urgent deficiency appropriations for the fiscal year ending June 30, 1957.

An amendment was offered, as follows:

> Substitute amendment offered by Mr. [Gordon L.] McDonough [of California]: On page 5, line 7, strike out all after the semicolon.

The Chairman[9] stated:

> That is not a substitute amendment, because that language has been stricken out on the point of order raised by the gentlewoman from Oregon and sustained by the Chair. That language is not in the bill at the moment.

§ 18. Substitute Amendments

A "substitute" is a substitute for an amendment, and not a substitute for the original text. Of course, substitute amendments are amendments and as such are themselves subject to amendment.[10]

A substitute for a motion to strike out is not in order.[11] or is a motion to strike out in order as a substitute for a pending motion to strike out and insert,[12] or for a perfecting amendment to text generally.[13]

Defined

§ 18.1 A "substitute" is a substitute for an amendment and not a substitute for the original text.

On July 26, 1955,[14] the following proceedings took place:

> MR. [J. HARRY] MCGREGOR [of Ohio]: Mr. Chairman, a point of order. I make a point of order that the substitute amendment is not in order. It is a substitute to the substitute.
>
> THE CHAIRMAN:[15] The Chair will advise the gentleman from Ohio that it is offered as a substitute to the amendment offered by the gentleman from Michigan (Mr. Dondero).
>
> MR. MCGREGOR: Then, if I understand the gentleman correctly, the gentleman from Michigan did not offer a substitute, but offered an amendment; is that correct?
>
> THE CHAIRMAN: The gentleman from Michigan [Mr. Dondero] offered a motion to strike out and insert, which is . . . an original amendment.

When To Offer

§ 18.2 In the Committee of the Whole, the proper time to offer a substitute for an

---

9. Wilbur D. Mills (Ark.).

10. See, for example, § 15.29, supra.

11. See § 8.8, infra.

12. See § 17.18, supra.

13. See § 17.17, supra.

If a motion to strike out and insert is rejected, the simple motion to strike out is then in order. See § 17.16, supra.

14. 101 CONG. REC. 11565, 84th Cong. 1st Sess. Under consideration was H.R. 7474, to amend and supplement the Federal Aid Road Act, as amended, etc.

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

amendment is after the amendment has been read and the Member offering it has been permitted to debate it under the five-minute rule.

On Aug. 3, 1966,[16] during consideration of H.R. 14765, the Civil Rights Act of 1966, Mr. Charles M. Mathias, Jr., of Maryland, sought to offer an amendment:

MR. MATHIAS: Mr. Chairman, I offer a perfecting amendment.

THE CHAIRMAN:[17] The Clerk will report the amendment.

MR. [CLARK] MACGREGOR [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MACGREGOR: Mr. Chairman, when will it be in order for me to seek recognition for the purpose of offering an amendment in the nature of a substitute to the Mathias perfecting amendment?

THE CHAIRMAN: It will be in order for the gentleman from Minnesota to offer such an amendment after the gentleman from Maryland has concluded his remarks on his amendment.

[Several parliamentary inquiries here intervened.]

MR. MATHIAS: Was I not recognized, Mr. Chairman?

THE CHAIRMAN: The Clerk has not yet reported the amendment. The Clerk will report the amendment. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: Will the gentlemen who desire to make parliamentary inquiries allow the Clerk to report the amendment?

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Mathias: On page 65, after line 14, insert the following:

"(e) Nothing in this section shall prohibit, or be construed to prohibit, a real estate broker, agent, or salesman, or employee or agent of any real estate broker, agent, or salesman from complying with the express written instruction of any person not in the business of building, developing, selling, renting, or leasing dwellings, or otherwise not subject to the prohibitions of this section pursuant to subsection (b) or (c) hereof, with respect to the sale, rental, or lease of a dwelling owned by such person, if such instruction was not encouraged, solicited, or induced by such broker, agent, or salesman, or any employee or agent thereof."

THE CHAIRMAN: The gentleman from Iowa.

MR. GROSS: Mr. Chairman, is a moving of the previous question on the Moore amendment in order at this time?

THE CHAIRMAN: The motion is not in order in the Committee of the Whole.

The gentleman from Maryland [Mr. Mathias] is recognized for 5 minutes.

§ 18.3 As long as the Chair has not put the question on an amendment, a substitute is in order therefor, notwithstanding the expiration of debate time.

An example of the proposition described above occurred on June

16. 112 CONG. REC. 18114, 18115, 89th Cong. 2d Sess.

17. Richard Bolling (Mo.).

14, 1979,[18] during consideration of H.R. 4388[19] in the Committee of the Whole. The Committee had agreed to limit debate on an amendment, as amended, and the Chair had announced the expiration of all time for debate. The proceedings were as follows:

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I offer an amendment as a substitute for the amendment, as amended. . . .

MR. [TOM] BEVILL [of Alabama]: Mr. Chairman, on the amendment, as amended, I ask for a rollcall vote.

THE CHAIRMAN:[20] The Chair has not yet put the question on the amendment, as amended.

MR. BEVILL: I ask for a vote then.

MR. DINGELL: Mr. Chairman, I happen to have an amendment in the nature of a substitute.

THE CHAIRMAN: The Chair had recognized the gentleman from Michigan and asked him for what purpose he sought recognition. The gentleman indicated that he had an amendment.

MR. [MIKE] MCCORMACK [of Washington]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MCCORMACK: Mr. Chairman, when the gentleman from Alabama, the chairman of the subcommittee, requested an agreement to end debate, there was no objection on the amendment and amendments thereto. At that point the vote was put.

I suggest to the Chair that it is in order now to vote on the amendment.

MR. DINGELL: Mr. Chairman, I have an amendment I desire to offer as a substitute at this time.

THE CHAIRMAN: The Chair will indicate to the gentleman from Washington that we are operating under a time limit; however, that does not exclude the possibility of offering an amendment as a substitute, though no debate will be in order in the absence of a unanimous-consent request.

Therefore, the Clerk will read the amendment.

18. 125 CONG. REC. 14993, 14994, 96th Cong. 1st Sess.

19. The Energy and Water Development Appropriation Bill for fiscal year 1980.

20. Philip R. Sharp (Ind.).

§ 18.4 While there is pending an amendment in the nature of a substitute and an amendment thereto, a substitute for the original amendment may be offered.

On Dec. 18, 1979,[1] the Committee of the Whole having under consideration H.R. 5860,[2] the above-stated proposition was illustrated as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Brademas to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: Strike line 7, page 5, through line 7, page 9,

1. 125 CONG. REC. 36794, 36801, 96th Cong. 1st Sess.

2. Authorizing loan guarantees to the Chrysler Corporation.

(section 4(a)(4) through section 4(d)) and replace with the following:

(4) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such operating plan, and which includes, in accordance with the provisions of subsection (c), an aggregate amount of nonfederally guaranteed assistance of not less than $1,930,000,000. . . .

MR. [WILLIAM S.] MOORHEAD of Pennsylvania: If the gentleman from Indiana (Mr. Quayle) should decide to offer his substitute to the Moorhead-McKinney amendment before the vote on the Brademas amendment, it would be in order, would it not?

THE CHAIRMAN:[3] It would be in order to offer it. . . .

AMENDMENT OFFERED BY MR. QUAYLE AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

MR. [DAN] QUAYLE [of Indiana]: Mr. Chairman, I offer an amendment as a substitute for the amendment in the nature of a substitute.

What Is a Proper Substitute—Amendment Perfecting Another Portion of Section

§ 18.5 For a perfecting amendment to a section of a bill, an amendment to perfect another portion of the section may not be offered as a substitute, but should be offered separately after the first perfecting amendment is disposed of.

