GERMANENESS OF AMENDMENTS

See also "Germaneness," pp. 62–63; "Germaneness of Amendments Under Cloture," pp. 289–295; "Germaneness of Amendments to General Appropriation Bills," pp. 161–171; "Not Germane," p. 211; "Germane to Concurrent Resolution," pp. 592–593; "Reconciliation Bills, Germaneness," pp. 626–627; "Germaneness of Debate," pp. 742–745, 862–863; "Germaneness of Amendments Under Unanimous Consent Agreements," pp. 1344–1353.

The Senate does not have a general rule requiring that amendments be germane to the measure to which they are proposed. However, such a requirement is imposed by rule XXII when the Senate is operating under cloture, and is often included in the unanimous consent agreements entered into by the Senate for the consideration of many of its measures. Likewise, germaneness may be required by the provisions of a statute that governs the consideration of a measure related to the statute. When the question of germaneness is raised in these circumstances, the Chair has the authority to rule. However, questions of germaneness under Rule XVI are voted on by the Senate.

If germaneness is imposed by the invocation of cloture on a bill, all amendments (whether reported by a committee or offered from the floor) must be germane to the bill. If germaneness is imposed by the invocation of cloture on an amendment to a measure, amendments must be germane to that amendment or to the underlying measure. When germaneness is imposed by unanimous consent or by statute, committee amendments are considered germane *per se,* but floor amendments must qualify on their own merits in order to be germane.

Although the precedents of the Senate with respect to germaneness of amendments reflect various conclusions, it has generally been understood that germaneness is more restrictive than relevancy. However, in order to be germane, an amendment must at least be relevant. Therefore, while a simple restriction on the effect of a measure would generally be germane, a restriction subject to an irrelevant contingency would not be germane.

The Senate usually imposes a germaneness requirement when it decides to limit debate on a proposal. In this sense, the Senate enters into a contract whereby it promises to bring a measure to a vote in exchange for a promise that the measure to be voted on will consist of known and foreseeable issues. Since it is difficult to know in advance the limits of what proposals might be relevant to a measure, the precedents interpreting germaneness have generally imposed a more restrictive standard than simple relevancy.

The following are among the questions that are considered in determining whether an amendment is germane: does it add any new subject matter? does it expand the powers, authorities, or constraints being proposed? does it amend existing law or another measure, as opposed to the measure before the Senate? does it involve another class of persons not otherwise covered by the measure? does it involve additional administrative entities? is it within the jurisdiction of the committee that reported the measure? and is it foreseeable?

Amendments fall into four classes for the purpose of determining germaneness. Amendments in the first two classes are considered germane *per se.* Class one consists of amendments that strike language without inserting other language. Class two consists of amendments that change numbers and dates. Class three consists of amendments that propose nonbinding language (such as sense of Senate or sense of Congress language). Under recent practice, if such nonbinding language is within the jurisdiction of the committee that reported the measure, the amendment is considered germane.

The fourth class consists of amendments that add language to a measure, but do not fall into either class two or three.

In determining whether an amendment is germane, the Chair first identifies in which of these four classes an amendment belongs. If an amendment falls within any of the first three classes, it will be considered germane. All other amendments are examined on a case by case basis to determine if they are germane. Such examination requires a detailed analysis of the amendment and the matter to be amended, and takes into account the principles and guidelines stated above.

At times, various Senators have expressed their opinions concerning germaneness. In 1956, the Minority Leader stated that germaneness was used to "prevent a wide-open field day" after a unanimous consent agreement was agreed to.[1] In 1961, after a Senator suggested that "germaneness, for the purposes of this order, shall be deemed to include: Limitations on the expenditures, or the means for raising the contemplated appropriations, or the source thereof, or any constitutional principles involved therein", the Majority Leader responded that the foregoing definition "covers the rainbow, and goes a little beyond." However, he then noted that the underlying bill "is a wide-ranging bill and it would take something away out in left field to be ruled ungermane." [2] In 1973, during debate on an appeal from a ruling of the Chair that an amendment was nongermane (since there was nothing in the bill with respect to the subject of the amendment), it was argued by a Senator who opposed the amendment on substantive grounds but who disagreed with the ruling of

