Amendments

A. GENERALLY

§ 1. Introductory; Definitions; Form

Rule XIX[1] states:

> When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon. Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate.

In the amending process,[2] the four stages of amendments are offered and considered in the order prescribed by the rules and practice of the House and Committee of the Whole.[3] Strict rules govern the order in which the above amendments may be considered, and the forms of amendment that are permitted to be pending at any one time.[4] The amendment to the original text must, of course, be offered first, and generally only one amendment to the text may be pending at any one time. Once that amendment is offered, however, the other three forms of amendment described above may be offered and all four amendments may be pending at one time.

Provisions of Section XXXV of Jefferson's Manual[5] govern motions to strike and to strike out and insert, with the exception that Rule XVI clause 7 of the

1. *House Rules and Manual* § 822 (101st Cong.). The "motion to amend" is one of the motions permitted by Rule XVI.
2. This chapter discusses the amendment process generally, including significant recent rulings through 1986. Related topics treated elsewhere include the requirement of germaneness of amendments (see Ch. 28, infra) and amendments between the Houses (see Ch. 32, infra). For earlier coverage of the subject of amendments generally, see 5 Hinds' Precedents §§ 5753–5800; 8 Cannon's Precedents §§ 2824–2907a.
3. See, for example, §§ 15–18, 23–26, infra.
4. See, for example, §§ 5, 6, infra.
5. See *House Rules and Manual* §§ 468, 469 (101st Cong.). For further discussion of these motions, see, for example, §§ 16, 17, 24, and 31, infra.

House Rules specifically provides that "a motion to strike out being lost shall neither preclude amendments nor a motion to strike out and insert."

An amendment frequently referred to in this chapter is an "amendment in the nature of a substitute." This type of amendment should be distinguished from a substitute amendment. A substitute amendment[6] is merely a substitute for another amendment that has been offered. An amendment in the nature of a substitute, on the other hand, most often describes an amendment which would replace the entire text of a bill or resolution, although the term has also been used, less accurately, to describe amendments replacing a substantial portion—such as an entire section or title—of a pending bill.[7]

An amendment in the nature of a substitute is basically, in form, a "motion to strike out and insert." But it should be pointed out that, in cases where a "motion to strike out and insert" affects less than the whole of a pending bill or resolution, the motion cannot be properly characterized as an amendment in the nature of a substitute. As used in this chapter, the term "motion to strike out and insert" usually has reference to an ordinary perfecting amendment which affects only a portion of the text being amended.

Frequently, as by special rule, an amendment in the nature of a substitute may be considered as an original text for purposes of amendment and does not fall within the limitation described above with respect to the number of amendments that may be pending at one time.

Many technical rules and procedures affect the manner in which amendments may be offered, debated, and voted upon. Points of order may lie against amendments that do not conform to established rules and practice. Such points of order against amendments may be based on any of several grounds. For example, an amendment may be barred if it violates the "germaneness" rule[8] or if it violates the prohibition against inclusion of legislative provisions in appropriation bills.[9] or of appropriations in legislative bills.[10]

The procedural aspects of making a point of order against an amendment, and the timeliness of points of order, are discussed in another chapter.[11]

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6. See, for example, § 18, infra.

7. See, for example, § 12, infra.

8. See Ch. 28, infra.

9. See Ch. 26, supra.

10. See Ch. 25, supra.

11. See Ch. 31, infra.

Generally, a point of order against a proposed amendment comes too late after debate on the amendment has begun, unless the Member making the point of order was on his feet, seeking recognition to make the point of order, prior to commencement of such debate.

If a point of order is sustained against an amendment, the entire amendment is ruled out, although only a portion of such amendment be not in order. Similarly, where a portion of a section of a bill is out of order, the entire section is rejected if the point of order is directed against the entire section. It is, however, in order to offer an amendment reinserting that part of the section which would otherwise have been in order.(12)

The fact that no point of order was made against one amendment does not, of course, preclude such points of order against subsequent amendments.

Pursuant to the House rules,(13) the Chair or any Member may require that an amendment be reduced to writing before being offered. Upon the offering of any amendment in Committee of the Whole, the Clerk transmits copies thereof to the majority and the minority in accordance with the House rules,(14)) although the failure of the Clerk to promptly transmit such copies is not the basis for a point of order against the amendment.

The Chair does not respond to a parliamentary inquiry as to the effect of an amendment,(15) and does not rule on the constitutionality of an amendment.(16)

Requirement as to Writing

§ 1.1 Where there was pending an amendment and a substitute therefor, the Chair indicated that amendments to the substitute would be in order if offered in writing or if offered verbally by unanimous consent.

Under Rule XVI clause 1,(17) he Chair may demand that a Mem-

12. For a discussion of the effects of sustaining a point of order against an amendment generally, see Ch. 31, infra.

13. Rule XVI clause 1, *House Rules and Manual* § 775 (101st Cong.).

14. See Rule XXIII clause 5(a), *House Rules and Manual* § 870 (101st Cong.).

15. See 124 CONG. REC. 23725, 95th Cong. 2d Sess., Aug. 1, 1978 (parliamentary inquiry was made as to whether a substitute amendment was identical to another amendment, except for a specified addition).

16. See 124 CONG. REC. 23730, 95th Cong. 2d Sess., Aug. 1, 1978.

17. *House Rules and Manual* § 775 (101st Cong.).

ber's motion be reduced to writing. The operation of clauses 1 and 2 of that rule, governing requirements as to reducing motions to writing and the reading or stating of motions, was illustrated in the proceedings of Oct. 16, 1973.[18] On that date, while there was pending an amendment and a substitute for the amendment, the following exchange took place (after an amendment to the amendment had been agreed to) with respect to a proposed amendment to the substitute:

MR. [RICHARD W.] MALLARY [of Vermont]: Mr. Chairman, at this point it would be important, I believe, since the same deficiency exists in the substitute offered by the gentleman from Indiana, I would move to amend the substitute in the manner in which the amendment just acted on is worded.

THE CHAIRMAN:[19] An amendment to the substitute would be in order, but it has to be in writing.

MR. MALLARY: Mr. Chairman, I wonder if the Clerk would be willing to use the language in the amendment to the amendment in order to make the correction. In view of the vote on the amendment, I ask unanimous consent that the substitute amendment of the gentleman from Indiana be amended as we have just amended the amendment to the amendment.

THE CHAIRMAN: The Clerk will report the Zion amendment as proposed to be amended.

The Chair at this point responded to a parliamentary inquiry by describing the status of the pending amendments and the order of voting thereon. He then permitted Mr. Mallary to offer his amendment to the language of the substitute by unanimous consent, and such amendment to the substitute was agreed to.

§ 1.2 Amendments must be reduced to writing on demand.

On Feb. 10, 1964,[20] the Chair refused to put the question on agreeing to a unanimous-consent request to amend a bill at several points and advised the Member to send the amendment to the desk in writing. During consideration of H.R. 7152, the Civil Rights Act of 1963, Mrs. Frances P. Bolton, of Ohio, had sought to offer multiple amendments by unanimous consent.

MR. [WILLIAM M.] MCCULLOCH [of Ohio]: . . . Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Mrs. Frances P. Bolton].

MRS. FRANCES P. BOLTON: Mr. Chairman, on Saturday there was considerable confusion, as all will admit.

When the gentleman from Virginia [Mr. Smith] so graciously offered the

18. 119 CONG. REC. 34336, 93d Cong. 1st Sess. Under consideration was H.R. 9681 (Committee on Interstate and Foreign Commerce).

19. Charles H. Wilson (Calif.).

20. 110 CONG. REC. 2718, 2719, 88th Cong. 2d Sess.

amendment to include the word "sex" there was an omission, by mistake I am sure, in regard to two principal areas of the title.

On line 18, page 68, after the word "religion" there was an omission of adding the word "sex." That is the hiring and firing area which, after all, was the reason we sought the change. The other omission was on page 69, line 5, after the word "religion."

I hope that the House will wish to remedy the omissions by unanimous consent. . . .

MR. [HOWARD W.] SMITH of Virginia: I just want to say, in the hurry of preparing that amendment, I went through the title pretty thoroughly, and I thought I did have the word "sex" inserted wherever the categories occurred. It was a mistake on my part in overlooking that, and I very much hope that the gentlewoman's amendment will be accepted.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, will the gentleman yield?

MR. MCCULLOCH: I yield to the gentleman from New York.

MR. CELLER: In order to have the amendment considered properly, I think you may have to add the word "sex" on line 3, page 69, and also on line 5 of page 69.

MRS. FRANCES P. BOLTON: I have it on line 5. I do not have it on line 3. I will be very happy to, Mr. Chairman.

MR. CELLER: Mr. Chairman, on page 77 there is a committee amendment that would also require the addition of the word "sex."

MRS. FRANCES P. BOLTON: Will the gentleman add that, too, then?

MR. CELLER: Will the gentlewoman repeat the words on page 69 where the word "sex" is added?

MRS. FRANCES P. BOLTON: On page 68, line 18, after "religion" and on page 69, as the gentleman suggests, on line 3 after "religion" and on line 5 after "religion" and then, I believe, as the gentleman suggested, on line 10 on page 77 and on line 17.

MR. CELLER: And you will add it on page 77 in the committee amendment?

MRS. FRANCES P. BOLTON: Yes, that will be added. . . .

MR. [CHARLES E.] GOODELL [of New York]: I wonder if the gentlewoman would not intend that the requirement for no discrimination against an individual on the basis of sex would also be subject to a bona fide occupational qualification exception. Would she not accept adding the word "sex" on page 70, lines 7 and 8, after the words "national origin" and on page 71 in two instances on line 7. There are so many instances where the matter of sex is a bona fide occupational qualification. . . .

THE CHAIRMAN:[1] The time of the gentleman from Ohio [Mr. McCulloch] has expired.

The Chair will state that there is no request before the Committee at the moment.

MRS. FRANCES P. BOLTON: Mr. Chairman, there is the unanimous-consent request that those words be added.

THE CHAIRMAN: Will the gentlewoman from Ohio send up the request so that the Clerk may report it?

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Chairman, I offer an amendment.

MR. CELLER: Mr. Chairman, a parliamentary inquiry.

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

THE CHAIRMAN: The gentleman will state it.

MR. CELLER: Mr. Chairman, was the unanimous-consent request of the gentlewoman from Ohio agreed to or was there objection?

THE CHAIRMAN: The Chair will inform the gentleman from New York that the unanimous-consent request of the gentlewoman from Ohio has not been reduced to writing. The Chair did not have the unanimous-consent request put during the course of the colloquy between the gentleman from Ohio and the gentlewoman from Ohio.

The Clerk will report the amendment offered by the gentleman from Mississippi [Mr. Colmer].

§ 1.3 A Member's request for time to put his amendment in writing was objected to.