On Oct. 10, 1974,[4] during consideration in the Committee of the Whole of a bill,[5] the following proceedings occurred:

The Clerk read as follows:

Sec. 2. The National Visitor Center Facilities Act of 1968, as amended, is further amended by revising section 102(a)(3) to read as follows:

"(3) The Company, in consultation with the Secretary, shall construct all or part of a parking facility. . . .

Sec. 3. Section 102(c) of the National Visitor Center Facilities Act of 1969 is amended by striking out "$8,680,000" and inserting in lieu thereof "$21,580,000".

MR. [KENNETH J.] GRAY [of Illinois]: Mr. Chairman, I offer an amendment which is a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. Gray: Page 2, line 9, strike out "1969" and insert in lieu thereof "1968." . . .

MR. GRAY: Mr. Chairman, I will explain the amendment. It only changes the date which is a typographical error on the part of the printer. In referring to the National Visitors Center Facilities Act the printer inserted "1969" instead of "1968." It is a technical error.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer an amendment as substitute for the amendment.

The Clerk read as follows:

3. Richard Bolling (Mo.).

4. 120 CONG. REC. 35177, 93d Cong. 2d Sess.

5. H.R. 17027, to amend the National Visitor Center Facilities Act.

Amendment offered by Mr. Gross as a substitute for the amendment offered by Mr. Gray: On page 2, line 10, strike out $21,580,000' and insert in lieu thereof "$8,780,000".

THE CHAIRMAN:[6] The Chair will advise the gentleman from Iowa the amendment is not in order as a substitute, but the gentleman can offer it separately.

The question is on the amendment offered by the gentleman from Illinois (Mr. Gray).

The amendment was agreed to.

MR. GROSS: Mr. Chairman, I now offer my amendment.

The Clerk read as follows:

Amendment offered by Mr. Gross: On page 2, line 10, strike out "$21,580,000" and insert in lieu thereof "$8,780,000".

—*Substitute Broadening Scope of Amendment to Which Offered*

§ 18.6 For an amendment inserting new text in a bill, a proposition not only inserting similar language but also striking out original text of the bill may not be in order as a substitute, where the portion striking original text has the effect of broadening the scope of the amendment to which it is offered and therefore violating the germaneness rule.

On Sept. 8, 1976,[7] the Committee of the Whole had under consideration H.R. 10498, the Clean Air Act Amendments of 1976:

Sec. 108. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following), as amended by section 107 of this Act, is further amended by adding at the end thereof the following new subtitle: . . .

Amendments were offered, as follows:[8]

Amendment offered by Mr. Rogers: Page 216, after line 23, insert:

(f) The Clean Air Act, as amended by sections 306, 201, 304, 312, 313, 108, and 211 of this Act, is further amended by adding the following new section at the end thereof:

"NATIONAL COMMISSION ON AIR QUALITY

"Sec. 325. (a) There is established a National Commission on Air Quality which shall study and report to the Congress. . . .

MR. [BILL] CHAPPELL [Jr., of Florida]: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Florida (Mr. Rogers).

The Clerk read as follows:

Amendment offered by Mr. Chappell as a substitute for the amendment offered by Mr. Rogers: Page 198, line 5, after section 108, strike out everything following Sec. 108 and insert the following:

6. Lucien N. Nedzi (Mich.).

7. 122 CONG. REC. 29225, 94th Cong. 2d Sess.

8. *Id.* at pp. 29234, 29237.

"Sec. 108. The Clean Air Act is amended by inserting a new section 315 and renumbering succeeding sections accordingly:

"NATIONAL COMMISSION ON AIR QUALITY

"Sec. 315(a) There is established a National Commission on Air Quality which shall study and report to the Congress on:

"(1) the effects of any existing or proposed policy on prohibiting deterioration of air quality in areas identified as having air quality better than that required under existing or proposed national ambient standards on employment . . . the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense and its other social and environmental effects. . . .

MR. [PAUL G.] ROGERS [of Florida]: Mr. Chairman, I reserve a point of order against the amendment offered as a substitute for my amendment.

THE CHAIRMAN:[9] Does the gentleman from Florida (Mr. Rogers) wish to be heard on the point of order?

MR. ROGERS: Mr. Chairman, I would insist that at this time, not that I would object to the unanimous-consent request, but probably we should vote on my amendment and the amendment of the gentleman from New Jersey first and then allow the gentleman from Florida to offer h0, 1999 -Subformat:

MR. [CHAUNCEY W.] REED of Illinois: Mr. Chairman, I offer a substitute for the amendment offered by the gentleman from Pennsylvania. . . .

Amendment offered by Mr. Reed of Illinois: On page 72, line 8, strike out all of lines 8, 9, 10, and 11.

THE CHAIRMAN:[20] The Chair would inform the gentleman that is not a proper substitute for the pending amendment. The gentleman may offer this amendment later.

§ 18.12 A motion to strike out a portion of a section is not in order as a substitute for a perfecting amendment to that section.

On June 5, 1974,[1] the Committee of the Whole was considering H.R. 14747, to amend the Sugar Act of 1948. An amendment was pending which sought to insert an additional labor standard to those contained in a section of the bill. A motion to strike out a portion of the section was offered as a substitute for the pending amendment, but was ruled out as not a proper substitute for the perfecting amendment, and, furthermore, as not germane, in that it went beyond the scope of the perfecting amendment.

MR. [JAMES G.] O'HARA [of Michigan]: Mr. ChairI22THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Florida (Mr. Rogers) correctly stated the situation. His amendment calls for a study and inserts a new subsection in section

9. J. Edward Roush (Ind.).

20. Carl T. Curtis (Nebr.).

1. 120 CONG. REC. 17868, 17869, 93d Cong. 2d Sess.

108. The Chappell amendment is much broader, and does deal with the standards which are set out in this particular section of the bill, while the Rogers amendment merely adds the study.

The Chair would, in support of the ruling the Chair is about to make, refer to Cannon's Precedents of the House of Representatives, page 457, section 2880, wherein it is stated:

> An amendment striking out language other than in the pending amendment is not in order as a substitute for an amendment inserting language.

The Chair would further point to a ruling set out on page 456 of the same volume, in section 2879, entitled "A decision as to what constitutes a substitute":

> To qualify as substitute an amendment must treat in the same manner the same subject matter carried by the text for which proposed.

The Chair therefore sustains the point of order, and would advise the gentleman from Florida (Mr. Chappell) that his amendment might be in order after the Rogers amendment and the amendment thereto have been disposed of.

—*Amendment Making Perfecting Changes in Bill Rather Than Amendment to Which Offered*

§ 18.7 To an amendment adding a new section to a bill, an amendment making perfecting changes in the bill rather than in the amendment is not a proper perfecting amendment, but, if germane, may be offered as a substitute for the original amendment.

On Apr. 26, 1984,[10] the Committee of the Whole having under consideration H.R. 5172,[11] the above-stated proposition was illustrated as indicated below:

> MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Walker: On page 9, following line 17, add the following new section:
>
> "Sec. 205. Of the sums authorized pursuant to this title, each such sum is hereby reduced by 6.2 percent." . . .

MR. [JUDD] GREGG [of New Hampshire]: Mr. Chairman, I offer a perfecting amendment to the amendment offered by the gentleman from Pennsylvania (Mr. Walker). . . .

> The Clerk read as follows:
>
> Perfecting amendment offered by Mr. Gregg to the amendment offered by Mr. Walker:
>
> On page 4, line 21, strike "$57,948,000" and insert in lieu thereof the following, "$52,030,000". . . .

MR. [DON] FUQUA [of Florida]: Mr. Chairman, the amendment that I un-

10. 130 CONG. REC. 10212, 10213, 98th Cong. 2d Sess.

