

## Chapter 2

# Amendments

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**Research References**

5 Hinds §§ 5753-5800

8 Cannon §§ 2824-2907a

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*Manual* §§ 413, 456, 469, 902, 905, 911, 919-927, 978-981, 986-989, 991

## **A. Amendments Defined and Distinguished; Forms**

### **§ 1. In General; Formal Requisites**

#### **Generally**

The four forms of amendment are specified by clause 6 of rule XVI. They are:

- The amendment to the pending proposition
- Amendments to the amendment
- Substitute amendments
- Amendments to the substitute

An amendment to a pending amendment is in order as an amendment in the second degree, as is an amendment to a pending substitute. Amendments in the third degree are not in order. § 14, *infra*.

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. 5 Hinds § 5755; Deschler Ch 27 § 1. Once that amendment is offered, however, the other three forms of amendment may be offered and all four amendments may be pending at one time. 5 Hinds §§ 5753, 5785; 8 Cannon §§ 2883, 2887; Deschler Ch 27 § 1; see also § 13, *infra*.

Recognition for the purpose of offering amendments is within the discretion of the Chair. See § 20, *infra*. Members may offer amendments in their own names at the request, or as the designee, of other Members. But Members may not offer them in other Members' names or jointly. Deschler Ch 27 § 1.11. Furthermore, Members may not offer amendments to their own amendments; an amendment once offered may not be directly modified by its proponent except by unanimous consent. § 37, *infra*.

#### **Formal Requirements; Written or Oral Motions**

Pursuant to clause 1 of rule XVI, the Chair or any Member may require that an amendment be reduced to writing before being offered. Deschler Ch 27 § 1.1. In the Committee of the Whole, the Clerk transmits copies of offered amendments to the majority and the minority tables in accordance with clause 5(b) of rule XVIII, although the failure of the Clerk to promptly transmit such copies is not the basis for a point of order against the amendment. Deschler Ch 27 § 22.11.

An amendment must contain instructions to the Clerk as to the portion of the text it seeks to amend. Deschler Ch 27 § 1.28. Similarly, an amendment to an amendment should specify and identify the text to be amended. Amendments to a substitute should be drafted to the proper page and line number of the substitute rather than to comparable provisions of the original text. Deschler Ch 27 §§ 1.9, 1.10. A Member who intends to propose such an amendment may ascertain the appropriate page and line number by inspecting the pending amendment at the Clerk's desk or obtaining a copy thereof at the committee tables. Deschler Ch 27 § 22.10.

The Chair may examine the form of an offered amendment to determine its propriety and may rule it out of order where improper in form and therefore not in order at that time, even where no point of order is raised from the floor and debate has begun. Deschler Ch 27 § 1.39. However, 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; that is an issue to be disposed of by a vote on the merits of the amendment. Deschler Ch 27 § 1.31.

### **Order or Sequence**

A distinction should be made between the order or sequence of voting on amendments and the sequence in which they may be offered. Amendments must be voted on in a definite sequence. The first-degree amendment to the text is voted on last, thereby giving the Members the fullest opportunity to perfect it before addressing its adoption. (For the order of voting on amendments, see § 28, *infra*.) However, this sequence is reversed with respect to the *offering* of amendments, because amendments to the text are proposed before the offering of amendments to the amendment, and substitute amendments must precede the offering of amendments to the substitute. § 21, *infra*. Nevertheless, considerable latitude is permitted in the order of offering amending propositions. For example, in one instance five amendments were offered in the following order: (1) an amendment in the nature of a substitute for the pending measure, (2) a substitute therefor, (3) a perfecting amendment to the original text, (4) a perfecting amendment to the substitute, and (5) a perfecting amendment to the amendment in the nature of a substitute. Deschler Ch 27 § 5.28. Indeed, under this scenario, three further amendments would have been in order: (1) a substitute to the perfecting amendment to the original text; (2) a perfecting amendment to the substitute; and (3) a perfecting amendment to the amendment to the original text.

### **Effect of Special Orders of Business**

Bills are frequently considered pursuant to the terms of a resolution reported by the Committee on Rules. The resolution may specify whether amendments may be offered to the bill, the kind and number of amendments that may be offered, whether they can be amended, and the order of consideration and voting thereon. The resolution may also “self-execute” an amendment by considering that amendment as adopted. § 11, *infra*. Such special orders of business are themselves subject to germane amendment while the rule is pending if the Member in control yields for such amendment or offers such amendment, or if the motion for the previous question is defeated. Deschler Ch 27 § 3.1.

### **§ 2. Perfecting Amendments**

#### **Generally**

Generally, the House follows the Jeffersonian principle that an amendment should be perfected before agreeing to it. *Manual* § 456. The term “perfecting amendment” includes amendments to insert as well as amendments to strike and insert. Deschler Ch 27 § 15. Furthermore, a perfecting amendment may take the form of a motion to strike a lesser portion of the words encompassed in a pending motion to strike. Deschler Ch 27 § 15.17. There are no degrees of preference as between perfecting amendments. Deschler Ch 27 § 5.9.

A perfecting amendment may be offered to the text of a bill or to an amendment to a bill. Once a perfecting amendment to an amendment is disposed of, the original amendment, as amended or not, remains open to further perfecting amendment, and all such amendments are disposed of before voting on substitutes. Deschler Ch 27 § 23.9.

#### **Perfecting Amendments and the Motion to Strike**

Perfecting amendments to a section or paragraph may be offered—one at a time—while a motion to strike the section or paragraph is pending, and are disposed of first. Deschler Ch 27 § 15.15. Indeed, all perfecting amendments to a section of a bill must be disposed of before the vote on a pending motion to strike the section. Deschler Ch 27 § 24.3. If the perfecting amendment changes all the words proposed to be stricken, the motion to strike necessarily falls and is not voted on because the entirety of the amendment has been changed. Deschler Ch 27 § 24.15.

### § 3. Motions to Insert

A motion to insert may be pending at the same time as a motion to strike, with the vote taken first on the motion to insert, then on the motion to strike, which is consistent with the principle that text should be perfected before stricken or retained. See § 21, *infra*. They need not be offered in the order in which they are voted on. Deschler Ch 27 § 15.1.

It is not in order to reinsert the precise language stricken by amendment. Deschler Ch 27 § 31.4. However, an amendment similar to the stricken language may be offered if germane to the pending portion of the bill. Deschler Ch 27 § 31.6.

After an amendment to insert has been agreed to, the matter inserted ordinarily may not then be amended insularly. 5 Hinds § 5761; 8 Cannon § 2852; see § 38, *infra*. However, an amendment may be added at the end of the inserted material. 5 Hinds § 5759; *Manual* § 469.

### § 4. Motions to Strike and Insert

A motion to strike and insert is usually a perfecting amendment (Deschler Ch 27 § 16), and is not divisible under clause 5 of rule XVI. A motion to strike and insert may be offered as a perfecting amendment to a pending section of a bill, and is voted on before a pending motion to strike that section. However, even if agreed to, the perfected language is subject to being eliminated by subsequent adoption of the motion to strike in cases where the perfecting amendment has not so changed the text as to render the original motion to strike an improper change of language already adopted. Deschler Ch 27 § 17.12 (note). See also § 23, *infra*.

### § 5. Motions to Strike

A motion proposing to strike a section of a bill is in order after perfecting amendments to the section are disposed of. If offered first, the motion to strike is held in abeyance until perfecting amendments have been disposed of. § 21, *infra*. A motion proposing to strike a section that has been perfected, but not changed in its entirety, is in order. Deschler Ch 27 § 17.29. The motion to strike, if adopted, strikes the entire section, including provisions added as perfecting amendments to that section. Deschler Ch 27 § 31.1.

A motion to strike the enacting clause of a bill is a parliamentary motion used for rejecting the bill. Deschler Ch 27 § 15. It takes precedence over a motion to amend the bill under clause 9 of rule XVIII. *Manual* § 988.

### § 6. Substitute Amendments

A substitute always proposes to replace all the words of a pending amendment. The amendatory instructions contained in a substitute direct changes to be made in the original language rather than to the pending amendment. Although a substitute may change parts of a bill not changed by the pending amendment, the substitute must be germane to the pending amendment. 8 Cannon §§ 2879, 2883; Deschler Ch 27 § 18.6. A substitute may result in similar language to the original text proposed to be changed by the pending amendment but may not result in identical language. Deschler Ch 27 § 18.15.

A substitute for a motion to strike is not in order. Deschler Ch 27 § 18.8. A motion to strike is not in order as a substitute for a pending motion to strike and insert (Deschler Ch 27 § 17.18) or for a perfecting amendment to text generally (Deschler Ch 27 § 17.17).

A proposition contained in a substitute may sometimes be reoffered in a different form after it has failed of approval. 8 Cannon § 2843.

Members may not offer substitutes for their own amendments. Deschler Ch 27 § 18.22.

### § 7. Amendments in Nature of a Substitute

An amendment in the nature of a substitute is an amendment that is offered to the text of a bill; it generally replaces the entire bill. It should be distinguished from a substitute amendment, which is merely a substitute for another amendment that has been offered. Deschler Ch 27 § 12.

An amendment in the nature of a substitute takes the form of a motion to strike and insert. However, the term “amendment in the nature of a substitute” properly applies only to those motions that propose to strike an entire pending bill, though it is sometimes used, less precisely, to describe motions proposing to strike an entire pending section or title of text and to insert new matter. It should not be used to describe those motions to strike and insert, which are properly characterized as “perfecting amendments” and which go only to a portion of the pending text. Deschler Ch 27 § 25. An amendment in the nature of a substitute for a pending bill may be offered after the first section is read and is then open to amendment in its entirety. Deschler Ch 27 § 12.

An amendment in the nature of a substitute for a bill may be proposed before perfecting amendments to the pending portion of the original text have been offered, but may not be voted on until after such perfecting amendments have been disposed of. 8 Cannon § 2896; Deschler Ch 27 § 25.