On July 27, 1939,[2] he following proceedings took place:

THE CHAIRMAN:[3] The question is on the amendment offered by the gentleman from Massachusetts [Mr. Martin].

MR. [JOHN H.] KERR [of North Carolina]: Mr. Chairman, I offer an amendment to the gentleman's amendment that after the words "New England" insert "and North Carolina," and I will not ask to be heard on the amendment to the amendment.

MR. AUGUST H. ANDRESEN [of Minnesota]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. AUGUST H. ANDRESEN: Mr. Chairman, I make the point of order that the amendment is not in proper form, not having been submitted in writing.

THE CHAIRMAN: The Chair sustains the point of order.

MR. KERR: I will reduce it to writing.

THE CHAIRMAN: The time has come to vote on the amendment. . . .

MR. KERR: Mr. Chairman, I ask unanimous consent that I may have time within which to put my amendment in writing.

Mr. Bolles and Mr. Andrews objected.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken; and on a division (demanded by Mr. Crawford), there were—ayes 148, noes 109.

So the amendment was agreed to.

THE CHAIRMAN: Under the rule the Committee rises.

Amending Resolution From Committee on Rules; Debate

§ 1.4 An amendment to the body of a resolution reported by the Committee on Rules is properly offered by the Member handling the rule before the previous question is moved.[4]

2. 84 CONG. REC. 10251, 76th Cong. 1st Sess. Under consideration was S. 2697, to facilitate execution of arrangements for exchange of surplus U.S. agricultural commodities for reserve stocks and strategic materials produced abroad.

3. John J. Sparkman (Ala.).

4. § 14.2, infra.

§ 1.5 A resolution reported by the Committee on Rules may not be amended unless the Member in charge yields for that purpose or the previous question is voted down, nor is an amendment offered by the Member in charge subject to amendment unless he yields for that purpose.

On Sept. 14, 1951,[5] the following proceedings took place:

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I would like to inquire, as a parliamentary inquiry, whether or not this resolution would be subject to amendment if an amendment were offered for and on behalf of the Rules Committee.

THE SPEAKER:[6] The gentleman from Texas [Mr. Lyle] has control of the time. The gentleman from Texas can offer an amendment before he moves the previous question. . . .

MR. [CLARE E.] HOFFMAN of Michigan: But unless the gentleman from Texas does offer such an amendment the only way we could have an opportunity would be to vote down the previous question.

THE SPEAKER: That would be correct. . . .

MR. LYLE: Mr. Speaker, I now offer the amendment. . . .

MR. HOFFMAN of Michigan: Is an amendment to the amendment in order?

THE SPEAKER: Not unless the gentleman from Texas yields for that purpose.

§ 1.6 Resolutions reported by the Committee on Rules providing for investigations are debated under the hour rule, and are subject to amendment if the previous question is rejected.

On Apr. 8, 1937,[7] the following proceedings took place:

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, this resolution and the one to follow it, the Dies resolution, provide for the appointment of investigating committees. . . . My inquiry is, Will there be opportunity to read the resolutions section by section and to offer amendments to them?

THE SPEAKER:[8] he resolution is being considered in the House under the rules and precedents, and it will be considered in its entirety. . . .

MR. [THOMAS] O'MALLEY [of Wisconsin]: If the motion for the previous question is defeated, the resolution will then be open for amendment?

THE SPEAKER PRO TEMPORE:[9] The gentleman is well informed.

§ 1.7 Where a member of the Committee on Rules calling up a resolution reported by that committee offers an amendment after debate on

5. 97 CONG. REC. 11394, 11397, 82d Cong. 1st Sess. Under consideration was H. Res. 386, an amendment to the rules of the House.
6. Sam Rayburn (Tex.).
7. 81 CONG. REC. 3283–90, 75th Cong. 1st Sess.
8. William B. Bankhead (Ala.).
9. Fred M. Vinson (Ky.).

the resolution has concluded, such amendment is not debatable if the previous question on the amendment and on the resolution is moved and agreed to.

On Mar. 11, 1941,[10] the following proceedings took place:

MR. [EDWARD E.] COX [of Georgia]: Mr. Speaker, I call up House Resolution 120, which I send to the desk and ask to have read. . . .

Mr. Speaker, I have stated that the language proposed by the gentleman from New York [Mr. Wadsworth] is an improvement to this bill, and I offer it as an amendment to the bill, and Mr. Speaker, I move the previous question on the amendment and the resolution.

MR. [Andrew J.] MAY [of Kentucky]: Mr. Speaker, I make the point of order that the resolution is not subject to amendment until the previous question has been disposed of. . . .

THE SPEAKER:[11] It is in order for the gentleman from Georgia [Mr. Cox] to offer the amendment. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Cox: On page 2, line 20, after section 2, strike out section 3 and insert the following:

"Sec. 3. The committee may withhold from publication such information obtained by it as in its judgment should be withheld in the public interest."

THE SPEAKER: The gentleman from Georgia [Mr. Cox] moves the previous question on the amendment and the resolution.

MR. MAY: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MAY: Mr. Speaker, I desire to inquire whether or not the amendment as offered is debatable before the previous question is voted upon.

THE SPEAKER: The previous question has been moved. If the previous question is voted down, the amendment would be subject to debate.

§ 1.8 When an amendment is offered to a pending resolution and the previous question is immediately moved on the resolution and on the amendment, the 40 minutes of debate under clause 3 of Rule XXVII[12] does not apply if the main question has been debated.

See § 1.7, supra, wherein the Chair did not allow debate on an amendment on which the previous question had been moved. See also § 14, infra, for further discussion of the effect of the previous question.

10. 87 CONG. REC. 2182, 2189, 77th Cong. 1st Sess. Under consideration was H. Res. 120, relating to an investigation of national defense.

11. Sam Rayburn (Tex.).

12. *House Rules and Manual* § 907 (101st Cong.). The rule provides for 40 minutes of debate when the previous question has been ordered "on any proposition on which there has been no debate."

Pages and Lines

§ 1.9 An amendment should specify and identify the text to be amended; and an amendment offered to a substitute amendment is not in correct form where it purports to amend not the substitute but the original amendment; thus, an amendment containing several references to pages and lines of the bill rather than of the substitute was held not in order as an amendment to the substitute.

On May 8, 1947,[13] the following proceedings took place:

THE CHAIRMAN:[14] Let us get this clear. We have a pending amendment and we have a substitute for that amendment. The gentleman from Ohio has offered an amendment to the substitute. The amendment consists of several references to pages and lines. Are those pages and lines a part of the amendment offered by the gentleman from New York [Mr. Javits] as a substitute?

MR. [GEORGE H.] BENDER [of Ohio]: Mr. Chairman, they are part of the bill, which has already been read.

THE CHAIRMAN: That does not constitute an amendment to the substitute and the Chair is constrained to sustain the point of order.

§ 1.10 Where there was pending an amendment to a section and a substitute therefor, the Chair indicated that amendments to the substitute should be drafted to the proper page and line number of the substitute rather than to comparable provisions of the original text.

On July 22, 1974,[15] during consideration of a bill in the Committee of the Whole, the Chair responded to a parliamentary inquiry as described above:

MR. [KEN] HECHLER of West Virginia: A parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN:[16] The gentleman will state it.

MR. HECHLER of West Virginia: If the substitute is adopted, offered by the gentlewoman from Hawaii, would it be out of order to have amendments to that section? I would like to make that parliamentary inquiry prior to the ruling of the Chair.

THE CHAIRMAN: Once the substitute is adopted, then a vote would be on the Hosmer amendment as amended by the substitute. Prior to the vote on the

13. 93 CONG. REC. 4813, 80th Cong. 1st Sess. Under consideration was H.R. 2616, relating to assistance to Greece and Turkey.

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

15. 120 CONG. REC. 24453, 93d Cong. 2d Sess. Under consideration was H.R. 11500, Surface Mining Control and Reclamation Act of 1974.

16. Neal Smith (Iowa).

substitute, however, there could be amendments to the substitute. . . .

MR. [CRAIG] HOSMER [of California]: If that is the case, how would one key in the amendments to the substitute, inasmuch as the substitute is basically a Xerox copy of section 201, with its original line numbers on some pages starting at line 18 and ending on line 13 and at other pages going to other delineations?

THE CHAIRMAN: The Chair will state that the amendments must be drafted as an amendment to the substitute, rather than to a section of the committee amendment.

MR. HOSMER: For example, if I may pursue my parliamentary inquiry, I have a substitute in my hand. It has got some numbers on it. I would want to offer a new section 201(a) as an amendment to the substitute. How should I fashion that amendment?

THE CHAIRMAN: The Chair cannot anticipate every amendment; but the gentleman could draft the amendment to the proper page and line of the substitute.

Amendment Offered in Another's Name

§ 1.11 A Member may offer an amendment in his own name at the request of another, but he may not offer it in the other Member's name.

On June 23, 1945,[17] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. [Jesse P.] Wolcott [of Michigan] (at the request of Mr. [James W.] Mott [of Oregon]): On page 1, line 9, after the period, add two new sections as follows: . . .

MR. [JOHN W.] MCCORMACK [of Massachusetts]: I would like to inquire whether the amendment is offered by the gentleman from Oregon [Mr. Mott] or by the gentleman from Michigan [Mr. Wolcott] for the gentleman from Oregon.

THE CHAIRMAN:[18] The amendment must be offered by the gentleman from Michigan.

Amendment Repealing Law

§ 1.12 In offering an amendment from the floor proposing the repeal of a law, it is not necessary for the sponsor of such amendment to include the language of the law sought to be repealed.

On Feb. 3, 1948,[19] the following proceedings took place:

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I make the . . . point of order that it is out of order to offer an amendment to repeal a section of law without including that section of law to let the House know what it is we are trying to repeal. . . .

17. 91 CONG. REC. 6620, 79th Cong. 1st Sess. Under consideration was H.J. Res. 101, extending the Price Control and Stabilization Acts.

18. Jere Cooper (Tenn.).

19. 94 CONG. REC. 990, 80th Cong. 2d Sess. Under consideration was H.R. 4838, relating to admission of alien fiancees or fiances.

THE SPEAKER:[20] The Chair holds that the amendment is not subject to the point of order on the grounds that the gentleman from Mississippi has advanced.

Offering Committee Amendments

§ 1.13 Where the chairman of a committee states he is offering an amendment as a committee amendment, the Chair accepts the statement of the committee chairman in that respect.

On Aug. 25, 1949,[1] the following proceedings took place:

> Committee amendment offered by Mr. [Brent] Spence [of Kentucky] as a substitute for the bill: Strike out all after the enacting clause and insert the following: "That this act may be cited as the 'Housing Amendments of 1949.'. . ."
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> MR. [FRANCIS H.] CASE of South Dakota: What is the position of the Chair with respect to the substitute being offered by the committee? The chairman of the committee has already stated that it is a substitute being offered by the committee itself.
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> THE CHAIRMAN:[2] The Chair has to accept the word of the chairman of the committee in this respect.