11. National Bureau of Standards Authorization Bill.

derstand the gentleman offers as an amendment and a perfecting amendment to the amendment offered by the gentleman from Pennsylvania (Mr. Walker), the Walker amendment, as I read it, adds a new section.

Therefore, this perfecting amendment would not be in order to the Walker amendment as a perfecting amendment.

It appears to be a substitute for the Walker amendment, but it is being offered as a perfecting amendment to the Walker amendment.

THE CHAIRMAN:[12] Does the gentleman from New Hampshire offer his amendment as a substitute or as a perfecting amendment?

MR. GREGG: Mr. Chairman, I will offer the amendment as a substitute.

—*Substitute for Motion To Strike*

§ 18.8 A substitute for a motion to strike out is not in order.

On Jan. 21, 1964,[13] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. [Adam C.] Powell [of New York]: On page 3, strike out lines 8 through 16. . . .

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman, I offer a substitute.

THE CHAIRMAN:[14] The Chair will advise the gentleman from Minnesota that his amendment is not in order at this time. We will have to vote on the pending amendment first.

§ 18.9 When a motion to strike out is pending, it is not in order to offer a substitute therefor; but a perfecting amendment to the text may be offered.

On Mar. 13, 1958,[15] the following proceedings took place:

Amendment offered by Mr. [Victor L.] Anfuso [of New York]: On page 2, strike out section 2.

MR. [CLIFFORD G.] MCINTIRE [of Maine]: Mr. Chairman, I have a substitute amendment at the Clerk's desk for the Anfuso amendment.

THE CHAIRMAN:[16] It is not in order to offer a substitute for a motion to strike out. The gentleman may offer his amendment as a perfecting amendment.

§ 18.10 A substitute for a motion to strike out is not in order, but a perfecting amendment may be offered when a motion to strike out certain language is pending.

On Apr. 3, 1957,[17] the following proceedings took place:

---

12. William B. Richardson (N. Mex.).

13. 110 CONG. REC. 757, 88th Cong. 2d Sess. Under consideration was H.R. 4879.

14. William S. Moorhead (Pa.).

15. 104 CONG. REC. 4325–27, 85th Cong. 2d Sess. Under consideration was H.R. 376, to amend the Commodity Exchange Act to prohibit trading in onion futures in commodity exchanges.

16. Wayne N. Aspinall (Colo.).

17. 103 CONG. REC. 5027, 5029, 85th Cong. 1st Sess. Under consideration

Amendment offered by Mr. [Lee] Metcalf [of Montana]: On page 27, line 19, after "June 30, 1959:", strike out the remainder of line 19 and all of line 20 and change the semicolon to a period.

MR. [MELVIN R.] LAIRD [of Wisconsin]: Mr. Chairman, I offer a substitute amendment.

THE CHAIRMAN:[18] A substitute is not in order to a motion to strike out. The gentleman can offer a perfecting amendment to the paragraph.

—*Motion To Strike Out Not Proper Substitute*

§ 18.11 To an amendment proposing to add new language in a paragraph, an amendment proposing to strike out the portion of the paragraph sought to be amended along with additional language of such paragraph is not a proper substitute.

On Mar. 5, 1948,[19] the following proceedings took place:

Amendment offered by Mr. [Francis E.] Walter [of Pennsylvania]: On page 72, line 10, after "referee", insert "appointed," and after "place" where it first appears in line 10 insert "created since June 23, 1946."

MR. [CHAUNCEY W.] REED of Illinois: Mr. Chairman, I offer a substitute for the amendment offered by the gentleman from Pennsylvania. . . .

Amendment offered by Mr. Reed of Illinois: On page 72, line 8, strike out all of lines 8, 9, 10, and 11.

THE CHAIRMAN:[20] The Chair would inform the gentleman that is not a proper substitute for the pending amendment. The gentleman may offer this amendment later.

§ 18.12 A motion to strike out a portion of a section is not in order as a substitute for a perfecting amendment to that section.

On June 5, 1974,[1] the Committee of the Whole was considering H.R. 14747, to amend the Sugar Act of 1948. An amendment was pending which sought to insert an additional labor standard to those contained in a section of the bill. A motion to strike out a portion of the section was offered as a substitute for the pending amendment, but was ruled out as not a proper substitute for the perfecting amendment, and, furthermore, as not germane, in that it went beyond the scope of the perfecting amendment.

MR. [JAMES G.] O'HARA [of Michigan]: Mr. Chairman, I offer an amendment.

---

was H.R. 6287, making appropriations for the Departments of Labor, Health, Education, and Welfare, etc.

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

19. 94 CONG. REC. 2243, 2244, 80th Cong. 2d Sess. Under consideration was H.R. 5607, the State, Justice, Commerce, and Judiciary Appropriation Bill for 1949.

20. Carl T. Curtis (Nebr.).

1. 120 CONG. REC. 17868, 17869, 93d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. O'Hara: Page 18, after line 5, insert:

(5) That the producer who compensates workers on a piece-rate basis shall have paid, at a minimum, the established minimum hourly wage.

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Michigan (Mr. O'Hara).

The Clerk read as follows:

Amendment offered by Mr. Symms as a substitute for the amendment offered by Mr. O'Hara: In lieu of the amendment offered by the gentleman from Michigan insert the following: "Section 11 of the bill, page 15, strike out all of line 11 through line 6 of page 17 and renumber the '(3)' on line 7, page 17 as '(1)', and strike out line 15 on page 17 through line 5 on page 18." . . .

MR. O'HARA: Mr. Chairman, I make a point of order against the amendment in that it is not germane to the provisions of my amendment. It deals with different parts of section 11. . . .

MR. SYMMS: . . . Mr. Chairman, this amendment is germane to the gentleman's amendment. It strikes it and all the labor provisions from the bill.

THE CHAIRMAN (Mr. [James J.] Burke of Massachusetts]: It is the ruling of the Chair that the amendment offered by the gentleman from Idaho (Mr. Symms) as a substitute for the amendment offered by the gentleman from Michigan (Mr. O'Hara) is not a proper substitute. The substitute would strike portions of section 11 not affected by the pending amendment. And, the substitute is broader in scope than the amendment to which offered and is not germane thereto. The Chair sustains the point of order.

§ 18.13 A motion to strike out an entire subsection of a bill is not a proper substitute for a perfecting amendment to the subsection, since it is broader in scope, but may be offered after disposition of the perfecting amendment.

On Sept. 23, 1982,[2] it was demonstrated that, for a perfecting amendment to a subsection striking out one activity from those covered by a provision of existing law, a substitute striking out the entire subsection, thereby eliminating the applicability of existing law to a number of activities, was not in order. The proceedings in the Committee of the Whole during consideration of H.R. 5540[3] were as follows:

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Vento: Page 41, line 24, strike out ", or the installation of equipment,".

Page 42, beginning on line 15, strike out ", or the installation of equipment,".

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Chairman, I offer an amend-

2. 128 CONG. REC. 24963, 24964, 97th Cong. 2d Sess.

3. Defense Industrial Base Revitalization Act.

ment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Erlenborn as a substitute for the amendment offered by Mr. Vento: Beginning on page 41, line 22, strike all of subsection (m) through page 43, line 2.

MR. VENTO: Mr. Chairman, I make a point of order against the amendment offered as a substitute by the gentleman from Illinois (Mr. Erlenborn). . . .

[T]he substitute offered by the gentleman is clearly not in order. Under rule 19, Cannon's Procedure VIII, section 2879, the precedents provide that "to qualify as a substitute an amendment must treat in the same manner the same subject carried by the amendment for which it is offered."

My amendment would remove language from the committee bill and limit the applicability of the Davis-Bacon Act in terms of one type of activity. The gentleman's substitute would strike the entire section of the committee bill which my amendment seeks to perfect and thereby eliminate the Davis-Bacon provisions of this legislation.