[1] *See* Feb. 28, 1956, 84-2, *Record*, p. 3457.
[2] *See* May 18, 1961, 87-1, *Record*, pp. 8353-55.

the Chair, that "The germaneness rule should be sensible and one that is broadly construed and not narrowly construed." The decision of the Chair was not sustained, 43 yeas, to 44 nays, and the amendment was then tabled.[3]

It is not sufficient that an amendment be germane to existing law, it must be germane to the matter to which the germaneness requirement applies.[4]

When a question arises as to the germaneness of an amendment to an underlying measure, the burden of making the case for germaneness rests on the proponents of the amendment.[5]

The Vice President has stated, in response to a parliamentary inquiry, that in order to be germane, an amendment "must relate to the subject matter of the resolution." [6] However, amendments that add new subject matter would not be germane. In this regard, note the following language used by various Presiding Officers in holding amendments out of order as being nongermane:

"There is nothing in the bill dealing with investment annuity contracts;" [7] "the amendment would add new subject matter;" [8] "the amendment contained new subject matter;" [9] two sections of the amendment "inject new material;" [10] the amendment adds "a new element;" [11] and "since the amendment adds a new subject matter to the bill, it is not germane." [12]

The following precedents represent a sample of the various interpretations of germaneness:

Amendments which proposed new subject matter unrelated to a measure for which a germaneness requirement had been imposed by unanimous consent have been ruled out of order.[13] Likewise, amendments which proposed new subject matter which did relate to some provision of a measure for which a germaneness requirement had been imposed by unanimous consent have been ruled out of order,[14] and on appeal the Senate has sustained a similar

---

[3] Mar. 20, 1973, 93-1, *Record*, pp. 8826-30.
[4] July 14, 1975, 94-1, *Record*, pp. 22560-61.
[5] May 16, 1988, 100-2, *Record*, p. S 5920.
[6] *See* Dec. 2, 1954, 83-2, *Record*, p. 16382.
[7] Oct. 9, 1978, 95-2, *Record*, p. 34784.
[8] Oct. 9, 1978, 95-2, *Record*, p. 34784.
[9] Dec. 17, 1979, 96-1, *Record*, p. 36442.
[10] Dec. 17, 1979, 96-1, *Record*, pp. 36454-55.
[11] Dec. 17, 1979, 96-1, *Record*, p. 36485.
[12] Dec. 17, 1979, 96-1, *Record*, pp. 36486-87.
[13] June 14, 1965, 89-1, *Record*, pp. 13537, 13538; June 26, 1963, 88-1, *Record*, pp. 11692-94.
[14] June 27, 1973, 93-1, *Record*, pp. 21615-17.

ruling by the Chair.[15] However, the Chair has been overturned on appeal when it ruled out of order an amendment which related to a provision in a bill (authorizing a demonstration project to study the effects of disability benefits to the terminally ill) but expanded that concept by proposing to waive the statutory waiting period before terminally ill patients could receive such benefits, and by defining "terminally ill." [16]

An amendment which introduces new subject matter,[17] or if introduced as a new bill would be referred to a committee other than the one which reported the bill, would not be germane.[18] Amendments for which germaneness was required have been ruled out of order by the Chair on the grounds that they proposed new subject matter which was in the jurisdiction of another committee.[19] The Chair has ruled out of order a sense of the Senate amendment whose subject matter was within the jurisdiction of the committee that reported the bill for which germaneness had been required by unanimous consent.[20] On two earlier occasions, the Chair overruled points of order against sense of the Senate amendments offered to a Senate resolution regarding the sending of troops to NATO nations; the first such amendment urged the United States to join with other parties to a treaty with Italy in negotiating changes in that treaty;[21] the second such amendment urged the people of Germany to contribute to their own defense and the collective security of the North Atlantic area, and further urged the creation of a volunteer corps of German nationals.[22]