Amendment Offered by Speaker

§ 1.14 In rare instances, the Speaker has taken the floor to offer an amendment in the Committee of the Whole.

As an example, Speaker Sam Rayburn, of Texas, in the 86th Congress offered an amendment to the second supplemental appropriation bill of 1959.[3]

Distribution of Copies of Amendments

§ 1.15 Failure of the Clerk to promptly distribute 12 copies of an amendment offered in Committee of the Whole to the majority and minority committee tables and cloakrooms as required by Rule XXIII clause 5 is not grounds for a point of order against the consideration of the amendment.

On June 21, 1974,[4] during consideration in the Committee of the Whole of a bill, the Chair ruled on

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20. Joseph W. Martin, Jr. (Mass.).

1. 95 CONG. REC. 12258, 12259, 12263, 81st Cong. 1st Sess. Under consideration was H.R. 6070, to amend the National Housing Act.

2. Mike Mansfield (Mont.).

3. 105 CONG. REC. 5094, 86th Cong. 1st Sess., Mar. 24, 1959. The bill under consideration was H.R. 5916 (Committee on Appropriations).

4. 120 CONG. REC. 20609, 93d Cong. 2d Sess. Under consideration was H.R. 15472, agriculture, environment, and consumer appropriation, fiscal 1975.

a point of order as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: On page 47 strike line 13 and all that follows through line 24.

MR. [MARK] ANDREWS of North Dakota: Mr. Chairman, I make a point of order against the amendment on the ground that copies have not been delivered to the minority in accordance with clause 5 of rule XXIII.

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, how many copies does the gentleman want?

MR. ANDREWS of North Dakota: None.

THE CHAIRMAN:[5] The rules provide that copies shall be provided the Clerk of the House. The point of order is not in order.

The gentleman from Texas is recognized for 5 minutes in support of his amendment.

§ 1.16 It is not the immediate responsibility of a Member offering an amendment to insure that copies of the amendment are distributed according to the requirements of Rule XXIII clause 5, and improper distribution will not prevent consideration of that amendment.

On Feb. 19, 1975,[6] during consideration in the Committee of the Whole of a bill,[7] the Chair responded to a point of order as indicated below:

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

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: On page 7 after line 24 insert a new section 5 (and number the succeeding Sections accordingly).

Sec. 5. (a) Section 208(a) of the Regional Rail Reorganization Act of 1973. The sentence "The final system plan shall be deemed approved at the end of the first period of 60 calendar days of continuous session of Congress after such date of transmittal unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the final system." is amended by deleting the language after "shall" and inserting in lieu thereof "be voted by each House of Congress within the period of 60 calendar days of continuous session of Congress after such date of transmittal.". . .

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

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5. Sam Gibbons (Fla.).

6. 121 CONG. REC. 3596, 94th Cong. 1st Sess.

See Rule XXIII clause 5(a), *House Rules and Manual* § 870 (101st Cong.), stating in part: "Upon the offering of any amendment by a Member, when the House is meeting in the Committee of the Whole, the Clerk shall promptly transmit to the majority committee table five copies of the amendment and five copies to the minority committee table. Further, the Clerk shall deliver at least one copy of the amendment to the majority cloak room and at least one copy to the minority cloak room."

7. H.R. 2051, to amend the Regional Rail Reorganization Act of 1973.

THE CHAIRMAN:[8] Does the gentleman from Michigan desire to be heard on his point of order?

MR. DINGELL: Mr. Chairman, I make the point of order on two bases, the first of which is that under the rules of the House the proponent must have made copies of the amendment available to the cloakroom of the majority and the minority. They must have made the necessary number of copies available both to the reading clerk and to the two committee desks. I have checked with both of the committee desks and find that this rule has not properly been complied with.

The second point of order, Mr. Chairman, is that the amendment goes beyond the scope of the legislation before us. . . .

THE CHAIRMAN: The Chair is prepared to rule.

On the first point of order as raised by the gentleman from Michigan, it is not the immediate responsibility of the Member under the rule to see that the distribution of the copies is made and consideration of the amendment cannot be prevented for that reason. Therefore the first point of order is overruled.

As to the second point made by the gentleman from Michigan, the Chair has examined the amendment as well as the "Ramseyer" in the report on the bill under consideration, and in the opinion of the Chair, the bill under consideration amends several sections of the act, and is so comprehensive an amendment as to permit germane amendments to any portion of the law. . . . Therefore the Chair overrules the point of order raised by the gentleman from Michigan.

8. Walter Flowers (Ala.).

§ 1.17 In response to a parliamentary inquiry, the Chairman of the Committee of the Whole indicated that the rule concerning distribution of proposed amendments by the Clerk (Rule XXIII clause 5) was a matter of courtesy, not mandate, and the Clerk's inability to distribute copies did not prohibit consideration of the amendment.

On Mar. 14, 1975,[9] the Committee of the Whole having under consideration H.R. 25, the Surface Mining and Reclamation Act, a parliamentary inquiry was directed to the Chair and the following proceedings occurred:

MR. [SAM] STEIGER of Arizona: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN:[10] The gentleman will state his parliamentary inquiry.

9. 121 CONG. REC. 6708, 94th Cong. 1st Sess.

See Rule XXIII clause 5(a), *House Rules and Manual* § 870 (101st Cong.) stating in part: "Upon the offering of any amendment by a Member, when the House is meeting in the Committee of the Whole, the Clerk shall promptly transmit to the majority committee table five copies of the amendment and five copies to the minority committee table. Further, the Clerk shall deliver at least one copy of the amendment to the majority cloak room and at least one copy to the minority cloak room."

10. Neal Smith (Iowa).

MR. STEIGER of Arizona: Mr. Chairman, without a copy of the amendment, we cannot understand the purpose of the amendment.

I thought that under the new rules we are under some obligation to provide some sort of amendment in written form so that those Members who wish to go to the extra effort might read and understand what is going on.

Am I correct or incorrect, Mr. Chairman?

THE CHAIRMAN: It does not stop the consideration of an amendment, although that is supposed to be the custom.

MR. STEIGER of Arizona: Mr. Chairman, the rule is simply a matter of courtesy rather than one of mandate?

THE CHAIRMAN: The gentleman is correct.

§ 1.18 While Rule XXIII clause 5 imposes a duty on the Clerk to transmit to the majority and minority committee tables five copies of any amendment offered in Committee of the Whole, a point of order against the amendment does not lie based upon the inability of the Clerk to comply with that requirement.

On Mar. 25, 1976,[11] the Committee of the Whole having under consideration H.R. 12566,[12] a point of order was raised against an amendment and the Chair ruled as indicated above:

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: On page 6, line 3 insert the following new section, and renumber the succeeding sections;

"Sec. 9. Notwithstanding any other provision of law the Director of the National Science Foundation shall keep all Members of Congress . . . informed with respect to all the activities of the National Science Foundation. . . ."

MR. [JAMES W.] SYMINGTON [of Missouri]: Mr. Chairman, a point of order. We do not have five copies of the amendment as far as I can tell.

THE CHAIRMAN:[13] That is not a point of order, although the Chair hopes the copies will be provided.

§ 1.19 No point of order lies against an amendment by reason of the fact that exact copies of the amendment as submitted to, and read by, the Clerk have not been distributed, clause 5 of Rule XXIII only requiring distribution and not preventing consideration.

An example of the proposition stated above occurred on July 2, 1980,[14] during consideration of

11. 122 CONG. REC. 7997, 94th Cong. 2d Sess.

12. National Science Foundation authorization, fiscal 1977.

13. George E. Danielson (Calif.).

14. 126 CONG. REC. 18288, 18290–92, 96th Cong. 2d Sess.

H.R. 7235, the Rail Act of 1980. The proceedings in the Committee of the Whole were as follows:

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

The Clerk read as follows:

Amendment offered by Mr. Florio: Page 103, line 14, insert "or (c)" immediately after "subsection (b)".

Page 104, line 20, strike out the closing quotation marks and the following period.

Page 104, after line 20, insert the following new subsection: . . .

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

The Clerk read as follows:

Amendment offered by Mr. Madigan as a substitute for the amendment offered by Mr. Florio:

Page 103, line 14 insert "or (c)" immediately after "subsection (b)".

Page 104, line 20, strike out the closing quotation marks and the following period. . . .

The Clerk read as follows:

Amendment offered by Mr. Eckhardt to the amendment offered by Mr. Madigan as a substitute for the amendment offered by Mr. Florio: page 3, strike out lines 14 through 20.

Page 3, line 5, strike out "(1)".

Page 3, line 13, strike out "; or" and insert in lieu thereof a period.

Pages 4 and 5, strike out "20,000" and insert in lieu thereof "5,000".

MR. FLORIO: Mr. Chairman, I reserve a point of order.

THE CHAIRMAN:[15] The gentleman from New Jersey reserves a point of order.

MR. FLORIO: We have not got a copy of the amendment, and what was just shown does not comply with what was just read.

THE CHAIRMAN: The Chair will advise the gentleman from New Jersey that the amendment that has been read is the amendment that is pending. The fact that the gentleman does not have a copy of the amendment does not give rise to a point of order.

§ 1.20 While an amendment offered in the House must be reduced to writing, there is no rule requiring distribution of copies to Members.

On June 25, 1981,[16] during consideration of House Resolution 169, providing for consideration of H.R. 3982, the Omnibus Budget Reconciliation Act of 1981, the proceedings in the House were as follows:

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 169 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 169

Resolved, That upon the adoption of this resolution it shall be in order

15. Les AuCoin (Oreg.).

16. 127 CONG. REC. 14065, 14079, 14081, 97th Cong. 1st Sess.

to move, any rule of the House to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982, and the first reading of the bill shall be dispensed with. General debate shall continue not to exceed eight hours. . . .

After debate, the previous question was moved and rejected. The ranking minority member of the Committee on Rules then offered an amendment.

MR. [DELBERT L.] LATTA [of Ohio]: Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Latta: Strike all after the resolving clause and insert in lieu thereof the following:

"That upon the adoption of this resolution it shall be in order to move, any rule of the House to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3982), to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for fiscal year 1982, and the first reading of the bill shall be dispensed with, and all points of order against said bill are hereby waived.". . .

MR. [THEODORE S.] WEISS [of New York]: Mr. Speaker, none of us in this body except perhaps the gentleman from Ohio and those closest to him have a copy of the proposed rule. None of us know what it is we are going to be asked to vote on. I raise that as a point of order against proceeding further until copies are distributed to us.

THE SPEAKER PRO TEMPORE:[17] The gentleman actually has not stated a point of order. The gentleman will simply have to inquire, and I am sure that copies of the amendment would be made available. . . .