In this case, the amendment offered by the gentleman clearly does not treat the subject in the same manner which my amendment does. Also, under Deschler's Procedure, chapter 27, section 14.1, decisions made by the Chair on August 12, 1963, December 16, 1963, and June 5, 1974, a motion to strike out a section of paragraph is not in order while a perfecting amendment is pending. In addition, the decisions of the Chair of December 16, 1963, and June 5, 1974, and contained in Deschler's Procedure, chapter 27, section 14.4, provides that a provision must be perfected before the question is put on striking it out. A motion to strike out a paragraph or section may not be offered as a substitute for pending motion to perfect a paragraph or section by a motion to strike and insert. The gentleman's amendment attempts to accomplish indirectly something that he is precluded from doing directly. . . .

MR. ERLENBORN: . . . The language to which both amendments are directed is language in the bill that is applying the Davis-Bacon Act to activities under the bill in question. The amendment offered by the gentleman is reducing the extent of that coverage by taking out the installation of equipment.

My substitute also reduces that by eliminating the language so there would be no extension of Davis-Bacon to the activities beyond the present coverage of Davis-Bacon.

So the amendment that has been offered by the gentleman from Minnesota (Mr. Vento) is affecting Davis-Bacon by reducing its coverage. Mine also would affect the reduction of Davis-Bacon, only in a broader manner; and I, therefore, believe the amendment is in order.

THE CHAIRMAN:[4] The Chair is prepared to rule.

The Chair sustains the point of order of the gentleman from Minnesota (Mr. Vento) for the reasons advocated by the gentleman from Minnesota that the substitute is too broad in its scope in its striking the whole of subsection (m).

---

4. Wyche Fowler, Jr. (Ga.).

The Chair would say to the gentleman from Illinois (Mr. Erlenborn) it would be appropriate as a separate amendment but it is not in order as a substitute because of the scope of the amendment.

The point of order of the gentleman from Minnesota is sustained.

§ 18.14 An amendment proposing to strike out a section is not a proper substitute for a perfecting amendment to that section (to strike out and insert), but where no point of order is raised against the substitute, the Chair has nevertheless followed the principle that the pending text should first be perfected before the vote recurs on striking it out.

On July 22, 1976,[5] the Committee of the Whole having under consideration H.R. 13777, the Federal Land Policy and Management Act of 1976, the proceedings described above occurred as indicated below:

Amendment offered by Mr. [Bob] Eckhardt [of Texas]: On page 41, strike line 10 and all that follows through line 7 on page 43. Insert in lieu thereof the following:

Sec. 210(a)(1) The Secretary with respect to the commercial grazing of livestock on the public lands under the Taylor Grazing Act . . . shall charge, commencing with the calendar year 1980, an annual fee or fees per animal unit month for such grazing which shall be the approximate fair market value of the forage provided. . . .

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Yates as a substitute for the amendment offered by Mr. Eckhardt: Page 41, strike out line 10 on page 41 and all lines thereafter on page 41. . . .

THE CHAIRMAN:[6] The amendment offered by the gentleman from Texas (Mr. Eckhardt) is a perfecting amendment to section 210. The "substitute" offered by the gentleman from Illinois (Mr. Yates) is, in effect, a motion to strike the entire section against which no point of order was raised.

The first vote will be on the perfecting amendment offered by the gentleman from Texas (Mr. Eckhardt).

—*Substitute Similar to Original Text*

§ 18.15 For an amendment proposing to strike out an entire section of a proposition and insert new language, an amendment proposing to strike out that section and insert language similar but not identical to the original section was held in order as a proper substitute.

In a ruling on July 22, 1974,[7] the Chair applied the principle

5. 122 CONG. REC. 23457, 23459, 23460, 94th Cong. 2d Sess.

6. Robert N. Giaimo (Conn.).

7. 120 CONG. REC. 24450, 24451, 24453, 93d Cong. 2d Sess.

that a substitute for an amendment is in order so long as it is germane thereto and proposes to make some change in the original language being amended. Under consideration was an amendment to H.R. 11500, the Surface Mining Control and Reclamation Act of 1974.

MR. [CRAIG] HOSMER [of California]: Mr. Chairman, I offer my amendment No. 15, according to rule XXIII, clause 6, to the committee amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Hosmer to the committee amendment in the nature of a substitute: Page 145, line 21. Strike out "Sec. 201." and insert a "Sec. 201." to read as follows: . . .

MRS. [PATSY T.] MINK [of Hawaii]: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from California (Mr. Hosmer) to the committee amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mrs. Mink as a substitute for the amendment offered by Mr. Hosmer to the committee amendment in the nature of a substitute: Page 145, line 21, strike the entire section 201 and insert the following new section 201: . . .

MR. HOSMER: Mr. Chairman, I make a point of order against the amendment, in that this is nothing more than a retread of the language that is already in the section 201 of [H.R.] 11500. This has only eight small changes in the total text, each of which could be handled by an amendment, and no doubt even those amendments could be offered en bloc.

Yet we have here a subterfuge in order to blank out my original amendment through offering this as a substitute. Then there will be an up or down swoop on it from that standpoint.

Further than that, it would then preclude the offering of any further amendments on the language.

So, in essence, Mr. Chairman, this is a closure motion to take this with these minor amendments, and to take it or else. If this passes, there will be no further amendments in order to section 201 except those specific amendments selected by the gentlewoman to put into this substitute. . . .

MRS. MINK: . . . We have made changes to section 201, and unlike the comments that have been made in support of the point of order, further amendments would be possible on this substitute, as I understand it; so it is not the intention of the author or of this substitute to foreclose debate, but in an orderly way to consider all those that pertain to section 201 at this point in the debate, so that, for instance, title II is open for debate at any point. The use of a substitute will enable us to look at this one section and dispose of it. . . .

THE CHAIRMAN:[8] . . . The Chair is prepared to rule on the point of order. The Chair has examined the substitute, and no point of germaneness has been raised.

As long as it is germane, the gentlewoman from Hawaii is entitled to offer her amendment as a substitute if she desires to do so.

---

8. Neal Smith (Iowa).

The Chair overrules the point of order.

—*Amendment Perfecting Lesser Portion of Text as Substitute*

§ 18.16 For an amendment perfecting a bill, an amendment germane to such amendment and perfecting a lesser portion of the same text is in order as a substitute.

On Feb. 1, 1978,[9] during consideration of H.R. 1614[10] in the Committee of the Whole, the Chair overruled a point of order against an amendment to an amendment as described above. The proceedings were as follows:

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fish: Page 192, lines 15 and 16, strike out ", the Secretary of Labor,".

Page 193, line 10, strike out "achievable" and insert in lieu thereof "feasible".

Page 193, line 15, strike out "(1)".

Page 193, strike out lines 16 through 22, and insert in lieu thereof "of this section, the Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he determines such".

Page 194, strike out lines 3 through 10.

Page 197, line —, strike out "Secretary of Labor" and insert in lieu thereof "Secretary of the Department in which the Coast Guard is operating. . . .

MR. [JOHN M.] MURPHY of New York: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York as a substitute for the amendment offered by Mr. Fish: On page 193, strike lines 15 to 24 and on page 194 strike lines 1 to 3 and insert: "(c) Notwithstanding section 4(b)(1) of the Occupa-". . . .

MR. FISH: Mr. Chairman, I reserve a point of order against the amendment. . . .

THE CHAIRMAN:[11] Does the gentleman from New York (Mr. Fish) insist on his point of order?

MR. FISH: Yes, Mr. Chairman. . . .

MR. MURPHY of New York: . . . Mr. Chairman, I would say that the substitute strikes a portion of the language; that the amendment of the gentleman clearly strikes a much larger area and, accordingly, would be in order. . . .