An amendment to the Nationality Act was ruled out of order as nongermane to a bill to amend the Displaced Persons Act, since it was an amendment "to the general immigration law." [23] The Chair then declined to sustain a point of order against another amendment to that bill since in the words of the Chair it was "an extension of the provisions contained in subsection (f), but the Chair does not think the extension makes it ungermane." [24]

---

[15] July 14, 1975, 94-1, *Record*, pp. 22560-61.
[16] Jan. 30, 1980, 96-2, *Record*, pp. 1193-1203.
[17] May 15, 1980, 96-2, *Record*, p. 11352.
[18] Mar. 8, 1968, 90-2, *Record*, pp. 5838-39.
[19] July 31, 1975, 94-1, *Record*, pp. 26372-76; July 23, 1976, 94-2, *Record*, pp. 23669-70.
[20] June 2, 1980, 96-2, *Record*, pp. 12946-51.
[21] Apr. 2, 1951, 82-1, *Record*, pp. 3085-87.
[22] Apr. 4, 1951, 82-1, *Record*, pp. 3254-55.
[23] Apr. 5, 1950, 81-2, *Record*, pp. 4774-75.
[24] Apr. 5, 1950, 81-2, *Record*, p. 4781.

An amendment to bar assistance under the Economic Cooperation Act to countries that exported certain goods to communist countries was ruled out of order as nongermane to a bill to amend the Internal Security Act of 1950. The Chair noted that the bill dealt with people within the United States, and did not go to the conduct of people in foreign countries.[25] An amendment that provided that a bill furnishing emergency relief to Yugoslavia not be effective until a certain amount of aid be made available to China was ruled nongermane to the subject matter of the bill.[26]

An amendment to censure another Senator would not be germane to a resolution to censure a first Senator.[27] Another amendment to that resolution that stated that it was the sense of the Senate that the Communist Party of the United States was part of an international conspiracy, and that appropriate committees of the Senate should investigate this conspiracy and all subversive elements and persons connected therewith, was ruled nongermane.[28] Still another amendment to that resolution that limited the resolution by stating that nothing therein should be considered a precedent or an intention of the Senate to limit its investigative powers and reponsibilities of its committees especially with respect to the Communist Party, and that stated the sense of the Senate that its appropriate committees should continue to investigate and expose the Communist conspiracy, was ruled out of order as nongermane.[29]

An amendment affecting the amounts that Senators would receive from the contingent fund of the Senate for certain office expenses was ruled germane to a bill providing increases in judicial and congressional salaries, the Presiding Officer stating that "it is a rather close question, but the amendment does deal with the amount, directly or indirectly, which Senators receive." [30] A further amendment to that bill requiring the Secretary of the Senate and the Clerk of the House to cause to have published on a periodic basis in the *Congressional Record* the names, positions and salaries of persons employed by the

---

[25] Sept. 12, 1950, 81-2, *Record*, pp. 15606-11.
[26] Dec. 11, 1950, 81-2, *Record*, pp. 16397-99.
[27] *See* Nov. 29, 1954, 83-2, *Record*, pp. 16156, 16169.
[28] Dec. 2, 1954, 83-2, *Record*, pp. 16381-82, 16385.
[29] Dec. 2, 1954, 83-2, *Record*, p. 16382.
[30] Feb. 23, 1955, 84-1, *Record*, pp. 1940-41.