The gentleman from New York will be advised that the contents of the amendment were read in full by the Clerk.

The gentleman is not in order to make such a point of order at this time.

§ 1.21 While Rule XXIII clause 5 directs the Clerk to promptly transmit copies of amendments which have been offered in Committee of the Whole to the majority and minority committee tables, no point of order lies against consideration of an amendment for failure to make copies immediately available.

On June 26, 1981,[18] the Committee of the Whole having under consideration H.R. 3982,[19] the above-stated proposition was illustrated as indicated below:

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Chairman, I offer an amendment.

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17. James C. Wright, Jr. (Tex.).

18. 127 CONG. REC. 14682, 14739, 97th Cong. 1st Sess.

19. The Omnibus Budget Reconciliation Act.

THE CHAIRMAN:[20] Under the rule, the amendment is considered as having been read.

The amendment offered by Mr. Broyhill is as follows:

> Strike out title VI and insert in lieu thereof: . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. OTTINGER: Mr. Chairman, I would like to know if under the rules of the House copies of this amendment are available.

My understanding is that changes have been made as recently as an hour ago and, under the rules of the House, amendments have to be available by the Member who has introduced it once it is introduced.

Therefore, I would like to inquire as to the availability of this amendment. I am one of the subcommittee chairmen involved in this amendment, and I would like to have a copy of the amendment in order to be able to deal with it.

THE CHAIRMAN: The Chair will respond that it is the Clerk's responsibility to distribute the amendments if it is feasible. In any event, it is not subject to a point of order.

§ 1.22 A point of order does not lie against an amendment on the grounds that copies have not been delivered to the minority and majority desks and cloakrooms.

20. Edward P. Boland (Mass.).

An example of the proposition described above occurred on May 4, 1983,[1] during consideration of House Joint Resolution 13 (concerning a nuclear weapons freeze). The proceedings in the Committee of the Whole were as follows:

MR. [NORMAN D.] DICKS [of Washington]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Dicks as a substitute for the amendment offered by Mr. Levitas: In view of the matter proposed to be inserted, insert the following: "with negotiators proceeding immediately to pursuing reductions.".

MR. [ELLIOTT H.] LEVITAS [of Georgia]: Mr. Chairman, I have a point of order.

THE CHAIRMAN:[2] The gentleman will state his point of order.

MR. LEVITAS: Mr. Chairman, I make a point of order that copies of the amendment have not been delivered to the minority or majority desks or to the majority and minority cloakrooms.

THE CHAIRMAN: The Chair will advise the gentleman that is not a point of order.

Amendment Printed in Record; Debate; Form Required

§ 1.23 While Rule XXIII clause 6 permits any Member who has printed an amendment

1. 129 CONG. REC. 11074, 98th Cong. 1st Sess.
2. Matthew H. McHugh (N.Y.).

in the Congressional Record five minutes of debate thereon despite time limitations imposed by the Committee of the Whole, the amendment must be offered in the precise form in which it was printed in the Record to assure time for debate, and an amendment printed in the Record to be offered to original text is not protected by the rule when offered in different form as an amendment to a pending substitute.

On July 22, 1974,[3] the Committee of the Whole having under consideration the bill, H.R. 11500, the Surface Mining Control and Reclamation Act of 1974, an inquiry was addressed to the Chair regarding debate on amendments which had been printed in the *Congressional Record*. The proceedings were as follows:

MR. [KEN] HECHLER of West Virginia: A parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN:[4] The gentleman will state it.

MR. HECHLER of West Virginia: If the substitute is adopted, offered by the gentlewoman from Hawaii, would it be out of order to have amendments to that section? . . .

THE CHAIRMAN: Once the substitute is adopted, then a vote would be on the Hosmer amendment as amended by the substitute. Prior to the vote on the substitute, however, there could be amendments to the substitute. . . .

MR. [CRAIG] HOSMER [of California]: If that is the case, how would one key in the amendments to the substitute, inasmuch as the substitute is basically a Xerox copy of section 201, with its original line numbers on some pages starting at line 18 and ending on line 13 and at other pages going to other delineations?

THE CHAIRMAN: The Chair will state that the amendments must be drafted as an amendment to the substitute, rather than to a section of the committee amendment. . . .

MR. HECHLER of West Virginia: What about those Members who have had their amendments printed in the Record; would they then be entitled to transfer the 5 minutes to which they are eligible under the rules to amendments to the substitute?

THE CHAIRMAN: Debate on such amendments, assuming a limitation of time, would only be in order if the amendments were properly offered in the precise form in which they had been printed in the Record, and if the amendments had not been printed in the Record as amendments to the substitute, then debate would not be permitted.

§ 1.24 While Rule XXIII clause 6 permits any Member who has printed an amendment in the Record five minutes of debate thereon notwithstanding any limitation imposed by the Committee of

3. 120 CONG. REC. 24453, 93d Cong. 2d Sess.

4. Neal Smith (Iowa).

the Whole, the amendment must be offered in the precise form in which it was printed in the Record to guarantee its proponent time for debate, and an amendment printed in the Record to be offered to original text is not protected by the rule when offered in different form as an amendment to a pending substitute.

On July 25, 1974,[5] during consideration in the Committee of the Whole of the bill H.R. 11500, the Surface Mining Control and Reclamation Act of 1974, an amendment was offered and proceedings occurred as indicated below:

> MR. [JOSEPH M.] MCDADE [of Pennsylvania]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment to the committee amendment in the nature of a substitute. . . .
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. McDade to the amendment offered by Mr. Ruppe as a substitute for the amendment offered by Mr. Seiberling to the committee amendment in the nature of a substitute: Page 249, strike out lines 15 through 16 and insert in lieu thereof the following:
> >
> > (3) appropriations made to the fund, or amounts credited to the fund, under subsection (d). . . .
>
> THE CHAIRMAN:[6] The Chair will advise the gentleman from Pennsylvania that the time has been set. The gentleman is not on the list.
>
> MR. MCDADE: Mr. Chairman, may I say that I have this amendment printed in the Record. It has been printed for about 10 days.
>
> THE CHAIRMAN: This is an amendment drafted as an amendment to the Ruppe substitute, whereas the amendment which the gentleman caused to be printed in the Record was drafted as an amendment to the committee amendment.

§ 1.25 An amendment must be offered in the precise form in which it was printed in the Congressional Record to guarantee its proponent time for debate notwithstanding a limitation imposed in Committee of the Whole.

On July 25, 1974,[7] during consideration in the Committee of the Whole of a bill,[8] the following proceedings occurred with regard to an amendment that was offered:

> MR. [PHILIP E.] RUPPE [of Michigan]: Mr. Chairman, I offer an amendment to the committee amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Ruppe to the committee amendment in the nature of a substitute: Page 282, line 14, after the period insert the fol-

5. 120 CONG. REC. 25232, 93d Cong. 2d Sess.

6. Neal Smith (Iowa).

7. 120 CONG. REC. 25253, 93d Cong. 2d Sess.

8. H.R. 11500, the Surface Mining Control and Reclamation Act of 1974.

lowing words: "The general elevation of the overall mined area may be lower than its original elevation. . . ."

THE CHAIRMAN:[9] The Chair will ask the gentleman, Was this printed in the Record?

MR. RUPPE: Something was printed in the Record similar to it, but I have changed the language somewhat.

THE CHAIRMAN: It must be identical. If the amendment was not printed in the Record there can be a vote on the amendment but there will be no time for debate.

The question is on the amendment offered by the gentleman from Michigan (Mr. Ruppe) to the committee amendment in the nature of a substitute.

§ 1.26 The rule[10] which guarantees 10 minutes of debate on an amendment printed in the Record at least one calendar day prior to being offered does not permit the offering of an amendment which would not otherwise be in order.

On July 22, 1974,[11] during consideration in the Committee of the Whole of a bill[12] the Chair responded to several parliamentary inquiries regarding the offering of amendments. The proceedings were as follows:

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Chairman, I move that all debate on the pending Hosmer amendment and the Mink substitute for that amendment and all perfecting amendments to either close at 40 minutes past 4 o'clock. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:[13] The gentleman will state it.

MR. DINGELL: Mr. Chairman, reserving the right to object for the purpose of making a parliamentary inquiry, as I understand there are a number of us who do have amendments to the bill itself or which are appropriate to the substitute amendment offered by the gentlewoman from Hawaii or the gentleman from California.

Now, what is the ruling of the Chair with regard to the limitation of time on section 201? Are those amendments published in the Record foreclosed from the 5-minute rule by reason of the debate here, or foreclosed by expiration of the time under the clock, if the time does expire from even offering an amendment?

THE CHAIRMAN: If section 201 of the bill is later open to amendment due to adverse disposition of the Mink substitute and the Hosmer amendment, then those rights would obtain; but those rights would be foreclosed if no further amendments to section 201 were in order. . . .

MR. DINGELL: The provisions of the rule relating to 5 minutes of time for a

9. Neal Smith (Iowa).

10. Rule XXIII clause 6, *House Rules and Manual* Sec. 874 (101st Cong.).

11. 120 CONG. REC. 24459, 24460, 93d Cong. 2d Sess.

12. H.R. 11500, Surface Mining Control and Reclamation Act of 1974.

13. Neal Smith (Iowa).

Member where he has published his amendment in the Record in appropriate fashion will not be protected if either the Mink amendment or the amendment to the amendment of Mr. Hosmer is adopted; am I correct?

THE CHAIRMAN: If the substitute is adopted to the Hosmer amendment and then the Hosmer amendment as amended by the substitute is adopted, further amendments to section 201 could not be offered. Therefore, there would be no further amendments appropriate. . . .

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, is it not true that if, under the gentleman's motion, an amendment—I am now giving a hypothetical situation—the Mink substitute for that portion of the Hosmer amendment were to prevail, and the Hosmer amendment would be defeated, is it not true that the rest of that section which the Mink substitute does not pertain to would be proper to amend at any point?

THE CHAIRMAN: If the entire section has been amended, further amendments to that section would not be in order.

MR. HAYS: Not if the Hosmer substitute were defeated, it would not be true, would it? Just to section 201?

THE CHAIRMAN: If the Mink substitute is adopted, the vote would then recur on the Hosmer amendment since it is a substitute for the entire amendment. If the Hosmer amendment were then adopted, section 201 would not be open to amendment.

§ 1.27 Where a special order governing consideration of a bill requires amendments to have been printed in the Record prior to their consideration, the Chair normally relies upon assurances of the proponent of the amendment that it is in the precise form as printed in the Record, but may insist in response to a point of order that the proponent cite the page of the Record.

On Aug. 3, 1983,[14] the situation described above was demonstrated during consideration of H.R. 2957[15] in the Committee of the Whole. The proceedings were as follows:

MR. [RONALD E.] PAUL [of Texas]: Mr. Chairman, I offer an amendment.