THE CHAIRMAN: The Chair is ready to rule. In the opinion of the Chair, the substitute amendment offered by the gentleman from New York (Mr. Murphy) deals with a lesser portion of the bill than the gentleman from New York (Mr. Fish) desires to perfect, and

9. 124 CONG. REC. 1816–18, 95th Cong. 2d Sess.

10. The Outer Continental Shelf Lands Act amendments.

11. William H. Natcher (Ky.).

as conceded by the gentleman from New York (Mr. Fish) in a more restricted fashion. The Murphy substitute deals only with interim regulations, while the Fish amendment deals with OSHA's role in promulgating both interim and final regulations.

Therefore, the Chair overrules the point of order and holds the substitute to be in order.

§ 18.17 A substitute for a pending amendment may be offered to change a different or lesser portion of the pending section if it relates to the same subject matter as the amendment.

On Aug. 1, 1978,[12] where a perfecting amendment offered to H.R. 12514 (foreign aid authorization for fiscal 1979) sought to make several changes in a pending section, a substitute adding language at the end of the section rather than striking and inserting within the section was held in order since relating to the same subject as the amendment. The substitute was offered, as follows:

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Derwinski as a substitute for the amendment offered by Mr. Stratton:

Page 18, immediately after line 4, insert the following new subsection:

(e) It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN:[13] The gentleman will state his point of order.

MR. STRATTON: Mr. Chairman, do I understand that the gentleman's amendment is a substitute for my amendment.

THE CHAIRMAN: That is correct. It is a substitute for the amendment offered by the gentleman from New York.

MR. STRATTON: Mr. Chairman, unless I am mistaken, the gentleman has not bothered to look at my amendment. My amendment makes specific changes in the text in section 19. I am not clear where the gentleman's amendment would come in section 19. He cannot substitute a straight wording, as I understand it, for something that has a series of changes in 3 pages of a particular section.

MR. DERWINSKI: Mr. Chairman, my amendment would come at the end of section 19.

THE CHAIRMAN: The Chair might inform the gentleman from New York that it is a proper substitute amendment. Both the proposed amendment and the substitute are perfecting amendments to the section and deal with the same subject.

Amending Amendment in Nature of Substitute

§ 18.18 An amendment in the nature of a substitute for

12. 124 CONG. REC. 23732, 95th Cong. 2d Sess.

13. Don Fuqua (Fla.).

several paragraphs of an appropriation bill is subject to amendment by a substitute therefor.

On July 29, 1969,[14] the following proceedings took place:

MR. [CHARLES S.] JOELSON [of New Jersey]: Mr. Chairman, I offer an amendment to the paragraph just read which is a simple substitute to several paragraphs of the bill dealing with the Office of Education, and I hereby give notice that after the amendment is agreed to I will make a motion to strike out the paragraphs appearing as follows: the paragraph on page 26. . . .

MR. GERALD R. FORD [of Michigan]: A substitute for the amendment offered by the gentleman from New Jersey (Mr. Joelson) would be in order if offered by someone?

THE CHAIRMAN:[15] The Chair will state that a substitute for the amendment would be in order.

§ 18.19 Where a committee amendment in the nature of a substitute is pending and is open to amendment at any point, it is subject to a substitute therefor even after perfecting amendments have been adopted.

On Aug. 11, 1969,[16] the Chairman [17] responded to a parliamentary inquiry propounded by Mr. Brock Adams, of Washington:

MR. ADAMS: Is the [amendment in the nature of a] substitute which was passed by the committee, for the entire bill, presently pending before the House?

THE CHAIRMAN: The substitute amendment is presently pending before the House, and that substitute has been subsequently amended by the gentleman from South Carolina in one area.

The Chair now recognizes the gentleman from Washington.

MR. ADAMS: Mr. Chairman, I offer . . . a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Adams as a substitute for the committee amendment: . . .

Motion To Strike All After Enacting Clause and Insert Other Language Not a Substitute

§ 18.20 A proposition, offered before other amendments are pending, which proposes to strike out all after the enacting clause and insert other language is an original amendment and not a sub-

14. 115 CONG. REC. 21218, 91st Cong. 1st Sess. Under consideration was H.R. 13111.

15. Chet Holifield (Calif.).

16. 115 CONG. REC. 23126–29, 91st Cong. 1st Sess. Under consideration was H.R. 12982.

17. Robert N. Giaimo (Conn.).

stitute and as such may be amended by a substitute.

On Apr. 29, 1949,[18] The following exchange took place:

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I make a point of order that the Wood amendment was offered as a substitute amendment, and that the gentleman from New York may not offer a substitute for the substitute. . . .

THE CHAIRMAN:[19] The Wood amendment is an original amendment in that it seeks to strike out and insert. The pending amendment is offered as a substitute for the Wood amendment.

Amendment Addressed to Different Part of Section and Not Germane

§ 18.21 To an amendment to one part of a section of a bill, an amendment to another part of such section, on a different page, was ruled not in order as a substitute.

On Mar. 31, 1948,[20] the following proceedings took place:

The Clerk read as follows:

BILATERAL AND MULTILATERAL UNDERTAKINGS

Sec. 115. (a) The Secretary of State, after consultation with the Administrator, is authorized to conclude, with individual participating countries or any number of such countries or with an organization representing any such countries, agreements in furtherance of the purposes of this title. . . .

(b) The provision of assistance under this title results from the multilateral pledges of the participating countries to use all their efforts to accomplish a joint-recovery program based upon self-help and mutual cooperation as embodied in the report of the Committee of European Economic Cooperation signed at Paris on September 22, 1947, and is contingent upon continuous effort of the participating countries to accomplish a joint-recovery program through multilateral undertakings and the establishment of a continuing organization for this purpose. In addition to continued mutual cooperation of the participating countries in such a program, each such country shall conclude an agreement with the United States in order for such country to be eligible to receive assistance under this title. Such agreement shall provide for the adherence of such country to the purposes of this title and shall, where applicable, make appropriate provision, among others, for . . .

(4) making efficient and practical use, within the framework of a joint program for European recovery, of the resources of such participating country, including any commodities, facilities, or services furnished under this title, which use shall include, to the extent practicable, taking measures to locate and *control*, in furtherance of such program, assets, and earnings therefrom, which belong to the citizens of such country and which are situated within the United

---

18. 95 CONG. REC. 5335, 81st Cong. 1st Sess. Under consideration was H.R. 2032, the National Labor Relations Act of 1949.

19. Jere Cooper (Tenn.).

20. 94 CONG. REC. 3834, 3837, 80th Cong. 2d Sess. Under consideration was S. 2202, the Foreign Assistance Act of 1948.

States, its Territories and possessions; . . .

MR. [JOHN M.] VORYS [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Vorys: Page 86, line 25, delete the word "control" and substitute the word "identify."

MR. VORYS: Mr. Chairman, this is an agreed committee amendment to make it clear that we do not insist on other countries controlling the assets of their citizens, but that they identify them so that they may proceed along the principles set forth in other parts of this section.

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:[1] The gentleman will state it.

MR. KEATING: I have an amendment to this section which I desire to offer as a substitute for the committee amendment. Is it proper to offer it at this time?

THE CHAIRMAN: If the gentleman has an amendment, he may offer it as a substitute when the gentleman from Ohio has concluded.

If the amendment of the gentleman from New York is a substitute for the amendment which the gentleman from Ohio has offered, it should be offered before the first amendment is disposed of.

MR. KEATING: My purpose in offering it as a substitute for the committee amendment is that my amendment tends to strengthen rather than weaken section 4. My analysis of what the gentleman from Ohio seeks to do in changing the word "control" to "identify" is that that is rather to weaken it. Therefore, it seems to me it is appropriate to offer this amendment as a substitute for the committee amendment.