Where an amendment in the nature of a substitute for a bill has been adopted in the Committee of the Whole, the measure is no longer open to amendment and further amendments, including pro forma amendments for debate, are not in order except by unanimous consent. Deschler Ch 27 § 32.6; see also *Manual* § 923.

### § 8. Pro Forma Amendments

Pro forma amendments have been in use during debate in the Committee of the Whole under the five-minute rule as early as 1868. 5 Hinds § 5778. A pro forma amendment is a procedural formality—a parliamentary device used to obtain recognition during consideration of a bill being read for amendment. Such an amendment does not contemplate any actual change in the bill. Although 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 merely to obtain time for debate that might otherwise be prohibited because of the time limitations of the five-minute rule. Clause 5 of rule XVIII; Deschler Ch 27 § 2. A special order of business may limit the offering of substantive amendments but enable pro forma amendments for the purpose of debate. A pro forma amendment may be offered after a substitute has been adopted and before the vote on the amendment, as amended, by unanimous consent only because the amendment has been amended in its entirety and no further amendments, including pro forma amendments, are in order. *Manual* § 981.

A Member who has occupied five minutes on a pro forma amendment:

- May not lengthen this time by making a second pro forma amendment or by offering a pro forma amendment to the original amendment. *Manual* § 981; 5 Hinds § 5222; 8 Cannon § 2560.
- May not extend this time by offering a substantive amendment while other Members are seeking recognition. *Manual* § 981.
- May offer a second-degree amendment and then offer a pro forma amendment to debate the underlying first-degree amendment. *Manual* § 981.

Debate on a pro forma amendment must be confined to the portion of the bill to which the pro forma amendment has been offered. Deschler Ch 27 §§ 2.5, 28.38. If the point of order is raised, a Member may not under a pro forma amendment discuss a section of the bill not immediately pending. Deschler Ch 27 § 2.4. A Member recognized to debate a pro forma amendment may not allocate or reserve time. *Manual* § 981.

## § 9. Precedence of Motion Generally

### In General

Clause 4 of rule XVI specifies the motions that are in order when a question is under debate in the House and assigns precedence to those motions in the order named in the rule. The motion to amend is listed in the sixth position, taking precedence over the motion to postpone indefinitely. Under that rule, the motion to amend yields to the motion to adjourn, to lay on the table, for the previous question, to postpone to a day certain, and to refer. *Manual* § 911. Because the motion to refer takes precedence over the motion to amend (5 Hinds § 5555), the motion to amend is not entertained while the motion to refer is pending (6 Cannon § 373).

### Explaining or Opposing an Amendment

In the Committee of the Whole, under the five-minute rule where an amendment is offered, the initial 10 minutes of debate—five for the proponent to explain the amendment, five for a speech in opposition—takes precedence over a motion to amend it. 4 Hinds § 4751.

### The Previous Question

In the House, a motion for the previous question takes precedence over a motion to amend. *Manual* § 926; 8 Cannon § 2660. Thus, the previous question may be moved pending the offering of an amendment by a Member to whom the floor was yielded for that purpose; and the previous question must be voted down before that Member is recognized to offer the amendment. Deschler Ch 23 § 18.3. The previous question having been defeated, an amendment may be offered. However, if the amendment is ruled out on a point of order, the previous question may again be moved and takes precedence over the offering of another amendment. Deschler Ch 23 § 20.3. Once the proponent of an amendment has been recognized for debate, such Member may not be taken from the floor by another Member seeking to move the previous question. Deschler Ch 23 § 20.7.

In the House as in the Committee of the Whole, a Member recognized to debate a pro forma amendment may not be taken from the floor by the motion for the previous question. 92-2, May 8, 1972, pp 16154, 16157.

### The Motion to Strike the Enacting Clause

Under clause 9 of rule XVIII, the motion to strike the enacting clause takes precedence over a motion to amend. *Manual* § 989. The motion may be offered while an amendment is pending. 5 Hinds § 5328; 8 Cannon § 2624.

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In the Committee of the Whole, where the motion is utilized under the modern practice, the motion must be phrased as a recommendation, because only the House can directly reach the enacting clause. Where the House rejects a recommendation to strike the enacting clause, the House resolves itself without motion into the Committee of the Whole for further consideration of the bill. Deschler Ch 19 § 10.9.

The gentle \_\_\_\_\_ from \_\_\_\_\_ moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

In the Committee of the Whole, the motion is subject to debate under the five-minute rule. Only two five-minute speeches are in order, one in favor of, one in opposition to, the motion. Although the motion to strike the enacting clause is pending, not even a pro forma amendment to strike the last word is entertained. 8 Cannon § 2627.

For general discussion of the motion to strike the enacting clause, see COMMITTEE OF THE WHOLE.

### **The Motion to Rise**

With one exception in the Committee of the Whole, a motion to amend a bill has precedence over a motion to rise and report it to the House. 4 Hinds §§ 4752-4758. However, the motion to amend yields to the simple motion that the Committee rise. 4 Hinds § 4770. Under clause 2(d) of rule XXI, the motion to rise and report, if offered by the Majority Leader (or designee), takes precedence over an amendment proposing a limitation after a general appropriation bill has been completely read for amendment. *Manual* § 1040. In the 109th Congress, the House adopted a resolution creating a point of order against a motion to rise and report an appropriation bill that exceeded an applicable allocation of new budget authority under section 302(b) of the Congressional Budget Act of 1974. Such a point of order has been carried forward in subsequent Congresses by separate order contained in the opening-day rules package. *Manual* § 1044b.

For precedence as between particular forms of amendment, see § 21, *infra*.

## **§ 10. Amending Other Motions**

### **Generally**

The motion to amend may be applied, with certain exceptions, to other motions that are in order in the House or the Committee of the Whole. 5

Hinds § 5754; *Manual* § 927. Unless precluded by the operation of the previous question, the motion to amend may be applied to a motion:

- To postpone. 5 Hinds § 5754; 8 Cannon § 2824.
- To amend. 5 Hinds § 5754.
- To refer. 5 Hinds § 5754.
- To recommit. 5 Hinds § 5521; 8 Cannon §§ 2695, 2738, 2762.
- To recommit with instructions. 8 Cannon §§ 2698, 2699, 2712, 2759.
- To declare a recess. 5 Hinds § 5754.
- To instruct conferees. 8 Cannon §§ 3231, 3240.
- To change the reference of a public bill if the amendment is authorized by the appropriate committee. *Manual* § 825; 7 Cannon § 2127. But see 4 Hinds § 4378.

#### **When Not Permitted**

A motion to amend may not be applied to a motion:

- To order the previous question. *Manual* § 452.
- To table. 5 Hinds § 5754.
- To suspend the rules, although a motion to suspend the rules and pass a measure may include a proposed amendment to the measure. 5 Hinds §§ 5405, 6858, 6859.
- To adjourn, as by specifying a particular day. 5 Hinds §§ 5360, 5754.
- To go into the Committee of the Whole to consider a privileged bill. *Manual* § 927; 6 Cannon §§ 52, 724.
- To take up a designated bill in the Committee of the Whole. 8 Cannon § 2865.
- To strike the enacting clause. 8 Cannon § 2626.

An amendment may not be offered to a motion against which a point of order is pending. See POINTS OF ORDER; PARLIAMENTARY INQUIRIES. For discussion of the general rule that the motion to amend is not in order on questions on which the previous question is operating, see PREVIOUS QUESTION. Amendments to conference reports, see CONFERENCES BETWEEN THE HOUSES.

#### **§ 11. Effect of Special Orders of Business**

Bills are frequently considered pursuant to the terms of a special order of business resolution reported by the Committee on Rules. Such special orders may specify the amendments that may be offered to the bill, the kind and number of amendments that may be offered, and the order of consideration and voting thereon. Deschler Ch 27 § 3. The Committee on Rules may report a resolution providing procedures to govern the consideration of a measure even where the measure is already pending in the Committee of the Whole. Deschler Ch 27 § 3.77; see also SPECIAL ORDERS OF BUSINESS.

Legislation may be considered:

- Under an “open” rule, which places no restrictions on amendment.
- Under a rule that is “closed” or “modified-closed” that strictly restricts the universe of amendments to, for example, amendments specified in the report of the Committee on Rules accompanying the rule.
- Under a rule that is “open in part,” “closed in part,” or “open for a time, closed thereafter.”
- Under a rule that is “modified open,” which places minor restrictions on amendments, for example, requiring preprinting in the *Congressional Record*.

Where a bill is being considered in the Committee of the Whole under an “open” rule, germane amendments to the bill are in order under the standing rules of the House. Deschler Ch 27 § 3.7. Where a bill is being considered under a “closed” rule, even pro forma amendments are not in order. Deschler Ch 27 § 3.34. A “modified-closed rule” permits only designated amendments or a designated class of amendments. Deschler Ch 21 § 22.8.

The Committee of the Whole may not substantively restrict the offering of amendments in contravention of a special order of business adopted by the House. *Manual* § 993; Deschler Ch 27 § 3. However, a unanimous-consent request may be entertained in the Committee of the Whole if its effect is to allow procedures that differ only in minor or incidental respects from the procedure required by a special order of business adopted by the House. By unanimous consent, the House may delegate to the Committee of the Whole authority to entertain unanimous-consent requests to change procedures contained in such a rule. Deschler Ch 27 § 3.29 (note). For a list of unanimous-consent requests that have been permitted in the Committee of the Whole, see *Manual* § 993.

A special order of business may waive points of order against a bill or against specified amendments thereto. Deschler Ch 27 § 3. Such a waiver will not be implied. A special order of business merely “making in order” an amendment offered by a designated Member but not specifically waiving points of order does not permit consideration of the amendment unless in conformity with the rules of the House. Deschler Ch 27 § 3.72 (note). A waiver of points of order against a bill does not apply to amendments offered from the floor. Deschler Ch 27 § 3.

The so-called “self-executing” special order of business has been applied in recent years to expedite the amendment process. Such a rule may provide that a specified amendment “shall be considered to have been adopted.” The committee has also reported rules that have “self-executed”

the adoption of an amendment that became original text for the purpose of further amendment. *Manual* § 855; Deschler-Brown Ch 31 § 10.14.

