the gentleman from North Carolina relates to the tariff laws generally between the United States and all countries. It introduces a very different and much broader proposition. The Chair thinks it necessary to refer to but one ruling in the Fifty-eighth Congress, where an amendment limiting immigration generally was held not to be germane to a proposition to prevent the immigration of Chinese alone.[3] Here is a bill relating to the Philippines and an amendment relating to the tariff generally. The ruling to which the Chair refers was made by the present Attorney General of the United States. The Chair sustains the point of order.

5859. To a proposition relating to the sale of internal-revenue stamps in Porto Rico a proposition relating to posting lists of persons paying special taxes in the United States was held not germane.—On April 23, 1906,[4] the House was considering the following bill:

A bill (H. R. 15071) to provide means for the sale of internal-revenue stamps in the island of Porto Rico.

Be it enacted, etc., That all United States internal-revenue taxes now imposed by law on articles of Porto Rican manufacture coming into the United States for consumption or sale may hereafter be paid by affixing to such articles before shipment thereof a proper United States internal-revenue stamp denoting such payment, and for the purpose of carrying into effect the provisions of this act the Secretary of the Treasury is authorized to grant to such collector of internal revenue as may be recommended by the Commissioner of Internal Revenue, and approved by the Secretary, an allowance for the salary

[1] First session Fifty-ninth Congress, Record, p. 1151.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] See section 5869 of this chapter.

[4] First session Fifty-ninth Congress, Record, pp. 5743, 5744.

and expenses of a deputy collector of internal revenue, to be stationed at San Juan, P. R., and the appointment of this deputy to be approved by the Secretary.

The collector will place in the hands of such deputy all stamps necessary for the payment of the proper tax on articles produced in Porto Rico and shipped to the United States, and the said deputy, upon proper payment made for said stamps, shall issue them to manufacturers in Porto Rico. All such stamps so issued or transferred to said deputy collector shall be charged to the collector and be accounted for by him as in the case of other tax-paid stamps.

The deputy collector assigned to this duty shall perform such other work in connection with the inspection and stamping of such articles, and shall make such returns as the Commissioner of Internal Revenue may, by regulations approved by the Secretary of the Treasury, direct, and all provisions of existing law relative to the appointment, duties, and compensation of deputy collectors of internal revenue, including office rent and other necessary expenses, shall, so far as applicable, apply to the deputy collector of internal revenue assigned to duty under the provisions of this act.

SEC. 2. That before entering upon the duties of his office such deputy collector shall execute a bond, payable to the collector of internal revenue appointing him, in such amount and with such securities as he may determine.

When Mr. Benjamin G. Humphreys, of Mississippi, proposed this amendment:

Insert as section 3:

"Each collector of internal revenue shall, under regulations of the Commissioner of Internal Revenue, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons who shall have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid, and shall make and preserve a duplicate of the tax receipt or receipts issued to any person, company, or corporation, and upon application of any person he shall furnish a certified copy thereof, as of a public record, for which a fee of $1 for each 100 words or fraction thereof in the copy or copies so requested may be charged."

Mr. Ebenezer J. Hill, of Connecticut, made the point of order that the amendment was not germane.

After debate the Chairman [1] sustained the point of order.[2]

5860. To a bill relating to the tariff between the United States and the Philippine Islands an amendment declaratory as to the future sovereignty over those islands was held not germane.—On January 16, 1906,[3] the Philippine tariff bill (H. R. 3) was under consideration in Committee of the Whole

[1] Charles E. Littlefield, of Maine, Chairman.

[2] As an instance of the latitude permitted occasionally by Speakers in construction of the rule requiring amendments to be germane, reference may be made to a precedent of August 28, 1850, when the House was considering the Senate bill providing for the adjustment of the northern and northwestern boundaries of Texas, and the relinquishment by Texas of territory exterior to those boundaries, and of claims against the United States. To this bill, which was short and confined simply to these adjustments, an amendment was offered in the form of a long bill providing systems of territorial governments for the Territories of New Mexico and Utah. This amendment Mr. Speaker Cobb held to be in order on the ground that the bill brought before the House the question of the territory acquired from Mexico, and that propositions affecting that Territory were germane to the bill, New Mexico and Utah being in that territory. On appeal this decision was sustained, yeas 122, nays 84. (First session Thirty First Congress, Journal, p. 1333; Globe, pp. 1682–1686.)

But on September 7, 1850, when Mr. Speaker Cobb, for the same reason, ruled an amendment providing a territorial government for Utah in order on a bill for the admission of California to the Union, the House overruled the Speaker, yeas 87, nays 115. The Speaker based his ruling on the fact that both bill and proposed amendment disposed of territory acquired from Mexico. (Journal, p. 1415; Globe, p. 1769.)

[3] First session Fifty-ninth Congress, Record, pp. 1144, 1145, 1146, 1150.

House on the state of the Union, when Mr. Samuel W. McCall, of Massachusetts, proposed the following amendment:

Amend by adding at the end of line 23, page 4, the following:

"And provided further, That nothing herein contained shall be construed to mean that it is the purpose of the Congress that the United States should permanently retain sovereignty over the Philippine Islands, but it is hereby solemnly declared to be the settled purpose of the Congress to fit the people of the said islands for self-government at the earliest practicable moment, and, when that result shall have been accomplished, to leave the government and control of the said islands to the people thereof, to the end that they shall be recognized by the United States as a free and independent nation, as was done in the case of Cuba.

Mr. Sereno E. Payne, of New York, made the point of order that the amendment was not germane.

After debate the Chairman [1] ruled:

The requirement that an amendment must be germane to the bill or proposition to which it is offered has obtained since the beginning of the American Congress. It was adopted in the very first set of rules of this House, in 1789, and even before that had an important place among the rules governing the Continental Congress. In 1822 it was slightly modified in form and adopted in the following language:

"No motion or proposition upon a subject different from that under consideration shall be admitted under color of amendment."

In that precise form it has been firmly embedded in our rules from that time down to the present moment and exists to-day in the last clause of section 7 of Rule XVI.

It is a great safeguard against hasty and ill-considered action. It prevents unexpected and diverse objects from being suddenly thrust forward for the instant consideration of the House without the benefit and assistance of previous consideration and report by the appropriate committee; protects the minority from the sudden springing and enactment by the majority of new propositions of which the minority has had no notice and no opportunity to prepare for discussion, and protects the majority from having to accept the responsibility of immediate action upon matters unexpectedly brought forward without previous committee consideration or report or opportunity for full information. It is for many reasons highly essential to the orderly and rational transaction of the business of this House. Without this rule as to germaneness new propositions of the utmost magnitude, deserving many days of discussion, as this bill has had, might, after the closing of general debate, be brought forward, as now, under color of amendment and debate thereon limited to five minutes on either side.

The five-minute rule itself, under which we are now proceeding, would hardly exist to-day except upon the assumption that the earlier rule as to germaneness will be strictly construed and faithfully adhered to.

The Speakers and Presiding Officers in Committee of the Whole House have almost uniformly interpreted and enforced it with great strictness. Perhaps the only exception was in the Thirty-fifth Congress, when Speaker Howell Cobb relaxed it somewhat, but soon thereafter, with his own tacit consent, it has been suggested, the House overruled him.[2]

Speaker Reed, in the Fifty-first Congress, in a very elaborate discussion of it, said:

"It is very desirable that this rule should be preserved in its entirety, and whatever might be the wish of the Chair on this question now before him for decision, he must decide with reference to all like matters and with reference to the general preservation of good order in the business of the House of Representatives." [3]

And Mr. Carlisle, Chairman of the Committee of the Whole in the Forty-sixth Congress, and afterwards Speaker, said:

"After a bill has been reported to the House, no different subject can be introduced into it by amendment, whether as a substitute or otherwise. When, therefore, it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is merely that it (the proposed amendment) is a motion or proposition on a subject different from that under consider-

[1] Marlin E. Olmsted, of Pennsylvania, Chairman.

[2] See footnote of section 5859 of this chapter.

[3] See section 5866 of this chapter.

ation. This is the test of admissibility prescribed by the express language of the rule, and if the Chair upon an examination of the bill under consideration and the proposed amendment shall be of the opinion that they do not relate to the same subject, he is bound to sustain the objection and exclude the amendment." [1]

Now, applying the test suggested by Speaker Carlisle, and, indeed, by the rule itself, the question is, Does this amendment contain a subject different from the subject-matter of the bill? The object of the bill as expressed in its title is, "To amend an act entitled 'An act temporarily to provide revenue for the Philippine Islands, and for other purposes,' approved March 8, 1902."

Nowhere in the bill is there reference to or any attempt to legislate upon anything except the tariff upon articles coming from the Philippine Islands into the United States or going from the United States into the Philippine Islands.

Now, this proposed amendment declares that "it is the settled purpose of this Congress to fit the people of these islands for self-government at the earliest practicable moment."

That seems to the Chair to be a different proposition from the question of tariff upon articles coming from the Philippines.

The amendment further proposes, "when that result (their education) shall have been accomplished, to leave the government and control of said islands to the people thereof."

The people of the Philippines are at present governed, in part at least, by or subject to laws enacted by the Congress of the United States. There is nothing in the pending bill in any way touching the subject of their control, certainly not looking to any change therein. That seems to the Chair to be a different subject, introduced by the amendment. Then the amendment proceeds:

"To the end that they shall be recognized by the United States as a free and independent nation, as was done in the case of Cuba."

The pending bill deals with them entirely as belonging to the United States. The amendment, on the other hand, proposes to give them independence. It seems to the Chair to be as plain as plain can be that there are at least two subjects in the amendment which are entirely different from anything in the bill itself.

Now, the Chair will call attention to one or two rulings which seem in point. In the first session of the Fifty-seventh Congress there was before the House in Committee of the Whole House on the state of the Union a bill to provide for reciprocal trade relations with Cuba. An amendment was offered to form a new section, providing for extending to the people of Cuba, through their duly authorized Government, an invitation to apply for annexation of that island to the United States. Mr. Payne, of New York, made the point of order that it was not germane, and after argument it was sustained by so distinguished a parliamentarian as the gentleman from New York [Mr. Sherman]. That seems to be almost directly in point.[2]

In the second session of the Fifty-first Congress the House was considering a bill appropriating $50,000 out of any money in the Treasury for the relief of destitute persons in the island of Cuba. Mr. Bailey, of Texas, moved to recommit the bill, with instructions to amend thus:

"That a condition of public war exists between the Government of Spain and the government proclaimed and for some time maintained by force of arms by the people of Cuba, and that the United States of America shall maintain a strict neutrality between the contending powers, according to each all the rights of belligerents."

After argument Speaker Reed declared that amendment to be not germane,[3] and upon an appeal from his ruling it was sustained by the House by a vote of 114 to 83. That seems to the Chair to be directly in point.

In the succeeding year a bill was before the House making appropriations for the diplomatic and consular service, and Mr. Bailey again offered practically the same amendment, which the Speaker again ruled to be not germane.

There are two instances in which Speaker Reed ruled that an amendment according belligerent rights to the Cubans was not germane to other measures pending for their relief or in some way concerning them. Now, the only difference between that amendment which Speaker Reed ruled out and this proposed amendment to this bill is that this amendment proposes to go further and give them absolute

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[1] See section 5825 of this chapter.

[2] See section 5867 of this chapter.

[3] See section 5897 of this chapter.

independence. The Chair is clearly of opinion that the amendment is not germane, and therefore sustains the point of order.

Mr. McCall having appealed, the decision of the Chair was sustained, yeas 198, nays 123.

On the same day, and very soon thereafter, Mr. James L. Slayden, of Texas, proposed this amendment:

Nothing herein contained shall be held to mean that the United States intends to incorporate the inhabitants of the Philippine Islands into citizenship of the United States, nor is it intended to retain permanently said islands as an integral part of the United States; but it is the intention of the United States to establish on said islands a government suitable to the wants and conditions of the inhabitants thereof to prepare them for independence, and thereafter to collect on the products of the Philippine Islands the same customs dues collected on the products of other foreign countries when imported into the United States.

Mr. Sereno E. Payne, of New York, having made the point of order that the amendment was not germane, the Chairman held:

The gentleman from New York makes the point of order that the amendment offered by the gentleman from Texas is not germane. The pending bill relates entirely to the tariff upon articles coming from the Philippine Islands into the United States or going from the United States to the Philippine Islands, while the amendment relates to the permanent retention of those islands by the United States, and provides also for the establishment of a certain form of government on the islands, matters entirely different from those contained in the bill. The Chair thinks the amendment is not germane and sustains the point of order.

5861. To a bill for the regulation of corporations engaged in interstate commerce an amendment relating to tariff duties was held not to be germane.—On February 7, 1903,[1] the House in Committee of the Whole House on the state of the Union was considering the bill (H.R. 17) requiring all corporations engaged in interstate commerce to file returns with the Secretary of the Treasury disclosing their true financial condition and of their capital stock and imposing a tax upon such as have outstanding capital stock unpaid in whole or in part, when Mr. Robert L. Henry, of Texas, proposed the following amendment:

SEC. —. That hereafter the following articles may be imported into the United States free of all duty:

"1. Steel rails, structural steel, tin plate, iron pipe, and other metal tubular goods; wire nails, cut nails, horseshoe nails, barb wire, and all other wire; cotton ties; plows, and all other agricultural tools and implements.

"2. Borax, borate of lime, and boracic acid.

"3. Paris green.

"4. Paper and pulp for the manufacture of paper.

"5. Salt.

"6. Plate glass and window glass."

Mr. Charles E. Littlefield, of Maine, raised the point of order that the amendment was not germane.

The Chairman[2] after debate held:

The Chair will first rule upon the point of order raised by the gentleman from Maine to the new section offered by the gentleman from Texas [Mr. Henry]. The gentleman from Maine [Mr. Littlefield] makes the point of order that the section is not germane. The test which we must apply to determine

[1] Second session Fifty-seventh Congress, Record, pp. 1905–1910.

[2] Henry S. Boutell, of Illinois, Chairman.

whether this section is or is not germane is to be found in the second paragraph of section 7 of Rule XVI of the House:

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

Now, as the time is short, the Chair will endeavor to give the reasons for his ruling very briefly.

The Chair understands that the two principal reasons for this rule are, first, to secure an orderly, logical, and serious consideration of measures pending before the committee. Second—and of still greater importance is this reason-the mover or author of the bill is entitled to have the subject presented in his bill considered in its logical entirety. Without this rule, wholly irrelevant matter could be added to a bill by way of amendment, for it would oftentimes happen that an irrelevant amendment would be considered by members of the committee as of even greater importance than the subject matter of the bill itself. This rule, as the Chair understands it, was adopted originally by parliamentary bodies especially to secure to the author or mover of a bill the logical consideration of the one subject, and the one subject alone, which he presents.

Now, the scope of the bill before the House is very plain and is set forth in the title to the original bill, which is as follows:

"Requiring all corporations engaged in interstate commerce to file returns with the Secretary of the Treasury, disclosing their true financial condition, and of their capital stock, and imposing a tax upon such as have outstanding capital stock unpaid in whole or in part."

A simple reading of the original bill and the substitute discloses that the bill and the substitute alike deal exclusively with the regulation of corporations engaged in interstate commerce. The amendment offered by the gentleman from Texas is a plain, clear amendment of our revenue laws, having for its object the removal of the present duties on imports.

Now, it is not for the Chair to consider reasons which are solely argumentative in coming to a conclusion upon a question of this kind. It is not for the Chair to determine what would or what would not be the ultimate effect of this measure or of an amendment proposed to this measure. It is for the Chair simply to determine whether this amendment, repealing a portion of our revenue laws, is, under the language of the rule, a subject differing from that under consideration. Let us consider for a moment what would be the effect of holding in principle that this amendment is germane. If this amendment were germane, then any amendment adding to the import duty on any article would be germane. An amendment placing a tax on an article now on the free list would be germane; and in the same way the repeal of any portion of the internal-revenue taxes would be germane. The inclusion of other articles in the internal-revenue tax would be germane. So if we should open up this measure, which is a measure to regulate corporations engaged in interstate commerce, to an amendment of this nature, there would be no end to the variety of subjects which could be included in this bill.

The Chair is therefore of the opinion, from the general principles applicable to the question, that this amendment is not germane. If the Chair, however, had any doubt upon the subject, which it has not, that doubt would be removed by a decision upon a similar question,[1] decided in the Fifty-first Congress by the late Speaker Reed. On May 1, 1890, Mr. David B. Culberson, of Texas, from the Committee on the Judiciary, called up and the House proceeded to the consideration of the Senate bill (S. 1) to protect trade and commerce against unlawful restraints and monopolies. The House having proceeded to its consideration, Mr. Joseph D. Sayers, of Texas, moved to amend the bill by adding as section 9 the following, which the Clerk will read.

