

MAINE STATE LEGISLATURE

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June 29, 1977

Honorable Joseph Sewall
President of the Senate
Senate Chambers
State House
Augusta, Maine 04333

Dear Senator Sewall:

I am responding to your request for a short outline of guiding principles with regard to the question of whether committee amendments to proposed legislation satisfy the parliamentary rule that an amendment must be "germane" to the original proposition. In preparing this outline I have used the following source materials: Mason, Manual of Legislative Procedure (1975), cited herein as "Mason"; Hughes' American Parliamentary Guide (1926), cited herein as "Hughes"; Brown, Jefferson's Manual and the Rules of the House of Representatives (1977), cited herein as "Jefferson's"; Reed's Parliamentary Rules (1898), cited herein as "Reed's"; Robert's Rules of Order (1970 edition), cited herein as "Robert's"; Hinds' Precedents of the House of Representatives, cited herein as "Hinds"; and Cannon's Precedents of the House of Representatives, cited herein as "Cannon's".

I. Applicability of the rule to committee amendments.

A. "The rule that amendments must be germane applies to amendments reported from committee." Hughes' section 412; 5 Hinds' section 5906.

B. "Committee amendments must be relevant to the general subject matter of the bill referred to the committee in order to be received." Mason's section 404(2); Hughes' section 423.

II. The general rule concerning germane amendments.

A. "No motion or proposition on a subject different from that under consideration shall be admitted under cover of amendment." Jefferson section 794; Hughes' section 406; Reed's section 160.

B. "To be germane an amendment must in some way involve the same question that is raised by the motion to which it is applied." Robert's, page 113.

C. "It is impossible to lay down any precise rules on this subject, and much depends on the good sense of the presiding officer." Reed's section 160.

D. "To determine whether an amendment is germane, the question to be answered is whether the question is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal." 1914 Ruling of Speaker of the House of Representatives Champ Clark, 8 Cannon's section 2993; Hughes' section 411; Mason's section 402(2).

E. "Carlisle Rule" - The test is whether a motion or proposition is on a subject matter different from that under consideration. Hughes' section 410; 5 Hinds' section 5825; Jefferson's section 798a.

F. The matter should be judged from the provisions of the text of the amendment and the original proposition rather than from the purposes the circumstances suggest. Jefferson's section 98b; Hughes' section 407; 5 Hinds' section 5803.

G. The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. Jefferson's section 798b; 8 Cannon's section 2911.

H. Two subjects are not necessarily germane because they are related. Hughes' section 409; 8 Cannon's sections 2970, 2971 and 2973.

I. A committee amendment in the nature of a substitute is germane where the purpose is the same and any additional provisions are merely incidental conditions or exceptions and are related to the fundamental purpose of the bill. Jefferson's section 798b.

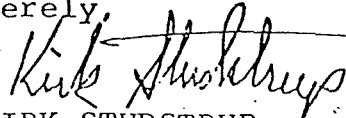
J. Where the amendment concerns the method of achieving the goal of the proposed legislation, the method must be closely allied to the method employed in the original. Jefferson's section 798b.

III. Burden of proof.

The burden of proving that an amendment is germane is upon the proponents of the amendment. 8 Cannon's section 2995.

I hope that the foregoing information will be useful to you. Please continue to call on us whenever we might be of assistance.

Sincerely,



S. KIRK STUDSTRUP
Assistant Attorney General

SKS:jg