THE CHAIRMAN:[16] The Chair will inquire of the gentleman from Texas (Mr. Paul) as to whether the amendment has been printed in the Record.

MR. PAUL: Yes, it has been, Mr. Chairman.

THE CHAIRMAN: The Clerk will report the amendment. . . .

MR. [FERNAND J.] ST GERMAIN [of Rhode Island]: Mr. Chairman, I would like to ask one question.

In calling up my amendment a few moments ago, I gave the date that it was printed in the Record and the page number at which it appeared.

Would it be possible to require that of other amendments that are sub-

14. 129 CONG. REC. 22653, 98th Cong. 1st Sess.
15. International Recovery and Financial Stability Act.
16. Donald J. Pease (Ohio).

mitted so that we could save a lot of time?

THE CHAIRMAN: The Chair would state that it would be highly desirable if Members offering amendments would be prepared to state at the time of offering the amendments the page number and date of the Congressional Record where the amendment is cited. It has not been treated as an absolute requirement unless a point of order is raised. The Chair will take on the faith of Members the statement that it has been printed in the Record, but it certainly would expedite the consideration of the bill if Members would be prepared to do that.

Instructions as to Portion of Bill To Be Amended

§ 1.28 An amendment must contain instructions to the Clerk as to the portion of the bill it seeks to amend, and is subject to a point of order if not proper in form.

Where the House had adopted a special order permitting only amendments printed in the Record, a Member who had incorrectly submitted an amendment for printing which was part of another amendment and which did not contain separate instructions as to where it would be inserted in the bill was precluded on a point of order from offering the amendment. The proceedings in the Committee of the Whole on Oct. 3, 1985,[17] were as follows:

THE CHAIRMAN:[18] The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: Page 211, line 12, add the following after the period: "The term 'payments' as used in this section shall include the amount by which any repayment of construction costs pursuant to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto) is exceeded by the full cost, as defined by section 202(3)(A)–(C) of the Reclamation Reform Act of 1982 (Public Law 97–293, 96 Stat. 1263), less $5,000.". . .

After debate on the amendment, it became apparent that the proponent, Mr. Conte, of Massachusetts, was addressing his remarks to an amendment other than that read by the Clerk.

THE CHAIRMAN: Will the gentleman from Massachusetts give the Chair his attention on this issue?

The Clerk reported an amendment offered by the gentleman from Massachusetts dealing with reclamation.

It would be in order for the gentleman from Massachusetts (Mr. Conte) to ask unanimous consent that the amendment as reported be the one that the gentleman printed in the Record and spoke to concerning honey. Does the gentleman make that request at this time?

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I ask unanimous consent that the amendment that I offered pertain to this honeybee amendment. The Clerk now has it at the desk.

17. 131 CONG. REC. 25970, 25971, 99th Cong. 1st Sess.

18. David E. Bonior (Mich.).

THE CHAIRMAN: Without objection, the Clerk will report the amendment.

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. Conte:

(1) Section 201 of the Agriculture Act of 1949; 7 U.S.C. 1446 is amended by striking in the first sentence the word "honey."

(2) Subsection (b) of such section is hereby repealed.

THE CHAIRMAN: Does the gentleman from Texas continue to reserve on his point of order?

MR. [KIKA] DE LA GARZA [of Texas]: Yes, Mr. Chairman. This is the amendment I was reserving the point of order on. . . .

Mr. Chairman, if I may be heard on my point of order, I would not object to the gentleman having made his plea for the amendment. But the amendment as printed in the Record, Mr. Chairman, does not designate a proper page or title or section of the bill, and for that reason I would submit that it is out of order. . . .

MR. CONTE: Mr. Chairman, when we submitted the amendments, unfortunately the printer put them en bloc. That was the unfortunate part, but I feel the amendment is germane, and it is germane to section X of the bill.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair will rule that the amendment as submitted was not correctly printed as a separate amendment, and the Chair will sustain the point of order of the gentleman from Texas.

Parliamentarian's Note: Despite the unanimous consent agreement to separate the honeybee amendment from the reclamation amendment, it was still subject to the point of order that it did not contain proper instructions as to where it would be inserted in the bill.

Amendment Printed in Record—Copy Submitted to Clerk

§ 1.29 The Chair announced, at the conclusion of general debate on a bill being considered under a special rule permitting only germane amendments printed in the Record, that Members should submit legible copies of their amendments to the Clerk rather than rely upon the Clerk to locate the text printed in the Record.

On June 9, 1975,[19] the Committee of the Whole having concluded general debate on the bill H.R. 6860,[20] the Chair made an announcement as described above. The proceedings were as follows:

THE CHAIRMAN:[1] The Chair desires to make a statement regarding the procedure tomorrow when this bill is read for amendment.

A number of amendments have been printed in the Congressional Record

19. 121 CONG. REC. 17907, 94th Cong. 1st Sess.

20. Energy Conservation and Conversion Act of 1975.

1. William H. Natcher (Ky.).

and are protected for consideration under the provisions of the rule governing the consideration of the bill. However, Members who have had amendments printed in the Record must still seek recognition to offer their amendments. When a Member seeks recognition at the appropriate time to offer an amendment, he must send a legible copy, in the precise form as submitted for printing in the Record, to the desk to be reported by the Clerk. It would place an inordinate burden on the Clerk to search through the Record to find the amendment offered.

Amendment Printed in Record—Page Designation Left Blank

§ 1.30 Where a special rule made in order the text of a bill as an amendment and also permitted the precise text of an amendment—printed in the Record with a page designation left blank—to be offered as an amendment thereto, the Chair overruled a point of order that the amendment to the amendment, when offered, contained a page reference to the original amendment which had been left blank in the Record version, since the page insertion did not change the point at which the language was intended to be inserted in the original amendment.

On Apr. 1, 1976,[2] the Chair, in overruling a point of order, stated that, while an amendment must ordinarily be in the precise form permitted under a special "modified closed rule" under which only specified amendments printed in the Record could be offered, where that amendment had been inserted in the Record without a page reference but with language indicating its point of insertion, the amendment was in substantial compliance with the special rule when offered in identical form but also including a page designation. The proceedings were as follows:

MR. [TIMOTHY] WIRTH [of California]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Wirth to the amendment offered by Mr. Phillip Burton: Page 14, immediately after section 9057(c) of the Internal Revenue Code of 1954, as added by the amendment offered by Mr. Phillip Burton, insert the following:

"(d) Limitation.—The Commission shall, not later than April 1 of each election year, determine whether the amount of moneys in the Congressional Election Payment Account will be sufficient to make all payments to which candidates will be entitled under this chapter during such election year. . . ."

2. 122 CONG. REC. 9090, 9091, 94th Cong. 2d Sess. Under consideration was H.R. 12406, Federal Election Campaign Amendments of 1976.

MR. [ROBERT E.] BAUMAN [of Maryland] (during the reading): Mr. Chairman, I have heard the Clerk read the amendment, and that was not the amendment that was printed in the Record of March 29, 1976. . . .

Mr. Chairman, rule XXIII, clause 6, says, in part:

> Material placed in the Record pursuant to this provision shall indicate the full text of the proposed amendment, the name of the proponent Member, the number of the bill to which it will be offered and the point in the bill or amendment thereto where the amendment is intended to be offered, and shall appear in a portion of the Record designated for that purpose.

Mr. Chairman, on page H2500, of the March 29 Record, to which the rule specifically makes mention, this particular Wirth amendment appears as the beginning line with the page blank. Immediately after subsection 9057(c) there is no page 14 designated, and the Clerk just read page 14.

Mr. Chairman, it is not the same amendment.

THE CHAIRMAN:[3] The Chair has examined the situation. To the best of his knowledge, there are no precedents. Under the circumstances, it would have been difficult if not impossible for the gentleman to have had the page number when he printed his amendment in the Record, and the Chair believes that the omission of the page number alone does not keep the amendment from being in substantial compliance with the rule. In all other respects, the amendment printed in the Record does indicate the point at which the amendment is to be inserted into the amendment of the gentleman from California.

The Chair overrules the point of order.

Draftsmanship of Amendment; Query as to Effect of Amendment

§ 1.31 It is for the Committee of the Whole, and not the Chairman, to determine whether an amendment is properly drafted to accomplish its stated purpose; thus, an ambiguity in the wording of an amendment, or a question as to the propriety of draftsmanship of an amendment to accomplish a particular legislative purpose, should not be questioned on a point of order but is an issue to be disposed of on the merits.

On Feb. 4, 1976,[4] during consideration of H.R. 9464,[5] in the Committee of the Whole, the Chair overruled a point of order that was made against an amend-

3. Richard Bolling (Mo.).

4. 122 CONG. REC. 2371, 94th Cong. 2d Sess. See also the proceedings at 115 CONG. REC. 31867, 31886, 31888, 91st Cong. 1st Sess., Oct. 28, 1969, relating to a point of order raised by Mr. Frank T. Bow, of Ohio, against an amendment to H.J. Res. 966, a bill providing for continuing appropriations for fiscal 1970.

5. Natural Gas Emergency Act of 1976.

ment, as described above. The proceedings were as follows:

MR. [WILLIAM M.] BRODHEAD [of Michigan]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Brodhead to the amendment in the nature of a substitute offered by Mr. Krueger: Strike out section 105 and designate the succeeding sections of title I accordingly.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I reserve a point of order on the amendment. . . .

Mr. Chairman, my point of order against the amendment mentioned is that while it has a purpose with which I am not totally unsympathetic, it does not make the conforming amendments necessary to accomplish that purpose without leaving a lot of loose ends hanging in the legislation. For example, it strikes section 105, which is entitled, "Prohibition of the Use of Natural Gas as Boiler Fuel."

In section 102, the "purpose" section of the amendment, it says:

. . . to grant the Federal Energy Administration authority to prohibit the use of natural gas as boiler fuel;

That would be left in the legislation without any language under this section 105 which provides for that.

I think there are other references in the language that I have not had a chance to dig out.

I would suggest that if the gentleman from Michigan would like to withdraw his amendment, I think that we can provide the gentleman with an amendment that would have all the necessary conforming language.

THE CHAIRMAN:[6] The Chair will state that the gentleman from Ohio (Mr. Brown) is no longer speaking on his point of order. The Chair will state that the question the gentleman from Ohio raises is not a valid point of order, it is rather a question of draftsmanship and the Chair overrules the point of order.

If the gentleman from Ohio desires to be heard in opposition to the amendment offered by the gentleman from Michigan (Mr. Brodhead) then the Chair would be glad to recognize the gentleman for 5 minutes.

§ 1.32 It is not within the province of the Chair to interpret the consistency or effect of an amendment to an amendment.