The Clerk read as follows:

"SEC. 9. That whenever the President of the United States shall be advised that a trust has been or is about to be organized for either of the purposes named in the first section of this act, and that a like product or commodity covered or proposed to be covered or handled by such trust, when produced out of the United States, is liable to an import duty when imported into the United States, he shall be, and is hereby, authorized and directed to suspend the operation of so much of the laws as impose a duty upon such product, commodity, or merchandise for such time as he may deem proper."

It will be observed that this was an amendment giving to the President of the United States power to suspend the import duties on certain articles of merchandise. It will be further observed that this

[1] See section 5868 of this chapter.

was an amendment to the Sherman antitrust law, so called. Mr. Ezra B. Taylor, of Ohio, made the point of order that the amendment was not germane to the bill, relating, as it did, to the subject of revenue. Speaker Reed sustained the point of order, and the amendment was not received.

In accordance with these principles, which the Chair understands to be the fundamental principles underlying section 7 of Rule XVI, and in accordance with this decision of the late Speaker Reed, the Chair sustains the point of order.

5862. An amendment to repeal the duty on coal was held not to be germane to a proposition to pay for the investigation of a strike among coal miners.—On December 3, 1902,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 15372) to provide for the payment of the expenses and compensation of the Anthracite Coal Strike Commission, appointed by the President of the United States at the request of certain coal operators and miners, when Mr. John W. Gaines, of Tennessee, offered the following amendment:

Be it further resolved, That all import duties on anthracite coal containing less than 90 per cent of fixed carbon be, and the same are hereby, abolished, and on and after the passage of this resolution all such anthracite coal imported into the United States shall be admitted free of all duty or tax.

Mr. Joseph G. Cannon, of Illinois, made the point of order that the amendment was not germane.

After debate the Chairman[2] ruled:

The bill under consideration provides a simple appropriation of $50,000 to pay, under the direction of the President, the expenses of a certain commission heretofore appointed by him to "inquire into, consider, and pass upon the questions in controversy in connection with the strike in the anthracite coal region, and the causes out of which the controversy arose."

The gentleman from Tennessee [Mr. Gaines] moves to amend the bill by adding a clause repealing the duty upon anthracite coal. The Chair takes it for granted that if there were here a proposition to investigate, through the Medical Department of the Army, the cause of a contagious disease it would hardly be claimed to be germane to appropriate, in connection with that provision, money to build ships and quarantine stations and light-houses and to regulate and control the coming into the country of persons afflicted with contagious diseases.

One is a question of inquiry as to the cause of a difficulty; the other is the matter of providing a remedy for a trouble which is understood to exist, and upon which it is expected that this commission will at some time report. The House is asked to assume that the commission will report that the tax on anthracite coal is one of the causes of the strike.

In the opinion of the Chair, it would be quite as germane to provide a great many other remedies for the causes that may be reported to exist as for the House to assume what the report of that commission will be, and thereupon to proceed by appropriation of money, or by repeal of some existing statutes, or by the enacting of some other statute to provide against the contingencies that may be reported in that measure. The proposition is distinct in every particular from the bill here pending.

The Chair will cite to the House two decisions which have been made upon questions, in the opinion of the Chair, analogous in principle to that under consideration. The first will be found[3] by reference to page 1097 of the book on parliamentary procedure, by Mr. Hinds. The gentleman from Georgia [Mr. Lester], now a Member of this House, made the following ruling as Chairman of the Committee of the Whole:

"The paragraph to which this amendment is offered proposes to appropriate money for the building of a mint in the city of Philadelphia. The amendment deals with the general question of the coinage of money. It occurs to the Chair that the amendment is obnoxious to paragraph 7, Rule XVI, because it is not germane to the subject under consideration."

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[1] Second session Fifty-seventh Congress, Record, pp. 32–41.

[2] Charles H. Grosvenor, of Ohio, Chairman.

[3] See section 5884 of this chapter.

And the amendment was ruled out on a point of order.

There was a proposition to build a mint, and the amendment proposed was to supply some business for the mint after it should be erected. Later on Speaker Crisp, in the Fifty-second Congress, made the following rule:

"To a proposition for the coinage of the silver bullion in the Treasury an amendment providing, among other things, for the deposit of silver bullion in the Treasury in exchange for certificates was offered and held not to be germane." [1]

The policy has been under all circumstances to distinguish and keep separate the provisions of a bill which by no means depend upon each other or which relate to the same subject-matter. In this case the Chair is of opinion that the proposition to repeal a clause in the existing tariff law is wholly an independent question, a question that may arise with equal propriety upon any economic question which may be presented in the House and any question of national policy relating to taxation or anything else. But the policy of the House having been to separate and keep distinct the several matters of legislation, the Chair is compelled to sustain the point of order.

5863. To a bill granting land to a railroad, an amendment allowing the importation of railroad iron free of duty is not germane.—On March 9, 1852,[2] the House was considering the bill (H. R. 72) "granting to the State of Alabama the right of way and a donation of public lands for making a railroad," etc.

Mr. Thomas L. Clingman, of North Carolina, moved to amend the same by a provision that the iron for this and other railroads might be imported free of duty.

The Speaker[3] decided that this amendment was out of order, not being relevant. The bill proposed a grant of land for railroad purposes, and the amendment proposed to abolish the duty on iron for railroad purposes.

Mr. James L. Orr, of South Carolina, having appealed, the appeal was laid on the table.

5864. To a provision extending the customs and internal revenue laws of the United States over the Hawaiian Islands an amendment for effecting the extension of all the laws of the United States over those islands was offered and held not to be germane.—On December 16, 1898,[4] the House was in Committee of the Whole House on the state of the Union considering the bill (H. R. 1119 1) to extend the laws relating to customs and internal revenue over the Hawaiian Islands. The first section of the bill having been read—

Be it enacted, etc., That the laws of the United States relating to customs and internal revenue, including those relating to the punishment of crimes in connection with the enforcement of said laws, are hereby extended to and over the island of Hawaii and all adjacent islands and waters of the islands,

Mr. Thomas C. McRae, of Arkansas, offered this amendment:

Strike out after the words "United States[4] the following: "Relating to customs and internal revenue."

Mr. Nelson Dingley, of Maine, made the point of order that the amendment was not germane.

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[1] See section 5886 of this chapter.

[2] First session Thirty-second Congress, Journal, pp. 450, 451; Globe, pp. 704, 705.

[3] Linn Boyd, of Kentucky, Speaker.

[4] Third session Fifty-fifth Congress, Record, p. 267.

After debate the Chairman[1] held:

The Chair thinks that the point of order is well taken. This bill is to extend the laws relating to customs and internal revenue, and the amendment seeks to open up the question of land titles and other laws in the Territories, thus enlarging the scope and bringing in matters not germane to the bill.

5865. To a provision relating to the duties on certain articles used in the cotton industry an amendment providing for the free coinage of silver was held not to be germane.—On April 8, 1892[2] the House was in Committee of the Whole House on the state of the Union considering the bill (H. R. 6006) to admit free of duty bagging for cotton, machinery for manufacturing bagging, cotton ties, and cotton gins.

To this bill, as an amendment, Mr. Benjamin H. Clover, of Kansas, offered a section providing for the free coinage of silver, repealing provisions of the act of July 14, 1890, relating to the purchase of bullion, and the issue of Treasury notes thereon, providing for a change of the ratio between gold and silver coin under certain contingencies, etc.

Mr. Henry G. Turner, of Georgia, made the point of order that the amendment was not germane to the bill.

The Chairman[3] sustained the point of order.

Mr. Clover having appealed, the Committee sustained the ruling, 87 ayes to 2 noes.

5866. To a revenue bill with incidental purposes to prevent adulteration of a certain food product, an amendment relating to interstate commerce in adulterated food products and drugs generally was decided not to be germane.

Reason for the rule requiring that amendments be germane.

On August 23, 1890,[4] the House was considering the bill of the House (H. R. 11568) defining "lard;" also imposing a tax upon and regulating the manufacture and sale, importation, and exportation of compound lard.

Mr. Walter I. Hayes, of Iowa, moved to amend the bill by striking out all after section 1 and inserting a series of sections providing for the organization of a food division in the Department of Agriculture for the purpose of protecting the commerce in food products and drugs between the several States and Territories and foreign countries, establishing a system of inspection, penalties, etc.

Mr. Marriott Brosius, of Pennsylvania, made the point of order that the amendment was not germane to the bill.

After debate the Speaker[5] ruled:

The Chair desires to call the attention of the House to the importance of the preservation of the rule which is expressed in the following language:

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

Originally the very greatest latitude was allowed, so that objects the most diverse were suddenly thrust upon the assembly. It was in order to correct that that there was established under general

[1] John F. Lacey, of Iowa, Chairman.

[2] First session Fifty-second Congress, Record, p. 3116.

[3] James H. Blount, of Georgia, Chairman.

[4] First session Fifty-first Congress, Journal, pp. 980, 981; Record, pp. 9097–9101.

[5] Thomas B. Reed, of Maine, Speaker.

parliamentary law the doctrine that an amendment must be germane to the original or pending bill. The rules of the House of Representatives have embraced it in the form which the Chair has read. It is very desirable that this rule should be preserved in its entirety, and whatever might be the wish of the Chair on this question now before him for decision he must decide with reference to all like matters and with reference to the general preservation of good order in the business of the House of Representatives.

The fact that the bill which it is proposed to offer as an amendment has been pending under a point of order does not in any way alter the situation, because the decision must be governed by general principles or not be governed at all. It does not make any difference, either, whether these various bills were correctly or incorrectly referred. If a mistake was made at the time of reference, that can not in any way interfere with the right of a Member to make this point now. The Chair does not personally recollect the circumstances under which the original bill relating to this subject was referred to the committee, but it is his impression that it was done in open House upon indication by the Speaker, and that indication was given from a recollection of many votes on the part of Members in the preceding House, which, although not strictly governing the action of the Speaker of the present House, yet at that time might very probably have impressed him as being a decision on the question. Subsequent references naturally followed. The fact that both bills were referred to the same committee, gentlemen will see, does not touch upon the question as to whether they related to different subjects within the meaning of the rule.

An examination of the bills, it seems to the Chair, will show that the subjects of them are different. In the first place, one is a revenue bill in its form; as the gentleman from Mississippi has said, a bill of double aspect, perhaps, relating directly to revenue; incidentally to results which might follow. The other bill is one that in form and declaration relates to commerce between the States. There seems to be this palpable difference between the two bills as to the subject. The one bill relates to the sale of lard and of compound lard, the latter being in strictness an adulteration of the former, not an injurious one within the purview of the provisions of this bill, and providing for the manufacture and sale of both, The other relates to commerce between the States in regard to all manner of food, adulterated, salable, and not salable. It seems to the Chair, therefore, that these subjects are plainly different and separate from each other, and that the only resemblance between the two bills would be in the remote result which some Members may think would follow them. Upon this view of the question it seems clear to the Chair that the point of order is well taken.

Mr. William E. Mason, of Illinois, having appealed, the decision of the Chair was sustained.

5867. A proposition for the annexation of Cuba was held not to be germane to a bill providing for reciprocal trade relations with that country.— On April 18, 1902,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12765) "to provide for reciprocal trade relations with Cuba," when Mr. Francis G. Newlands, of Nevada, offered the following amendment:

Amend by adding a new section, as follows:

"SEC. 2. At the time of making the order reducing the duties on Cuban products as authorized by section 1, the President shall extend to the people of Cuba, through their duly organized government, an invitation to apply for the annexation of the island to the United States as a constitutional part thereof, the said island at first to have the status of an organized Territory, and thereafter full statehood at such time as shall seem proper to the Congress of the United States, and after such annexation is completed the imposition of duties upon the products of Cuba entering the United States and upon the products of the United States entering Cuba shall cease and determine."

Mr. Sereno E. Payne, of New York, made the point of order that the amendment was not germane.

[1] First session Fifty-seventh Congress, Record, p. 4417.

The Chairman[1] held:

The bill under consideration provides for reciprocal relations with Cuba. The amendment relates to the annexation of Cuba. The amendment is not in order, and the Chair sustains the point of order.

5868. To a bill to protect trade and commerce against trusts an amendment relating to duties on articles handled by trusts was held not to be germane.—On May 1, 1890,[2] Mr. David B. Culberson, of Texas, from the Committee on the Judiciary, called up and the House proceeded to the consideration of the bill of the Senate (S. 1) to protect trade and commerce against unlawful restraints and monopolies.

The House having proceeded to its consideration,

Mr. Joseph D. Sayers, of Texas, moved to amend the bill by adding as section 9 the following:

SEC. 9. That whenever the President of the United States shall be advised that a trust has been or is about to be organized for either of the purposes named in the first section of this act, and that a like product or commodity covered or proposed to be covered or handled by such trust, when produced out of the United States, is liable to an import duty when imported into the United States, he shall be, and is hereby, authorized and directed to suspend the operation of so much of the laws as impose a duty upon such product, commodity, or merchandise for such time as he may deem proper.

Mr. Ezra B. Taylor, of Ohio, made the point of order that the amendment was not germane to the bill, relating, as it did, to the subject of revenue.

The Speaker[3] sustained the point of order, and the amendment was not received.

5869. An amendment limiting immigration generally was held not to be germane to a proposition to prevent the immigration of Chinese.—On April 18, 1904,[4] the Committee of the Whole House on the state of the Union was considering a proposition to enact legislation to prevent the coming of Chinese persons to the United States.

To this Mr. Oscar W. Underwood, of Alabama, offered an amendment providing for limiting immigration generally.

Mr. Robert R. Hitt, of Illinois, made a point of order against the amendment.

The Chairman[5] held:

On page 325 of the Digest and Manual, the clause reads:

"An amendment prohibiting aliens from coming temporarily into the United States to work was held not to be germane to a bill to regulate the immigration of aliens."

And—

"A proposition to prohibit the employment of Chinese on American vessels was held not to be germane to a bill to prevent their coming into the United States."

The amendment proposed by the gentleman from Illinois [Mr. Hitt] relates solely to the exclusion of Chinese, and an amendment relating to the general policy of immigration is therefore not germane to that amendment and the Chair sustains the point of order.

5870. To a provision excluding immigrants unable to read and write and requiring a certificate with each immigrant admitted, an amendment to exclude all foreign-born laborers was held not to be germane.—On

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[1] James S. Sherman, of New York, Chairman.

[2] First session Fifty-first Congress, Journal, p. 556; Record, p. 4098.

[3] Thomas B. Reed, of Maine, Speaker.

[4] Second session Fifty-eighth Congress, Record, p. 5037.

[5] Edgar D. Crumpacker, of Indiana, Chairman.

May 19, 1896,[1] Mr. Richard Bartholdt, of Missouri, presented a bill (H. R. 7864) to amend the immigration laws of the United States by adding to the classes of aliens excluded from admission to the United States the following:

All male persons between 16 and 60 years of age who can not both read and write the English language or some other language.

To this Mr. John B. Corliss, of Michigan, offered an amendment excluding aliens living in another country and, while so living there, entering the United States to engage in labor within its borders.

To Mr. Corliss's amendment Mr. Rowland B. Mahany, of New York, offered as an amendment provisions for a general contract-labor law.

Mr. Bartholdt having reserved a point of order against this amendment, the Speaker[2] sustained the point of order.

Mr. William A. Stone, of Pennsylvania, offered as a substitute a bill providing for the reading and writing test, for consular certificates as to the immigrant's fitness, and for exclusion of residents of other countries who might seek to enter to engage in employment while maintaining their residence without the United States.

Mr. Grove L. Johnson, of California, offered an amendment providing that it should be unlawful for any foreign-born laborer to enter the United States.

Mr. Bartholdt made the point of order that this amendment was not germane either to the original bill or the substitute.

The Speaker said:

The Chair thinks that an amendment providing that nobody shall come into the United State can hardly be germane as an addition to a bill which provides that only those who can read and write shall come in, and provides for consular certificates as to those who may come in.

5871. An amendment prohibiting aliens from coming temporarily into the United States to work was held not to be germane to a bill to regulate the immigration of aliens.—On May 22, 1902,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12199) to regulate the immigration of aliens into the United States, when Mr. John B. Corliss, of Michigan, offered as an amendment a proposition to prohibit male aliens from being employed on the public works of the United States or from coming regularly into the United States for engaging in any trade or manual labor, returning from time to time to a foreign country.

Mr. William B. Shattuc made a point of order against the amendment.

After debate the Chairman[4] said:

The Chair will first dispose of the point of order made upon these two amendments. The bill before the House is a bill regulating the immigration of aliens into the United States. The scope of the measure is exceedingly broad, and any amendment relating directly to the general scope and intent of the bill would be germane.

