

THE CHAIRMAN: The question is on the remaining portion of the amendment offered by the gentleman from New York [Mr. Gilman], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

MR. GILMAN: Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

THE CHAIRMAN: This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 239, noes 117, not voting 18, as follows: . . .

§ 43. Amendments and Substitutes Therefor

Effect of Negative Vote on Divisibility of Remainder

§ 43.1 A negative vote on a motion to strike out a portion of a pending amendment does not preclude the demand for a division of that portion of the amendment if it constitutes a properly severable and, hence, separate proposition.

On Aug. 18, 1965,⁽¹⁴⁾ Mr. William R. Poage, of Texas, offered an amendment to the Food and Agriculture Act of 1965. The amendment proposed some six substantive changes in a section

14. 111 CONG. REC. 20943, 20956, 89th Cong. 1st Sess.

of the bill relating to the release and reapportionment of cotton acreage allotments.

Mr. Paul C. Jones, of Missouri, offered an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Jones of Missouri to the amendment offered by Mr. Poage: Strike out the first paragraph, which reads: "On Page 14, beginning on line 24, strike out all of paragraph (2) and renumber paragraphs (3) and (4) as paragraphs (2) and (3), respectively."

After discussion of Mr. Jones' motion to strike out, the Chairman⁽¹⁵⁾ presented the question for a vote. Mr. Jones' amendment was rejected.

Shortly thereafter, Mr. Poage's amendment was about to be voted upon when Mr. John J. Rhodes, of Arizona, rose to divide the question. The following colloquy ensued:

MR. RHODES of Arizona: Mr. Chairman, I ask for a separate vote on the first three lines of the amendment.

THE CHAIRMAN: The Clerk will report the first part of the amendment referred to by the gentleman from Arizona.

The Clerk read as follows:

On Page 14, beginning at line 24, strike all of paragraph 2 and renumber paragraphs 3 and 4 as paragraphs 2 and 3 respectively.

THE CHAIRMAN: The question occurs on that part of the amendment just read by the Clerk.

15. Oren Harris (Ark.).

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COOLEY: Have we not just voted on a separate amendment, the Jones of Missouri amendment, which had the same purpose? Mr. Jones, the author of the amendment, stated it had the same purpose, I think.

THE CHAIRMAN: There was an amendment offered by the gentleman from Missouri [Mr. Jones] but it was not this same proposition which was just read by the Clerk.

MR. COOLEY: The only difference is the name of the author.

THE CHAIRMAN: The parliamentary situation, I would say to the gentleman from North Carolina, is different, too.

The question occurs on that part of the amendment just read by the Clerk.

The question was taken and the Chairman announced that the noes appeared to have it.

Parliamentarian's Note: The motion to strike a given section from an amendment and the motion to divide the section from others for voting might accomplish the same end. However, the two procedures are distinguishable from a parliamentary perspective; and, the failure of the motion to strike out does not preclude the request to divide in this instance, providing the section in question constitutes a separate proposition.

§ 43.2 A Member having demanded a division of the

question on two portions of an amendment which was divisible into five substantive parts, the question recurred on the remainder of the amendment following agreement to the two portions by separate votes.

On Aug. 17, 1972,⁽¹⁶⁾ Mrs. Edith S. Green, of Oregon, proposed an amendment to title IV of the Equal Educational Opportunities Act of 1972 (H.R. 13915).⁽¹⁷⁾ Mrs. Green's amendment consisted of five substantive parts, three of which pertained to section 403, and the remaining two of which called for the creation of sections 406 and 407.

Pursuant to the request of Mr. William A. Steiger, of Wisconsin, those portions of the amendment pertaining to sections 403 and 406 were considered in two separate votes. Both portions having been agreed to, the Chairman⁽¹⁸⁾ then put the remainder of the Green amendment to a vote.