### § 12. — Amendments Printed in the Congressional Record

The Committee on Rules may report a rule that precludes amendments that have not been printed in the *Congressional Record*. An amendment similar but not identical to the text of an amendment printed in the *Record* has been held out of order under such a rule. Only the House, by unanimous consent, may permit the offering of an amendment that differs in any way from an amendment permitted under the rule. However, an offeror may modify an amendment by unanimous consent in the Committee of the Whole once pending. *Manual* § 993; Deschler Ch 27 §§ 3.25-3.27.

Where a special order of business restricts the offering of amendments to those printed in the *Congressional Record* but does not specify the Members who must offer them, the right to propose amendments properly inserted in the *Record* inures to all Members. 105-2, Sept. 17, 1998, pp 20838, 20839.

A special order of business prohibiting amendments to a bill except those printed in the *Congressional Record* does not apply to amendments in the second degree unless so specified. Deschler Ch 27 § 3.13.

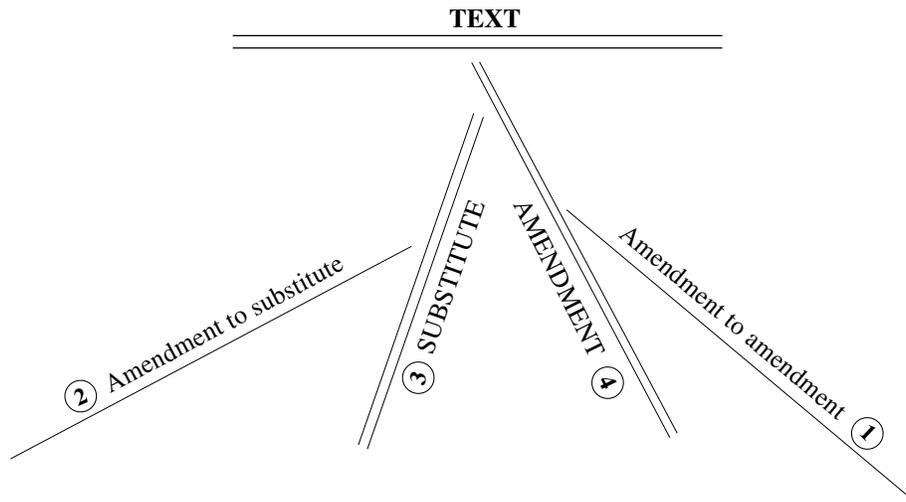
## B. Permissible Pending Amendments

### § 13. In General; The Stages of Amendment

The checklist below and the above chart show the four common motions that may be pending simultaneously under clause 6 of rule XVI (5 Hinds § 5753) and the order in which they are voted on (see also § 28, *infra*):

- To amend the text (4)
- To amend the proposed amendment (1)
- To amend by a substitute (3)
- To amend the substitute (2)

Generally, only one amendment to the text may be pending at any one time. 5 Hinds § 5755; Deschler Ch 27 § 1. Once that amendment is offered, however, the other three forms of amendment shown above may be offered and all four amendments may be pending at one time. 5 Hinds § 5753; 8 Cannon § 2883; Deschler Ch 27 § 1.



The amendments shown in the chart are amendments in the first or second degree. Amendments beyond the second degree, such as an amendment to the amendment to the amendment to the pending text, are not in order. See § 1, *supra*; § 14, *infra*. Frequently, however, as by a special order of business, an amendment in the nature of a substitute may be considered as an original text for purposes of amendment, thereby extending the permissible degrees of amendment. Deschler Ch 27 § 1. Indeed, a special order of business reported by the Committee on Rules may specifically permit the offering of amendments beyond the second degree. 94-1, Feb. 27, 1975, p 4593. In one instance, pursuant to a special order of business, up to eight amendments to the pending text were pending simultaneously. 96-1, May 15, 1979, p 1050.

There is no limit to the number of amendments that may be offered either to an amendment or to a substitute so long as not changing a previously adopted amendment. When one second-degree amendment has been disposed of, another can be offered. Deschler Ch 27 § 5.16. Where both an amendment and a substitute have been offered, each may have one amendment pending to it at one time. Deschler Ch 26 §§ 5.14, 5.15.

**Perfecting the Original Text**

It is in order to offer a perfecting amendment to the pending portion of original text, even though there is pending an amendment in the nature of a substitute for the pending measure. Deschler Ch 27 § 5.34. Likewise, where there is pending a motion to strike a title of a bill, perfecting amend-

ments to that title may nevertheless be offered and voted on before voting on the motion to strike. Deschler Ch 27 § 5.11.

#### **Amending Pending Amendments**

Only one amendment to a pending amendment may be pending at one time. Deschler Ch 27 §§ 5.7, 5.17, 5.24. However, as soon as an amendment to an amendment is adopted or rejected another is in order seriatim until the amendment is perfected; and only after disposition of the amendment will further amendment of the bill be allowed. Deschler Ch 27 § 5.5.

#### **Amending Substitute Amendments**

A substitute for an amendment is subject to amendment. Deschler Ch 27 §§ 5.3, 5.4. Thus, where an amendment, an amendment thereto, and a substitute for the original amendment are pending, it is in order to offer an amendment to the substitute. Deschler Ch 27 § 5.13. Other amendments to the substitute are in order following disposition of the pending amendment to the substitute. Deschler Ch 27 § 5.25.

#### **Amending Amendments in the Nature of a Substitute**

When specifically made in order, an amendment in the nature of a substitute may be considered as original text for purposes of amendment. Accordingly, where pursuant to a special order of business a committee amendment in the nature of a substitute is being read as original text for purpose of amendment, there may be pending to that text (1) an amendment, (2) a substitute therefor, and (3) amendments to both the amendment and the substitute. Deschler Ch 27 § 5.32. As often as amendments to the amendment are disposed of, further amendments may be offered and voted upon before voting on the amendment to the substitute. Deschler Ch 27 § 5.21.

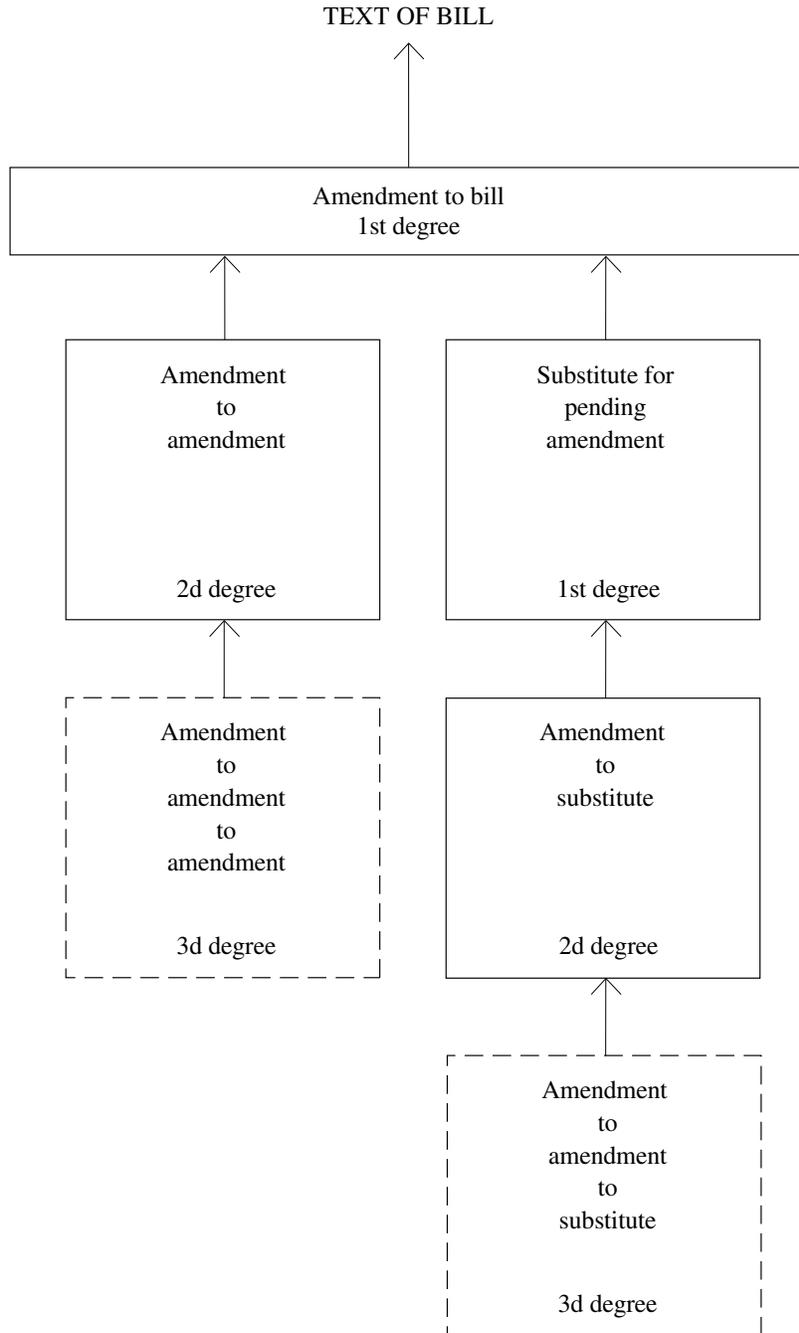
### **§ 14. Amendments in the Third Degree**

The following chart shows the four common forms of amendments in the first or second degree and distinguishes them from amendments in the third degree.

Amendments in the third degree are not in order. 5 Hinds § 5754; 8 Cannon § 2580; Deschler Ch 27 § 6.1. “The line must be drawn somewhere,” wrote Thomas Jefferson, “and usage has drawn it after the amendment to the amendment.” *Manual* § 454. This principle is reflected in clause 6 of rule XVI and is considered fundamental in the House of Representatives. *Manual* § 922; Deschler Ch 27 § 6. Thus, as shown by the chart, an amendment to an amendment to an amendment is in the third degree and

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not in order. Deschler Ch 27 § 6.2. Until the amendment to the amendment is disposed of, no further amendment to the amendment may be offered. Deschler Ch 27 § 6.12.