These amendments bring in an entirely new subject not alluded to in the bill, but relating to contract labor and contract-labor laws. If the Chair did not feel convinced in his own mind on this point of order, he would feel inclined to follow the decision made by Mr. Speaker Reed in the Fifty-

[1] First session Fifty-fourth Congress, Record, pp. 5417, 5421.

[2] Thomas B. Reed, of Maine, Speaker.

[3] First session Fifty-seventh Congress, Record, pp. 5834, 5835.

[4] Henry S. Boutell, of Illinois, Chairman.

fourth Congress, which the gentleman from Michigan [Mr. Corliss] will undoubtedly recall.[1] On an immigration bill similar to the pending bill amendments similar to the pending amendments were offered, and points of order were made against them. The points of order were sustained by Mr. Reed on the ground that the amendments relating to contract labor were not germane to an immigration bill. In view of the precedent established by Mr. Speaker Reed, and in accordance with what seems to the Chair to be correct parliamentary practice, the point of order is sustained on the ground that the amendments are not germane to the subject-matter of the bill.

5872. On May 27, 1902,[2] the Committee of the Whole House on the state of the Union was continuing the consideration of the bill (H. R. 12199) to regulate the immigration of aliens into the United States, when Mr. De Alva S. Alexander, of New York, offered the following amendment:

Amend by adding as new sections, to be known as sections 30 and 31:

"SEC. 30. That it shall hereafter be unlawful for any male alien who has not in good faith made his declaration before the proper court of his intention to become a citizen of the United States to be employed on any public works of the United States, or to come regularly or habitually into the United States by land or water for the purpose of engaging in any mechanical trade or manual labor, for wages or salary, returning from time to time to a foreign country.

"SEC. 31. That it shall be unlawful for any person, partnership, company, or corporation knowingly to employ any alien coming into the United States in violation of the next preceding section of this act: *Provided,* That the provisions of this act shall not apply to the employment of sailors, deck hands, or other employees of vessels, or railroad train hands, such as conductors, engineers, brakemen, firemen, or baggagemen, whose duties require them to pass over the frontier to reach the termini of their runs, or to boatmen or guides on the lakes and rivers on the northern border of the United States."

Mr. W. B. Shattuc, of Ohio, made the point of order that the amendment was not germane.

After debate the Chairman[3] held:

The amendment of the gentleman from New York, with a slight variation which does not change the effect of the amendment, is the same as the amendment offered by the gentleman from Michigan [Mr. Corliss] last week, and to which the point of order was sustained. The same question was raised in the Fifty-fourth Congress by a similar amendment to an immigration bill; and, as the Chair stated in passing upon it last week, Mr. Speaker Reed sustained the point of order on the ground, among other things, that the amendment related to contract labor, on a subject not included within the general scope of an immigration bill. One of the tests of the germaneness of an amendment would be whether if introduced originally it would go to the committee having in charge the bill before the House. Now, it seems to the Chair that the provisions contained in the amendment offered by the gentleman from New York, if submitted as an original amendment, would, under our rules, go to the Committee on Labor. * * * As the Chair stated, this is the same amendment that the Chair ruled upon last week, and although the word "contract" does not appear, the reading of the amendment discloses this fact, referring to those who come regularly and habitually into the United States by land or water for the purpose of engaging in any mechanical trade or manual labor, the amendment is one which relates to the occupation or the employment of the immigrant after his arrival. So that under the circumstances, and the Chair having ruled upon it last week, the point of order will be sustained.

5873. An amendment providing for an educational test for immigrants was held to be germane to a bill to regulate the immigration of aliens into the United States.—On May 22, 1902,[4] the Committee of the Whole House on the state of the Union was considering- the bill (H. R. 12199) to regulate

[1] See section 5870 of this chapter.

[2] First session Fifty-seventh Congress, Record, p. 6005.

[3] Henry S. Boutell, of Illinois, Chairman.

[4] First session Fifty-seventh Congress, Record, p. 5822.

the immigration of aliens into the United States, when Mr. Oscar W. Underwood, of Alabama, proposed an amendment providing an educational qualification, there being no such qualification in the bill.

Mr. William B. Shattuc, of Ohio, made the point of order that the amendment was not germane.

After debate the Chairman [1] said:

The Chair would point out in passing on this question that an examination of this bill shows that it is a general immigration measure, the title being "to regulate the immigration of aliens into the United States." Section 35 repeals all other laws inconsistent with this law. Any amendment to this bill, in the opinion of the Chair, which is clearly and distinctly connected logically with the general scope and intent of the bill would be germane.

Section 2 provides restrictions upon which aliens shall enter this country; it limits the number of aliens by classes who may enter this country. This amendment provides for a new section, adds a new restriction, an additional restriction, to the class of persons who may enter under our immigration laws.

It is not the province of the Chair to pass on the merits or demerits of any amendment, or its wisdom or justice. It appears to the Chair that this amendment is clearly, distinctly, and logically connected with the general scope of a bill regulating the immigration of aliens into the United States, and under these circumstances the Chair feels constrained to overrule the point of order and hold that the amendment is germane to the bill.

5874. A proposition to prohibit the employment of Chinese on American vessels was held not to be germane to a bill to prevent their coming into the United States.—On April 7, 1902,[2] the Committee of the Whole House on the state of the Union, was considering the bill (H. R. 1303) to prohibit the coming into and to regulate the residence within the United States, its Territories, and all territory under its jurisdiction, and the District of Columbia, of Chinese and persons of Chinese descent.

During consideration of the bill for amendments Mr. Champ Clark, of Missouri, offered an amendment prohibiting the employment of any Chinese person not entitled to admission to the United States on any vessel holding an American register.

Mr. James B. Perkins, of New York, raised the question of order that the amendment was not germane.

After debate the Chairman [3] held:

The Chair is ready to rule with considerable hesitation upon this question. There is no question as to the rule which governs the point now raised by the gentleman from New York. The statement of Rule XVI is in these words:

"No motion or proposition on a subject different from that under consideration shall be admitted under cover of an amendment."

However simple the rule may be, its application to the varying states of fact which are brought before this body is not easy, because it is not always easy to decide what is the subject under consideration. In this case it is by the title of the-bill said to be a proposition "to prohibit the coming into and to regulate the residence within the United States, its Territories, and all territory under their jurisdiction, and the District of Columbia, of Chinese and persons of Chinese descent.

The title of the bill is unimportant, except so for as it correctly describes the bill itself. The Chair has examined this bill with a good deal of care, and has caused it to be examined by another

[1] Henry S. Boutell, of Illinois, Chairman.

[2] First session Fifty-seventh Congress, Record, pp. 3801–3803.

[3] William H. Moody, of Massachusetts, Chairman.

person with a good deal of care. In point of fact, there is no provision in the bill except a provision looking to the exclusion of Chinese from our territory. There is no provision regulating the employment of Chinese within our territory, as the gentleman from Pennsylvania [Mr. Grow] has just now so forcibly pointed out. Whatever the motive may be behind the bill, whatever the reason for its enactment may be, the actual subject under consideration is the exclusion of Chinese from American territory.

It is said that the deck of an American ship is American territory. So it is, while that ship is upon the high seas. When it is in the port of a foreign country it is not American territory unless the ship be a public ship of war. Such, if the Chair understands correctly, is the rule of international law.

But the amendment offered by the gentleman from Missouri is not to prohibit Chinese from coming upon the ships sailing under the American flag, but is to prohibit their employment under the American flag, a subject entirely different from that under consideration by the Committee. Could it be in order, for instance, upon an immigration bill excluding certain classes of people from coming to these shores, to provide that our ambassadors abroad should not employ persons of that same descript1on? It would hardly be contended that that would be in order.

The attention of the Chair has been called to a ruling made by Mr. Speaker Reed[1] on the 19th of May, 1896, where a bill to amend the immigration laws of the United States was before the House, and it was proposed by that bill to exclude all male persons between 16 and 60 years of age "who can not both read and write the English language or some other language." Mr. Corliss, of Michigan, offered an amendment excluding aliens living in another country and while so living there entering into the United States to engage in labor within its borders—what the Chair remembers the gentleman from Michigan termed "birds of passage."

A point of order was made against the amendment, and Mr. Speaker Reed sustained the point of order upon the ground that the amendment was not germane, although both the bill and the amendment had in view the protection of American labor. The Chair will say that if this amendment had proposed to prohibit the presence as employees of Chinese persons upon American ships touching American ports, where there would be an opportunity for escape from the ship from time to time, the Chair would have ruled that to be germane to the general purpose of the bill, which is to prohibit the entering of Chinese persons into American territory; but for the reasons that were so well stated by the gentleman from Pennsylvania [Mr. Grow], that this bill is not engaged in the regulating of the employment of labor, but in excluding persons of Chinese blood and descent from our territories, the Chair sustains the point of order.

Thereupon Mr. Julius Kahn, of California, offered the amendment modified to read as follows:

And it shall be unlawful for any vessel holding an American register on a voyage terminating at an American port to have or to employ, etc.

Mr. Perkins having raised a question of order, the Chairman said:

As the Chair has stated, this bill is to prohibit the entrance of Chinese laborers into the United States. Seamen are laborers within the distinctions made in this bill, and the amendment now before the Committee proposes to prohibit the coming of such laborers into an American port. It is based upon the theory that great safeguards are needed to carry out the purpose of the law. The bill is full of provisions which are intended to guard against evasions of the law. For instance, upon page 10 of the bill it is provided that even the Chinese who are entitled under this bill to enter our ports can only come in at certain named ports of entry. In other words, the regulation of American ships or foreign ships bearing Chinese to our shores is prescribed by this bill. The Chair thinks, therefore, that, with the modifications which have been made in the amendment, it is clearly in order and overrules the point of order. The question is upon agreeing to the amendment,

5875. To a resolution requesting information as to the amount of money in the Treasury of the United States an amendment calling for information as to the number of distilleries in the United States was

[1] See section 5870 of this chapter.

held not to be germane.—On February 27, 1884,[1] Mr. William R. Morrison, of Illinois, from the Committee on Ways and Means, reported a resolution requesting the Secretary of the Treasury to inform the House how much money was now in the Treasury of the United States, under what provisions of law it was retained, and how much, in view of current receipts, etc., could be applied to the liquidation of the public debt without embarrassing the Department.

Mr. John D. White, of Kentucky, moved to amend the same by adding a request for information as to the number of distilleries in the United States, the number of gallons produced from fruit, etc., and other facts relating to distilled spirits.

Mr. William S. Holman, of Indiana, made the point of order that the amendment was not germane, and the Speaker[2] sustained it.

5876. An amendment in the nature of a substitute providing simply for the establishment of land offices was held not to be germane to a bill providing for the organization of a Territorial government.—On May 10, 1860,[3] pending consideration of the bill (H. R. 707) to provide a temporary government for the Territory of Idaho, Mr. Eli Thayer, of Massachusetts, proposed an amendment in the nature of a substitute for the bill.

Mr. Galusha A. Grow, of Pennsylvania, made the point of order that, inasmuch as the bill provided for the organization of a Territorial government and the amendment simply provided for the establishment of land offices, the amendment was not in order.

The Speaker[4] sustained the point of order.

In the discussion the precedent of the preceding Congress, when the homestead bill was offered as a substitute for the bill relating to redemption of the public lands, was cited.

Mr. Thayer having appealed, the appeal was laid on the table, yeas 84, nays 77.

5877. To a bill relating to the sale of the public lands an amendment proposing to give them to settlers was held not to be germane.—On January 20, 1859,[5] the House was considering the bill (H. R. 807) to amend the acts granting rights of preemption to settlers on the public lands of the United States, when Mr. Francis P. Blair, jr., of Missouri, proposed to submit an amendment in the nature of a substitute for the said bill, the general object of said amendment being "to donate a homestead of one hundred and sixty acres of public land, upon condition of occupancy and cultivation, to every citizen of the United States who is the head of a family."

Mr. Williamson R. W. Cobb, of Alabama, made the point of order that the amendment, not being germane to the bill, was out of order.

The Speaker[6] said:

The title of the bill reported from the Committee on the Public Lands describes its character; it is a bill to amend the acts granting rights of preemption to settlers on the public lands of the United States.

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[1] First session Forty-eighth Congress, Journal, p. 683.

[2] John G. Carlisle, of Kentucky, Speaker.

[3] First session Thirty-sixth Congress, Journal, pp. 817, 818; Globe, pp. 2047, 2048.

[4] William Pennington, of New Jersey, Speaker.

[5] Second session Thirty-fifth Congress, Journal, p. 223; Globe, p. 492.

[6] James L. Orr, of South Carolina, Speaker.

The amendment of the gentleman from Missouri is the homestead bill, and proposes to give every man who is the head of a family a quarter section of land. The Chair does not perceive the slightest similarity between the regular sale of the public lands and the giving them away as a gratuity. The policy is a very different one where the sale is regulated by law from that where the lands are given away. It would be as competent for the gentleman to amend the original bill reported from the Committee on the Public Lands by proposing to give all the public lands for school purposes in the several States, or to make any other like disposition of them which the fancy or caprice of any Member may dictate. It is on that ground that the Chair rules the amendment out of order.

5878. To a bill relating to the sale of the public lands an amendment limiting alien ownership of land other than the public lands was held not to be germane.—On June 26, 1888,[1] the House was considering a bill relating to the disposal of the public lands of the United States, when Mr. William C. Oates, of Alabama, proposed this amendment:

That no alien or person who is not a citizen of the United States shall, after the approval of this act, acquire title to or own a greater interest than a leasehold for five years in any lands anywhere within the United States of America and their jurisdiction; and deeds or other conveyances of land acquired after the approval of this act by any alien or unnaturalized foreigner, or by any company, firm, or corporation composed of such, shall be void: *Provided,* That foreign governments and their representatives may acquire and own lands or lots sufficient in quantity for ministerial and legation purposes, to be approved by the Secretary of State: *Provided further,* That any alien may for valuable consideration take hold, and assign, foreclose and sell under any mortgage or deed of trust any land within the United States and their jurisdiction.

Mr. William S. Holman, of Indiana, made the point of order that the amendment was not germane to the bill.

The Speaker pro tempore[2] held:

The Chair thinks that the amendment of the gentleman from Alabama, in so far as it seeks to control the future disposition of lands not now the property of the Government, and not the subject of legislation in this bill, is not germane. To that extent, therefore, the Chair sustains the point of order. The gentleman from Alabama having, in framing his amendment, gone beyond the public lands, the Chair is compelled to hold that the amendment is not in order. It would be competent, in the opinion of the Chair, to adopt a proviso of the kind suggested, applicable only to the public lands and their disposition; but waiving altogether the question of the power of Congress—a matter with which the Chair would have nothing to do—the Chair thinks it is not germane in a bill of this kind, dealing only with the public domain, to attempt to incorporate any provision not bearing distinctly upon the public lands and their disposition.

5879. To a bill to enlarge the size of homesteads in a certain State, an amendment changing the commutation law as to homesteads generally, was offered and held not to be germane.—On February 28, 1905,[3] the House was considering the bill (H. R. 18464) to amend the homestead laws as to certain unappropriated and unreserved lands in South Dakota, when Mr. Oscar W. Underwood, of Alabama, offered an-amendment repealing Section 2301 of the Revised Statutes, which authorizes the commutation of homesteads on the public lands generally.

Mr. Eben W. Martin, of South Dakota, made the point of order that the amendment was not germane.

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[1] First session Fiftieth Congress, Record, pp. 5600, 5604; Journal, p. 2222.

[2] Benton McMillin, of Tennessee, Speaker pro tempore.

[3] Third session Fifty-eighth Congress, Record, pp. 3683, 3684.

The Speaker[1] held, after debate:

The Chair finds on examination that this bill affects lands in the State of South Dakota. The Chair also finds upon examination that as to those lands in South Dakota it repeals the commutation homestead clause. The amendment which the gentleman from Alabama offers applies to all the public lands in the United States subject to homestead entry. * * * But this bill affects land alone in the State of South Dakota. The gentleman's amendment would affect land everywhere outside of the State of South Dakota.

Even without any precedents the Chair would be clear that the amendment would not be germane upon this bill. The Chair, however, has a precedent in principle:

"In a provision extending the customs and internal-revenue clause of the United States over the Hawaiian Islands, an amendment for effecting the extension of all the laws of the United States over those islands was offered and held not to be germane."[2]

It is perfectly clear, in the opinion of the Chair, that under the rules the amendment is subject to the point of order.

5880. To a bill transferring the care of forest reserves to the Department of Agriculture, an amendment modifying the civil service rules as to officials in those reserves was held not germane.—On December 12, 1904,[3] the House was considering this bill:

A bill (H. R. 8460) providing for the transfer of forest reserves from the Department of the Interior to the Department of Agriculture.