On Sept. 8, 1976,[7] during consideration of H.R. 10498 (the Clean Air Act Amendments of 1976), several parliamentary inquiries were directed to the Chair regarding the effect of a pending amendment. The proceedings were as follows:

MR. [PAUL G.] ROGERS [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

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:

6. Richard Bolling (Mo.).

7. 122 CONG. REC. 29234–36, 94th Cong. 2d Sess.

"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 on—

"(1) the effects of the implementation of requirements on the States or the Federal Government under this Act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current national primary and secondary standards. . . .

"(1) There are authorized to be appropriated, for use in carrying out this section not to exceed $17,000,000.

"(j) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation."

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

The Clerk read as follows:

Amendment offered by Mr. Maguire to the amendment offered by Mr. Rogers: In the last sentence of section 160(c)(1) of the text inserted by the Rogers amendment, strike out ", class II, or class III" and substitute "or class II". . . .

The Maguire amendment sought to modify portions of the Rogers amendment relating to standards of air quality applicable in a type or category of area. Mr. Maguire explained the effect of his amendment as follows:

MR. MAGUIRE: Mr. Chairman, I am introducing an amendment to the portion of the Clean Air Act amendments dealing with significant deterioration of the air in areas of our country which still have to some degree clean air. I am proposing that we eliminate the class III category from the bill. If we do that, we will be composing our bill essentially with the bill approved earlier by the Senate by a vote of 63 to 31.

As many of the Members know, I originally proposed an amendment to this section which included other changes to the committee bill in addition to this, but I am offering here simply the elimination class III.

There is a very simple reason for getting rid of the class III designation. Class III virtually entirely subverts the intention of this section of the bill. Supposedly we are trying to prevent significant deterioration of our air. We are trying to prevent it from being unnecessarily degraded. But what does class III do? It allows an increase of 50 percent of the lowest national air quality standard for each pollutant in any clean air area designated as class III. This means, for example, that most areas of the country which limited pollution by sulfur oxides would be permitted to deteriorate to the levels of concentration in cities such as Los Angeles and Detroit—which hardly seems to fit with our objective of retaining our clean air. . . .

Why should we eliminate class III?

Because the levels of pollution it would allow are clearly harmful to health.

And because the massive additional increments in pollution it would encourage clearly involve major economic costs to our society.

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Chairman, my par-

liamentary inquiry is: How does the amendment that has been offered by the gentleman from New Jersey amend the amendment offered by the gentleman from Florida?

THE CHAIRMAN:[8] The amendment was offered as an amendment to the amendment and the Chair cannot make an interpretation of the effect of the amendment.

MR. BROYHILL: My parliamentary inquiry further would be is it the intention to strike out the language offered by the gentleman from Florida and insert this language in lieu of that language? We are unclear on this side and would like to have a clarification from the Chair or from someone.

THE CHAIRMAN: The Chair will state to the gentleman from North Carolina that this is not really a proper parliamentary inquiry. The Chair cannot comment further on the offering of the amendment to the amendment, since a point of order was not raised at the appropriate time.

§ 1.33 It is not within the province of the Chair or of the Clerk to analyze the effect of amendments; thus, although an amendment may be reread by unanimous consent in Committee of the Whole, it is not in order to ask unanimous consent that the Clerk read or inform the Committee of the "differences" between two pending amendments.

On Apr. 6, 1977,[9] during consideration of a bill[10] in the Committee of the Whole, the Chair indicated that, while it was in order for the Clerk to re-read an amendment, it was not in order to request the Clerk to read differences between amendments. The proceedings were as follows:

THE CHAIRMAN:[11] The Clerk will read the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 5, immediately after line 5, insert the following new title:

Title V—African Development Fund

Sec. 501. Section 206(a) of the African Development Fund Act (22 U.S.C. 290g–4(a)) is amended by striking out "$25,000,000" and inserting in lieu thereof "$175,000,000". . . .

MR. [PAUL E.] TSONGAS [of Massachusetts]: Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Tsongas to the committee amendment: Strike out all after "section 501" and insert "section 206(a) of the African Development Fund Act (22 U.S.C. 290–g4(a)) is further amended by adding the following at the end thereof: "In addition there is hereby authorized to be appropriated such

8. J. Edward Roush (Ind.).

9. 123 CONG. REC. 10771, 10773, 95th Cong. 1st Sess.

10. H.R. 5262, providing for increased participation by the United States in international financial institutions.

11. Robert Duncan (Oreg.).

sums as may be necessary, consistent with, and after consultation with, the other nations involved.". . .

MR. [CHALMERS P.] WYLIE [of Ohio]: Mr. Chairman, I offer an amendment as a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Wylie as a substitute for the committee amendment: In lieu of the committee amendment insert the following:

"Sec. 501. Section 206(a) of the African Development Fund Act (22 U.S.C. 290g–4(a)) is further amended by adding the following at the end thereof: 'In addition there is hereby authorized to be appropriated such sums as may be necessary, consistent with, and after consultation with, the other nations involved.'

"The Secretary of the Treasury is directed to begin discussions with other donor nations to the African Development Fund for the purpose of changing the voting structure within the Fund to reflect actual contributions by Fund members.". . .

MR. TSONGAS: Mr. Chairman, I ask unanimous consent that the difference between my amendment and the amendment now being considered be read, so that we would understand not what the similarities are, but what the differences are.

THE CHAIRMAN: Does the gentleman want the substitute read again?

MR. TSONGAS: No. The difference between the substitute, which was read, and the substitute now being considered, specifically, the language directing the Secretary of the Treasury.

THE CHAIRMAN: Both amendments have been read and the clerk cannot be placed in the position of analyzing differences. The amendment offered by the gentleman from Massachusetts (Mr. Tsongas) is not a substitute. It is an amendment to the committee amendment.

§ 1.34 Although the Chair may indicate in response to a parliamentary inquiry the form of a pending amendment and the proposition to which it is offered, it is not within the province of the Chair to indicate the substantive effect of the amendment on pending provisions of the bill.

On Aug. 2, 1977,[12] the Committee of the Whole had under consideration H.R. 8444, the National Energy Act. An amendment, referred to in the proceedings as the "Mikulski amendment," was offered as follows:

THE CHAIRMAN:[13] The Clerk will designate the page and the line number of the ad hoc committee amendment (the "Mikulski amendment") to part III.

The Clerk read as follows:

Ad hoc committee amendment: Page 146, insert the matter in italics on lines 2 through 5, and on page 169, insert the matter on page 169, line 3 through page 180, line 7.

[The ad hoc committee amendment reads as follows:]

12. 123 CONG. REC. 26158, 26160, 26161, 95th Cong. 1st Sess.

13. Edward P. Boland (Mass.).

PART III—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

. . . It is the purpose of this part to authorize grants to States and units of local government to assist in identifying and implementing energy conservation maintenance and operating procedures to reduce the energy use and anticipated energy costs of buildings owned by units of local government. . . .

"Sec. 400B. (a) The Administrator is authorized to make grants to—

"(1) States and units of local government to assist in conducting preliminary energy audits for buildings owned by units of local government, and

"(2) States and units of local government in payment of technical assistance program costs for technical assistance programs for buildings owned by units of local government.

"(b) The Federal share of the costs incurred in connection with any preliminary energy audit or any technical assistance program, shall not exceed 50 percent thereof and the remainder of the costs shall be provided from sources other than Federal funds. . . .

Mr. William D. Ford, of Michigan, offered an amendment:

MR. FORD of Michigan: Mr. Chairman, I offer an amendment to the ad hoc committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Ford of Michigan to the ad hoc committee amendment: At the end of the committee amendment on page 180, insert the following new section:

"Sec. 5. Application of Davis-Bacon Act.

"The Federal employee or officer primarily responsible for administering any program established under any provision of, or amendment made by title I of this Act which provides for Federal funding shall take such steps as are necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such funds will be paid at rates not less than those prevailing on similar construction in the locality. . . ."

MR. [WILLIAM A.] STEIGER [of Wisconsin]: Mr. Chairman, did we adopt the ad hoc amendment which is known as the Mikulski amendment?

THE CHAIRMAN: This is an amendment to the ad hoc amendment, the Chair will advise the gentleman. . . .

MR. [JOHN B.] ANDERSON of Illinois: Mr. Chairman, it was my understanding under the rule previously adopted that we would proceed to a consideration of all 23 of the amendments adopted in the ad hoc committee and that any other amendments would be subsequent to that.

Can the Chair enlighten us as to what the procedure will be?

THE CHAIRMAN: We are only treating the ad hoc committee amendments to the pending part of the bill under the rule, which makes the amendment of the gentleman from Michigan (Mr. Ford) in order to the pending committee amendment. . . .

MR. [CLARENCE J.] BROWN of Ohio: [Is the Ford amendment] an amendment to the Mikulski amendment, [or] an amendment to this part of the bill?

THE CHAIRMAN: It is an amendment to the ad hoc committee amendment, which in reality is the Mikulski amendment.

MR. BROWN of Ohio: And the ad hoc committee amendment is to what?

THE CHAIRMAN: The ad hoc committee amendment begins on page 169 (and continues) to page 180.

MR. BROWN of Ohio: Is this amendment then an amendment to all of the part addressed by the ad hoc committee amendment? That is what I am trying to inquire.

THE CHAIRMAN: The Ford amendment adds a new section at the end of the ad hoc committee amendment on page 180.

MR. BROWN of Ohio: Mr. Chairman, could the Chair perhaps with specificity indicate to me what the Ford amendment, if adopted, will amend; what language will it amend? Will it amend the language currently in the bill and in the Mikulski amendment or will it amend the Mikulski amendment only and that, if adopted, will amend the bill?

THE CHAIRMAN: The Chairman cannot construe the effect of the amendment. The Chair can only indicate where the amendment comes and the amendment comes at the end of the committee amendment, adding a new section to the ad hoc committee amendment.

§ 1.35 It is not within the province of the Chair to respond to a parliamentary inquiry on the substance or effect of an amendment, such as its similarity to another amendment.

An example of the situation described above occurred on June 14, 1979,[14] during consideration of H.R. 4388[15] in the Committee of the Whole. The proceedings were as follows:

The Clerk read as follows:

Amendment offered by Mr. Dingell as a substitute for the amendment offered by Mr. Dodd: Page 11, lines 21 through 24, strike out section 103.

Page 9, line 14, after the period, insert the following: "None of the funds appropriated for the Federal Energy Regulatory Commission under this paragraph in excess of $550,000 shall be used to pay expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded under this paragraph.". . .

MR. [PETER A.] PEYSER [of New York]: Mr. Chairman, in hearing with some difficulty the amendment as it was being read, I am asking the Chair is the amendment of the gentleman from Michigan (Mr. Dingell) similar to the amendment of the gentleman from Connecticut (Mr. Dodd) without the Johnson amendment?