The prohibition against amendments in the third degree also applies to amendments between the House and Senate. If a bill originating in one House is amended by the other, the originating House may amend the amendment; and the second House may again amend. Any further amendment between the Houses would be in the third degree. *Manual* § 529. However, the House has on occasion adopted a special order of business (waiving applicable points of order) that provided for consideration of a motion to concur in a Senate amendment with a further House amendment that broached the third degree. 110-2, June 19, 2008, p 13052; 110-2, July 23, 2008, p \_\_\_\_; 110-2, Sept. 28, 2008, p \_\_\_\_; 111-2, Mar. 4, 2010, p \_\_\_\_.

#### **Substitutes for Pending Amendments Distinguished**

As shown by the following chart, a substitute for a pending first-degree amendment is subject to amendment, whereas a perfecting amendment to an amendment is not, as that would be in the third degree. *Manual* § 923; Deschler Ch 27 § 6. The substitute permitted by clause 6 of rule XVI is an alternative to the original first-degree amendment and not for the amendment to that amendment. Indeed, when an amendment and a perfecting amendment thereto are pending, neither an amendment to, or substitute for, the perfecting amendment is in order, both such amendments being in the third degree. Deschler Ch 27 § 6.2.

Although 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 does not look behind the form of the amendment in the absence of a timely point of order from the floor. Deschler Ch 27 § 6.21.

#### **Amendments in the Nature of a Substitute**

Normally, an amendment to or a substitute for an amendment to an amendment in the nature of a substitute would be in the third degree and not in order. This principle, however, would not apply if the amendment in the nature of a substitute were being considered as original text for purposes of amendment. Deschler Ch 27 § 6.15 (note). Where an amendment in the nature of a substitute is considered as original text for the purpose of amendment, pursuant to a special order of business, an amendment to an amendment thereto is not in the third degree and is in order. Deschler Ch 27 § 6.18.

**Amendments While Motion to Strike Pending**

While a motion to strike is pending, it is in order to offer an amendment to perfect the language proposed to be stricken; such a perfecting amendment (which is in the first degree) may be amended by a substitute (also in the first degree), and amendments to the substitute are thus in the second degree and therefore in order. Deschler Ch 27 § 6.20.

**Pro Forma Amendments**

In the Committee of the Whole, pro forma amendments are technically not in order where the four permitted amendments are pending if the point of order is raised, as they would constitute amendments in the third degree. However, the Chair has hesitated to rule out of order pro forma amendments as being in the third degree, because the Committee has the power to close debate when it chooses and has permitted such amendments to be offered by unanimous consent. Deschler Ch 27 § 6.22.

**C. When to Offer Amendment; Reading for Amendment****§ 15. In General; Reading by the Clerk**

A second reading occurs in the Committee of the Whole after general debate when a measure is read for amendment under clause 5 of rule XVIII. Under clause 5(a) of rule XVIII, amendments are not in order in the Committee of the Whole until general debate has been closed. 4 Hinds § 4744. Amendments are then debated under the five-minute rule. *Manual* § 978. The bill is read for amendment, and amendments are offered and debated at the appropriate point in the reading. Thus, when a bill is being read for amendment in the Committee of the Whole by section, it is not in order to offer amendments except to the one section under consideration. Deschler Ch 27 § 7. After a section or paragraph has been passed, it is no longer subject to amendment. *Manual* §§ 413, 980.

Bills are ordinarily read for amendment by section or paragraph in sequence. However, the House, by unanimous consent or special order of business, may vary the reading of a bill for amendment under the five-minute rule in the Committee of the Whole, which may include dispensing with the reading entirely. Deschler Ch 27 §§ 7.1, 7.18.

**House Practice Distinguished**

In the House, amendments to measures on the House Calendar are made where the Member calling up the measure yields for an amendment, or if the previous question is not moved or ordered, pending the engrossment and

third reading. 5 Hinds § 5781; 7 Cannon § 1051; Deschler Ch 27 § 13.3. Amendments may be offered to any part of the bill without proceeding by section or paragraph. 4 Hinds § 3392.

### **Practice in House as in the Committee of the Whole**

Where a bill is by unanimous consent considered in the House as in the Committee of the Whole, the bill is considered as read and open to amendment at any point under the five-minute rule. Deschler Ch 27 § 11.22. This is so despite the fact that the House has previously adopted a special order of business providing that the bill be read by title in the Committee of the Whole because that order of the House had been superseded by a subsequent order of the House. Deschler Ch 27 § 7.2.

### **§ 16. Amendments to Text Passed in the Reading**

In the Committee of the Whole, amendments to a section are in order after the section has been read or the reading dispensed with and remain in order until the reading of the next portion to be considered. Deschler Ch 27 § 7. Generally, an amendment comes too late when the Clerk has read beyond the section to which the amendment applies. 8 Cannon § 2930; Deschler Ch 27 § 8.1.

An amendment offered as a new section is in order to a bill being read by section after the Clerk has read up to, but not beyond, the point at which the amendment would be inserted. The amendment must be offered after the consideration of the section of the bill that it would follow, and comes too late after the next section of the bill has been read for amendment. Deschler Ch 27 § 8.17. A section is considered passed for the purpose of amendment after an amendment inserting a new section has been adopted following that section. Deschler Ch 27 § 8.12. An amendment adding a new section at the end of a bill is in order after the last section of the bill has been read, even though other amendments adding new sections have been adopted. Deschler Ch 27 § 7.35.

To be timely, an amendment must be offered at the appropriate place in the reading. A point of order that an amendment to a section or a paragraph of a bill comes too late does not lie where the Member offering the amendment was standing and seeking recognition before the section or paragraph was passed in the reading. Deschler Ch 27 § 8.22. The Chair has on occasion directed the Clerk to reread a paragraph of a bill where there was doubt as to how far the Clerk had read. Deschler Ch 27 § 8.4.

**§ 17. Amendments to Text Not Yet Read; Amendments En Bloc**

It is not in order to strike or otherwise amend portions of a bill not yet read for amendment. Deschler Ch 27 § 9. Even committee amendments printed in a bill are not considered until the section where they appear is read for amendment. Deschler Ch 27 § 9.4. Unless permitted by a special order of business, amendments to a pending title of a bill and to a subsequent title may be offered en bloc only by unanimous consent. Deschler Ch 27 § 9.13. Similarly, to a bill being read for amendment by section, amendments to more than one section may be considered en bloc by unanimous consent only. Deschler Ch 27 § 9.14.

During the reading of an appropriation bill, clause 2(f) of rule XXI permits the offering of certain budget-neutral amendments to text not yet read. Such amendments may propose only to transfer appropriations among objects in the bill and are not subject to division. *Manual* § 1042.

**§ 18. Amendments to Bills Considered as Read and Open to Amendment**

Unless permitted by a special order of business, a bill may be considered as read and open to amendment at any point only by unanimous consent. A motion to that effect is not in order. Deschler Ch 27 § 11.2. Similarly, during the reading of a section for amendment, that section can be considered as read and open to amendment at any point only by unanimous consent. Deschler Ch 27 § 11.4. Where consent is granted that the remainder of the bill be open to amendment at any point, amendments may then be offered to any portion of the bill not yet read for amendment at the time the permission is granted and amendments remain in order to that portion of the bill pending when the request was granted. Deschler Ch 27 § 11.9; 94-1, June 4, 1975, p 16899. However, an agreement that the remainder of the bill be considered read and open for amendment at any point does not admit an amendment to a portion of the bill already passed in the reading. Deschler Ch 27 § 11.8. Points of order against the text open to amendment are disposed of before the offering of amendments. See POINTS OF ORDER; PARLIAMENTARY INQUIRIES.

**§ 19. Amendments in the Nature of a Substitute**

Unless the bill is considered as having been read for amendment, an amendment in the nature of a substitute for a bill is in order only after the first section (or paragraph) of the bill has been read for amendment or following the reading of the final section (or paragraph) of the bill. Deschler

Ch 27 §§ 12.1, 12.2, 12.4. To a bill being read for amendment by title, an amendment in the nature of a substitute for the entire bill may be offered either after the reading of the “short title” of the bill (which is normally a separate section of the bill preceding title I) or at the conclusion of the reading of the whole bill. Deschler Ch 27 § 12.

An amendment in the nature of a substitute for a bill is not in order at an intermediate stage of the reading unless the bill is considered as having been read for amendment, in which case an amendment in the nature of a substitute may be offered at any time during consideration of the bill. Deschler Ch 27 §§ 12.3, 12.10.

Although an amendment in the nature of a substitute may ordinarily be offered after the reading of the first section of a bill being read by section and before committee amendments adding new sections, where a bill consists of one section and is therefore open to amendment at any point when read, committee amendments adding new sections are considered perfecting amendments and are disposed of before the offering of amendments in the nature of a substitute. Deschler Ch 27 § 12.13.

An amendment in the nature of a substitute is in order after an entire bill has been read and perfecting amendments have been adopted thereto, as long as such perfecting amendments have not changed the bill in its entirety. Deschler Ch 27 § 12.16. Similarly, an amendment in the nature of a substitute may be offered for a bill (or for an amendment being considered as original text) after the reading thereof has been completed, if another amendment in the nature of a substitute has not been previously adopted. Deschler Ch 27 § 12.6. For substitutes for amendments in the nature of a substitute, see § 24, *infra*.

## **§ 20. Recognition to Offer Amendments; Priority**

### **Necessity of Recognition**

Under clause 2 of rule XVII, decisions on recognition rest with the Chair. Therefore, a Member wishing to offer an amendment must first be recognized by the Chair for that purpose; and a Member holding the floor under the five-minute rule may not yield to another Member to offer an amendment. 2 Hinds § 1422; Deschler Ch 27 §§ 4.1, 4.6.