Be it enacted, etc., That the Secretary of the Department of Agriculture shall, from and after the passage of this act, supervise the execution of all laws and regulations affecting public lands heretofore or hereafter reserved under the provisions of section 24 of the act entitled "An act to repeal the timber-culture laws, and for other purposes," approved March 3, 1891, and acts supplemental to and amendatory thereof, after such lands have been so reserved, excepting such laws as affect the surveying, entering, relinquishing, reconveying, certifying, or patenting of any of such lands.

To this bill Mr. Eben W. Martin, of South Dakota, proposed to add this as an amendment:

Provided, however, That forest superintendents, supervisors, and rangers shall be selected, when practical, from qualified citizens of the State or Territory in which said reserves, respectively, are situated.

Mr. Sereno E. Payne, of New York, made the point of order that the amendment was not germane.

The Speaker[1] held:

The bill provides for the transfer of the forest reserves from the Department of the Interior to the Department of Agriculture. The amendment seeks to deal with the civil service of the Government, amendatory of existing law touching the civil service. It seems to the Chair that it is not germane, and therefore the Chair sustains the point of order.

5881. The distribution of seed grain to a class of destitute farmers was held not to be germane to the regular Congressional seed distribution for the improvement of agriculture.—On February 25, 1891,[4] the House was in Committee of the Whole House on the state of the Union considering the agcultural appropriation bill, and the paragraph appropriating for the annual

[1] Joseph G. Cannon, of Illinois, Speaker.

[2] See section 5864 of this chapter.

[3] Third session Fifty-eighth Congress, Record, p. 167.

[4] Second session Fifty-first Congress, Record, p. 3268.

distribution of seeds, trees, shrubs, vines, etc., among the constituents of Members of Congress had been reached.

Mr. Edward P. Allen, of Michigan, offered an amendment providing for the distribution of seed grain to such farmers in the States of North Dakota, South Dakota, and Nebraska, and the Territory of Oklahoma as had had their crops destroyed by the elements in the year 1890, and who should be found to be too impoverished and destitute to supply themselves with seed grain for use in the year 1891.

Mr. Judson C. Clements, of Georgia, made a point of order against the paragraph.

The Chairman [1] sustained the point of order.

5882. To a proposition relating to the terms of service of Representatives and Senators, an amendment proposing election of Senators by the people was held not to be germane.—On January 10, 1893,[2] the House proceeded to the consideration of the joint resolution (H. J. Res. 98) proposing amendments to the Constitution substituting the 31st day of December for the 4th day of March as the commencement and termination of the official terms of Members of the House of Representatives and of United States Senators, and providing that Congress shall hold its annual meeting on the second Monday in January and substituting the 30th of April for the 4th of March as the date for the commencement and limitation of the terms of President and Vice-President.

After debate, Mr. William S. Holman, of Indiana, submitted this amendment:

> That the Senate of the United States shall be composed of two Senators from each State, who shall be chosen by a direct vote of the people of the several States for six years; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature; and each Senator shall have one vote.

Mr. Nelson Dingley, Jr., of Maine, made the point of order that the amendment proposed by Mr. Holman was not germane to the pending joint resolution.

The Speaker [3] sustained the point or order.

5883. To a bill providing for an issue of Treasury notes, an amendment providing for the redemption of such notes by suspending the distribution of the proceeds of public land sales was held not to be germane.— On January 10, 1842, [4] the House was considering in Committee of the Whole House on the state of the Union a bill authorizing the issue of Treasury notes.

To this bill Mr. John B. Weller, of Ohio, offered an amendment in the form of a new section, to provide that so much of the act of September 4, 1841, as provided for the distribution of the proceeds of the public lands among the States and Territories be suspended, and that the said fund should be applied to the payment of the outstanding Treasury notes, as well as those authorized to be issued under this act.

Mr. Millard Fillmore, of New York, made the point of order that the proposed amendment was not relevant to the subject-matter of the bill.

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[1] Nelson Dingley, jr., of Maine, Chairman.

[2] Second session Fifty-second Congress, Journal, p. 39; Record, pp. 483, 497, 498.

[3] Charles F. Crisp, of Georgia, Speaker.

[4] Second session Twenty-seventh Congress, Globe, p. 112.

The Chairman[1] said:

The amendment proposed is objected to as not in order, and the fiftieth rule of the House is relied upon to sustain the objection. That rule prescribes that "no motion, or proposition, on a, subject different from that under consideration shall be admitted under color of amendment." The question, therefore, of order in this case resolves itself into one of fact. Is the amendment now proposed "on a subject different from that under consideration?" If it is, then it is clear that the amendment is not in order. The subject under consideration is a bill for the issue of Treasury notes. The amendment, whilst it may be regarded as a proposition to set apart the proceeds of the sales of the public lands as a fund either to supersede, to some extent, the issue of Treasury notes, or for the redemption of such as may be issued, and to that extent unquestionably of a kindred character to the bill under consideration, still the fact can not but strike every gentleman that the amendment aims at the repeal of an existing law, and the mere statement of the proposition can not fail to inspire us all with the wide difference between a bill to issue Treasury notes and a bill to repeal the distribution act. It may be admitted that either proposition would attain the same end—that of furnishing supplies for the use of the Government-still the Chair, regarding the repeal of the law referred to in the amendment as wholly different from the bill under consideration, inclines to the opinion that the amendment is not in order.

Mr. John McKeon, of New York, having appealed, the decision of the Chair was sustained by the committee, yeas 92, nays 79.

5884. To a provision for the erection of a building for a mint, an amendment to change the coinage laws was held not to be germane.—On May 11, 1892,[2] the House was in Committee of the Whole House on the state of the Union considering the sundry civil appropriation bill. The Clerk having read the section of the bill providing for the purchase of a site and the commencement of the building of an addition to the mint at Philadelphia, Mr. Richard P. Bland, of Missouri, offered the following amendment:

Provided, That all silver bullion now in the Treasury the property of the Government, or hereafter purchased by or becoming the property of the Government, shall be immediately coined into standard silver dollars, and the seigniorage or gain arising therefrom covered into the Treasury and paid out to meet the appropriations herein provided for.

Mr. Charles Tracey, of New York, made a point of order against this amendment.

The Chairman[3] ruled:

The paragraph to which this amendment is offered proposes to appropriate money for the building of a mint in the city of Philadelphia. The amendment deals with the general question of the coinage of money. It occurs to the Chair that the amendment is obnoxious to paragraph 7, Rule XVI,[4] because it is not germane to the subject under consideration.[5]

The Chair further held the amendment out of order under section 2, Rule XXI, as proposing a change of existing law.

5885. To a bill regulating the sale and speculation in certain farm products, an amendment providing for the free coinage of silver at a fixed ratio was held not to be germane.

Under the rule for the previous question only one motion to recommit is in order.

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[1] George W. Hopkins, of Virginia, Chairman.

[2] First session Fifty-second Congress, Record, pp. 4174, 4181.

[3] Rufus E. Lester, of Georgia, Chairman.

[4] See section 5767 of this volume.

[5] Similar amendments to a bill relating to the national banks were held not to be germane. (First session Forty-seventh Congress, Journal, pp. 1284–1293.)

On June 22, 1894,[1] the House had ordered to be engrossed and read a third time the bill (H. R. 7007) regulating the sale of certain agricultural products, defining options, etc., and the question recurred on its passage.

Mr. Charles S. Hartman, of Montana, moved to recommit the bill to the Committee on Agriculture with instruction to report the same to the House with an amendment providing for the free coinage of gold and silver at a ratio of 16 to 1.

Mr. Charles Tracey, of New York, made the point that the amendment proposed in the motion was not in order.

The Speaker pro tempore[2] sustained the point of order.

Mr. Charles J. Boatner, of Louisiana, moved that the bill be recommitted to the Committee on Agriculture with instruction to report a similar bill limiting its provisions to transactions between citizens of different States.

Mr. William H. Hatch, of Missouri, made the point of order that the proposed instruction was not in order.

The Speaker pro tempore overruled the point of order.

On motion of Mr. Boatner, the previous question was ordered on agreeing to the motion to recommit. And being put, the motion to recommit was disagreed to.

Mr. Benjamin F. Funk, of Illinois, submitted a motion to recommit the bill with instruction to report the same, with an amendment adding sugar, refined and unrefined, to the articles enumerated therein.

The Speaker pro tempore[2] held that, in accordance with the usage of the House only one motion to recommit was in order after the previous question is ordered on the passage of a bill; and that one motion having been entertained and disposed of, the motion submitted by Mr. Funk was not in order.

5886. To a bill relating to the coinage of silver in the Treasury and its use in redemption of notes issued against it, amendments authorizing the issue of bonds and also authorizing the giving of notes for deposits of silver, were held not to be germane.—On March 1, 1894,[3] the House proceeded to the consideration of the bill (H. R. 4956) directing the coinage of the silver bullion in the Treasury, and for other purposes. This bill provided for the coinage of the seigniorage arising from the act of July 14, 1890, and the use of it for expenses of the Government through the medium of certificates issued against it; and also the bill provided for the coinage of the other silver purchased under the terms of the act of 1890, and its use in the redemption and cancellation of the Treasury notes which had been issued against it.

Mr. Martin N. Johnson, of North Dakota, offered this amendment to the bill:

> The Secretary of the Treasury shall afford to holders of standard silver dollars the same rights and facilities as to redemption and exchange as now accorded to the holders of silver dimes, quarter dollars, and half dollars.

Mr. Richard P. Bland, of Missouri, made the point of order that the amendment was not germane to the bill.

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[1] Second session Fifty-third Congress, Journal, p. 446; Record, p. 6739.

[2] Joseph W. Bailey, of Texas, Speaker pro tempore.

[3] Second session Fifty-third Congress, Journal, pp. 216, 217; Record, pp. 2511, 2513, 2514.

The Speaker[1] entertained the amendment.

Mr. Isidor Straus, of New York, submitted as an amendment to the amendment proposed by Mr. Johnson, of North Dakota, the following:

That the Secretary of the Treasury be, and he is hereby, authorized to issue from time to time coupon and registered bonds of the United States in denominations of $20 and multiples of that sum, payable in coin after five years from date, and bearing interest at a rate not exceeding 3 per cent per annum, payable quarterly in coin, and to sell and dispose of the same at not less than par in coin; and the proceeds of such bonds shall be paid into the Treasury and held and used for the purposes now authorized by law.

Mr. Bland made the point that the amendment submitted by Mr. Straus was not germane and not in order.

The Speaker sustained the point of order, and the amendment of Mr. Straus was not entertained.

Mr. Joseph G. Cannon, of Illinois, submitted as an amendment to the pending amendment proposed by Mr. Johnson, of North Dakota, several sections, of which the first was as follows:

That any owner of silver bullion may deposit the same at any coinage mint or at any assay office in the United States that the Secretary of the Treasury may designate, and receive therefor Treasury notes hereinafter provided for, equal at the date of deposit to the net value of such silver, at the market price, such price to be determined by the Secretary of the Treasury under rules and regulations prescribed, based upon the price current in the leading silver markets of the world.

Mr. Bland made the point of order that the amendment submitted by Mr. Cannon was not germane to the subject under consideration.

The Speaker sustained the point of order, saying:

The Chair is not familiar with, and has not been able to carefully consider, all of the provisions of this proposed amendment, but it is a well-established rule that if any part of an amendment is out of order, or is not germane, that fact taints the character of the whole; and the Chair thinks that in order to authorize an amendment to the pending proposition the gentleman must have his amendment in such shape that no part of it is out of order. It is clear to the Chair that the first proposition contained in this amendment is out of order and is not germane. Whereas the pending bill proposes to deal with the silver now in the Treasury, this is a proposition to permit all holders of silver to take it to the Treasury and have it coined under a free-coinage proposition—a proposition dealing with silver which his outside of the Treasury—and therefore the Chair does not think it is in order, and so holds.

5887. To a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the Government was held not to be germane.—On February 28, 1898,[2] Mr. Richard Bartholdt, of Missouri, by unanimous consent, presented the bill (H. R. 6358) authorizing the Nebraska, Kansas and Gulf Railway Company to construct and operate a railway through the Indian Territory, and for other purposes.

To this Mr. Adbert M. Todd, of Michigan, proposed as an amendment a provision, as follows:

That the United States of America shall have the right to purchase the franchise rights and other property herein granted, with the roadbed, bridges, telegraph lines, and tracks, together with such other property and rights as the Government may deem necessary for the proper operation of the road.

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[1] Charles F. Crisp, of Georgia, Speaker.

[2] Second session Fifty-fifth Congress, Record, pp. 2301, 2302.

at any time after ten years from this date, whenever the Government shall elect to exercise such right, by giving the railroad company or its assigns two years' notice of such intention to purchase, etc.

Mr. Bartholdt made the point of order that the amendment was not germane.

The Speaker, said:

The Chair understands that the Government does not grant a franchise to the road, but simply gives it a right of way. It does not give a charter to the road. * * * The Chair will have to sustain the point of order.

5888. To a bill relating to the resignation and salary of a district judge, an amendment providing for the division of that judge's district into two districts was offered and held not to be germane.—On January 5, 1899,[2] the House was considering in Committee of the Whole House on the state of the Union the bill (S. 4786) providing for the resignation of Cassius G. Foster, United States district judge for the district of Kansas, and the continuation of his salary.

To this bill Mr. Jerry Simpson, of Kansas, offered as a substitute an amendment providing for the division of Kansas into two judicial districts, for the holding of district and circuit courts therein, and for the appointment of the additional judge required for the second district.

Mr. David B. Henderson, of Iowa, made the point of order that the amendment was not germane.

The Chairman[3] sustained the point of order.

5889. To a bill providing for the holding of courts in certain existing judicial districts, an amendment providing for the creation of a new district was held not germane.

It is not in order to do indirectly, by a motion to commit with instructions, what may not be done directly by way of amendment.

On May 17, 1884,[4] the House having under consideration a bill relating to the judicial districts of the State of Texas, the bill was passed to be engrossed and read a third time under the operation of the previous question.

The question then being on the passage of the bill, Mr. Poindexter Dunn, of Arkansas, moved to recommit the bill to the Committee on the Judiciary, with instructions to report the same with an amendment in the nature of a substitute as submitted by him.

The Clerk having read a portion of the proposed amendment, Mr. Thomas M. Browne, of Indiana, made the point of order that the motion was not in order, for the reason that the proposed amendment was not germane to the pending bill.

The Speaker,[5] sustained the point of order, saying:

The Chair is inclined to think that the substitute embodied by the gentleman in his motion to recommit is not germane. The bill pending before the House is a bill to amend the act in relation to holding courts in certain judicial districts and to attach part of the Indian Territory to a judicial district now in existence-, whereas the bill which the gentleman from Arkansas has sent to the Clerk's desk creates an entirely new judicial district and provides for the appointment of an additional judge

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[1] Thomas B. Reed[7] of Maine, Speaker.

[2] Third session Fifty-fifth Congress, Record, p. 412.

[3] William P. Hepburn, of Iowa, Chairman.

[4] First session Forty-eighth Congress, Journal, p. 1247; Record, pp. 4256, 4257.

[5] John G. Carlisle, of Kentucky, Speaker.

and other necessary officers to hold courts in the Indian Territory. It relates alone to Indian Territory. * * * The question which the Chair is called upon to decide is whether the bill which the gentleman proposes to embody in his instructions is in fact germane to the subject to which the other bill relates. The Chair thinks it is not. There is Do doubt in the mind of the Chair that the bill now sent up would, under the rules of the House, have to receive its first consideration in the Committee of the Whole; whereas the other bill, as the Chair decided in view of former rulings, need not go to that committee, but might be considered at once in the House. The Chair thinks that these instructions are not in order, although a motion to commit simply would be in order. * * * It has been decided frequently that it is not competent for the House to accomplish indirectly, by reference to a committee with instructions, what could not be accomplished directly by offering an amendment on the floor—that is to say, if the bill which the proposed instructions direct the committee to report is not germane as an amendment, it can not be brought before the House on a motion to recommit.

5890. To a proposition to investigate the conduct of Members in relation to a Department of the Government, an amendment proposing an investigation of the Department itself was held not to be germane.

A privileged proposition may not be amended by adding thereto matter not privileged or germane to the original question.

On March 11, 1904,[1] the following resolution, involving a question of high privilege, was before the House.