Parliamentarian's Note: Where an amendment is crafted to insert new, severable provisions, there may be a different result depend-

16. 118 CONG. REC. 28888, 28906, 28907, 92d Cong. 2d Sess.

17. For the entire text of title IV and Mrs. Green's amendment, see § 43.3, *infra*.

18. Morris K. Udall (Ariz.).

ing on whether one section is made the object of a separate vote by a demand for a division of the question or whether an amendment is offered to strike the provision. In the latter event, the question would recur on the original amendment, as amended, but when a portion of an amendment is rejected on a separate vote, the question merely recurs on the remainder of the amendment.

Substitutes Not Divisible

§ 43.3 Where a pending amendment to the text of a bill would insert language containing several substantive propositions (and such amendment does not wholly consist of a motion to strike out and insert), a demand for the division of the amendment is in order, but a demand for the division of a substitute therefor is not.

On Aug. 17, 1972,⁽¹⁹⁾ the House resolved itself into the Committee of the Whole in order to consider H.R. 13915, the Equal Educational Opportunities Act of 1972. During such consideration the Chairman⁽²⁰⁾ directed the Clerk to read title IV of the bill.

19. 118 CONG. REC. 28834, 28887, 28888, 28890, 92d Cong. 2d Sess.

20. Morris K. Udall (Ariz.).

The Clerk read as follows:

TITLE IV—REMEDIES

FORMULATING REMEDIES;
APPLICABILITY

Sec. 401. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

Sec. 402. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or on the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures

without requiring transportation beyond that described in section 403;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 403 and 404 of this Act.

TRANSPORTATION OF STUDENTS

Sec. 403. (a) No court, department, or agency of the United States shall, pursuant to section 402, order the implementation of a plan that would require the transportation of any student in the sixth grade or below to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall, pursuant to section 402, order the implementation of a plan which would require the transportation of any student in the seventh grade or above to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student, unless it is demonstrated by clear and convincing evidence that no other method set out in section 402 will provide an adequate remedy for the denial of equal educational opportunity or equal protection of the laws that has been found by such court, department, or agency. Such plan shall only be ordered in conjunction with the development of a long-term plan involving one or more of the remedies set out in clauses (a) through (g) of section 402. If a United States district court orders implementation of a plan requiring transportation beyond that described in this sub-

section, the appropriate court of appeals shall, upon timely application by a defendant educational agency, grant a stay of such order until it has reviewed such order.

(c) No court, department or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

DISTRICT LINES

Sec. 404. In the formulation of remedies under section 401 or 402 of this Act, the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

Sec. 405. Nothing in this Act prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

Immediately thereafter, Mrs. Edith S. Green, of Oregon, rose to offer the following amendment:

The Clerk read as follows:

Amendment offered by Mrs. Green of Oregon: Title IV is amended as

follows: (a) Section 403, page 37, line 5 is amended by striking out "in the sixth grade or below";

(b) Section 403., beginning on page 37, line 9 and continuing on page 38 through line 3 is amended by striking all of paragraph (b);

(c) Section 403., page 38, line 4 is amended by striking out the letter "c" and inserting in lieu thereof the letter "b";

(d) Adding at the end thereof the following new sections:

REOPENING PROCEEDINGS

Sec. 406. On the application of an educational agency, court orders, or desegregation plans under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this Act and intended to end segregation of students on the basis of race, color, or national origin, shall be reopened and modified to comply with the provisions of this Act. The Attorney General shall assist such educational agency in such reopening proceedings and modification.

LIMITATION ON ORDERS

Sec. 407. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws shall, to the extent of such transportation, be terminated if the court finds the defendant educational agency is not effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found to be effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were

in the past segregated de jure or de facto.

Sec. 408. Any court order requiring the desegregation of a school system shall be terminated, if the court finds the schools of the defendant educational agency are a unitary school system, one within which no person is to be effectively excluded from any school because of race, color, or national origin, and this shall be so, whether or not such school system was in the past segregated de jure or de facto. No additional order shall be entered against such agency for such purpose unless the schools of such agency are no longer a unitary school system.