### **Discretion of Chair**

Except where governed by a special order of business, recognition for the purpose of offering amendments is within the discretion of the Chair. Deschler Ch 27 §§ 4.2, 4.3. No point of order lies against the Chair’s recognition of one Member over another. Deschler Ch 27 § 4.4. Nevertheless,

in the absence of a controlling special order of business, the Chair ordinarily follows the many precedents and practices that serve as guidelines to the Chair in according recognition to Members to offer amendments. Deschler Ch 27 § 4.35. For example, the Chair may accord recognition pursuant to the principle of alternation between majority and minority parties or on the priority of perfecting amendments over motions to strike. Deschler Ch 27 § 4.19. Decisions on questions of recognition are not subject to appeal. *Manual* § 949.

### **Priority of Committee Amendments**

Amendments recommended by a committee reporting a bill are normally considered before amendments offered from the floor, including instances where a bill is considered read and open to amendment. Deschler Ch 27 § 4.34. Thus, perfecting committee amendments to a paragraph under consideration are disposed of before amendments from the floor are considered. Deschler Ch 27 § 4.33. A special order of business will often make in order a committee amendment in the nature of a substitute as the base text for purposes of further amendment.

### **Committee Membership as Basis for Recognition**

The Chair ordinarily accords priority in recognition to members of the committee reporting the bill, if on their feet seeking recognition. Deschler Ch 27 § 4.8. This is so despite the party affiliation of such Members. Deschler Ch 27 § 4.10.

Members of the reporting committee or committees are normally accorded prior recognition in order of full-committee seniority and not by the sequence of lines in the pending paragraph to which those amendments may relate. Deschler Ch 27 §§ 4.11, 4.13, 4.30. It is within the discretion of the Chair as to whether a majority or minority member of the committee will be recognized first. Deschler Ch 27 § 4.18.

### **Effect of Parliamentary Inquiries**

The fact that the Chair has recognized a Member to raise a parliamentary inquiry does not prohibit the Chair from then recognizing the same Member to offer an amendment. The principle of alternation of recognition does not require the Chair to recognize a Member from the minority to offer an amendment after recognizing a Member from the majority to raise a parliamentary inquiry. Deschler Ch 27 § 4.13 (note).

## D. Offering Particular Kinds of Amendments; Precedence and Priorities

### § 21. Introductory; Perfecting Amendments

Generally, the House follows the Jeffersonian principle that language should be perfected before taking other action on it. Deschler Ch 27 § 15. “[T]he friends of the paragraph,” Jefferson wrote, “may make it as perfect as they can by amendments before the question is put for inserting it. . . . In like manner, if it is proposed to amend by striking a paragraph, the friends of the paragraph are first to make it as perfect as they can by amendments, before the question is put for striking it out.” *Manual* § 469. An important exception to this rule is that a motion to strike the enacting words of a bill, being a device used for purposes of rejecting the bill, has precedence over a motion to amend the bill. Clause 9 of rule XVIII; *Manual* § 988.

A motion to strike and a perfecting amendment may be pending simultaneously. They must be voted on separately and in a specified order. § 28, *infra*. When a motion to strike is pending, an amendment to perfect the text proposed to be stricken may be offered as preferential. When an amendment to perfect is pending, a motion to strike must wait. Deschler Ch 27 § 15.1. They may not be offered as amendments to or substitutes for one another. When a motion to strike a pending portion of a bill is pending, perfecting amendments are in order to the *text* proposed to be stricken—not to the motion to strike. Deschler Ch 27 § 15.13.

#### Precedence Over the Motion to Strike

A perfecting amendment to the text of a bill is in order and takes precedence over a pending motion to strike the text and is first to be voted on. Deschler Ch 27 §§ 15.3, 15.4. Thus, an amendment inserting new words is in order and takes precedence over a pending motion to strike that portion of the text. Deschler Ch 27 § 15.7.

Perfecting amendments to a paragraph may be offered (one at a time) while a motion to strike the paragraph is pending, and such perfecting amendments are first disposed of. Deschler Ch 27 §§ 15.5, 15.15. Under this rule, where a perfecting amendment is offered and rejected, a second perfecting amendment may be offered and disposed of before the vote on a motion to strike. If the motion to strike is ultimately defeated, further perfecting amendments to the pending text are yet in order. Deschler Ch 27 §§ 15.8, 15.26.

A motion to strike a pending portion of a bill will be held in abeyance until perfecting amendments to that portion are disposed of. *Manual* § 469. However, a Member who has been recognized to debate the motion to strike may not be deprived of the floor by another Member who seeks to offer a perfecting amendment. After the Member so recognized has completed five minutes in support of the motion to strike, but before the question is put on the motion to strike, the perfecting amendment may be offered and voted upon. Deschler Ch 27 § 15.11.

In the case of preferential perfecting amendments to the text offered pending a motion to strike that text, such a motion to strike must still be voted upon regardless of whether or not such perfecting amendments are adopted (assuming that the perfecting amendments do not change the entire pending text). Deschler Ch 27 § 15.24. However, if perfecting amendments are agreed to, and are coextensive with the material proposed to be stricken, the motion to strike the amended text falls and is not acted on. Deschler Ch 27 § 15.25.

#### **Precedence Over Amendment in the Nature of a Substitute**

Where a bill consists of several sections, an amendment in the nature of a substitute should be offered after the reading of the first section and following disposition of perfecting amendments to the first section. Deschler Ch 27 § 15.40 (note). Indeed, a perfecting amendment to the first section of a bill may be offered while an amendment in the nature of a substitute for the entire bill is pending. Deschler Ch 27 § 15.32. A perfecting amendment to a pending paragraph of a bill is in order and is not precluded by the intervention of a single substitute for the paragraph and several of those following. Deschler Ch 27 § 15.33.

#### **§ 22. Motions to Strike**

Amendments proposing to strike a section of a bill are in order after perfecting amendments to the section are disposed of. Deschler Ch 23 § 17.3. A motion to strike a section or paragraph is not in order while a perfecting amendment is pending. Deschler Ch 27 §§ 16.6, 17.1. The motion to strike, if already pending, must remain in abeyance until the amendment to perfect has been disposed of. *Manual* § 469; 5 Hinds § 5758; 8 Cannon § 2860. Because a provision must be perfected before the question is put on striking it out, a motion to strike a paragraph or section may not be offered as a substitute for a pending motion to perfect the paragraph or section, including where the pending perfecting amendment is a motion to strike and insert new text. Deschler Ch 27 §§ 17.15-17.18. Although the motion to

strike is not in order in this situation as a substitute, it may be offered after disposition of the perfecting amendment to strike and insert if more comprehensive in scope. Deschler Ch 27 §§ 17.30-17.32.

Although an amendment that has been agreed to may not be modified, a proposition to strike it from the bill with other language of the original text is in order. 8 Cannon § 2855. Thus, if the pending title of a bill is perfected by an amendment adding a new section thereto, and the Committee of the Whole thereafter agrees to a motion to strike the entire title, the words added by the perfecting amendment are eliminated along with the rest of the title. 91-1, Oct. 3, 1969, p 28454.

To a motion to strike certain text and insert new language, a simple motion to strike all that text may not be offered as an amendment, as it would have the effect of dividing the motion to strike and insert, which is prohibited by clause 5 of rule XVI. Deschler Ch 27 § 17.23.

### § 23. Motions to Strike and Insert

As a perfecting amendment, a motion to strike and insert takes precedence over a pending motion to strike. 8 Cannon § 2849. It may be offered while the motion to strike is pending and is first acted upon. Deschler Ch 27 § 16.3. If the perfecting amendment is agreed to, and is coextensive with the motion to strike, the motion to strike the amended text falls and is not acted on. Deschler Ch 27 § 16.4.

Under clause 5 of rule XVI, a motion to strike and insert is indivisible. *Manual* § 920. For this and other reasons, a motion to strike is not in order as a substitute for a pending motion to strike and insert. Deschler Ch 27 § 17.18. Conversely, a motion to strike and insert a portion of a pending section is not in order as a substitute for a motion to strike the section, but may be offered as a perfecting amendment to the section and is first voted upon, subject to being eliminated by subsequent adoption of the motion to strike. Deschler Ch 27 § 17.7. See also § 4, *supra*.

### § 24. Substitute Amendments

#### Generally

A “substitute” is a substitute for an amendment, and not a substitute for the original text. § 6, *supra*. A substitute can be entertained only after an amendment is pending. 8 Cannon § 2883. In the Committee of the Whole, the proper time to offer a substitute for an amendment is after the amendment has been read and the Member offering it has been permitted to debate it under the five-minute rule. Deschler Ch 27 § 18.2. The substitute

is then in order until the Chair puts the question on the amendment. Deschler Ch 27 § 18.3.

### **Substitutes for Amendments in the Nature of a Substitute**

An amendment in the nature of a substitute is subject to amendment by a substitute therefor, and the substitute is in order even after perfecting amendments have been adopted to the amendment in the nature of a substitute. Deschler Ch 27 §§ 18.18, 18.19.

### **Reoffering Substitute Propositions**

Whether a proposition contained in a substitute may be reoffered in a different form after it has failed of approval depends on the circumstances. If the language of the substitute is reoffered in such a way as to present precisely the same question that has already been voted on, it would not be in order. Where an amendment is altered by adoption of a substitute, and then is rejected as so amended, the language of the substitute cannot be reoffered at that point as a first-degree amendment. See Deschler Ch 27 § 18.25 and note. Clearly, however, where the actual proposition was never voted on because of changes made through the amendment process, the proposition may be offered again as, for example, an amendment to text. Where an amendment is offered, and then a substitute for that amendment, the consideration of that substitute necessarily proceeds with reference only to the particular amendment to which offered. This may present a different question from that which would arise if the language of the substitute were considered with reference to the text of the bill. *Manual* § 923; see also 5 Hinds § 5797, 8 Cannon § 2843, and Deschler Ch 27 § 18.25 (note).