MR. VORYS: Mr. Chairman, I of course cannot discuss the gentleman's amendment until I know what it is, but may I state to the Committee of the Whole that our committee has worried and fretted over this section and we are all somewhat dissatisfied with it, as to whether it should be strengthened or weakened, and how much, but one thing that we could agree upon was that we did not want to authorize control. We thought that identification of the assets in this country was a sound principle. Therefore, all I am in a position to do now is to urge the adoption of the committee amendment.

MR. KEATING: Mr. Chairman, I offer my amendment as a substitute for the Vorys amendment.

The Clerk read as follows:

Amendment offered by Mr. Keating as a substitute for the Vorys amendment: On page 87, line 4, strike out the semicolon [at the end of subparagraph (4)], insert a comma, and add the following: "including but not limited to the establishment of satisfactory conditions for guaranteeing that identifiable assets of nationals of such country located in the United States, its Territories and possessions, may be held by the United States as security against any governmental credits from the United States to such country."

THE CHAIRMAN: The Chair will advise the gentleman from New York that the amendment as read obviously

1. Francis H. Case (S.D.).

is not a substitute for the amendment offered by the gentleman from Ohio, which is on page 86. The gentleman's amendment is on page 87.

Member's Substitute for Own Amendment

§ 18.22 A Member may not offer a substitute for his own amendment to a bill.

On June 13, 1947,[2] the following proceedings took place:

MR. [JAMES G.] FULTON [of Pennsylvania]: I ask unanimous consent, Mr. Chairman, to modify my amendment. . . .

MR. [JOHN M.] VORYS [of Ohio]: I object. . . .

MR. FULTON: Mr. Chairman, I offer a substitute amendment.

THE CHAIRMAN:[3] The gentleman cannot do that at this time.

Effect of Rejection: Reoffering Part of Substitute

§ 18.23 A substitute amendment having been rejected, a proposition contained therein may nevertheless be offered as an amendment to an amendment in the nature of a substitute.

On Mar. 11, 1958,[4] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. [Russell V.] Mack of Washington as a substitute for the Blatnik amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

"TITLE I—RIVERS AND HARBORS

"Sec. 101. That the following works of improvement of rivers and harbors and other waterways for navigation, flood control, and other purposes are hereby adopted and authorized to be prosecuted under the direction of the Secretary of the Army and supervision of the Chief of Engineers, in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated . . . .

"The project for flood control and improvement of the lower Mississippi River adopted by the act approved May 15, 1928, as amended by subsequent acts, is hereby modified and expanded to include the following items and the authorization for said project is increased accordingly. . . .

"(b) Modification and extension of plans of improvement in the Boeuf and Tensas Rivers and Bayou Macon Basin, Ark., substantially in accordance with the recommendations of the Chief of Engineers in House Doc-

2. 93 CONG. REC. 6989, 6990, 80th Cong. 1st Sess. Under consideration was H.R. 3342, relating to a cultural relations program of the State Department.

3. Thomas A. Jenkins (Ohio).

4. 104 CONG. REC. 3981, 3984, 85th Cong. 2d Sess. Under consideration was S. 497, authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, etc., and an amendment in the nature of a substitute offered by Mr. John A. Blatnik (Minn.).

ument of No. 108, 85th Congress, at an estimated cost of $631,000: *Provided*, That, in addition to the requirements for local cooperation recommended in the report of the Chief of Engineers, local interests agree to contribute 48 percent of the cost of providing major drainage in cash or equivalent work, to furnish without cost to the United States all lands, easements and rights-of-way necessary for construction of the project, and to hold and save the United States free from damages due to the construction works."

The Mack substitute for the Blatnik amendment having been rejected, Mr. Mack offered an amendment:[5]

The Clerk read as follows:

Amendment offered by Mr. Mack of Washington: Page 31, line 12, strike out "$1,212,000" and substitute the following: "$631,000: *Provided*, That, in addition to the requirements for local cooperation recommended in the report of the Chief of Engineers, local interests agree to contribute 48 percent of the cost of providing major drainage in cash or equivalent work, to furnish without cost to the United States all lands, easements and rights-of-way necessary for construction of the project. . . ."

MR. [ROBERT E.] JONES [Jr.] of Alabama: Mr. Chairman, a point of order. As I understand, the amendment is in the same language as the Mack substitute. Therefore the proposition has already been decided by the Committee and the amendment has been rejected.

THE CHAIRMAN:[6] The gentleman is correct, except that it is now offered as a specific proposition, and under the ruling previously made[7] the point of order is overruled.

Effect of Rejection: Offering Another Substitute

§ 18.24 Where there was pending to a bill an amendment in the form of a new section, a substitute therefor, and an amendment to the substitute, the Chair indicated that the defeat of the amendment to the substitute and of the substitute would not preclude the offering of another germane substitute.

On July 27, 1970,[8] in the circumstances described above, the following exchange took place:

MR. [ROBERT C.] ECKHART [of Texas]: . . . As I understand the Smith amendment as it is sought to be amended by the Hays amendment, all it would do is say that in addition to providing a manually recorded type of vote by the method that is provided in the O'Neill amendment, it would also provide an electronic record type of vote. Now, if I am correct in that as-

5. 104 CONG. REC. 4011, 85th Cong. 2d Sess.

6. Carl Albert (Okla.).

7. The Chair had previously overruled, without comment, a similar point of order made by Mr. Frank E. Smith, of Mississippi, against another amendment offered by Mr. Mack. See the proceedings of the same day, at page 4010.

8. 116 CONG. REC. 25811, 91st Cong. 2d Sess. Under consideration was H.R. 17654.

sumption, would it not be in order, if we should vote down the Hays amendment to the Smith amendment, to offer this as an additional provision subsequent to the passage of the O'Neill amendment?

THE CHAIRMAN:[9] The Chair would like to inform the gentleman in answer to his parliamentary inquiry that if the amendment offered by the gentleman from Ohio (Mr. Hays) is voted down and the substitute offered by the gentleman from California (Mr. Smith) is voted down, then another germane substitute would be in order.

Effect of Rejection: Proposition Reoffered as Amendment to Text

§ 18.25 Where a proposed substitute for an amendment is itself amended and then agreed to as amended, the rejection of the original amendment as amended by the substitute does not preclude reoffering, as an amendment to text, a proposition essentially the same as that initially contained in the substitute.

In the 86th Congress, during the consideration of H.R. 8601, a bill to enforce voting rights, Mr. William M. McCulloch, of Ohio, offered the provisions of H.R. 11160 as a substitute for the amendment of Mr. John V. Lindsay, of New York, which contained the provisions of H.R. 10035, made in order under a special rule (H. Res. 359). Mr. McCulloch's substitute, which provided for the court appointment of voting referees, was amended by the amendment of Mr. Robert W. Kastenmeier, of Wisconsin, to provide for Presidential appointment of enrollment officers. The substitute, as amended, was then agreed to; the amendment, as amended by the substitute, was rejected. Mr. McCulloch then offered, as a new title to the bill, the language of H.R. 11160.

The proceedings were as follows:[10]

MR. LINDSAY: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lindsay: On page 12, immediately following line 7, insert the following:

"TITLE VI

"Sec. 601. That section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), is amended as follows:

"(a) Add the following as subsection (e) and designate the present subsection (e) subsection '(f)':

" 'In any proceeding instituted pursuant to subsection (c) of this section, in the event the court finds that under color of law or by State action any person or persons have been deprived on account of race or color of

9. William H. Natcher (Ky.).

10. 106 CONG. REC. 5482, 5483, 86th Cong. 2d Sess., Mar. 14, 1960.

any right or privilege secured by subsection (a) or (b) of this section, and that such deprivation was or is pursuant to a pattern or practice, the court may appoint one or more persons (to be known as voting referees) to receive applications from any person claiming such deprivation as the right to register or otherwise to qualify to vote at any election and to take evidence and report to the court findings as to whether such applicants or any of them (1) are qualified to vote at any election, and (2) have been (a) deprived of the opportunity to register to vote or otherwise to qualify to vote at any election, or (b) found by State election officials not qualified to register to vote or to vote at any election.