THE CHAIRMAN:[16] The Chair can only indicate that it appears to be germane and cannot get into the substance of the amendment.

§ 1.36 The Chair will not anticipate whether an amendment not yet offered or available to him for examination might be precluded by adoption of a pending amendment.

14. 125 CONG. REC. 14993–95, 96th Cong. 1st Sess.

15. Energy and water development appropriation bill for fiscal 1980.

16. Philip R. Sharp (Ind.).

The proceedings of June 26, 1979,[17] illustrate the principle that the Chair will decline to rule on hypothetical or anticipatory questions. An amendment was offered during consideration of H.R. 3930, the Defense Production Act Amendments of 1979:

> Amendment offered by Mr. Udall: Page 8, after line 13 add the following new subsection and renumber the subsequent sections accordingly:
>
> (g)(1) The Secretary of Energy is hereby authorized to designate a proposed synthetic fuel or feedstock facility as a priority synthetic project pursuant to the procedures and criteria provided in this section. . . .
>
> MR. [MORRIS K.] UDALL [of Arizona] (during the reading): Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record. . . .
>
> MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, reserving the right to object, I wish to make a point of order. Mr. Chairman, the amendment which I had offered and had printed in the Record would be an appropriate substitute amendment for the amendment offered by the gentleman from Arizona (Mr. Udall). Under the time limitation, if I understand correctly, I have 5 minutes to offer that amendment.
>
> THE CHAIRMAN:[18] That is correct if offered in the proper form.
>
> MR. BROWN of Ohio: But if this amendment is not amended by my amendment and succeeds, then I may be precluded from offering that amendment; is that correct?
>
> THE CHAIRMAN: It would be difficult for the Chair to rule on that without having seen the gentleman's amendment.

§ 1.37 The Chair declines to make anticipatory rulings and will not prejudge the propriety of amendments at the desk as to whether they will be preempted by adoption of a pending amendment until they are offered.

On Dec. 18, 1979,[19] the Committee of the Whole having under consideration H.R. 5860,[20] 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, (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. . . .

17. 125 CONG. REC. 16681, 16682, 96th Cong. 1st Sess.

18. Gerry E. Studds (Mass.).

19. 125 CONG. REC. 36794, 36801, 96th Cong. 1st Sess.

20. Authorizing loan guarantees to the Chrysler Corporation.

MR. [MICKEY] EDWARDS of Oklahoma: Mr. Chairman, I have an amendment at the desk to section 4 of the Moorhead substitute as does the gentleman from Oregon (Mr. Weaver). Would our amendments be in order if the Brademas amendment passes?

THE CHAIRMAN:[21] The Chair will have to examine them if and when offered.

§ 1.38 It is not a proper parliamentary inquiry to ask the Chair to characterize an amendment on which a separate vote has been demanded.

An example of the proposition described above occurred on May 31, 1984,[1] during consideration of H.R. 5167, the Department of Defense authorization bill.

THE SPEAKER PRO TEMPORE:[2] The Clerk will report the first amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 131, after line 2, insert the following new title. . . .

MR. [LAWRENCE J.] SMITH of Florida: Mr. Speaker, might I inquire of the Chair if this amendment just read by the Clerk would be commonly known as the Stratton amendment on nuclear winter?

THE SPEAKER PRO TEMPORE: The Chair will advise the gentleman that that is not a parliamentary inquiry.

21. Richard Bolling (Mo.).

1. 130 CONG. REC. 14677, 98th Cong. 2d Sess.

2. James C. Wright, Jr. (Tex.).

Chair's Determination as to Propriety of Form in Absence of Point of Order

§ 1.39 The Chair may examine the form of an offered amendment to determine its propriety and may rule it out of order even where no point of order is raised from the floor, and debate has begun.

On May 8, 1980,[3] during consideration of S. 1309[4] in the Committee of the Whole, the situation described above occurred as follows:

THE CHAIRMAN:[5] When the Committee of the Whole rose on Wednesday, May 7, section 1 had been considered as having been read and open to amendment at any point. It shall be in order to consider an amendment to title I of said substitute printed in the Congressional Record on April 30, 1980, and said amendment shall not be subject to amendment except for the offering of pro forma amendments for the purpose of debate. No further amendments are in order which further change or affect the Internal Revenue Code.

Are there any amendments to section 1?

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I offer an

3. 126 CONG. REC. 10421, 96th Cong. 2d Sess.

4. The Food Stamp Amendments of 1980.

5. Paul Simon (Ill.).

amendment in the nature of a substitute. . . .

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Walker: Page 39, after line 22 insert the following new title:

MR. WALKER (during the reading): Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

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

There was no objection. . . .

THE CHAIRMAN: The gentleman will suspend for just a moment. The Chair is advised by the Parliamentarian that the gentleman has not offered a proper amendment in the nature of a substitute here. An amendment in the nature of a substitute would strike everything after the enacting clause. This is an amendment adding a new title III.

MR. WALKER: Mr. Chairman, it was my understanding that the amendment was prepared in the form of a substitute.

THE CHAIRMAN: The amendment at the desk is not prepared in that form, the Chair is advised. When the committee reaches title II, the first part of the gentleman's amendment would be in order. The Chair will rule that the amendment is not pending at this time. . . .

Are there any amendments to section 1?

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

THE CHAIRMAN: The gentleman from Idaho has an amendment to section 1. This is the short title of the bill.

MR. SYMMS: It is on page 24, Mr. Chairman.

THE CHAIRMAN: The Chair doubts that that is an amendment to section 1. The amendment of the gentleman from Idaho (Mr. Symms) is not to section 1, but to title I.

The Clerk will read title I.

§ 1.40 While a perfecting amendment to a pending substitute should retain some portion of the substitute so as not to be in effect a substitute in the third degree, the Chair is not obliged to look behind the form of the amendment in the absence of a timely point of order from the floor to determine whether it is a proper perfecting amendment.

On July 26, 1984,[6] in response to a parliamentary inquiry after debate had begun on a pending amendment to a substitute, the Chair indicated that the amendment had been prefaced as a perfecting amendment rather than as a substitute (although actually drafted as a substitute to replace all language).

MR. [WILLIAM F.] GOODLING [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goodling: Add at the end of the bill the following new title. . . .

6. 130 CONG. REC. 21259–61, 21263, 21264, 98th Cong. 2d Sess. Under consideration was H.R. 11, the Education Amendments of 1984.

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

The Clerk read as follows:

> Amendment offered by Mr. Ford of Michigan as a substitute for the amendment offered by Mr. Goodling: Add at the end of the bill the following new title. . . .

MR. GOODLING: Mr. Chairman, I offer a perfecting amendment to the amendment offered by the gentleman from Michigan (Mr. Ford) as a substitute for my amendment.

The Clerk read as follows:

> Perfecting amendment offered by Mr. Goodling to the amendment offered by Mr. Ford of Michigan as a substitute for the amendment offered by Mr. Goodling: In lieu of the matter proposed to be inserted insert the following. . . .

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, inasmuch as the perfecting amendment was not read, I am wondering if it happens to be an amendment in the third degree.

THE CHAIRMAN PRO TEMPORE: The Chair would advise the gentleman that this amendment was offered as an amendment to the substitute and not referred as a substitute which would be in the third degree.

MR. PERKINS: Drafted to the substitute that is being offered by the gentleman from Michigan (Mr. Ford)?

THE CHAIRMAN PRO TEMPORE: The Chair would advise the gentleman that that is correct.

MR. [STEVE] BARTLETT [of Texas]: Mr. Chairman, I yield back the balance of my time.

THE CHAIRMAN PRO TEMPORE:[7] The question is on the perfecting amendment offered by the gentleman from Pennsylvania (Mr. Goodling) to the amendment offered by the gentleman from Michigan (Mr. Ford) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. Goodling).

Parliamentarian's Note: It appears that a point of order might have been sustained if made prior to the beginning of debate on the Goodling amendment to the Ford substitute, since it was in reality in the form of a substitute "in lieu of the matter proposed to be inserted insert the following. . . .", but once debate began, the Chair would not take the initiative and rule the amendment to be a substitute for a substitute and in the third degree under Rule XIX.

When Amendment Should Be Offered to Text Rather Than to Pending Amendment

§ 1.41 When it is proposed to strike out certain words in a section, it is not in order to amend that amendment by proposing that additional words of that section be stricken.

On June 2, 1976,[8] the Committee of the Whole having under consideration H.R. 13680,[9] the

7. Abraham Kazen, Jr. (Tex.).

8. 122 CONG. REC. 16208–10, 94th Cong. 2d Sess.

9. A bill to amend the Foreign Assistance Act of 1961.

Chair ruled on a point of order as described above. The proceedings were as follows:

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Derwinski: At page 68, strike line 4 through page 69, line 4. . . .

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. DERWINSKI

Strike the words "page 69, line 4" and insert in lieu thereof "page 69, line 10". . . .

MR. [DONALD M.] FRASER [of Minnesota]: . . . Mr. Chairman, I make a point of order against the Zablocki amendment to the amendment on the grounds that it is an effort to amend a perfecting amendment. It deals with a different part of the bill, and since the bill is open to amendment by titles, the perfecting amendment, so-called, offered by the gentleman from Illinois (Mr. Derwinski), as I understand, only strikes section 413 down through line 4 on page 69. This is an effort to strike a different part of the title, and therefore would not be in order as an amendment to the Derwinski amendment. . . .

MR. ZABLOCKI: . . . Mr. Chairman, the Derwinski amendment strikes section 413 by striking the words "page 69, line 4," and substituting in lieu thereof, "page 69, line 10.". . .

THE CHAIRMAN:[10] The Chair is ready to rule.

The amendment offered by the gentleman from Illinois (Mr. Derwinski) strikes all of section 413, beginning with line 5, page 68, through line 4, page 69. The amendment offered by the gentleman from Wisconsin (Mr. Zablocki) to that amendment would increase the portion of section 413 that is stricken, expanding the area stricken down through line 10, page 69.

Under Cannon's Precedents in the House of Representatives, on page 13, in middle of the page, under the heading "amending a motion":

When it is proposed to strike out certain words, it is not in order to amend by adding to the words of the paragraph, but it is in order to amend by striking out a portion of the words specified.

Since the question has come before the House before, in Hinds' Precedents of the House of Representatives, volume V, 1907, page 389, section 5768, the Chair will quote from that decision as follows:

5768: When it is proposed to strike out certain words in a paragraph, it is not in order to amend by adding to them other words of the paragraph.—On April 3, 1902, the bill (S. 1025) to promote the efficiency of the Revenue-Cutter Service was under consideration in Committee of the Whole House on the state of the Union, when the following paragraph was read:

Sec. 8. That when any commissioned officer is retired from active service, the next officer in rank shall be promoted according to the established rules of the service, and the same rule of promotion shall be ap-

10. Frank E. Evans (Colo.).

plied successively to the vacancies consequent upon such retirement.