Whereas Fourth Assistant Postmaster-General J. L. Bristow, in his report to the Postmaster-General, dated October 24, 1903, and which report has been transmitted to a committee of this House, has charged that "long-time leases for post-office premises were canceled and the rent increased upon the recommendation of influential Representatives;" and

Whereas it is charged in the same report that "if a Member of Congress requested an increase in the clerk hire allowed a postmaster, Beavers usually complied, regardless of the merits of the case;" and

Whereas certain cases of an aggravated character are cited on pages 133, 134, and 135 of said report to sustain the above charges; and

Whereas on page 145 of said report it is charged that Members of Congress have violated section 3739 of the Revised Statutes, and that "in the face of this statute Beavers has made contracts with Members of Congress for the rental of premises, either in their own names, the names of their agents, or some member of their families;" and

Whereas these charges and others contained in said report reflect upon the integrity of the membership of this House, and upon individual Members of this House whose names are not mentioned: Therefore be it

Resolved, That the Speaker of this House appoint a committee, consisting of five Members of this House, to investigate said charges; that said committee have power to send for persons and papers, to enforce the production of the same, to examine witnesses under oath, to have the assistance of a stenographer, and to have power to sit during the sessions of the House, and to exercise all functions necessary to a complete investigation of said charges, and to report the result of said investigation as soon as practicable.

To this Mr. John A. Moon, of Tennessee, proposed an amendment in the nature of a substitute, to strike out all after the word "resolved," and insert:

That the Speaker of the House appoint a committee, consisting of five Members of this House, to investigate the conduct and administration of the Post-Office Department; that said committee have power to send for persons and papers and enforce the production of the same, to examine witnesses under oath, to have the assistance of a stenographer and all necessary clerks, to have the power to sit during the sessions of the House and exercise all functions necessary to a complete investigation of all frauds and irregularities alleged to exist in the said Department, including alleged frauds, irregularities, illegalities, and improprieties by Members of Congress in connection with said Department, and to report the result of said investigation as soon as practicable.

[1] Second session Fifty-eighth Congress, Record, pp. 3146–3149; Journal, p. 418.

Mr. Jesse Overstreet, of Indiana, made the point of order that the proposed amendment was not germane and not privileged.

In the course of the debate on the question of order, Mr. David A. De Armond, of Missouri, said:

I rise for the purpose of making to the Chair a suggestion which I hope he may adopt; which if it seems to him proper to be adopted he will adopt, I think. It is that, instead of formally ruling upon this point of order, the Speaker do as very many of his predecessors did in the time past—submit the question to the House, to let it determine for itself.

At the conclusion of the debate the Speaker [1] ruled:

The gentleman from Tennessee offers the amendment which has been reported at the Clerk's desk. It provides for a general investigation of the conduct and administration of the Post-Office Department, and also coupled with it an investigation as to the action of Members of Congress touching matters referred to. To this amendment the gentleman from Indiana makes the point of order, first, that it is not germane; second, that it is not privileged, or, to put it in another way, that even if it were germane, he makes the point that it couples a nonprivileged matter with a privileged matter. The question before the House is a matter of such high privilege, touching the dignity of the House and the integrity of Members in their representative capacity, that it displaces all other business. The gentleman from Virginia this morning called for the regular order, although matters made privileged by the rules were ready for the consideration of the House, and that demand for the regular order postponed those privileged matters, because this is a question of the highest privilege. Otherwise it could not be here.

Some weeks ago the gentleman from Virginia rose in his place to a question of privilege. Gentlemen will recollect that he then had a nonprivileged matter coupled with his question of privilege, and the Chair, sustained by the House, held that the resolution first offered was subject to the point of order because, while part of it represented a question of privilege, a part of it did not, and the decisions that the Chair then referred to by Mr. Speaker Carlisle, by Mr. Speaker pro tempore Blackburn, of Kentucky, and others, are within the recollection of the House. [2] The Chair will refer to those briefly again. The gentleman offered the resolution embodied in the report, which I need not take the time of the House to again read, free from the nonprivileged matter, and the House sent that resolution to the Committee on Post-Offices and Post-Roads. That committee reports back, with the recommendation that that resolution (known as the Hay resolution) do lie upon the table. Pending the vote on laying that privileged resolution upon the table, by unanimous consent, the gentleman from Tennessee, under the special order, offers this amendment. First, is it germane? Clause 7, Rule XVI, is as follows:

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

What is the question under consideration? A question of the highest privilege, touching the relations of the Members of this House to certain matters referred to in the report from the Post-Office Department. This amendment proposed to investigate the Post-Office Department generally, not only as to matters relating to Members of this House, but as to a wide variety of matters having no reference whatever to the Members of this House. A bare reading of the rule shows that the proposed amendment embodies a subject different from that under consideration. The Chair may insert, with the permission of the House—he will not take the time to read it—an extract from an opinion of Mr. Speaker Carlisle in construing the same rule, in which he gave the history of the rule and the practice of the House of Representatives heretofore. [3] It is an exceedingly clear opinion, like most of the opinions of Mr. Speaker Carlisle. The extract follows:

"The Congress of the Confederation, in 1781, adopted a rule in the following words:

"'No new motion or proposition shall be admitted under color of amendment as a substitute for a question or proposition under debate until it is postponed or disagreed to.'

"The House of Representatives of the First Congress, on the 4th of March, 1789, adopted the following rule upon this subject:

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] See sections 5809, 5810 of this chapter.

[3] See section 5825 of this chapter.

"'No new motion or proposition shall be admitted under color of amendment as a substitute for the motion or proposition under debate.'

"It will be observed that each of these rules admitted amendments introducing new motions or propositions if they were not offered as substitute for the motion or proposition under debate. But in March, 1822, the House changed the rule of 1789 so as to make it read as follows:

"'No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.'

"And in this form the rule has stood ever since, and now constitutes a part of the seventh clause of Rule XVI in the recent revision. The rule does not prohibit a committee reporting a bill from embracing in it as many different subjects as it may choose, but after the bill has been reported to the House no different subject can be introduced into it by amendment, whether as a substitute or otherwise.

"When, therefore, it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is simply that it (the proposed amendment) is a motion or proposition on a subject different from that under consideration. This is the test of admissibility prescribed by the express language of the rule."

Now, if it be germane and proper under the rules to couple a nonprivileged matter with a privileged matter, let us inquire a minute where it would lead the House. If this amendment to investigate the Post-Office Department is germane, an amendment to investigate the postal service is germane. If this is germane, an amendment to investigate the Interior Department or the Treasury Department would be germane. Any conceivable question connected with the Executive would be germane. If this be germane, whenever a Representative in a House of almost 400 Members desired to inaugurate an investigation touching any matter he need only make his motion so as to make it privileged, and then you could tack on all matters nonprivileged and nongermane, and the House, in the transaction of its business, would cease to be an orderly body, and would run lawless.

The Chair has a number of decisions here.

As early as 1827 a Speaker who occupied the Chair for four terms—Andrew Stevenson, of Virginia—held that an amendment commanding tariff revision was not germane to a resolution giving a committee power to investigate tariff subjects.[1] In later days Mr. Speaker Carlisle construed the rule with equal strictness, and held that a proposition to investigate the affairs of the New Orleans Cotton Exposition was not germane to a proposition to pay the indebtedness of that exposition.

But the Chair is not confined to reasonings on general principles. The particular question involved has been settled before, and the Chair may follow a broad and well-beaten pathway.

Questions precisely similar arose in the Forty-eighth Congress; and there are found in sections 1078 and 1079 of the Parliamentary Precedents well-considered rulings—one by Mr. Speaker Carlisle and the other by Mr. J. C. S. Blackburn, of Kentucky, as Speaker pro tempore—wherein it is specifically held that a privileged proposition may not be amended by adding thereto matter not privileged or germane to the original question. The reasonableness and justice of these rulings have not been questioned in twenty years.

Under the Constitution the House makes rules for its government. The House elects the Speaker who presides over the body. The House determines and construes the rules when a question is properly presented before him; but with a line of precedents running for almost a century, whoever might occupy the chair would, in the opinion of the present occupant of the chair, act the coward if he did not call the attention of the House to the precedents touching the germaneness of this and similar amendments. The grouping together of privileged and nonprivileged matters is contrary to all rules, and has been so held by all occupants of this chair, so far as the Chair has been enabled to find himself, and after availing himself of advice from one who perhaps has a better knowledge of the precedents than any other man within the sound of my voice.

Therefore the Chair is constrained to sustain the point of order, first, that the amendment is not germane, and, second, that it is in the teeth of the rule that prohibits the linking together of privileged and nonprivileged matters.

Mr. James M. Griggs, of Georgia, having appealed, the appeal was, on motion of Mr. Overstreet, laid on the table by a vote of yeas 154, nays 125.

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[1] See section 5853 of this chapter.

5891. To a proposition for the appointment of a select committee to investigate a certain subject, an amendment proposing an inquiry of the Executive on that subject was held not to be germane.—On June 8, 1850,[1] the House was considering a resolution providing for the appointment of a select committee to investigate the conduct of the Secretary of the Treasury in relation to certain Indian funds.

Mr. Joseph R. Chandler, of Pennsylvania, moved to amend by striking out all after the word "resolved," and inserting:

That the Secretary of the Treasury be requested to report to this House an account of all sums of money which may have been taken (if any) from the surplus fund, which had accumulated to said fund under the provisions of the act of Congress of 1795 from appropriations made for the Florida Indians, and for other purposes, under various specific appropriations.

The Speaker[2] said:

A resolution was offered to raise a select committee, and it is proposed to amend that resolution by adopting the amendment which calls upon one of the Departments for information. The Chair holds that a resolution calling for information belongs to a different class of business altogether from the other resolution; and there are rules of the House containing provisions in respect to resolutions calling for information which do not apply to other propositions. One of these provisions is very important. It provides that a resolution calling for information must lie over, and that it can not be considered on the same day on which it is offered. The resolution now pending is in order; but the moment the Chair entertains the amendment of the gentleman from Pennsylvania and that amendment is brought before the House, the House must stop in the midst of the proceeding and the resolution calling for information must go over. The Chair gives this illustration to show that a resolution calling for information is never in order to a resolution of the character of that now under consideration. There is also another difficulty in the way. The rule of the House declares that these resolutions calling for information shall never be considered on the same day on which they are offered. The rule would be null and void if such a resolution could be brought in by way of amendment, and the rule which requires calls for information to lie over one day would thus, in effect, be abrogated.[3]

5892. An amendment relating to the Government tax on liquors sold in prohibition communities was held not to be germane to a proposition to prohibit the sale of liquor in the Capitol.—On May 27, 1902,[4] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12199) to regulate the immigration of aliens into the United States, when an amendment was offered, without objection that it was not in order, as follows:

That no intoxicating liquors of any kind shall be sold within the limits of the Capitol building of the United States.

To this amendment Mr. Charles K. Wheeler, of Kentucky, proposed the following amendment:

And the collectors of revenue districts of the United States are hereby directed to refuse license to sell spirituous, vinous, and malt liquor by retail to any person living in a county or district where the inhabitants of said county or district have by vote prohibited the sale of such liquors in such county or district.

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[1] First session Thirty-first Congress, Globe, p. 1233.

[2] Howell Cobb, of Georgia, Speaker.

[3] This rule has been changed in later years.

[4] First session Fifty-seventh Congress, Record, pp. 6011–6013.

Mr. William B. Shattue, of Ohio, made the point of order that the amendment to the amendment was not germane.

After debate, the Chairman [1] said:

The Chair is prepared to rule upon the point of order made by the gentleman from Ohio to the amendment offered by the gentleman from Kentucky to the amendment proposed by the gentleman from Indiana. The amendment offered by the gentleman from Indiana provides that no intoxicating liquors of any character shall be sold within the limits of the Capitol building of the United States. It will be observed that this amendment is not a general provision, prohibiting or restricting the sale of intoxicating liquors on all Government property or in all Government buildings, but is simply a prohibition against the sale of intoxicating liquors in one building, and any amendment restraining the sale of liquor in any other building or any other locality controlled by the Government would not be in order under the rule. The amendment offered by the gentleman from Kentucky also affects matters relating to the revenues, and would be original matter which would go to the committee dealing with matters relating to revenue. The Chair feels very clearly, therefore, that the amendment is not germane to the amendment offered by the gentleman from Indiana, and sustains the point of order made by the gentleman from Ohio.

Mr. Wheeler having appealed, the decision of the Chair was sustained—ayes 102, noes 16.

5893. An amendment prohibiting the sale of intoxicating liquors in all Government buildings accessible to aliens was held not germane to a proposition to prohibit such sale in immigrant stations.—On May 27, 1902, [2] the House was considering in Committee of the Whole House on the state of the Union the bill (11. R. 12199) to regulate the immigration of aliens into the United States, when Mr. Justin D. Bowersock, of Kansas, offered the following amendment:

On page 21, after the word "prescribe," in line 20, insert "provided that no intoxicating liquors shall be sold in any such immigrant station."

Mr. W. B. Shattuc, of Ohio, made the point of order that the amendment was not germane.

The Chairman [1] held:

The question is on the point of order raised by the gentleman from Ohio to the amendment offered by the gentleman from Kansas [Mr. Bowersock]. An examination of this bill discloses that section 30, in connection with section 32, provides in general terms for the government and regulation and the administration of the law in immigrant stations. In section 30 it is provided that eating-house privileges and other like privileges shall be disposed of by public competition, under the direction of the Commissioner of Immigration and the Secretary of the Treasury. These terms are general, and include the entire subject of the regulation and preservation of order in these immigrant stations. Any amendment making specific restrictions, and thereby limiting the general language in this section, would, in the opinion of the Chair, be clearly germane, and the point of order made by the gentleman from Ohio is therefore overruled.

Mr. Shattuc thereupon offered the following as a substitute for the amendment offered by Mr. Bowersock:

That hereafter it shall be unlawful to sell intoxicating liquor in any immigrant station or other building accessible to aliens, owned or used by the United States Government, or in the grounds appertaining to the same.

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[1] Henry S. Boutell, of Illinois, Chairman.

[2] First session Thirty-seventh Congress, Record, pp. 6005, 6006.

Mr. James R. Mann, of Illinois, made the point of order that the substitute was not germane.

After debate, the Chairman said:

The raising of a point of order necessarily throws upon the Chairman the responsibility of deciding it. This amendment offered by the gentleman from Ohio as a substitute, taken in its entirety, is certainly not germane to even the broadest scope or intent that could be given to this bill. As the Chair stated in ruling on the point of order, one test of the germaneness of an amendment that can always be made is this: Could the subject embraced in the amendment, if offered as an independent bill in the House, be referred to the committee which has reported the bill under consideration?

Now, that part of this amendment which restricts the sale of intoxicating liquor in all public buildings would certainly not be a matter which would be referred to the Committee on Immigration, and the description of these buildings as buildings which are accessible to aliens is a mere description of all public buildings by indirection or by circumlocution of words. It seems very clear to the Chair that, taken as a whole, this amendment, offered as a substitute, is not germane, and the Chair sustains the point of order made by the gentleman from Illinois.

5894. To a paragraph prohibiting the sale of firearms or intoxicating liquors to the natives of Alaska, an amendment providing a system for licensing the sale of liquor in that Territory was held not to be germane.— On January 11, 1899.[1] the House was considering the bill (H. R. 8571) to provide a criminal code for the district of Alaska. The Clerk read this section:

SEC. 145. That if any person shall, without the authority of the United States, or some authorized officer thereof, sell, barter, or give to any Indian or half-breed who lives and associates with Indians any firearms or ammunition therefor whatever, or any spirituous, malt, or vinous liquor, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than two months nor more than six months, or by fine not less than one nor more than five hundred dollars. Section 1955 of the Revised Statutes of the United States, and all that part of section 14 of "An act providing a civil government for Alaska," approved May 17, 1884, after the word "provided," is hereby repealed.

Mr. William H. Moody, of Massachusetts, had offered an amendment to strike out this section and insert the old provision of law prohibiting the sale of liquor in Alaska.

To this amendment Mr. Thomas H. Tongue, of Oregon, offered as an amendment a series of paragraphs providing a system for licensing the sale of intoxicating liquors in the district of Alaska.

Mr. William H. Moody, of Massachusetts, having reserved a point of order against the amendment, after debate the Speaker[2] decided:

The Chair would be very glad to submit the matter to the House, but is obliged to rule upon it according to his judgment and according to the precedents, which he has carefully examined. The section which it is proposed to amend does not deal generally with the liquor question. It is only a prohibition to sell intoxicating liquors, or firearms, or ammunition to Indians or half-breeds. It does not deal with the whole liquor question with reference to the Territory of Alaska, but is solely a prohibition to sell liquor and other things to Indians and half-breeds. Now, certainly it is not germane to a section of that sort to propose an entire change—to propose what is substantially and necessarily a revenue measure. That revenue measure may incidentally deal with the liquor question, but it deals with it only incidentally.

As the Chair has remarked, the gentleman from Oregon [Mr. Tongue], when he presented his original amendment, presented a complete scheme for raising revenue, not only by licensing the sale of

[1] Third session Fifty-fifth Congress, Record, pp. 580–584; Journal. pp. 67, 68.