## **§ 25. Offering Amendments During Yielded Time**

### **In the House**

A measure being considered in the House is not subject to amendment unless the Member in control yields for that purpose or the previous question is either not moved or is rejected. Deschler Ch 27 § 13.6; see § 26, *infra*. Ordinarily, an amendment to the measure may be offered only by the Member having the floor unless such Member yields to another for that purpose; and it is within the discretion of the Member in charge whether, and to whom, to yield. Deschler Ch 27 § 13.3. An amendment may not be offered in time yielded for debate only. 8 Cannon § 2474; Deschler Ch 27 § 13.1.

A Member controlling debate in the House on a measure may yield to another to offer an amendment, despite a prior announced intention not to yield for such purpose. 8 Cannon § 2470. The Member so yielded to may

then offer an amendment, be recognized for an hour, and may yield time to others. Deschler-Brown Ch 29 § 30.7.

A Member who has the floor in debate in the House may not yield to another Member to offer an amendment without losing control of the time. 5 Hinds § 5021. By yielding to another to offer an amendment a Member loses the right to resume. 5 Hinds § 5031. However, a Member may yield to permit an amendment to be read for information without losing control of the time. 8 Cannon § 2477.

#### **In the Committee of the Whole**

A Member recognized under the five-minute rule may not yield to another Member to offer an amendment. A Member wishing to offer an amendment under the five-minute rule must seek recognition from the Chair and may not be yielded the floor for that purpose by another Member. Deschler Ch 27 § 13.7.

### **§ 26. Effect of Previous Question; Expiration of Time for Debate**

#### **Generally; House Practice**

The adoption of the previous question precludes further debate or amendment on the pending measure and brings the House to an immediate vote thereon. Clause 1 of rule XIX; 5 Hinds §§ 5486, 5487; Deschler Ch 27 § 14.1. The previous question may be moved (1) on a pending amendment; (2) on the underlying measure; or (3) on both propositions. See PREVIOUS QUESTION. Thus, where the previous question is ordered in the House on a pending resolution *and* the amendment thereto, the vote immediately recurs on the adoption of the resolution after the disposition of the amendment, and no intervening amendment is in order. Deschler Ch 27 § 14.3. However, a motion to commit may be in order under clause 2 of rule XIX. *Manual* §§ 1001, 1002; see REFER AND RECOMMIT.

The previous question is sometimes ordered on nondebatable motions for the specific purpose of preventing amendments thereto. 5 Hinds § 5490.

#### **Expiration of Debate Time in the Committee of the Whole**

An amendment to a pending section of a bill being considered in the Committee of the Whole may be offered notwithstanding the expiration of all time for debate on the section and any amendments thereto. Deschler Ch 27 § 14.9. Under clause 8 of rule XVIII, the expiration of a limitation on debate under the five-minute rule does not prohibit the offering of further amendments, but such amendments are not subject to debate if not printed in the *Congressional Record. Manual* § 987; Deschler Ch 27 § 14.10. However, where a special order of business limits the time for consideration of

amendments, an amendment may not be offered upon the expiration of that time limitation. *Manual* § 993; see also CONSIDERATION AND DEBATE.

## **E. Consideration and Voting**

### **§ 27. In General; Reading of Amendment**

#### **Generally**

Amendments to a bill must be read in full or their reading dispensed with in accordance with the rules. 8 Cannon § 2339. This is so even where the bill itself is considered as having been read for amendment pursuant to a special order of business. Deschler Ch 27 § 22. The reading of an amendment must be completed before an amendment thereto is in order. Deschler Ch 27 § 22.5.

Amendments at the Clerk's desk must be offered by a Member before they will be read by the Clerk. Deschler Ch 27 § 7.27. They need not be reoffered after they have been reported by the Clerk notwithstanding suspension of consideration of the bill. Where the Committee of the Whole resumes its consideration of a bill after an interval of time, the Chair sometimes (without objection) directs the Clerk to re-report the amendments that were pending at the time the Committee rose. Deschler Ch 27 § 22.3.

#### **Numbering Amendments**

Amendments printed in the *Congressional Record* are numbered in the order submitted for printing. Clause 8 of rule XVIII.

#### **Dispensing with Reading**

The reading of an amendment may be dispensed with by unanimous consent or waived pursuant to the provisions of a special order of business. Deschler Ch 27 § 22. The reading of an amendment in the Committee of the Whole may also be dispensed with by motion if the amendment has been printed in the bill as reported or if printed in the *Congressional Record* by the offeror of the amendment. Clause 7 of rule XVIII; *Manual* § 986.

#### **Re-reading Amendments**

An amendment that has been once read may not be read again except by unanimous consent. Deschler Ch 27 § 22.2. It is not within the province of the Chair to analyze the effect of amendments, and the Chair has declined to recognize for unanimous consent that the Clerk read the "differences" between two pending amendments. Deschler Ch 27 § 1.33.

**Amendment in the Nature of Substitute**

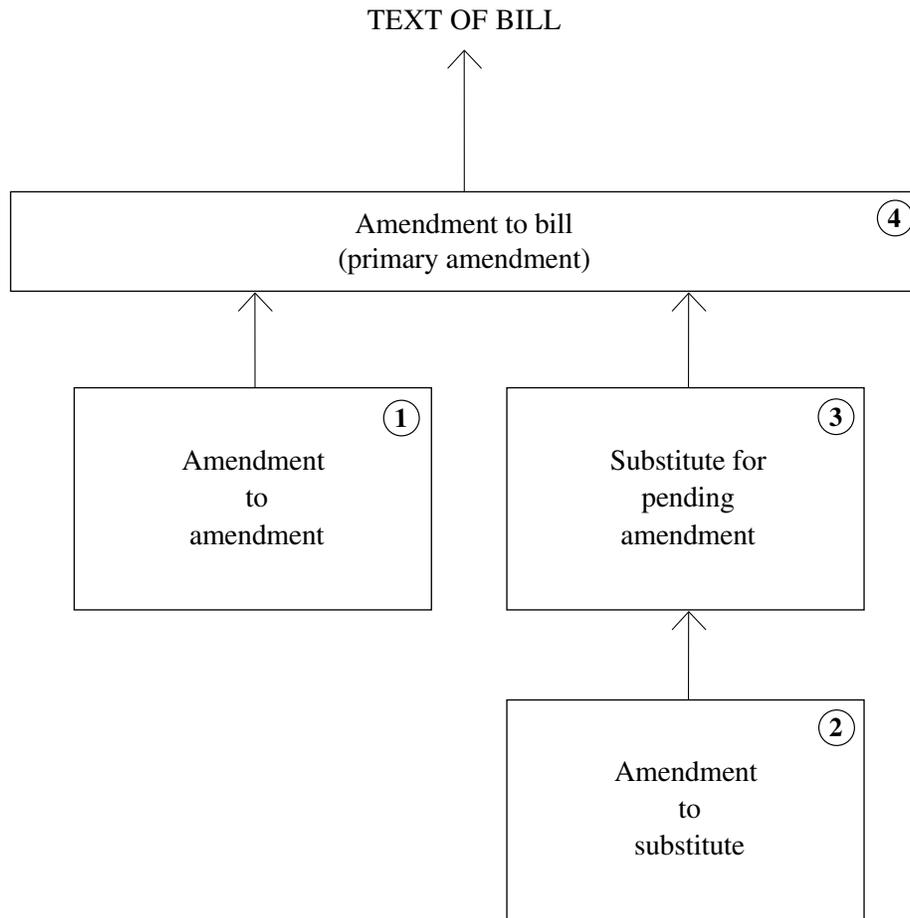
The reading of an amendment in the nature of a substitute must be completed before an amendment thereto is in order. Deschler Ch 27 § 22.5. An amendment in the nature of a substitute is not read by section in the absence of a special order of business that specifies to the contrary, and it is open to amendment at any point when read in its entirety. Deschler Ch 27 § 22.6. Where, pursuant to a special order of business, an amendment in the nature of a substitute is being read as an original bill for the purpose of amendment, the amendment is read section by section, and substantive as well as pro forma amendments are in order following the reading of each section. Deschler Ch 27 § 22.7.

**§ 28. Order of Consideration Generally; Postponed and Clustered Votes on Amendments****Voting Sequence**

The four forms of amendment permitted by clause 6 of rule XVI may be pending simultaneously. § 13, *supra*. However, as shown by the following chart, they must be voted on in the sequence shown, as follows: (1) amendments to the amendment, if any, are disposed of first, *seriatim*, until the amendment is perfected; (2) amendments to the substitute are next voted on, *seriatim*, until the substitute is perfected; (3) the substitute is next voted on; and (4) the amendment is voted on last, so that if the substitute has been agreed to, the vote is on the amendment as amended by the substitute. *Manual* § 922; Deschler Ch 27 § 23.

An amendment to an amendment must be offered before the question is put on the underlying amendment. Deschler Ch 27 §§ 18.3, 18.4. Once a perfecting amendment to an amendment is disposed of, the original amendment, as amended or not, remains open to further perfecting amendment, and all such amendments are disposed of before voting on substitutes for the original amendment and amendments thereto. Deschler Ch 27 § 23.9.

Disposition of a perfecting amendment to a substitute amendment does not preclude the offering of further perfecting amendments to the substitute or the underlying amendment. However, once the substitute is adopted, the Chair immediately puts the question on the original amendment as amended by the substitute and further perfecting amendments (including pro forma amendments) are not in order. Deschler Ch 27 §§ 23.8, 23.9.



**Effect of Special Orders of Business**

A special order of business resolution reported by the Committee on Rules may reverse or alter the normal order of consideration of amendments in the Committee of the Whole. Where the House has adopted a special order of business permitting the consideration of amendments in the Committee of the Whole only in a prescribed order, the Committee of the Whole must rise to permit the House, by unanimous consent, to change that order of consideration. *Manual* § 993; *Deschler* Ch 27 § 23.

### Postponed and Clustered Votes on Amendments

Under clause 6(g) of rule XVIII, the chair of the Committee of the Whole may postpone and cluster requests for recorded votes on amendments to a subsequent place and time during the amendment process as determined by the Chair. Special orders of business from the Committee on Rules, before adoption of clause 6(g), routinely provided the chair of the Committee of the Whole such authority. *Manual* § 984.