Senate and the House was ruled out of order as nongermane.[31]

An amendment to repeal a tax credit for income derived from stocks of corporations was ruled nongermane to a bill relating to an extension of the tax on corporations, the Chair stating "there is nothing dealing with the subject matter of the amendment.[32] A further amendment to that bill proposing an increase in personal exemptions that taxpayers could claim, was likewise ruled nongermane.[33] An amendment providing for an adjustment of the normal tax and surtax rates on corporations was ruled nongermane to a bill increasing excise taxes on certain commodities and materials for the purpose of financing road construction, the Chair noting that the amendment "does not relate to any provision in the pending bill." [34]

An amendment providing for increased compensation of classified employees of the government was ruled nongermane to a bill increasing the rates of compensation of officers and employees in the field service of the Post Office, the Presiding Officer noting that the amendment applied to only one class of government employees, and that the amendment would increase the scope of the bill by adding another class of government employees.[35]

When a bill was pending to amend the National Education Act of 1959 to repeal provisions requiring affidavits of loyalty and allegiance, the Chair gave its opinion that an amendment relating to persons accepting funds or benefits under other laws was not germane, noting that "any amendment directed to persons beyond the confines of this Act would not be germane." [36]

An amendment prohibiting assistance to any business entity or other enterprise that did not provide equal opportunities on account of race, religion, or color, was ruled nongermane when offered to the Area Redevelopment Amendments Act of 1963, the Chair stating, "there is no provision of the bill dealing with the question of civil rights." [37]

---

[31] Feb. 23, 1955, 84-1, *Record*, p. 1944.
[32] Mar. 15, 1955, 84-1, *Record*, pp. 2910-12.
[33] Mar. 15, 1955, 84-1, *Record*, p. 2917.
[34] May 29, 1956, 84-2, *Record*, pp. 9242, 9246.
[35] June 1, 1955, 84-1, *Record*, pp. 7341-42.
[36] *See* July 23, 1959, 86-1, *Record*, p. 14080.
[37] June 26, 1963, 88-1, *Record*, pp. 11692-94.

An amendment adding a new title to the Civil Rights Act, proposing certain amendments to the Labor-Management Reporting and Disclosure Act of 1959, was held by the Chair to be germane, but that decision was not sustained by the full Senate; [38] When the issue again arose several years later, a similar amendment was held not to be germane, the Chair noting that the amendment if offered as a bill would be referred to a committee other than the committee that reported the pending measure.[39]

An amendment to the "Buy-American" Act was, in the opinion of the Chair in response to an inquiry, not germane to a bill authorizing additional appropriations for comprehensive river basin plans. The Chair indicated in response to a further inquiry that an amendment "dealing with the bill alone" would likewise be nongermane if it introduced "new material into the bill not related to any provision of the bill." [40]

An amendment relative to impoundment of appropriations was ruled germane to the Economic Stabilization Act of 1970, the Chair noting that it was offered to a provision of the bill relating to impoundment.[41] Another amendment to the same bill that dealt with both impoundment and a budget limitation was ruled nongermane, since the issue of a budget limitation "deals with another subject matter, and it is not included in the committee bill." [42] An further amendment to the same bill dealing with rent control was ruled nongermane, since it introduced "new subject matter not covered in the bill." [43] Another amendment to the same bill requiring the President to issue an order stabilizing interest rates was ruled nongermane by the Chair, but on appeal that decision was not sustained by a vote of 43 yeas to 44 nays. The amendment was then tabled.[44]

A second degree amendment barring funds for military operations in South Vietnam, Cambodia and Laos, offered to a first degree amendment prohibiting funds for the restoration of North Vietnam (which was pending to an unrelated bill), was ruled nongermane under an unanimous consent agreement that required that amendments

---

[38] June 11, 1964, 88-2, *Record*, pp. 13448, 13456-57.
[39] Mar. 8, 1968, 90-2, *Record*, pp. 5838-39.
[40] *See* Dec. 3, 1963, 88-1, *Record*, pp. 22039-40.
[41] Mar. 20, 1973, 93-1, *Record*, p. 8801.
[42] Mar. 20, 1973, 93-1, *Record*, p. 8826.
[43] Mar. 20, 1973, 93-1, *Record*, pp. 8804-08.
[44] Mar. 20, 1973, 93-1, *Record*, pp. 8826-30.