[2] Thomas B. Reed, of Maine, Speaker.

liquors, but also by licensing various other occupations not of a similar character, and some that were of what might be called a similar character. That showed what his idea was when he originally presented the amendment, and the fact that he has stricken off all the other taxes does not in any way change the fact that the basis of this action is a tax. It is proposed to use that as an amendment to a proposition forbidding the sale of liquor to Indians and halfbreeds. Certainly if there ever was a case where a proposition was not germane it is this. The Chair has been reluctant to come to this conclusion, but it seems inevitable. The Chair therefore sustains the point of order.

5895. To a proposition to investigate the cost of armor plate, an amendment fixing the terms of purchase thereof was held not to be germane.— On March 2, 1905,[1] the House was considering Senate amendments to the naval appropriation bill, when this amendment was read:

And provided further, That the Secretary of the Navy shall cause a thorough inquiry to be made as to the cost of armor plate and of armor plant, the report of which shall be made to Congress.

Mr. Willard D. Vandiver, of Missouri, moved to recede and concur with this amendment:

Add to amendment No. 33 the following:

"*And provided also,* That in the purchase of the armament and armor appropriated for in this act all contracts shall be let to the lowest responsible bidder: but no contract shall be let for armor plate at a price exceeding $398 per ton."

Mr. George E. Foss, of Illinois, made the point of order that the amendment was not germane.

After debate the Speaker[2] held—

The point of order made by the gentleman from Illinois [Mr. Foss] is that it is not germane to the Senate amendment. The House will notice that the Senate amendment provides for an investigation. The amendment proposed by the gentleman from Missouri [Mr. Vandiver] provides to limit the purchase price to $398 a ton.

Now, it has been frequently held on similar questions that such an amendment is not germane. The Chair will not take time to quote more than one, namely, a decision made by Mr. Speaker Carlisle, as follows:

"To a proposition to make an appropriation for paying indebtedness and premiums of an exposition, an amendment to appoint a committee to investigate the affairs of the exposition was offered and held not to be in order."

Deciding the exact principle involved in this point of order.

Without the decision the Chair would have no hesitation in holding that the amendment proposed by the gentleman from Missouri [Mr. Vandiver] is not germane, and the Chair therefore sustains the point of order.

Thereupon Mr. Vandiver proposed this amendment:

And provided also, as follows: First, that for the purpose of carrying out this provision a board of inquiry shall be constituted of the Judge-Advocate-General of the Navy, the Admiral of the Navy, one experienced naval constructor, one experienced naval inspector of armor plate, and one machinist of the first class, experienced in the manufacture of armor plate, and shall make report to Congress in December, 1905

Second, that the said board shall investigate whether or not there is reason to believe that in the bidding for contracts to furnish armor to the Government any persons, firms, or corporations have entered into any combination, trust, or agreement, or understanding, the object or effect of which is or has been to deprive the Government of free and open competition.

Third, that if it shall reasonably appear that any persons, firms, or corporations have so combined or in any way contrived to deprive the Government of free and open competition, then all payments from

[1] Third session Fifty-eighth Congress, Record, pp. 3877–3879.

[2] Joseph G. Cannon, of Illinois, Speaker.

appropriations made in this act to such persons, firms, or corporations shall be withheld, and the facts laid before the Attorney-General for such action as he may deem proper under the law.

And provided further, That the Secretary shall cause a thorough inquiry to be made as to the cost of armor plate and of an armor plant, a report on which shall be made to Congress.

Mr. Foss made the point of order that the amendment was not germane.

After debate the Speaker held—

That amendment proposes an investigation touching the cost of the plate and the plant, and that only. The gentleman now proposes to concur in that amendment with an amendment. The amendment now proposed provides an additional investigation, far-reaching, about an entirely different matter, and legislates what shall be done if certain things are found in the investigation. Now, if this provision had been put upon this conference report and an agreement made in fun, it would have been a matter not in difference, and the recommendation would have been subject to the point of order by any Member. It is perfectly clear to the Chair that the proposed House amendment provides for entering on an investigation not now authorized by law, which would be subject to a point of order if under consideration upon a money bill under the terms of the rules, and is not germane, and is new legislation. Therefore the Chair sustains the point of order.

5896. To a provision requiring a record and report of a certain class of mail matter, an amendment providing for entering mail matter of a certain class was held not germane.—On April 12, 1906,[7] the Post Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when the Clerk read as follows:

And the Postmaster-General shall require a record from July 1 to December 31, 1906, of all second class mail matter received for free distribution, and also at the 1 cent a pound rate, so as to show the weights in pounds, respectively, by classes, of daily newspapers, weekly and other than daily newspapers, magazines, scientific periodicals, educational periodicals, religious periodicals, trade-journal periodicals, agricultural periodicals, miscellaneous periodicals, and sample copies of said newspapers, magazines, and periodicals, and make report to Congress of such information by February 1, 1907, together with an estimate of the average length of haul of said respective classes above named.

Mr. Charles L. Bartlett, of Georgia, offered the following amendment:

Insert at page 17, line 24, end of line:

"And in the meantime and until said report is made, whenever any person or corporation shall apply to the Postmaster-General for the admission of any newspaper or publication to the mails at the second-class rate, and such application shall be denied or refused, such person or corporation shall have the right, and is hereby empowered, to apply for a writ of mandamus to the supreme court of the District of Columbia, or to the justices or any justice thereof; and the proceedings therein shall be had and governed as is provided for in the issuing, granting, and trial of such writs of mandamus in chapter 42 of the Laws of the District of Columbia, enacted March 3, 1901, and as amended by acts approved January 31 and June 30, 1902, and embraced in sections 1273 to 1282, inclusive, of said Code of the District of Columbia, and if upon the trial and hearing of said application for writ of mandamus it shall be decided by the supreme court of the District of Columbia, or the justices or any justice thereof, that such newspaper or publication is, under the law governing the admission of newspapers and publications to the mails as second-class matter, entitled to such admission, then it shall be the duty of said court, or said justices or any justice thereof, to issue the writ of mandamus directed to the Postmaster-General, requiring him to admit such newspaper or publication to the mails as second-class matter; the costs in such proceeding to be paid by the person or corporation making application for the mandamus."

Mr. Jesse Overstreet, of Indiana, raised a point of order.

After debate the Chairman[2] said:

Whether the provision in the bill as reported was in order or not, an amendment to it must be germane. But on the assumption that the provision was not in order, no point of order having been raised,

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[1] First session Fifty-ninth Congress, Record, pp. 5173–5175.

[2] James S. Sherman, of New York, Chairman.

of course it is in the bill. The question comes down to this point: An amendment thereto must first be germame; second, it must not add any new matter of legislation not contained in the provision the point of order upon which has not been raised.

Now, the provision in the bill provides for what? For a record of the transactions of the service and a report thereon to a future Congress. The amendment provides for a trial in a court and provides the machinery for relief where the complainants believe a wrong had been perpetrated. * * * The subject-matter of the provision is a record and a report. The subject-matter of the amendment is a writ of mandamus in case a wrong is perpetrated or is said to have been perpetrated.

But further than that, the amendment is obnoxious to the rule, which says that an amendment must be simply to perfect the text, and must not bring in some additional question of legislation. In the opinion of the Chair, this amendment is not germane, and it does propose to incorporate in the bill a new matter of legislation. Therefore the Chair is constrained to hold the amendment not in order.

Mr. Bartlett thereupon proposed this amendment:

After line 24, page 17, insert:

"And in the meantime and until said report is made, when any person or corporation shall apply to the Postmaster General for the admission of any newspaper or publication to the mails as second-class matter, and the same shall be denied admission to the mails as second-class matter, then such person or corporation shall have the right to an appeal to a board of appeals, hereby constituted and created for that purpose, to consist of the Postmaster-General, the First Assistant Postmaster-General, and the second Assistant Postmaster-General, who shall hear such appeal and the facts submitted by such person or corporation making the appeal, and if in the opinion of such board of appeals so constituted as above stated said newspaper or publication is entitled under the law to be admitted to the mails as second class matter, then such board of appeals shall so find and determine, and shall order said newspaper or publication to be admitted to the mails as second-class matter."

Mr. Overstreet having raised a question of order, after debate the Chairman held:

The provision of the bill relates to keeping a record of certain events and reporting thereon. The provisions of the amendment relate to the entry of certain mails under certain classes. Therefore it is new subject-matter, and is not germane to the amendment, and the Chair is again constrained to sustain the point of order.

5897. To a proposition to provide relief for destitute citizens of the United States in the island of Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality, etc., was held not germane.—On May 20, 1897,[1] Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, presented a resolution providing a time for the consideration of this Senate resolution:

That the sum of $50,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the relief of the destitute citizens of the United States in the island of Cuba, said money to be expended at the discretion and under the direction of the President of the United States in the purchase and furnishing of food, clothing, and medicines to such citizens and for transporting to the United States such of them as so desire and who are without means to transport themselves.

Mr. Joseph W. Bailey, of Texas, moved to recommit the resolution providing for consideration, with instruction to amend it so as to provide also for the consideration of this resolution:

That a condition of public war exists between the Government of Spain and the government proclaimed and for some time maintained by force of arms by the people of Cuba, and that the United States of America shall maintain a strict neutrality between the contending powers, according to each all the rights of belligerents in the ports and territory of the United States.

Mr. Dalzell made the point of order that the amendment was not germane to the pending resolution.

[1] First session Fifty-fifth Congress, Record, p. 1187

The Speaker[1] decided that the amendment was in no wise in order.

Mr. Bailey having taken an appeal, the appeal was laid on the table by a vote of 114 yeas to 83 nays.

5898. To a resolution for printing a document relating to the colonial systems of the world, an amendment providing for the printing of maps of Cuba was offered and held not to be germane.—On February 25, 1899,[2] the House was considering a concurrent resolution providing for the printing of the report entitled "The colonial systems of the world."

Mr. Nicholas N. Cox, of Tennessee, offered as an amendment a proposition to print maps of the island of Cuba.

Mr. George D. Perkins, of Iowa, made the point of order that the proposed amendment was not germane.

The Speaker[1] sustained the point of order.

5899. To a provision providing clerks for the Members of one House an amendment providing them for Members of the other House has, at different times, been held both germane and not germane.—On March 2, 1885,[3] the House was considering certain amendments of the Senate to the bill (H. R. 8179) making appropriations for the legislative, executive, and judicial expenses of the Government. Among them was an amendment providing "for clerks to Senators who are not chairmen of committees, at $6 per day during the session, $39,432."

Mr. J. Warren Keifer, of Ohio, moved to concur in this Senate amendment with an amendment, which would make it read as follows: "For clerks to Senators and Representatives who are not chairmen of committees, at the rate of $100 per month during the session, $209,300."

A point of order having been made by Mr. William S. Holman, of Indiana, that this amendment was not germane, the Speaker[4] said:

> The Chair thinks it is germane. It relates to the subject of clerks for Members of Congress. The fact that the Senate amendment provides simply for clerks to Members of the Senate does not preclude the right of the House to so amend as to pay clerks of Members of the House. Suppose, for instance, the question was as to the compensation of the clerks of the Senate committees or the officers of the Senate, might it not be amended by adding the clerks or officers of the House? The Chair thinks it could. If you take it in the narrowest sense, of course, it relates only to the subject of clerks to the individual Senators; but the Chair thinks that would be an exceedingly narrow construction to put upon it and one not warranted by the rule.

5900. On April 14, 1896,[5] the House was considering Senate amendments to the legislative, executive, and judicial appropriation bill, the particular amendment under consideration being one providing for annual clerks for Senators.

To this Mr. Charles S. Hartman, of Montana, proposed this amendment:

> That the House recede from its disagreement to the amendment numbered 19 of the Senate, relating to 38 annual clerks to the Senators, and agree to the same with an amendment as follows: "And for 360 annual clerks to Members and Delegates of the House, at $100 per month, $432,000."

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[1] Thomas B. Reed, of Maine, Speaker.

[2] Third session Fifty-fifth Congress, Record, p. 2395.

[3] Second session Forty-eighth Congress, Record, pp. 2420, 2423.

[4] John G. Carlisle, of Kentucky, Speaker.

[5] First session Fifty-fourth Congress, Record, p. 3963.

Mr. Henry H. Bingham, of Pennsylvania, made the point of order that the amendment was not germane, and the further point that it was contrary to existing law.

The Speaker[1] sustained the point of order.

5901. To a resolution assigning clerks to committees an amendment assigning a clerk to each Member of the House was offered and ruled out of order.—On January 9, 1888,[2] Mr. Frank T. Shaw, of Maryland, submitted from the Committee on Accounts a privileged resolution assigning to various committees of the House the 31 clerks allowed by the legislative, executive, and judicial appropriation bill.

To this resolution Mr. Bishop W. Perkins, of Kansas, offered as an amendment the following:

Provided, That each Member of this House not the chairman of a committee given a clerk herein shall be given a clerk during the sessions of Congress, to be paid for from the House contingent fund, at the rate of $100 per month.

Mr. Charles E. Hooker, of Mississippi, made the point of order that the amendment was not germane.

After debate the Speaker[3] held:

The rule of the House provides that no proposition on a subject-matter different from that under consideration shall be admitted under color of an amendment; in other words, that every amendment offered to a pending proposition must be germane to that proposition. The report now before the House relates entirely to the assignment of clerks to committees of the House, while the amendment offered by the gentleman from Kansas proposes to assign a clerk to each Member. The Chair thinks the point of order is well taken and that the amendment is not in order.

5902. To a provision for the payment of clerk hire to Members and Delegates an amendment providing that under certain circumstances the Member should forfeit the payment was offered and ruled out of order.— On January 6, 1899,[4] the legislative, executive, and judicial appropriation bill was under consideration in Committee of the Whole House on the state of the Union. The paragraph providing for the payment to Members and Delegates the amounts certified by them to have been paid for clerk hire had been reached, when Mr. Charles S. Hartman, of Montana, offered this amendment:

Provided, That every Representative or Delegate who shall retain or require to be paid to him any portion of the money now or hereafter appropriated for clerk hire shall upon the ascertainment and determination of such fact by the House, or any duly authorized committee thereof, forfeit all rights to any money so appropriated.

Mr. Henry H. Bingham, of Pennsylvania, made a point of order against the amendment.

The Chairman[5] sustained the point of order.

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[1] Thomas B. Reed, of Maine, Speaker.

[2] First session Fiftieth Congress, Record, p. 305; Journal, p. 306.

[3] John G. Carlisle, of Kentucky, Speaker.

[4] Third session Fifty-fifth Congress, Record, p. 452.

[5] Sereno E. Payne, of New York, Chairman.

5903. To a provision relating to transfers of clerks from one department to another an amendment classifying the work of the clerks was held not to be germane.

Legislation may not be proposed under the form of a limitation.

On March 30, 1906,[1] the legislative appropriation bill was under consideration in Committee of the Whole House on the state of the Union, under the terms of a rule which precluded the raising of points of order on the provisions of the bill; and the Clerk read this paragraph:

SEC. 5. It shall not be lawful hereafter for any clerk or other employee in the classified service in any of the Executive Departments to be transferred from one Department to another Department until such clerk or other employee shall have served for a term of three years in the Department from which he desires to be transferred.

Mr. Henry W. Palmer, of Pennsylvania, proposed to this paragraph the following amendment:

Add after line 18, page 162, the following:

"The heads of Departments, offices, and bureaus appropriated for by this act shall grade the clerical work to be performed in their respective Departments before the 30th of June, 1906, into as many grades as there are classes in the classified service of the United States, as provided under Rule XIII of the civil-service rules and promulgated by the President, and thereafter all employees included in said classification shall be employed only upon the grade of work corresponding with their respective classes. Every person employed in said classification service shall receive payment for the grade of work which he performs and no other."

Mr. Edgar D. Crumpacker, of Indiana, made the point of order that the amendment was not germane.

After debate the Chairman[2] held:

It has often been held that where a paragraph changing existing law is permitted to remain in the bill it may be perfected by any germane amendment. By the operation of the rule adopted yesterday this section 5 is permitted to remain in the bill. The Chair is of the opinion that it does change existing law, and that it is therefore subject to be perfected by any germane amendment; and if the only objection were that the proposed amendment does change existing law, the Chair would overrule the point of order.

But the objection that the amendment is not germane to section 5 requires an examination and comparison. It appears that section 5 relates wholly to the transfers of clerks in the classified service from one Department to another, providing that no clerk shall be transferred until he shall have served at least three years in the Department from which he desires to be transferred. The amendment on the other hand relates not to transfers, but provides for a classification, not of clerks, but of the work which they are to perform and upon which they are to be engaged. It requires that they shall be employed upon no other work than upon the work so classified, each clerk according to the proper class. It applies not merely to clerks transferred or desiring to be transferred, but to all work done by clerks and to all clerks.