Shortly thereafter, Mr. William A. Steiger, of Wisconsin, initiated the following exchange with the Chair:

MR. STEIGER of Wisconsin: Mr. Chairman, the amendment offered by the gentlewoman from Oregon amends several sections in title IV.

My parliamentary inquiry is whether or not it is possible to have a separate vote on each of the substantive sections included in the gentlewoman's en bloc amendment?

THE CHAIRMAN: In response to the parliamentary inquiry, the Chair will state at this point it would be appropriate and proper to ask for separate votes on the different sections.

However, in the event a substitute is offered and agreed to, that procedure cannot be followed.

MR. STEIGER of Wisconsin: But there could be separate votes?

THE CHAIRMAN: The gentleman can demand a separate vote and the Chair will preserve his right to do so, subject to the condition that a substitute, if offered, is not agreed to.

After some discussion of the Green amendment, Mr. Albert H. Quie, of Minnesota, offered a substitute for that amendment.

Mr. Robert C. Eckhardt, of Texas, then sought clarification of the parliamentary situation. In responding, the Chairman reiterated what he had said to Mr. Steiger—leaving no doubt as to the rule:

THE CHAIRMAN: . . . Let the Chair state that the original amendment offered by the gentlewoman from Oregon (Mrs. Green) contains four separate elements. Inquiry was made by the gentleman from Wisconsin (Mr. Steiger) as to whether it would be proper to divide those questions and ask for a separate vote. The Chair advised that in the event the substitute is not agreed to, the gentleman's rights would be protected, and he could ask for a separate vote on each of the four propositions in the amendment offered by the gentlewoman from Oregon (Mrs. Green).

The Chairman further elaborated in response to another query from Mr. Eckhardt that:

. . . [T]he substitute offered by the gentleman from Minnesota (Mr. Quie) cannot be divided for a separate vote whereas the original proposition by the gentlewoman from Oregon can be divided in the event that a substitute is not agreed to.

Parliamentarian's Note: The precedents consistently indicate that a division of the question

may not be demanded on a substitute for an amendment, based upon the prohibition in Rule XVI clause 7, against a division of a motion to strike out and insert. (See 5 Hinds' Precedents §6127, and 8 Cannon's Precedents §3168).

With respect to a division of the question on an amendment, as amended by a substitute, the headnote in 5 Hinds' Precedents §6127 as well as Cannon's statement on page 172 of *Cannon's Procedure* indicate that the "original," as amended, may be divided. The significance of this should not be misconstrued, however, for the "substitute" in §6127 was not offered to a pending amendment, but rather to the original text. That precedent, therefore, does not stand for the proposition that a motion to strike out and insert is subject to a division of the question, either as to the two branches of the motion or as to the language proposed to be inserted.

Divisibility of En Bloc Amendments

§ 43.4 By unanimous consent a Member received permission to offer several amendments en bloc and to divide the question for a separate vote on each one.

On June 9, 1966,⁽¹⁾ the Committee of the Whole having under consideration a bill (H.R. 14929) to promote international trade in agricultural commodities, to combat hunger and malnutrition, and to further economic development, Mr. Richard L. Ottinger, of New York, addressed the Chairman, as follows:

MR. OTTINGER: Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc and voted upon separately.

THE CHAIRMAN:⁽²⁾ Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Ottinger: On page 24, line 15, strike "persons serving" and all of lines 16 and 17, and insert "Peace Corps volunteers or Peace Corps volunteer leaders pursuant to the Peace Corps Act (75 Stat. 612); and".

On page 23, line 3, strike "Secretary of Agriculture" and insert "President".

On page 23, line 5, immediately after "to establish and administer through existing" insert "departments or".

On page 23, line 6, strike "of the Department of Agriculture".