be germane either to the bill or that first degree amendment. The Chair stated, "Since the amendment of the Senator from Virginia does not mention Cambodia, Laos, or South Vietnam, the amendment is nongermane." [45]

An amendment to establish uniform closing times for polling places in national elections was ruled nongermane to a bill relative to the holding of Federal primary elections and national political conventions, since the amendment introduced new subject matter.[46]

An amendment providing for fair packaging and labeling, nutritional labeling of food products, and labeling requirements for perishable and semiperishable foods, was ruled nongermane to the Agriculture and Consumer Protection Act of 1973, the Chair stating that the amendment "does introduce completely new subject matter in regard to food packaging and labeling, and that there is no such subject matter in the bill." [47]

An amendment proposing (notwithstanding any other provision of law) an acreage set-aside program for potatoes was ruled nongermane to a bill proposing (notwithstanding any other provision of law) comparable acreage set-asde programs for wheat, grain, upland cotton and soybeans.[48]

When operating under a unanimous consent agreement that amendments in the second degree must be germane to amendments in the first degree, a second degree amendment dealing with A–7 aircraft was ruled nongermane to a first degree amendment dealing only with A–10 aircraft; the Chair stated that the second degree amendment "introduces new subject matter, the A–7 aircraft." An appeal was taken but tabled.[49]

A complete substitute for a measure was ruled germane by the Vice President who stated, "It deals with the same subject, though in a little different way." [50]

The Chair overruled a point of order against an amendment to the Defense Production Extension Act of 1951 that limited the import of certain foodstuffs, notwithstanding any other provision of law,[51] although such

---

[45] Apr. 5, 1973, 93–1, *Record*, pp. 1154–57. *See* Apr. 4, 1973, 93–1, *Record*, p. 11080 for clarification of the relevant provision of the unanimous consent agreement.
[46] June 27, 1973, 93–1, *Record*, pp. 21615–17.
[47] June 7, 1973, 93–1, *Record*, pp. 18655–60.
[48] Mar. 21, 1978, 95–2, *Record*, p. 7783.
[49] May 26, 1976, 94–2, *Record*, pp. 15656–57.
[50] Jan. 25, 1950, 80–2, *Record*, pp. 870–72.
[51] June 28, 1951, 82–1, *Record*, p. 7372.

amendment would be nongermane under current standards for germaneness.

GERMANENESS OF DEBATE

See also "Debate," pp. 732, 836–837, 984 and "Germaneness of Debate," pp. 289–295, 742–745.

Rule XIX, Paragraph 1(b)

[Debate Each Day for Three Hours Must Be Germane]

At the conclusion of the morning hour at the beginning of a new legislative day or after the unfinished business or any pending business has first been laid before the Senate on any calendar day, and until after the duration of three hours of actual session after such business is laid down except as determined to the contrary by unanimous consent or on motion without debate, all debate shall be germane and confined to the specific question then pending before the Senate.[1]

The Presiding Officer, on January 27, 1964, in response to a parliamentary inquiry, stated that while he would have the right to call a Senator to order, following the customary procedure under Rule XIX, a question of the germaneness of debate under that rule should arise by reason of a call for the regular order being made from the floor, and that the rule was not necessarily self-enforcing.[2]

On another occasion the Chair stated that "pending business," as used in the rule, means "any business which the Senate has proceeded to consider, either by motion or by unanimous consent, exclusive of morning hour business." [3]

Debate under this provision of the rule, as stated by the Chair, is not required to be germane beyond a 3-hour period each day, but Rule XIX as now written requires "three hours of actual session" and if the Senate should take a recess or recesses for periods during a said day before the expiration of the three hours the time consumed in recess would not be counted in the three hour

[1] Originally adopted on Jan. 23, 1964.
[2] *See* Jan. 27, 1964, 88–2, *Record*, p. 1121.
[3] *See* Jan. 28, 1964, 88–2, *Record*, pp. 1267–68.