That seems to the Chair a change of existing law upon a subject different from that embraced in the pending section. Therefore, for the reason that it is not germane, the Chair will be compelled to sustain the point of order.

The gentleman from Pennsylvania urges that it is a limitation on the appropriation. It does not seem, however, to limit the appropriation. The appropriations have been made in previous sections. This amendment does not impose a condition upon the payment of that money. Furthermore, it is a principle well established that in order to be a limitation the provision must cover only the year for

[1] First session Fifty-ninth Congress, Record, pp. 4506–4508, 4509.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

which the appropriation is made. This proposed amendment, as its language clearly indicates, is intended for permanent legislation. The Chair therefore sustains the point of order.

A little later Mr. Palmer offered the same amendment as a new section.

Thereupon Mr. Crumpacker made the point of order that it proposed legislation.

After debate the Chairman said:

The gentleman from Indiana makes the point that the proposed new section changes existing law in violation of the rule of the House upon that subject, and the gentleman from Ohio adds the additional point that it is not within the provision of the special rule adopted by the House yesterday and under which we are proceeding. The Chair understands that this is the same matter which was offered as an amendment to section 5. The Chair then said that it was not subject to the objection of changing existing law, because the section to which it was offered was open to the same charge. But it was ruled out because not germane to the section. It is now offered as an independent section, and is not aided by the fact that some other section offends. It manifestly changes existing law, and the Chair must sustain both points of order.

5904. To a proposition to give an extra month's pay to the officers and employees of the House, an amendment to include clerks of Members was held not to be germane.—On March 1, 1905,[1] the general deficiency appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when this amendment was pending:

On page 76, after line 16, insert:

"To enable the Secretary of the Senate and the Clerk of the House of Representatives to pay to the officers and employees of the Senate and House borne on the annual and session rolls on the 31st day of January, 1905, including the Capitol police, the official reporters of the Senate and House, and W. A. Smith, Congressional Record clerk, for extra services during the third session of the Fifty-eighth Congress, a sum equal to one month's pay at the compensation then paid them by law, the same to be immediately available."

Mr. Roswell P. Bishop, of Michigan, propoped this amendment to the amendment:

Amend the amendment by inserting after the words "Record clerk "the following:

"And including clerks to Delegates and Members of the House of Representatives now in Congress, to be certified to by Members, as now prescribed by law."

Mr. Charles H. Grosvenor, of Ohio, having raised a question of order, the Chairman[2] held:

The gentleman from Ohio makes the point of order that the amendment submitted by the gentleman from Michigan is not germane. The Chair sustains the point of order.

Later Mr. Bishop offered this amendment to the text of the bill:

Insert after line 16, on page 76:

"Delegates and Members of the House of Representatives now in Congress, a sum equal to one month's pay for clerk hire, to be certified as now prescribed by law."

Mr. Oscar W. Underwood, of Alabama, made the point of order.

The Chairman[2] held:

The gentleman from Alabama makes the point of order that the amendment is not in order. The Chair sustains the point of order.

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[1] Third session Fifty-eighth Congress, Record, pp. 3807–3809.

[2] James R. Mann. of Illinois, Chairman.

5905. To a bill relating to laying of conduits for telephone wires, an amendment relating to the prices to be charged for services was held not to be germane.—On May 26, 1902,[1] the House was considering the bill (H. R. 12865) to provide for the removal of overhead telegraph and telephone wires in the city of Washington, for the construction of conduits in the District of Columbia, and for other purposes, when Mr. Thetus W. Sims, of Tennessee, proposed the following amendment:

Add to the bill a new section, to be section 8, to read as follows:

"Any telephone company operating under the provisions of this bill shall charge not to exceed $50 per year for telephones."

Mr. Joseph W. Babcock, of Wisconsin, raised the question of order that the amendment was not germane.

After debate the Speaker[2] said:

The Chair finds the authority cited by the gentleman and remembers the case very well. The title of that bill was a bill referring generally to the affairs of a gas company, and an amendment introducing the subject of the price of gas was held to be germane. On January 21, 1901, the House was considering a bill (H. R. 13660) relating to the Washington Gaslight Company, and for other purposes. Mr. William W. Grout, of Vermont, moved to recommit the bill to the Committee on the District of Columbia with instructions to report the bill back with this amendment:

"Provided further, That on and after July 1, 1902, the Washington Gaslight Company shall furnish gas to the people of the District of Columbia for 90 cents per 1,000 cubic feet; on and after July 1, 1903, for 80 cents per 1,000 cubic feet, and on and after July 1, 1904, for 75 cents per 1,000 cubic feet.

"Mr. Joseph W. Babcock, of Wisconsin, made the point of order that the bill did not deal with the price of gas, and that therefore the amendment proposed would not be germane."

The Speaker said:

"The Chair has not read the bill through, and the confusion of this morning made it almost impossible to hear it. Still the Chair sees that this is for the purpose of giving a franchise to this company. and here is a proviso:

"That the Commissioners of the District of Columbia may require said company to lay such mains or conduits in any graded street, highway, avenue, or alley in the District of Columbia not already provided therewith as may be necessary."

"It seems to be a general bill regulating the gas business and this gas company, and the Chair is of opinion that the point of order is not well taken and that the instructions of the gentleman from Vermont are in order."

Now, here was a general bill going into the question of the regulation of the gas company. As is stated in the decision, it treated of a franchise; but there is nothing of that character in the present bill. It does not grant any corporate rights. It does not establish a company or clothe it with power. It does not treat of stocks, bonds, or any of the elements connected with the organizing of a corporation, but treats of a corporation in existence and franchises and powers that the corporation already possesses. How? By authorizing the Commissioners of the District of Columbia to regulate this matter. It does not go into the question of prices or rates in any shape or form, nor does it invite anything of that kind. When you come to treat of incorporating a company, these are limitations that should be put on and enforced, but not on a bill of this kind, which treats wholly of the question of conduits.

The Chair thinks that the point of order is clearly well taken.

Thereupon Mr. William P. Hepburn, of Iowa, proposed the following amendment:

Add at the end of section 6 the following:

"Provided, That the privileges herein authorized to be extended to persons or corporations shall be exercised on condition only that service shall be furnished on the term and at the prices now authorized by law.

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[1] First session Fifty-seventh Congress, Record, pp. 5935, 5936.

[2] David B. Henderson, of Iowa, Speaker.

Mr. Babcock raised the question of order on the amendment also.

The Speaker held:

The amendment offered by the gentleman from Iowa is substantially the same as the one that has just been ruled upon, although framed in a different way. The Commissioners can not be treated from any standpoint except that which is tendered by the bill under consideration. The gentleman from Iowa can offer amendments affecting these conduits, the depth that they may be placed in the ground, the size of them, or anything bearing upon the propositions in the bill; but when he attempts to instruct the Commissioners and to bind them on a matter that is purely reached by the incorporating acts themselves, he steps entirely outside of the province of the bill and offers a proposition that is not germane thereto. * * * The distinction is a very sharp one. It is a pure conduit-planting bill, and anything bearing upon that question is legitimate and germane; but when you go back to the constituting instrument and the questions therein this bill does not permit it. If that should be permitted, then you could in this bill take up the question of capital stock. The Chair is very clearly of the opinion that this amendment is not germane.

5906. To a bill relating to corporations carrying passengers for hire over the streets of Washington an amendment regulating the size of tires of all vehicles passing over the streets was held not to be germane.—On March 2, 1907,[1] the House was considering the bill (S. 6147) entitled "An act authorizing changes in certain street-railway tracks within the District of Columbia, and for other purposes," with the amendment thereto reported by the Committee on the District of Columbia.

This bill as it came from the Senate contained only the subject of the approaches to the new railroad station as related to street-railroad tracks, and to a. certain omnibus line for the carriage of passengers, which was required to substitute motor vehicles for the existing conveyances.

The amendment reported by the Committee on the District of Columbia covered not only these subjects, but had the following section:

SEC. 13. That from and after the 1st day of January, 1908, every wagon or other vehicle of whatsoever kind or description weighing, when loaded, more than 2 tons exclusive of the weight of the vehicle, used, operated, or propelled on, over, or across any of the streets, avenues, alleys, bridges, or roadways of the District of Columbia shall have wheel tires not less than 4 inches broad. Any owner or driver or other person in control of such wagon or other vehicle so using, operating, or propelling the same who shall violate the provisions of this section shall, on conviction thereof in the police court of the District of Columbia, be punished by a fine not exceeding $25, or by imprisonment for not more than sixty days, or both.

Mr. John S. Williams, of Mississippi, made the point of order that the provision was not germane.

The Speaker[2] sustained the point of order.

5907. To a provision requiring two street-railway companies to issue free transfers each over the other's lines an amendment requiring the two companies to issue universal transfers over all intersecting lines was held not to be germane.—On May 23, 1898,[3] the House was considering the bill

[1] Second session Fifty-ninth Congress, Record, p. 4509.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Fifty-fifth Congress, Record, p. 5124.

(H. R. 10293) to incorporate the East Washington Heights Traction Railroad Company, in the District of Columbia. To this provision of the bill:

Provided, That the said company and the Capital Traction Company are hereby required to issue free transfers, whereby a passenger on the said East Washington Heights Traction Company shall be entitled to a continuous ride over the line of the other company, or vice versa.

Mr. John B. Corliss, of Michigan, offered the following amendment:

Provided further, That universal free transfers shall be issued and exchanged by said company and said Capital Traction Company with all street railways whose lines intersect the lines of said companies, so that a passenger shall be entitled to a continuous ride over the line of said companies and any line intersecting the same for one fare.

Mr. Joseph W. Babcock, of Wisconsin, made the point of order against the amendment.

The Speaker pro tempore [1] ruled:

This is a bill to incorporate the East Washington Heights Traction Railroad Company in the District of Columbia. Section 19 provides for the rates of fare upon that road, and also further provides: "That the said company"—that is, the East Washington Heights Traction Railroad Company—"and the Capital Traction Company are hereby required to issue free transfers, whereby a passenger on the said East Washington Heights Traction Company shall be entitled to a continuous ride over the line of the other company, and vice versa."

That is, that these two companies can and must issue transfers one over the line of the other.

Now, this amendment provides that whatever railroads intersect with either of these two roads must issue transfers upon these two roads, and these two roads upon the others, for a continuous ride. Now, with all deference to what has been said, the Chair thinks that this is not germane to the proposition in the bill.

5908. To a bill requiring street-railway corporations to make annual reports amendments relating to transfers and accommodations for passengers were held not to be germane.—On May 26, 1890,[2] the House was considering the bill (H. R. 9105) requiring the street-railway companies of the District of Columbia to make annual reports, when Mr. William M. Springer, of Illinois, proposed an amendment providing, under suitable penalties, that street-railway companies in the District of Columbia should cause their cars to stop at all street crossings where connections were made with lines of cars on other streets and transfers be given for a sufficient length of time to enable passengers to make connections with other cars; and that no street-railway company in the District of Columbia should demand or collect fare from any passenger on any street car unless such passenger was furnished a seat in such car.

Mr. Louis E. Atkinson, of Pennsylvania, made the point of order that the proposed amendment was not germane to the bill and therefore not in order.

The Speaker pro tempore [3] sustained the point of order.

Mr. Joseph E. Washington, of Tennessee, moved to further amend the bill as follows:

That all street railways in this city at the point of crossing or junction shall issue transfer tickets and transfer passengers without extra charge.

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[1] Sereno E. Payne, of New York, Speaker pro tempore.

[2] First session Fifty-first Congress, Journal, p. 667; Record, pp. 5316, 5317.

[3] Julius C. Burrows, of Michigan, Speaker pro tempore.

Mr. Atkinson, of Pennsylvania, made the point of order that the proposed amendment was not germane to the bill, and therefore not in order.

The Speaker pro tempore sustained the point of order.

5909. To a bill providing for an interoceanic canal, specifying a certain route, an amendment providing for another route was held to be germane.—On January 9, 1902,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans when Mr. Richard W. Parker, of New Jersey, proposed an amendment providing for a canal across the Isthmus of Panama.

Mr. Oscar W. Underwood, of Alabama, made the point of order that the amendment was not germane, because, while the bill provided for a canal at Nicaragua only, the amendment provided also for a canal at another place. After debate the Chairman[2] said:

The subject-matter of this bill—the enterprise upon which the House has entered—is, in the language of the bill—

"To construct a canal to connect the waters of the Atlantic and Pacific oceans."

The Chair is of the opinion that that is the purpose of the legislation sought; that the question of location is wholly a subordinate one, and that it is perfectly competent for Congress to reject one location and to adopt another. For instance, suppose it was a question of the building of a house for the purpose of storing the records of the Government, and a bill was introduced to locate it on a certain square in this city. Can anybody doubt that the proposition might be amended so as to locate it upon other square?

5910. To a bill providing for the reorganization of the Army a new section prescribing a system of competition in marksmanship among the soldiers was held to be germane as an amendment.—On January 31, 1899,[3] the bill (H. R. 11022) for the reorganization of the Army was under consideration in Committee of the Whole House on the state of the Union, and Mr. William P. Hepburn, of Iowa, offered as a new section or paragraph prescribing frequent target practice by enlisted men and providing for the giving of medals for the best records.

Mr. James Hay, of Virginia, made the point of order that the amendment was not germane to the bill.

After debate the Chairman[4] overruled the point of order.

5911. To a bill relating to the operation of a street railway in several particulars an amendment fixing the rate of fares on this and other street railways also was held not to be germane.—On February 11, 1907,[5] the bill (H. R. 22123) to amend an act to authorize the Baltimore and Washington Transit Company of Maryland to enter the District of Columbia, approved June 8, 1896, was under consideration in Committee of the Whole House on the state of the Union when Mr. Ollie M. James, of Kentucky, proposed this amendment:

Amend by striking out all of section 5 and inserting in lieu thereof the following:

"That from and after the passage of this act the rate of fare that may be charged for the transportation of passengers over any and all street-railway lines in the District of Columbia shall not exceed

[1] First session Fifty-seventh Congress, Record, pp. 553, 554.

[2] Charles H. Grosvenor, of Ohio, Chairman.

[3] Third session Fifty-fifth Congress, Record, p. 1324.

[4] Sereno E. Payne, of New York, Chairman.

[5] Second session Fifty-ninth Congress, Record, pp. 2723, 2724.

3 cents each, good for transportation of one passenger over the whole or any part of the line of such street-railway company over which such tickets are sold."

Mr. Joseph W. Babcock, of Wisconsin, made the point of order that the amendment was not germane.

After debate the Chairman [1] held:

This is a bill authorizing a street-railroad company from outside the District of Columbia to come into the District of Columbia and connect in the city of Washington with what is called the "Traction Company." It provides for a point of contact, and then provides that a single fare shall carry a passenger from his occupancy of the car outside to the end of the traction line in the city of Washington. The point of order is made to the amendment that it is not germane to the bill under consideration. It has been distinctly ruled heretofore, it seems to the Chair, exactly on all fours with that question:

"To a provision requiring two railroad companies in the District of Columbia to issue free transfers over the lines of one another an amendment requiring the two companies to issue universal transfers with all other intersecting lines in the District of Columbia was offered and held not to be germane."

Following that opinion and following the opinion which the Chair has, the point of order is sustained.

5912. To a bill relating to the salaries and expenses of judges an amendment forbidding them to receive passes, franks, etc., was held to be germane.—On January 27, 1903, [2] the House as in Committee of the Whole was considering the bill (S. 3287) "to fix the salaries of certain judges of the United States" when Mr. Choice B. Randell, of Texas, offered the following amendment:

Insert after line 15, on page 2, the following:

"That it shall be unlawful for any of the judges of United States courts to accept or receive any gifts, free transportation, or frank from any corporation or person engaged in operating any railroad, steamboat line, express or telegraph company. Any violation of this provision shall be punished by a fine not less than $100 and not exceeding $5,000."

Mr. John J. Jenkins, of Wisconsin, made the point of order that the amendment was not germane.

After debate the Speaker [3] said:

This question is one that troubles the Chair a little, but when we consider that this bill deals not only with salaries but also with the subject of expenses, the issuing of passes, franks, and other things that keep down the expenses would seem to be germane. At all events, the Chair will overrule the point of order and admit the amendment of the gentleman from Texas.

5913. To a bill relating to the salaries of the Federal judges and those of the District of Columbia an amendment relating to the salaries of the Porto Rican judges was held to be germane.—On January 27, 1903, [4] the House as in Committee of the Whole was considering the bill (S. 3287) "to fix the salaries of certain judges of the United States" when Mr. Vincent Boreing, of Kentucky, proposed this amendment:

To the judge of Porto Rico, $6,000.