Where a special order of business provided such authority, the Chair has held:

- Use of that authority, and the order of clustering, was entirely within the discretion of the Chair.
- An amendment pending as unfinished business where proceedings on a request for a recorded vote had been postponed could be modified by unanimous consent on the initiative of its proponent.
- A request for a recorded vote on an amendment on which proceedings had been postponed could be withdrawn by unanimous consent before proceedings resumed on the request as unfinished business, in which case the amendment stood disposed of by the voice vote thereon.
- Unanimous consent is not required to withdraw a request for a recorded vote on an amendment on which proceedings had been postponed when the question recurs as unfinished business.
- Such authority did not permit the Chair to postpone a vote on an appeal of a ruling of the Chair (even by unanimous consent).
- The Committee of the Whole by unanimous consent could vacate postponed proceedings, thereby permitting the Chair to put the question *de novo*.
- The Committee of the Whole could resume proceedings on unfinished business consisting of a “stack” of amendments even while another amendment was pending.

*Manual* § 984.

Clause 6(g) also provides the Chair the ability to reduce to five minutes the time for electronic voting on any such postponed question that follows another electronic vote without intervening business. The offering of a pro forma amendment to discuss the legislative program, or an extended one-minute speech by a Member to express gratitude to the Members on a personal matter, may be considered intervening business such as to preclude a five-minute vote under this authority except by unanimous consent. *Manual* § 984.

### § 29. Committee Amendments

Pending amendments, whether favorably or adversely recommended by the committee reporting the bill, must be voted on. 8 Cannon § 2865. The

Committee of the Whole must vote on a pending amendment even though it has been “accepted” by members of the committee reporting the bill. Deschler Ch 27 § 26.10.

Absent a special order of business that provides otherwise, committee amendments to a bill are ordinarily taken up before amendments from the floor, although they are not voted on until after they have been perfected. 5 Hinds § 5773. Floor amendments to the bill are normally in order following the disposition of pending committee amendments perfecting that bill, even though the bill is open to amendment at any point. Deschler Ch 27 §§ 26.3, 26.5.

Absent a special order of business that provides otherwise, where a committee amendment proposes to strike a portion of the text, a perfecting amendment from the floor may intervene before the vote is taken on the committee amendment. See § 21, *supra*.

A committee amendment to the first paragraph or section of a bill is voted on before a vote is taken on an amendment in the nature of a substitute to strike all after the enacting clause and insert new matter. Deschler Ch 27 § 26.1.

### **§ 30. Amendments En Bloc; Use of Special Orders of Business**

#### **Generally**

Amendments may be considered en bloc only by unanimous consent or pursuant to a special order of business. Deschler Ch 27 §§ 27.2, 27.3, 27.14-27.16. Amendments considered en bloc by unanimous consent are subject to germane amendment after they have been read. Once pending they are open to perfecting amendment at any point. Deschler Ch 27 § 27.7.

En bloc amendments may be offered to a pending amendment, but it is not in order to consider en bloc amendments to committee amendments that have not yet been reported. Deschler Ch 27 § 27.10. For en bloc amendments to appropriation bills, see APPROPRIATIONS.

The en bloc consideration of amendments in the Committee of the Whole pursuant to a unanimous-consent request therein does not necessarily result in an en bloc vote in the House, because that is merely an order of the Committee and not binding on the House. Moreover, even amendments considered en bloc pursuant to a special order of business are subject to a demand for a division of the question in the House if divisible, unless prohibited by the rule. Deschler Ch 27 § 27.15 (note).

**Points of Order**

Where unanimous consent is requested that two or more amendments be considered en bloc, points of order against any or all of them may be made or reserved pending agreement to the request. Deschler Ch 27 § 27.5. Amendments offered en bloc by unanimous consent are considered as one amendment, and a single point of order against any portion thereof renders the entire amendment subject to a point of order. Deschler Ch 27 § 27.5.

**Consideration Pursuant to Special Order of Business**

To expedite consideration of perfecting committee amendments to a bill, the House may adopt a special order of business permitting their consideration en bloc in lieu of separate consideration in the order printed in the bill. Under such a special order of business, the manager of the bill may request en bloc consideration after the pending text is read and unanimous consent is not required. Deschler Ch 27 §§ 27.13, 27.14.

**“King of the Hill” Rule**

The Committee on Rules has provided for the consideration of two or more amendments under what is sometimes termed a “king of the hill” procedure. The special order of business may provide that such amendments be considered in a specified order and that if more than one such amendment is adopted, only the last amendment so adopted shall be considered as finally adopted and reported to the House. 102-2, June 3, 1992, p 13239.

**“Top Vote Getter” or “Queen of the Hill” Rule**

On occasion, the Committee on Rules has reported a rule that permitted several alternative amendments to be considered in a specified order with the one receiving the largest majority being reported back to the House. See, *e.g.*, 104-1, Jan. 25, 1995, p 2360.

**“First Amendment Adopted” Rule**

On rules providing for the consideration of the concurrent resolution on the budget, or on other rare occasions, the Committee on Rules has waived all points of order against the amendments in the nature of a substitute printed in the report accompanying the rule, except that the adoption of an amendment in the nature of a substitute constituted the conclusion of consideration of the concurrent resolution for amendment. See, *e.g.*, 106-2, Mar. 23, 2000, p 3342.

**§ 31. Perfecting Amendments; Motions to Strike****Preference as Between Perfecting Amendments**

There are no degrees of preference as between perfecting amendments. Deschler Ch 27 § 24.1. However, perfecting amendments to a section are considered before amendments proposing to insert new sections. 8 Cannon § 2356; Deschler Ch 27 § 24.2.

**Preference as Between Perfecting Amendment and Motion to Strike**

All perfecting amendments to a section of a bill must be disposed of before the vote on a pending motion to strike the section. Deschler Ch 27 § 24.3. After the first perfecting amendment has been disposed of, another may be offered and the vote on the motion to strike is again deferred until the amendment is disposed of. Deschler Ch 27 § 24.5. If the perfecting amendment as adopted changes all the text proposed to be stricken, the motion to strike necessarily falls and is not voted on. Deschler Ch 27 § 24.15. The principle of perfecting text before considering an amendment striking it from the bill is followed even where the motion to strike is improperly drafted as a second-degree amendment. Deschler Ch 27 § 24.12.

**§ 32. Substituting Amendments****Substitute Amendments**

A substitute for an amendment is not voted on until after amendments to the amendment have been disposed of. 8 Cannon § 2895. If the substitute is rejected, the amendment is open to further amendment; if the substitute is adopted, the question recurs on the amendment as amended by the substitute. Deschler Ch 27 § 25.1. Thus, where an amendment in the nature of a substitute to a bill is amended by the adoption of a substitute therefor, the question recurs on the amendment in the nature of a substitute, as amended. Deschler Ch 27 § 25.2. The defeat of the amendment as amended by the substitute results in the rejection of the language included in the substitute as amended. Deschler Ch 27 § 23.

**Amendments in the Nature of a Substitute**

An amendment in the nature of a substitute for a bill may be proposed before perfecting amendments to the pending portion of the original text have been offered or acted on, but may not be voted on until after such perfecting amendments have been disposed of. 5 Hinds § 5787; 8 Cannon § 2896; Deschler Ch 27 § 25. Thus, an amendment in the nature of a substitute having been proposed, amendments to the portion of the original text

that have been read are in order and are voted on before the question is taken on the substitute. 8 Cannon § 2861.

Where a substitute—striking all of the text and inserting new matter—for an amendment in the nature of a substitute is adopted, the vote occurs immediately on the amendment, as amended, and no further amendments to either proposition are in order, because the original amendment has been changed in its entirety by the substitute. Deschler Ch 27 § 25.

### **§ 33. Points of Order**

#### **Generally**

Points of order may lie against amendments that do not conform to established rules and practices. For example, an amendment may be barred because it violates the rule against amendments in the third degree, the “germaneness” rule, the prohibition against inclusion of legislation in an appropriation bill, or the prohibition against inclusion of an appropriation in a legislative bill. See § 14, *supra*; APPROPRIATIONS; and GERMANENESS OF AMENDMENTS. For points of order against amendments en bloc, see § 30, *supra*.

#### **Reserving Points of Order**

It is within the discretion of the Chair whether to permit a reservation of a point of order against an amendment, how long such a reservation can be maintained, and whether to dispose of the point of order before debate on the amendment. If a point of order is reserved, the Chair, with the sufferance of the Committee of the Whole, may permit debate by the proponent on the merits of the amendment before hearing argument on the point of order. The Chair then has the discretion to insist that the point of order be made following debate by the proponent of the amendment and before recognition of other Members. If the point of order is made rather than reserved, the Member making the point of order is immediately recognized for argument thereon. See POINTS OF ORDER; PARLIAMENTARY INQUIRIES.

#### **Reservation as Inuring to Other Members**

One Member’s reservation of a point of order against an amendment protects the rights of all Members to insist on a point of order. The reserving Member need not specify the basis of the reservation. The reservation of the point of order inures to all Members, who may raise other points of order before the intervention of further debate if the original point of order is overruled or withdrawn. See POINTS OF ORDER; PARLIAMENTARY INQUIRIES.

**§ 34. — Timeliness****Generally**

Except as provided in the last paragraph of this section, a point of order against an amendment is properly made (or reserved) immediately after the reading thereof, following agreement to a unanimous-consent request that the amendment be considered as read, or at any time before debate has begun on the amendment. It should be disposed of before amendments to that amendment are offered. Similarly, a point of order against certain language should be decided before recognition of another Member to offer an amendment to the challenged language. See POINTS OF ORDER; PARLIAMEN-TARY INQUIRIES.

**Effect of Intervening Amendment or Debate**

A Member must exercise due diligence in raising a point of order. A point of order against an amendment should be made or reserved before the proponent of the amendment has been recognized to debate the amendment. It cannot be raised after the proponent of the amendment has been recognized and has begun debate. A point of order against an amendment is not entertained where business has intervened between the reading of the amendment and the making of the point of order unless the intervening business is vacated. A unanimous-consent request to modify the amendment does not constitute intervening business. 106-1, Mar. 11, 1999, pp 4335-37. The re-reading of the amendment by unanimous consent after there has been debate does not permit the intervention of a point of order against the amendment. See POINTS OF ORDER; PARLIAMENTARY INQUIRIES.