On page 24, line 23, strike "\$33,000,000" and substitute "\$7,000,000".

Following debate, the Chair put the question on the first amend-

1. 112 CONG. REC. 12881, 12882, 89th Cong. 2d Sess.
2. William S. Moorhead (Pa.).

ment. The question was taken; and the Chairman announced that the noes appeared to have it.

Immediately thereafter, Mr. Gerald R. Ford, of Michigan, posed the following question:

Mr. Chairman, as I understood the request that was made, on the amendments offered by the gentleman from New York, he asked unanimous consent that they be considered en bloc. If he did that, does not the Committee have to vote on those amendments en bloc?

THE CHAIRMAN: The Chair will advise the gentleman from Michigan that the unanimous-consent request was that the amendments be considered en bloc but voted upon separately. There was no objection.

MR. GERALD R. FORD: Did the gentleman from New York make that specific request?

THE CHAIRMAN: That is correct.

The Committee voted separately upon the remaining amendments.

Division of En Bloc Amendment

§ 43.5 In Committee of the Whole, a division may be demanded on discrete parts of a series of amendments considered en bloc.⁽³⁾

During consideration of a general appropriation bill on June 19,

3. See *House Rules and Manual* §792 (1995). A division can be precluded if the request for en bloc consideration so specifies.

1978,⁽⁴⁾ a Member offered two related amendments on research and development programs funded in the bill and asked that they be considered en bloc. After debate, and before the question was put on the amendments, another Member requested a division. The proceedings were as indicated below:

THE CHAIRMAN:⁽⁵⁾ Are there further amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

RESEARCH AND DEVELOPMENT

For research and development activities, \$328,028,000, to remain available until September 30, 1980.

MR. [GEORGE E.] BROWN [Jr.] of California: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of California: On page 12, line 14, strike "\$328,028,000" and insert in place thereof "\$348,028,000".

MR. BROWN of California: Mr. Chairman, I ask unanimous consent that a second amendment on page 13 be reported by the Clerk, and that the two amendments be considered en bloc.

THE CHAIRMAN: The Clerk will report the second amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of California: On page 13, line 4, strike "\$4,200,000,000" and insert in place thereof "\$4,180,000,000".

4. 124 CONG. REC. 18180, 18184, 18186, 95th Cong. 2d Sess.

5. Elliott Levitas (Ga.).

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

There was no objection. . . .

THE CHAIRMAN: The Chair will inquire of the gentleman from New York (Mr. Ambro) whether he is requesting that the question be divided.

MR. [JEROME A.] AMBRO [of New York]: I am, indeed, Mr. Chairman.

THE CHAIRMAN: The gentleman has that right, and the question will be divided. . . .

THE CHAIRMAN: The question is on the first amendment offered by the gentleman from California (Mr. Brown) appearing on page 12 of the bill entitled Research and Development.

The question was taken; and on a division (demanded by Mr. Brown of California) there were—ayes 12, noes 17. . . .

A recorded vote was refused.

So the first amendment offered by the gentleman from California (Mr. Brown) was rejected.

THE CHAIRMAN: The question is on the second amendment offered by the gentleman from California (Mr. Brown).

The second amendment offered by the gentleman from California (Mr. Brown) was rejected.

§ 43.6 Consideration of amendments en bloc by unanimous consent does not prevent a demand for division of the question so separate votes can be taken on each of the amendments.

Where two amendments, each adding a new section to a bill,

were considered en bloc by unanimous consent, the proponent announced his intention to ask that the Committee of the Whole vote on the two sections separately after debate on both. The Chair stated that en bloc consideration would not prejudice a demand for a division of the question. The proceedings of July 18, 1991,⁽⁶⁾ were as indicated:

MR. [GERALD B. H.] SOLOMON [of New York]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN:⁽⁷⁾ The gentleman will state his inquiry.