"'Any report of any person or persons appointed pursuant to this subsection shall be reviewed by the court and the court shall accept the findings contained in such report unless clearly erroneous. . . .

MR. LINDSAY: This is H.R. 10035 verbatim, as originally introduced, the voting referee bill.

Mr. Chairman, may I say that the parliamentary situation is such under the rule that the only voting referee measure at this point that may be offered is the text of H.R. 10035. This is the bill which provides for voting referees under the auspices and supervision of the Federal courts. . . .

If the court should find a pattern or practice of voting denials, referees may then be appointed by the court in order to receive applications from persons of like color who claim that they also have been denied the right to vote. The point to bear in mind about this amendment, and also about the substitute amendment that will be offered by the gentleman from Ohio [Mr. McCulloch], for the purpose of clarifying the amendment that I now offer, is this: that in any area where there has been found by the court to exist a pattern or practice of denials of the right to vote on constitutional grounds, the matter from then on is resolved by the court. A referee may be appointed by the Federal judge in order to perform the normal functions that he would perform but obviously cannot perform because of the burdens that would be placed upon him. It is designed to keep the matter in local hands, a local Federal judge, and local Federal referees appointed by the Court. . . .

I shall say a word about the differences between this amendment and the proposed substitute. They are of procedure only. The substitute will ensure, by specific language, that any local, State registrar who takes exception to the action of a voting referee will have an opportunity to have a full judicial hearing by the court if he presents a genuine issue of fact. He is given plenty of notice. The Deputy Attorney General testified that even under the original bill, which I have introduced by way of amendment, due process would require an opportunity for a hearing. The substitute will spell this out in specific language. . . .

THE CHAIRMAN:[11] The Clerk will report the substitute amendment offered by the gentleman from Ohio [Mr. McCulloch].

The Clerk read as follows:

Amendment offered by Mr. McCulloch as a substitute for the amendment offered by Mr. Lindsay: On page 12, immediately below line 7, in lieu of the text proposed to be

11. Francis E. Walter (Pa.).

added by the Lindsay amendment insert the following:

"TITLE VI

"Voting rights

"Sec. 601. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), is amended as follows:

"'(a) Add the following as subsection (e) and designate the present subsection (e) as subsection "(f)":

"In any proceeding instituted pursuant to subsection (c), in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a), the court shall upon request of the Attorney General, and after each party has been given notice and the opportunity to be heard, make a finding whether such deprivation was or is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote. . . .

"'The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. . . .

On the following day,[12] an amendment was offered to the substitute:

MR. [ROBERT W.] KASTENMEIER [of Wisconsin]: Mr. Chairman, I offer an amendment to the substitute.

The Clerk read as follows:

Amendment offered by Mr. Kastenmeier: On page 1, line 8 of the McCulloch substitute, before the word "In", insert "(e)(1)(A)" and on page 1 of the McCulloch substitute strike out "that any person has been deprived" on line 9 and all that follows down through the last page of such substitute, and insert in lieu thereof the following: "that, under color of law or by State action, a voting registrar or other State or local official has deprived persons in any locality or area of registration, of the opportunity of registration, for elections because of their race or color, the Attorney General shall notify the President of the United States of such finding.

"(B) Whenever the Commission on Civil Rights . . . finds that, under color of law or by State action, a voting registrar or other State or local official has deprived persons in any locality or area of registration of the opportunity of registration, for election because of their race or color, the Commission shall notify the President of the United States of such finding.

"(2) Upon any notification of a finding pursuant to paragraph (1) of this subsection, the President is authorized to establish a Federal Enrollment Office in each registration district that includes the locality or area for which such finding has been made and to appoint one or more Federal Enrollment Officers for such

12. 106 CONG. REC. 5644, 5645, 5655–58, 86th Cong. 2d Sess., Mar. 15, 1960.

district from among officers or employees of the United States who are qualified voters within such district. . . .

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Wisconsin [Mr. Kastenmeier]. . . .

So the amendment to the substitute amendment was agreed to.

THE CHAIRMAN: The question is on the substitute amendment offered by the gentleman from Ohio [Mr. McCulloch], as amended. . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, if I understand the situation correctly, and I wish the Chair would explain what the situation is, the Committee is now voting on the substitute amendment offered by the gentleman from Ohio [Mr. McCulloch] to the bill H.R. 10035.

THE CHAIRMAN: Under the rule, as the gentleman well knows, it was made in order to consider the text of the bill H.R. 10035, as an amendment to the bill H.R. 8601. The amendment was offered by the gentleman from New York [Mr. Lindsay] and a substitute for that amendment was offered by the gentleman from Ohio [Mr. McCulloch]. The substitute amendment has been amended and the Committee is about to vote upon the substitute amendment, as amended.

MR. BROWN of Ohio: In other words, we are voting on the substitute amendment, and if that should be defeated, then the so-called Lindsay amendment will still be in order.

THE CHAIRMAN: If the substitute amendment is defeated, then the amendment offered by the gentleman from New York [Mr. Lindsay] is still before the Committee for further consideration.

MR. BROWN OF OHIO: I thank the Chairman.

THE CHAIRMAN: The question is on the substitute amendment offered by the gentleman from Ohio [Mr. McCulloch], as amended.

The Committee divided, and the tellers reported that there were—ayes 179, noes 116.

So the substitute amendment was agreed to.

THE CHAIRMAN: The question recurs on the Lindsay amendment as amended by the McCulloch substitute.

The question was taken; and on a division (demanded by Mr. Celler) there were—ayes 195, noes 155.

MR. MCCULLOCH: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Celler and Mr. McCulloch.

The Committee again divided and the tellers reported that there were—ayes 143, noes 170.

So the amendment was rejected.

MR. MCCULLOCH: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCulloch: On page 12, immediately below line 7, insert the following:

"TITLE VI

Sec. 601. That section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), is amended as follows:

"(a) Add the following as subsection (e) and designate the present subsection (e) as subsection '(f)':

"In any proceeding instituted pursuant to subsection (c) in the event

the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a), the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote. . . .

"'The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such applicant is qualified under state law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. . . .

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I make a point of order against this amendment for several reasons. One is that the rule under which we are operating gives protection only to H.R. 10035 and to no other substitute proposal. In other words, the original bill, the Lindsay amendment, which has already been defeated, was a bill that the rule makes in order. We have already voted upon this bill within the last 30 minutes. The only difference between this bill and the bill we just voted down is two or three very minor corrections; very minor; so minor that many of us are greatly disappointed.

Mr. Chairman, the matter has been passed upon. The House has voted upon it within the last 30 minutes. I make the point of order that it cannot be reintroduced. . . .

MR. [EDWIN E.] WILLIS [of Louisiana]: I want to understand very clearly the bill or the proposal that the gentleman has offered. This is a very simple question. Am I correct that the proposal now on the desk is identical to the bill H.R. 11160 except for the deletion of the language appearing on page 5, lines 9 through 13?

MR. MCCULLOCH: The answer is "Yes.". . .

MR. SMITH of Virginia: . . . I make the . . . point of order that this amendment has been once defeated. . . .

THE CHAIRMAN: May the Chair call the gentleman's attention to the fact that this has never been voted on. The language contained in this amendment was a substitute for another amendment.

MR. SMITH of Virginia: It was a substitute for that and it was offered yesterday afternoon by the gentleman from Ohio [Mr. McCulloch] and printed in the Record.