Mr. James R. Mann, of Illinois, moved to strike out the words "according to the established rules of the service."

Mr. John F. Lacey, of Iowa, moved to amend the amendment by adding to the words proposed to be stricken out other words in the context of the paragraph.

The Chairman held that the amendment of Mr. Lacey should be offered as an independent amendment rather than as an amendment to the amendment.

For the reasons stated, the point of order of the gentleman from Minnesota is sustained.

§ 1.42 Where there is pending an amendment striking out a portion of a pending text, an amendment to strike out additional language of the text should be offered as a separate amendment to the text and not as an amendment to the first amendment.

The proceedings of June 2, 1976, are discussed in § 1.41, supra.

Debating Amendment Under Reservation of Objection; Discretion of Chair

§ 1.43 Unanimous consent is not required to adopt an amendment to a pending amendment, and the Chair may decline to permit debate to proceed under a reservation of objection to such unanimous-consent request and require debate to proceed under the five-minute rule.

On Feb. 24, 1977,[11] the Committee of the Whole having under consideration H.R. 11,[12] an amendment was offered to a pending amendment. The proceedings, described above, were as follows:

MR. [PARREN J.] MITCHELL of Maryland: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mitchell of Maryland: Page 2, line 23, insert "(1)" immediately before "Notwithstanding."

Page 3, line 7, strike out the quotation marks and the period immediately following the quotation marks.

Page 3, immediately after line 7, add the following:

"(2) Notwithstanding any other provision of law, no grant shall be made under this Act for any local public works project unless at least 10 per centum of the dollar volume of each contract shall be set aside for minority business enterprise. . . ."

MR. [ROBERT A.] ROE [of New Jersey]: Madam Chairman, I offer an amendment to the amendment offered by the gentleman from Maryland (Mr. Mitchell) and ask unanimous consent that it be adopted.

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11. 123 CONG. REC. 5327, 5329, 5330, 95th Cong. 1st Sess.

12. Local Public Works Capital Development and Investment Act Amendments.

MR. [WILLIAM H.] HARSHA [of Ohio]: Madam Chairman, reserving the right to object, I would like to know exactly the language of the gentleman's amendment.

The Clerk read as follows:

> Amendment offered by Mr. Roe to the amendment offered by Mr. Mitchell of Maryland: In lieu of the Mitchell amendment insert the following:
>
> Page 3, in lieu of the matter proposed to be inserted after line 7, insert the following:
>
> "(2) Except to the extent that the Secretary determines otherwise, no grant shall be made under this Act for any local public works project unless the applicant gives satisfactory assurance to the Secretary that at least 10 per centum of the amount of each grant shall be expended for minority business enterprises. For purposes of this paragraph, the term "minority business enterprises" means a business at least 50 percent of which is owned by minority group members. . . ."

THE CHAIRMAN:[13] Is there objection to the unanimous-consent request of the gentleman from New Jersey to amend the amendment offered by the gentleman from Maryland?

MR. HARSHA: Madam Chairman, reserving the right to object, I want to try to clarify this. . . .

THE CHAIRMAN: Rather than proceed under the gentleman's reservation of objection, the Chair will treat the amendment offered by the gentleman from New Jersey to the amendment offered by the gentleman from Maryland as pending and proceed under the 5-minute rule, so that debate can then take place in the proper way. . . .

MR. ROE: Is it possible for others who desire to do so to reserve the right to object?

THE CHAIRMAN: The Chair will put the question on the amendment offered by the gentleman from New Jersey to the amendment offered by the gentleman from Maryland, unless further Members desire to debate the issue under the 5-minute rule.

The gentleman from New Jersey (Mr. Roe) is recognized for 5 minutes on his amendment. . . .

MR. [JAMES J.] HOWARD [of New Jersey]: Madam Chairman, I would ask the Chair if unanimous consent was granted for the amendment offered by the gentleman from New Jersey to be before the House.

THE CHAIRMAN: That was not necessary. It is still an amendment to an amendment which is pending business to be voted on by the committee.

Time To Make or Reserve Point of Order

§ 1.44 A point of order may be made or reserved against an amendment after it is read but before the proponent of the amendment has been recognized to debate it; and where the proponent has asked unanimous consent that the amendment be considered as read, such point of order may still be made or reserved.

13. Barbara Jordan (Tex.).

On Mar. 9, 1978,[14] during consideration of H.R. 50[15] in the Committee of the Whole, the Chair responded to a parliamentary inquiry concerning the proposition described above:

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer amendments as a substitute for the amendments offered by the gentleman from Connecticut (Mr. Sarasin).

The Clerk read as follows:

Amendments offered by Mr. Jeffords as a substitute for the amendments offered by Mr. Sarasin: Page 64, line 16, strike out "and productivity" and insert in lieu thereof "productivity and reasonable price stability". . . .

MR. JEFFORDS (during the reading): Mr. Chairman, I ask unanimous consent that the amendments offered as a substitute be considered as read and printed in the Record.

THE CHAIRMAN PRO TEMPORE:[16] Is there objection to the request of the gentleman from Vermont?

MR. [AUGUSTUS F.] HAWKINS [of California]: Mr. Chairman, I reserve a point of order on the amendments.

THE CHAIRMAN PRO TEMPORE: The gentleman from California reserves a point of order on the amendments.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, a parliamentary inquiry. . . .

Mr. Chairman, as the gentleman from Vermont has already made the request that the amendment be considered as read and that request was granted, therefore I think the point of order comes too late.

THE CHAIRMAN:[17] The Chair would advise the gentleman from Maryland that the point of order can still be made or reserved before the gentleman proceeds with his remarks. Therefore, the reservation is in order.

§ 1.45 While the reservation of a point of order by one Member against an amendment inures to all Members if insisted upon at the appropriate time, the point of order must be made by a Member when the Chair inquires whether the Member reserving the point of order wishes to insist upon it, but comes too late after that Member has withdrawn the point of order and further debate has intervened on the amendment.

On Aug. 2, 1978,[18] The Committee of the Whole having under consideration H.R. 12514,[19] The above-stated proposition was illustrated as indicated below:

MR. [TOM] HARKIN [of Iowa]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

14. 124 CONG. REC. 6285, 6286, 95th Cong. 2d Sess.

15. Full Employment and Balanced Growth Act of 1978.

16. William H. Natcher (Ky.).

17. Edward P. Boland (Mass.).

18. 124 Cong. Rec. 23921, 23922, 95th Cong. 2d Sess.

19. The International Security Assistance Act of 1978.

Amendment offered by Mr. Harkin: Page 19, immediately after line 14, insert the following new section 21. . . .

"After the date of enactment of the International Security Assistance Act of 1978, no deliveries of defense articles or services may be made to Chile pursuant to any sale made before the date of enactment of this section. . . .

MR. [CLEMENT J.] ZABLOCKI [OF WISCONSIN]: Mr. Chairman, I reserve a point of order against the amendment. . . .

THE CHAIRMAN:[20] Does the gentleman from Wisconsin insist on his point of order?

MR. ZABLOCKI: I do not insist on the point of order, to save time.

Mr. Chairman, I rise in opposition to the amendment.

THE CHAIRMAN: The gentleman from Wisconsin is recognized. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: . . . I would like to ask the Chair, since the gentleman from Wisconsin reserved a point of order, and the gentleman from Maryland who was also on his feet did not reserve a point of order because he thought the gentleman from Wisconsin was going to make a point of order, whether or not it would be in order for the gentleman from Maryland to make a point of order?

THE CHAIRMAN: The Chair has recognized the gentleman from Wisconsin (Mr. Zablocki) for 5 minutes, so the point of order could not be made at this time.

MR. BAUMAN: Can the gentleman from Wisconsin still make his point of order at this time?

THE CHAIRMAN: No, he cannot.

Discretion of Chair as to Reservation of Point of Order

§ 1.46 A reservation of a point of order against an amendment is within the discretion of the Chair, who may insist that the point of order be made following debate by the proponent of the amendment and prior to recognition of other Members.

During consideration of H.R. 5167[1] in the Committee of the Whole on May 16, 1984,[2] the proposition described above occurred as follows:

THE CHAIRMAN:[3] The gentleman from Oregon (Mr. AuCoin) has reserved a point of order. Does the gentleman wish to pursue that?

MR. [LES] AUCOIN: Yes, Mr. Chairman. Under the rules of the House I understand I am not required to raise the point of order at this particular point. But I do continue to reserve my point of order.

THE CHAIRMAN: The Chair has the discretion to entertain the point of order, and the Chair chooses at this time to have the gentleman state his reservation.

Does the gentleman make a point of order? . . .

20. Don Fuqua (Fla.).

1. Defense Department authorization bill.

2. 130 CONG. REC. 12509, 98th Cong. 2d Sess.

3. Dan Rostenkowski (Ill.).

MR. AUCOIN: Mr. Chairman, I make a point of order against the Price amendment on the grounds that its scope is broader than that of the primary amendment, title 1, and therefore is not germane to the primary amendment.

§ 2. Pro Forma Amendments

A pro forma amendment is a procedural formality—a device used to obtain recognition during consideration of a bill being read for amendment under the "five-minute rule"—and such an amendment does not contemplate any actual change in the bill. While pro forma amendments are phrased to make some superficial change in the language under consideration, such as "to strike the last word," the underlying purpose is to obtain time for debate which might otherwise be prohibited because of the restriction in Rule XXIII, clause 5, that there may be only five minutes of debate for and against any amendment or amendment thereto.

Technically, a point of order should lie against a pro forma amendment if it constitutes an amendment in the third degree, whether offered while there is an amendment to an amendment pending, or offered to an amendment to a substitute; but the Chair hesitates to initiate action in ruling pro forma amendments out of order as in the third degree, the Committee of the Whole having the power to shut off debate when it chooses.[4]

A Member who has occupied five minutes on a pro forma amendment may not lengthen this time by making another pro forma amendment, nor may he then automatically extend this time by offering a substantive amendment while other Members are seeking recognition,[5] but he may rise in opposition to a pro forma amendment offered by another Member when recognized for that purpose.

Where a rule under which a bill is considered permits only specified amendments and prohibits amendments to such amendments, no pro forma amendments are in order and only two five-minute speeches are permitted on each of the specified amendments.[6]

It has frequently been held that pro forma amendments are not in order during consideration of an omnibus private bill.[7] In fact, the

4. See § 6, infra.
5. See the discussion in the notes to Rule XXIII clause 5(a), *House Rules and Manual* § 873 (101st Cong.).
6. See § 3.38, infra.
7. See, for example, Sec. 2.6, infra.
   See also Rule XXIV clause 6, *House Rules and Manual* § 893 (101st Cong.).