MR. SOLOMON: Mr. Chairman, I have two amendments pending at the desk, amendments 67 and 68, and my question is, Is it possible to have these two amendments debated at the same time in order to reduce the vote on the second amendment, should it be necessary to have one? . . .

I think it would save the membership time if we could debate the two amendments and then have a 15-minute vote on the first one, followed by a 5-minute vote.

Is that an acceptable procedure, if I were to make a unanimous consent request?

THE CHAIRMAN: The Chair has some discretion in this area, if the amendments are considered en bloc and if there is no intervening business between the votes on the amendments.

6. 137 CONG. REC. 18851, 18852, 18854, 18856, 18857, 102d Cong. 1st Sess.

7. George Darden (Ga.).

Does the gentleman ask unanimous consent that the amendments be considered en bloc?

MR. SOLOMON: Mr. Chairman, that puts me at a disadvantage, but to go along with the membership, I would agree to do that, to have no intervening debate but two separate votes.

THE CHAIRMAN: The gentleman makes a unanimous-consent request that the amendments be considered en bloc.

Is there objection to the request of the gentleman from New York? . . .

There was no objection.

MR. SOLOMON: Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. Solomon: Page 25, after line 5, add the following:

SEC. 37. DRUG TESTING REQUIRED AS A CONDITION OF NEW EMPLOYMENT WITH THE COAST GUARD.

(a) DEFINITIONS.—For purposes of this section—

(1) the term “preemployment drug testing” means preemployment testing for the illegal use of a controlled substance; and

(2) the term “controlled substance” has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(b) PREEMPLOYMENT DRUG TESTING.—No person may be appointed to a civilian position in the Coast Guard unless that person undergoes preemployment drug testing in accordance with this section.

(c) REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall issue regulations to carry out subsection (b). Such regulations shall be issued no later than 90 days after the date of the enactment of this Act.

(d) EFFECTIVE DATE.—This section applies with respect to any appointment taking effect after the date on which regulations are first issued under subsection (c).

Page 26, after line 5, add the following:

SEC. 27. CONTROLLED SUBSTANCES TESTING PROGRAM FOR CIVILIAN EMPLOYEES OF THE COAST GUARD.
. . .

(b) CONTROLLED SUBSTANCES TESTING PROGRAM.—The Secretary of the department in which the Coast Guard is operating shall establish and implement a program under which civilian employees of the Coast Guard shall be subject to random testing for the illegal use of controlled substances. . . .

MR. SOLOMON: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. SOLOMON: Mr. Chairman, I was passed a note from the majority over there that there is a question about how this vote will take place on those two amendments.

At the end of the debate, I would hope the chairman would recognize me for the purpose of asking for the two separate votes, one a 15-minute and one a 5-minute. . . .

I might then, Mr. Chairman, ask for a division as we continue the debate for vote purposes.

THE CHAIRMAN: The gentleman may demand a division of the question at this time.

MR. SOLOMON: I do so.

THE CHAIRMAN: The question will be put separately on each of the two amendments being considered en bloc.

. . .

THE CHAIRMAN: The question is on the amendments offered by the gentleman from New York (Mr. Solomon).

The question will be divided.

The Clerk will read the title of the amendment upon which the vote will be taken.

MR. SOLOMON: Mr. Chairman, it would be amendment 8.

The Clerk read the title of the amendment.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from New York (Mr. Solomon).

MR. SOLOMON: Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

THE CHAIRMAN: Pursuant to clause 2(c) of rule XXIII, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the second amendment, if that question is put without intervening debate or amendment.

The vote was taken by electronic device, and there were—ayes 177, noes 240, not voting 16, as follows: . . .

THE CHAIRMAN: The pending business is the vote on the second amendment offered by the gentleman from New York (Mr. Solomon).

The Clerk will restate the title of the amendment.

The Clerk read the title of the amendment.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from New York (Mr. Solomon).

The question was taken; and the Chairman announced that the noes appeared to have it.