THE CHAIRMAN: But, I should like to remind the gentleman, as a substitute for the bill made in order under the rule.

After some further discussion of this and other points of order, the Chairman allowed the amendment.

Parliamentarian's Note: Whether a proposition contained in a

substitute may be reoffered in a different form after it has failed of approval depends on the circumstances. Clearly, where the actual proposition was never voted on because of changes made through the amendment process (as where a substitute for an amendment is itself amended, then rejected in a vote on the amendment), the proposition may be offered again as, for example, an amendment to text. But even actual rejection of the proposition contained in the substitute should not necessarily preclude its being offered as an amendment to text. For example, where an amendment is offered, and then a substitute for that amendment, the consideration of that substitute necessarily proceeds with reference only to the particular amendment to which offered. This may present a different question from that which would arise if the language of the substitute were considered with reference to the text of the bill. For further discussion of when a proposition that has been rejected may be reoffered in different form, see 8 Cannon's Precedents Sec. 2843.

On the other hand, it may happen that reoffering the language of the substitute presents precisely the same question that has already been voted on. Thus, if a substitute for an amendment is agreed to (in effect becoming an amendment to text by supplanting the original amendment), and then the amendment as amended by the substitute is rejected, the proposition contained in the substitute may not be reoffered to that text. In this case, the question presented by reoffering the language as an amendment to text would be exactly the same as that already disposed of.

Amendment to Substitute Having Same Effect as Amendment to Original Amendment

§ 18.26 A point of order against an amendment to a substitute does not lie merely because its adoption would have the same effect as the adoption of a pending amendment to the original amendment and would render the substitute as amended identical to the original amendment as amended.

Where there was pending an amendment to a joint resolution to insert text (A), an amendment to said amendment to insert instead text (B), and a substitute for the amendment to insert text (A) and (B) together, the Chair overruled a point of order against an amendment to the substitute to

delete text (A), since there is no precedent which would preclude the offering of an amendment to a substitute merely because it is similar to or achieves the same effect as an amendment to the original amendment. The proceedings of May 4, 1983,[13] were as follows:

MR. [DANIEL E.] LUNGREN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lungren: On page 5 at line 19, insert "(a)" after "2.", and after line 23 add the following:

"(b) Consistent with the treaty-making powers of the President under the Constitution, nothing in this resolution shall be construed to be binding on the President or his negotiators in the formulation of strategy, instructions or positions in the conduct of the strategic arms reduction talks (START).". . .

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

The Clerk read as follows:

Amendment offered by Mr. Zablocki to the amendment offered by Mr. Lungren: In the text of the matter proposed to be added to the resolution by the Lungren amendment, strike out all that follows "(b)" through "(START)" and insert in lieu thereof the following:

Nothing in this resolution shall be construed to supersede the treaty-making powers of the President under the Constitution.

THE CHAIRMAN:[14] The gentleman from Wisconsin (Mr. Zablocki) is recognized for 15 minutes in support of his amendment, for purposes of debate only. . . .

MR. [JAMES A.] COURTER [of New Jersey]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Courter as a substitute for the amendment offered by Mr. Lungren: In lieu of the matter proposed by said amendment, insert the following:

On page 5, line 19, insert "(a)" after "2.", and after line 23 add the following:

"(b) Nothing in this resolution shall be construed to supercede the treaty-making powers of the President under the Constitution, and therefore nothing in this resolution shall be construed to be binding on the President or his negotiators in the formulation of strategy, instructions or positions in the conduct of the Strategic Arms Reductions Talks (START).". . .

MR. ZABLOCKI: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Zablocki to the amendment offered by Mr. Courter as a substitute for the amendment offered by Mr. Lungren: In proposed new subsection (b), strike out all that follows "Constitution" through "(START)". . . .

MR. COURTER: Mr. Chairman, I have a point of order against the amendment to the substitute.

Mr. Chairman, I have had a chance to look very briefly at the amendment to the substitute and it is simply a restatement of the gentleman's amendment to the amendment and as such is

13. 129 CONG. REC. 11046, 11052, 11056, 11059, 98th Cong. 1st Sess.

14. Matthew F. McHugh (N.Y.).

improper at the present time, the purpose of which is dilatory only and the purpose of which is not obviously to legitimately amend a substitute. . . .

MR. ZABLOCKI: . . . The gentleman from New Jersey marries, so to speak, the two amendments, the amendment of the gentleman from California and the amendment of the gentleman from Wisconsin as a substitute.

All the amendment of the gentleman from Wisconsin does is amend the substitute, divorcing, or at least, deleting the latter part of the gentleman's amendment so that we can have an up and down vote on the two proposals.

And I believe an amendment to a substitute is in order whether it takes away or adds on to the language of a substitute.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair rules that the amendment offered by the gentleman from Wisconsin (Mr. Zablocki) to the substitute offered by the gentleman from New Jersey, is germane to the substitute. There is no precedent which would preclude the offering of that amendment to the substitute merely because it is similar or the same in effect as the amendment offered to the original amendment.

Therefore, the point of order is rejected.

Substitute Made in Order by Special Rule—Effect of Ruling Out Primary Amendment

§ 18.27 Where one committee's germane amendment printed in a reported bill has been made in order by a special rule as a substitute for another committee's amendment, and the primary amendment is ruled out on a point of order, the committee amendment made in order as a substitute retains the status of an amendment to the bill as it was recommended by the reporting committee and is reported by the Clerk.

On Sept. 23, 1977,[15] he Committee of the Whole was considering H.R. 3, Medicare-Medicaid Antifraud and Abuse Amendments of 1977. An amendment recommended by the Committee on Ways and Means had been ruled out of order as not germane to the bill. An amendment recommended by another committee and made in order, by special rule, as a substitute for the amendment now ruled out of order, was ordered to be reported:[16]

THE CHAIRMAN:[17] The Clerk will report the amendment recommended by the Committee on Interstate and Foreign Commerce, now printed begin-

15. 123 CONG. REC. 30534, 95th Cong. 1st Sess.

16. The rule, it should be noted, did not indicate that the amendment made in order was to be considered only as a substitute amendment.

17. Gerry E. Studds (Mass.).

ning on page 70, line 6, through page 72, line 16, in the reported bill.

§ 19. Amendments to Titles and Preambles

Title Amendments; When Considered

§ 19.1 Amendments to the title of a bill are not in order until after passage of the bill, and are then voted upon without debate (see Rule XIX).

On Dec. 2, 1975,[18] the Committee of the Whole having agreed to an amendment in the nature of a substitute, a further amendment was offered to the bill[19] and proceedings occurred as follows:

THE CHAIRMAN:[20] The question is on the amendment in the nature of a substitute, as amended, offered by the gentleman from Ohio (Mr. J. William Stanton).

The question was taken; and on a division (demanded by Mr. Bauman) there were—ayes 71, nays 31.

So the amendment in the nature of a substitute, as amended, was agreed to.

MR. J. WILLIAM STANTON: Mr. Chairman, I offer a technical amendment.

THE CHAIRMAN: The Chair will advise the gentleman from Ohio that inasmuch as the amendment in the nature of a substitute has been agreed to, no further amendments are in order at this time. The amendment sent to the desk by the gentleman from Ohio would be in order in the House after the committee has risen. . . .

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. O'Hara, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10481) to authorize emergency guarantees of obligations of States and political subdivisions thereof. . . .

THE SPEAKER:[1] Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

THE SPEAKER: The question is on the engrossment and third reading of the bill.

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

THE SPEAKER: The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

18. 121 CONG. REC. 38193, 38194, 94th Cong. 1st Sess.

19. H.R 10481, Intergovernmental Emergency Assistance Act.

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

1. Carl Albert (Okla.).