Mr. John J. Jenkins, of Wisconsin, made the point of order that the amendment was not germane to the bill.

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[1] Charles II. Grosvenor, of Ohio, Chairman.

[2] "Second session Fifty-seventh Congress, Record, p. 1343.

[3] David B. Henderson, of lowa, Speaker.

[4] Second session Fifty-seventh Congress, Record, p. 1341.

After debate the Speaker[1] said:

The Chair calls the attention of the gentleman from Wisconsin to the fact that the judges of the District of Columbia are incorporated in this bill. It seems that these Porto Ricans are appointed by the President of the United States. The provision has broadened out now from the Federal judges for the States to the judges for the District of Columbia. * * * The Chair is not entirely satisfied, but is inclined to hold, and will so hold, that the point of order is not well taken.

5914. To a bill relating to the control of several distinct public places in Washington an amendment providing for the removal of the fence around the Botanical Garden, in the same city, was held germane.—On May 23, 1898,[2] the House had under consideration the bill (H. R. 10294) relative to the control of wharf property and certain public places in the District of Columbia, the bill being considered in the House as in Committee of the Whole.

Mr. Joseph W. Babcock, of Wisconsin, offered the following amendment as a new section:

SEC. 5. *Provided,* That the park known as the Botanical Garden shall be open to the public the same as the other parks in the city of Washington; and within six months from the passage of this act the fence around the same shall be removed.

Mr. William Sulzer, of New York, made the point of order that the amendment was not germane to the bill.

The Speaker pro tempore[3] held:

The only question is whether the amendment is germane to the bill. The Chair thinks the amendment is germane to the bill, and therefore overrules the point of order of the gentleman from New York.

5915. To a proposition to create a board of inquiry an amendment specifying when the board should report was held to be germane.—On March 2, 1905,[4] the House was considering Senate amendments to the naval appropriation bill, when this amendment was proposed as an amendment to a Senate amendment:

And provided also, as follows: First, that for the purpose of carrying out this provision a board of inquiry shall be constituted of the Judge-Advocate-General of the Navy, the Admiral of the Navy, one experienced naval constructor, one experienced naval inspector of armor plate, and one machinist of the first class, experienced in the manufacture of armor plate.

To this amendment Mr. Willard D. Vandiver, of Missouri, offered the following amendment:

And that this board of inquiry shall make its report at the first regular session of the Fifty-ninth Congress.

Mr. George E. Foss, of Illinois, made the point of order that the amendment to the amendment was not germane.

The Speaker[5] said:

The Chair thinks the amendment is in order and is germane.

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[1] David B. Henderson, of Iowa, Speaker.

[2] Second session Fifty-fifth Congress, Record, p. 5120.

[3] Sereno E. Payne, of New York, Speaker pro tempore.

[4] Third session Fifty-eighth Congress, Record, p. 3879.

[5] Joseph G. Cannon, of Illinois, Speaker.

5916. To a bill providing generally for a Union Station in the District of Columbia an amendment levying a special tax in the District to defray the cost of the station was held to be germane.—On December 15, 1902,[1] the bill (S. 4825) "to provide for a Union Station in the District of Columbia and for other purposes," was under consideration in Committee of the Whole House on the state of the Union, when Mr. Joseph G. Cannon, of Illinois, offered this amendment:

Insert at the end of line 18, page 28, the following:

"That, in order to meet the extraordinary expenses entailed by the provision of this act, the rate of taxation on the assessed real and personal property in the District of Columbia for each of the next five fiscal years is hereby increased 25 per cent."

Mr. Sidney E. Mudd, of Maryland, made the point of order that the amendment was not germane.

After debate the Chairman,[2] said:

This is a bill to provide for a union railroad station in the District of Columbia, and for other purposes. It is reported from the Committee on the District of Columbia. It provides for the establishment of a park in the District of Columbia and for the opening of streets, and imposes considerable expense upon the District of Columbia.

It also imposes some expense upon the Treasury of the United States. If, as has been suggested, an amendment were offered increasing the tariff upon imports to meet such charges the objection would at once be made that under the rules such a measure must be referred to a different committee—the Ways and Means. In other words, the rules of the House would make an amendment touching the tariff not germane to such a bill as this.

But with the District of Columbia the case is different. If the amendment of the gentleman from Illinois were offered as a separate measure, it would go, under the rules, to the same committee which has reported this bill. The District Committee has jurisdiction of revenues as well as expenditures, and could, without infringing any rule, include in one bill the purposes of the bill and also of the amendment. While not entirely clear from doubt, the Chair is of the opinion that the amendment providing revenue to meet the expenditures entailed by the provisions of the bill itself upon the District of Columbia is germane to the bill, and therefore overrules the point of order.

5917. To a bill establishing a new department, creating offices, and fixing salaries an amendment for changing the salary of an officer of the department was held to be germane.—On January 17, 1903,[3] the Committee of the Whole House on the state of the Union was considering the bill (S. 569) to establish a Department of Commerce and Labor, when a section was reached for transferring the Census Bureau to that Department, and Mr. William S. Cowherd, of Missouri, proposed an amendment reducing the salary of the Director of the Census from $6,000 to $4,000.

Mr. James R. Mann, of Illinois, made the point of order that the amendment was not germane.

After debate the Chairman[4] said:

This is a bill to establish a Department of Commerce and Labor. It is not a general appropriation bill; it is new legislation. It creates new offices and fixes salaries. It transfers certain departments and certain officials to this new Department of Commerce. In section 12 it gives the Secretary of State the power to designate a certain person who shall perform certain duties, and in that connection gives

[1] Second session Fifty-seventh Congress, Record, pp. 332, 333.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] Second session Fifty-seventh Congress, Record, pp. 914, 915.

[4] George P. Lawrence, of Massachusetts, Chairman.

him the rank and salary of a chief of a bureau. It is new legislation, creates new officials, creates new salaries, and the Chair is of the opinion that an amendment changing the salary of any official who is transferred to this bureau is in order. The Chair therefore overrules the point of order.

5918. To a proposition to recoin full legal-tender silver dollars into subsidiary coin an amendment making the latter full legal tender was held to be germane.—On May 28, 1902,[1] the Committee of the Whole House on the state of the Union was considering the bill (H.R. 12704) to increase the subsidiary silver coinage, when Mr. Galusha A. Grow, of Pennsylvania, offered the following amendment:

After the word "coin," in line 9, add "*Provided,* That the subsidiary coins shall be half dollar, quarter dollar, and 10-cent and 5-cent pieces; each of the aforesaid pieces shall be an aliquot part of a dollar of 412½ grains.

Thereupon Mr. Francis G. Newlands, of Nevada, offered the following amendment to the amendment:

Add to the amendment offered by the gentleman from Pennsylvania the following words: "which shall be full legal tender for all debts, public and private."

Mr. Ebenezer J. Hill, of Connecticut, made the point of order that the amendment was not germane.

After debate the Chairman[2] said:

The amendment offered by the gentleman from Pennsylvania follows the word "coin," in line 9, and to that amendment the gentleman from Nevada offers an amendment providing that this subsidiary coinage shall be full legal tender. The coin that this amendment proposes to declare shall be full legal tender is to be made or recoined from full legal-tender silver dollars. In the opinion of the Chair, the amendment of the gentleman from Nevada is germane to the amendment of the gentleman from Pennsylvania, and therefore the Chair holds it in order.

5919. An amendment on the subject of renovated butter was held to be germane to a bill relating to "oleomargarine and other imitation dairy products."—On February 11, 1902,[3] the Committee of the Whole House on the state of the Union were considered the bill (H.R. 9206) to make oleomargarine and other imitation dairy products subject to the laws of the State or Territory into which they are transported and to change the tax on oleomargarine, when Mr. Henry D. Allen, of Kentucky, proposed the following amendment:

SEC. 4. That the Secretary of Agriculture is hereby authorized and required to cause a rigid sanitary inspection to be made from time to time, and at such times as he may deem necessary, of all factories and storehouses where butter is renovated; and all butter renovated at such places shall be carefully inspected in the same manner and to the same extent and purpose that meat products are now inspected. The quantity and quality of butter renovated shall be reported monthly. All renovated butter shall be designated as such by marks, brands, and labels, and the words "renovated butter" shall be printed on all packages thereof, in such manner as may be prescribed by the Secretary of Agriculture, and shall be sold only as renovated butter. Any person violating the provisions of this section shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be fined not less than $50, nor more than $500 and imprisoned not less than one month nor more than six months.

The Secretary of Agriculture shall make all needful sanitary and other rules and regulations for carrying this section into effect, and no renovated butter shall be shipped or transported from one State to another, or to foreign countries, unless inspected as provided in this section.

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[1] First session Fifty-seventh Congress, Record, pp. 6070, 6071.

[2] James A. Tawney, of Minnesota, Chairman.

[3] First session Fifty-seventh Congress, Record, pp. 1622–1624.

Mr. James A. Tawney, of Minnesota, made a point of order that the amendment was not germane.

After debate the Chairman [1] said:

The Chair is of the opinion that it is germane, although it is questionable as to whether the jurisdiction is obtained over the proposition without any taxation being connected with it. But the question being one of imitation butter, the Chair is of opinion that this section is germane. As to its constitutionality, of course the Chair can not pass upon that. The question is on agreeing to the amendment offered by the gentleman from Kentucky.

5920. To a resolution rescinding an order for final adjournment, an amendment assigning a new date was held to be germane.—On June 1, 1872,[2] the House was considering the following:

Resolved by the Senate (the House of Representatives concurring), That the resolution directing the President of the Senate and the Speaker of the House of Representatives to declare their respective Houses adjourned without day on Monday, the 3d day of June, at 12 o'clock meridan, be, and the same is hereby, rescinded.

Mr. Henry L. Dawes of Massachusetts moved to amend by striking out all after the resolving clause and inserting:

That the time of final adjournment of the second session of the Forty-second Congress be extended to Monday, June 10, at 12 o'clock meridan, at which time the President of the Senate and the Speaker of the House of Representatives shall adjourn their respective Houses without day.

Mr. Benjamin F. Butler, of Massachusetts, made the point of order that the amendment was not germane.

The Speaker [3] said:

They are both resolutions with reference to the termination of the session. The amendment of the gentleman from Massachusetts is entirely germane.

5921. To a bill referring generally to the affairs of a gas company, an amendment introducing the subject of the price of gas was held to be germane.—On January 21, 1901,[4] the House was considering a bill (H. R. 13660) "relating to the Washington Gaslight Company, and for other purposes."

Mr. William W. Grout, of Vermont, moved to recommit the bill to the Committee for the District of Columbia with instructions to report the bill back with this amendment:

Provided further, That on and after July 1, 1902, the Washington Gaslight Company shall furnish gas to the people of the District of Columbia for 90 cents per 1,000 cubic feet; on and after July 1, 1903, for 80 cents per 1,000 cubic feet, and on and after July 1, 1904, for 75 cents per 1,000 cubic feet.

Mr. Joseph W. Babcock, of Wisconsin, made the point of order that the bill did not deal with the price of gas, and that, therefore, the amendment proposed would not be germane.

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[1] John F. Lacey, of Iowa, Chairman.

[2] Second session Forty-second Congress, Globe, p. 4137.

[3] James G. Blaine, of Maine, Speaker.

[4] Second session Fifty-sixth Congress, Record, p. 1262.

The Speaker[1] said:

The Chair has not read the bill through, and the confusion of this morning made it almost impossible to hear it. Still the Chair sees that this is for the purpose of giving a franchise to this company, and here is a proviso—

"That the Commissioners of the District of Columbia may require said company to lay such mains or conduits in any graded street, highway, avenue, or alley in the District of Columbia not already provided therewith as may be necessary."

It seems to be a general bill regulating the gas business and this gas company, and the Chair is of the opinion that the point of order is not well taken, and that the instructions of the gentleman from Vermont are in order.

5922. To a bill relating to Federal elections and functions of the Federal courts therein, an amendment establishing a system of jury commissioners in such courts was held to be germane.—On July 2, 1890,[2] the Speaker announced as the regular order of business the further consideration of the bill of the House (H. R. 11045) to amend and supplement the election laws of the United States, and to provide for the more efficient enforcement of such laws.

Mr. Jonathan H. Rowell, of Illinois, moved to amend by inserting as a new section a provision for the establishment of a system of jury commissioners for the Federal courts.

Mr. W. C. P. Breckinridge, of Kentucky, having called attention to the fact that on a preceding day a provision relating to juries had been stricken from the bill, made the point of order that such provision was not germane to an election bill.

The Speaker[3] overruled the point of order.

5923. An amendment to censure a Member has been held germane to a resolution for his expulsion.—On April 12, 1864,[4] the House was considering a resolution providing for the expulsion of Mr. Alexander Long, of Ohio, when Mr. John M. Broomall, of Pennsylvania, proposed an amendment providing for the censure of Mr. Long as a substitute for the resolution of expulsion.

Mr. William S. Holman, of Indiana, made the point of order that the amendment was not germane to the original proposition.

The Speaker pro tempore[5] overruled the point of order.[6]

On appeal the decision of the Chair was sustained.[7]

5924. To a proposition to exclude a Member-elect from the House, a proposition to expel was offered as an amendment and held not to be germane.—On January 25, 1900,[8] the House was considering the report of the select

[1] David B. Henderson, of Iowa, Speaker.

[2] First session Fifty-first Congress, Journal, p. 807; Record, pp. 6926, 6927.

[3] Thomas B. Reed, of Maine, Speaker.

[4] First session Thirty-eight Congress, Journal, pp. 518–520; Globe, p. 1593.

[5] Edward H. Rollins, of New Hampshire, Speaker pro tempore.

[6] See, however, section 5924.

[7] Another question was involved in this appeal, the Speaker pro tempore having also at the same time decided a point of order relating to the timeliness of the proposition to censure.

[8] First session Fifty-sixth Congress, Record, p. 1215, 1216; Journal, p. 196.

committee on the case of Brigham H. Roberts, Member-elect from Utah, when Mr. John F. Lacey, of Iowa, moved to amend the resolution as follows:

Insert in line 4, page 1, after the word "and," the following: "he is expelled, and;" so as to read: *"Resolved,* That under the facts and circumstances in this case Brigham H. Roberts, Representative-elect from the State of Utah, ought not to have or hold a seat in the House of Representatives, and he is hereby expelled, and that the seat to which he was elected is hereby declared vacant."

Mr. Robert W. Tayler, of Ohio, made the point of order that the proposed amendment was not germane.

After debate the Speaker[1] held:

The Chair will call attention to one or two facts preliminary to the decision of this question. We have two propositions pending before the House—one of exclusion, which is the proposition of the majority, and one in which we are served with notice that expulsion will be asked for, but involving first the swearing in of Mr. Roberts.

The resolution of the minority does not contain any element of expulsion, but notice is served by the minority that so soon as the oath is administered to Mr. Roberts his expulsion will be moved. The proposition offered by the gentleman from Iowa [Mr. Lacey] adds to the proposition recommended by the majority the idea of expulsion.

The proposition as it stands will deny Mr. Roberts a seat, will not allow him to sit for one instant in this House. That is the proposition of the majority. The amendment offered by the gentleman from Iowa [Mr. Lacey] does not deny him a seat alone, but says, with the majority, that he must not have or hold a seat, but that he must also be excluded from his seat.

The proposition of the majority, which denies Mr. Roberts a seat, can be carried through this House, under the rules, by a majority vote. With the amendment of the gentleman from Iowa [Mr. Lacey] added, that of expulsion, it will require a two-thirds vote to carry the amended resolution. Does anyone contend that changing a resolution from a condition where a mere majority can carry it through to a resolution which will require a two-thirds vote to carry it through—that such an amendment is germane to the original proposition?

The Chair does not entertain a single doubt but that this is not germane to the original resolution. [Applause.]

The gentleman from Iowa [Mr. Lacey] says, however, that this involves a question above and beyond the rules, being a question of the highest privilege.

The Chair holds with the gentleman from Iowa [Mr. Lacey] that it is a constitutional question and one of the highest privilege, but this body has pursued constitutional methods in treating it, and is now, through a committee appointed in recognition of this high right, considering the matter, and that committee, in the discharge of its great duty to this House under the Constitution, has brought in its two propositions.

The Chair therefore holds that the amendment is out of order, and recognizes the gentleman from Ohio [Mr. Tayler].

Mr. Lacey appealed, but during the vote on the motion to lay the appeal on the table Mr. Lacey withdrew the appeal, saying that the evident spirit of the House was to sustain the Chair.[2]

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[1] David B. Henderson, of Iowa, Speaker.

[2] See, however, section 5924 of this chapter and the action of the House in the Credit Mobilier case, section 1286 of Volume II.