Although a point of order against an amendment ordinarily comes too late if debate has begun thereon, the Chair has recognized a Member to make or reserve a point of order against an amendment where the Member raising the point was standing, seeking recognition, at the time the amendment was read. See POINTS OF ORDER; PARLIAMENTARY INQUIRIES; Deschler Ch 27 § 1.

**Points of Order That May Be Made “At Any Time”**

Clause 4 and clause 5(a) of rule XXI refer to points of order that may be “raised at any time.” Clause 4 deals with appropriations in a bill reported by committees not having jurisdiction to report appropriations and prohibits amendments carrying appropriations during consideration of a bill reported by a committee not having that jurisdiction. Clause 5(a) is aimed at tax or tariff measures contained in a bill reported by a committee not having that jurisdiction, or amendments of the Senate or amendments in the

House that are offered to a bill not reported therefrom. Points of order under these rules must still be raised when the offending bill or amendment is before the House for consideration. However, intervening debate or amendments will not preclude a proper point of order from being cognizable by the Chair when raised during the pendency of the amendment under the five-minute rule. See POINTS OF ORDER; PARLIAMENTARY INQUIRIES.

### § 35. Debate on Amendments

When general debate is closed in the Committee of the Whole, under the five-minute rule the proponent of an amendment is allowed five minutes in which to explain it, after which the Member who first obtains the floor has five minutes in opposition. Clause 5 of rule XVIII; *Manual* § 978. These time limitations do not apply, of course, where the measure is called up pursuant to a special order of business that specifies other terms of debate. Under clause 3(c) of rule XVII, a manager of a measure who opposes an amendment thereto is entitled to close controlled debate thereon. See CONSIDERATION AND DEBATE.

Where all time for debate on a section of a bill and amendments thereto has expired, amendments may still be offered to the section, but are voted on without debate, except in certain cases where a Member has caused an amendment to be printed in the *Congressional Record* pursuant to clause 8 of rule XVIII. Deschler Ch 27 § 14.9. For a discussion of limiting debate on amendments, see CONSIDERATION AND DEBATE.

### § 36. Withdrawal of Amendment

#### In the Committee of the Whole

Under clause 5(a) of rule XVIII, an amendment may not be withdrawn in the Committee of the Whole except by unanimous consent, unless withdrawal authority is conferred by the House. *Manual* §§ 905, 978; 5 Hinds §§ 5221, 5753; 8 Cannon §§ 2465, 2859; Deschler Ch 27 § 20.1. Thus, where a Member has been recognized by the Chair to offer an amendment and the amendment has been reported by the Clerk, unanimous consent is required to withdraw the amendment. Deschler Ch 27 § 20.4. However, unanimous consent is not required to withdraw an amendment that is merely at the Clerk's desk and has yet to be offered. Deschler Ch 27 § 20.5.

Where a point of order is made or reserved against an amendment and a unanimous-consent request is then made for the withdrawal of the amendment, the Chair will first dispose of the unanimous-consent request. Deschler Ch 27 § 20.6.

The withdrawal of an amendment by unanimous consent does not preclude its being subsequently reoffered, and unanimous consent is not required to reoffer the amendment if otherwise in order. Deschler Ch 27 § 20.10.

### **In the House**

Although unanimous consent to withdraw an amendment is required in the Committee of the Whole, an amendment in the House may be withdrawn by the proponent at any time before a decision or amendment is rendered thereon. Clause 6 of rule XVI. The same right to withdraw an amendment exists in the House as in the Committee of the Whole and in standing committees where general procedures in the House as in the Committee of the Whole apply. *Manual* § 905.

### **§ 37. Modification of Amendment**

The proponent of an amendment may modify such amendment only by unanimous consent. Deschler Ch 27 §§ 21.1-21.3. However, where there is pending an amendment and a substitute therefor, the Member who offered the original amendment may also offer an amendment to the substitute, such action not constituting an amendment to one's own amendment. Deschler Ch 27 § 21.4. A unanimous-consent request may be entertained in the Committee of the Whole to permit the modification of a designated amendment made in order by a "modified-closed" special order of business, once pending. *Manual* § 993.

The modification of a pending amendment by its proponent should be offered before the amendment is voted on. 106-2, Mar. 29, 2000, p 4017. However, in one instance, pending a request for a recorded vote following a voice vote on an amendment, the Committee of the Whole, by unanimous consent, vacated the Chair's putting of the question on the amendment so as to permit its modification. Deschler Ch 27 § 21.7.

The fact that a decision of the Chair is pending on a point of order against an amendment does not necessarily preclude a request by its proponent that it be modified. Deschler Ch 27 § 21.6. However, the Chair or any Member may insist that a proposed modification be submitted in writing and read by the Clerk. Deschler Ch 27 § 21.8.

In the event of objection to a unanimous-consent request to modify a pending amendment, any Member—other than the proponent of the amendment—may offer a proper amendment thereto. Deschler Ch 27 § 21.10. Indeed, a request to modify an amendment, when made by a Member who is not the proponent thereof, is sometimes treated as a motion to amend

rather than as a unanimous-consent request. 99-1, Dec. 5, 1985, pp 34730, 34731.

## **F. Effect of Adoption or Rejection; Changes After Adoption**

### **§ 38. In General; Effect of Adoption of Perfecting Amendment**

#### **Generally**

It is fundamental that it is not in order to amend an amendment previously agreed to. *Manual* §§ 468-474; 8 Cannon § 2856; Deschler Ch 27 § 29.2. Once the text of a bill has been perfected by amendment, the perfected text cannot thereafter be amended. Deschler Ch 27 § 29.8. Similarly, the adoption of an amendment to a substitute precludes further amendment to those portions of the substitute so amended. *Manual* § 469; see § 41, *infra*.

However, in order for an amendment to be ruled out of order on the ground that its substance has already been passed on by the House, the language thereof must be practically identical to that of the proposition already acted on. 5 Hinds § 5760; 8 Cannon § 2839; Deschler Ch 27 § 29.1. The precedents do not preclude the offering of an amendment merely because it is similar to, or achieves the same effect as, an amendment previously agreed to. *Manual* § 466. Although it is not in order to reinsert precise language stricken by amendment, an amendment similar but not identical to the stricken language may be offered if germane to the pending portion of the bill. A simple change in substance in the words sought to be inserted, such as changing the word “shall” to “may,” allows the amendment to be offered. Deschler Ch 27 § 31.8.

#### **Effect of Inconsistency**

The Chair will not rule out an amendment as being inconsistent with an amendment previously adopted, as the consistency of amendments is a question for the House to determine by its vote on the amendment. *Manual* § 466; Deschler Ch 27 § 29.23. It follows that an amendment is not subject to a point of order that its provisions are inconsistent with a section of the bill already considered under the five-minute rule. Deschler Ch 27 § 29.25.

#### **Amendments Negating Proposition Previously Adopted**

The Committee of the Whole may not amend a section of a bill already passed during the reading. However, it may adopt an amendment to a later section that has the effect of negating the provisions of the earlier section because the Committee of the Whole may consider a subsequent amendment

which contradicts a proposition previously agreed to. Deschler Ch 27 §§ 29.20, 29.26.

### **Changes Following Amended Text**

The adoption of a perfecting amendment only precludes further amendments changing the perfected text; amendments are in order that add language to an unamended portion at the end of the amended text. *Manual* § 469. Likewise, the adoption of an amendment inserting a new subsection in a bill does not preclude consideration of another amendment inserting another new subsection immediately thereafter which does not textually change the amendment already agreed to. Deschler Ch 27 § 29.21.

### **The “Bigger Bite” Rule**

Although an amendment may not be offered to change only that portion of the pending text which has been altered by amendment, a further amendment changing a more comprehensive portion of the pending text is in order. Deschler Ch 27 § 31.18. In other words, an amendment taking a “bigger bite” of the pending text than that altered may be permitted. Thus, although it is not in order to further amend an amendment previously agreed to, an amendment encompassing a more comprehensive portion of the bill, including original text not yet amended, is in order. Deschler Ch 27 § 29.9. Similarly, it is in order to offer an amendment which strikes language changed by amendment as well as other matter and inserts language which proposes substantive changes going beyond the original amendment or strikes out matter not only in the amendment previously agreed to but also in additional portions of the pending bill. *Manual* § 474; Deschler Ch 27 § 29.

### **Effect of Special Orders of Business**

The general principle that an amendment may not be offered which directly changes an amendment already agreed to does not apply where the House has adopted a special order of business permitting amendments to be offered even if changing portions of amendments already agreed to. Deschler Ch 27 § 29.48. In addition, where a special order of business permits a motion to recommit “with or without” instructions, a motion to recommit may include an amendment that changes an amendment already adopted by the House. See § 47, *infra*.

### **§ 39. Adoption of Amendment as Precluding Motions to Strike**

It is not in order to offer an amendment merely striking an amendment previously agreed to. 94-1, Aug. 1, 1975, pp 26946, 26947. For example, where by amendment a new paragraph or section has been added to the text,

it is not in order to offer an amendment that merely strikes that new paragraph or section. *Manual* § 474; Deschler Ch 27 § 30.10.

On the other hand, the adoption of a perfecting amendment to a *portion* of the text of a bill does not preclude a vote on a pending motion to strike the entire text as amended. Deschler Ch 27 § 30.4. Similarly, although a provision inserted by amendment may not thereafter be stricken, a motion to strike more than the provision previously inserted is in order. Deschler Ch 27 § 30.7.

Although the adoption of an amendment changing all the text of a section precludes a vote on a pending motion to strike that section, the motion to strike will still be voted on where the perfecting amendment to the section changes some but not all of that text. Deschler Ch 27 § 30.3. However, in this situation another perfecting amendment to strike the remainder of the section not yet perfected may be offered and voted on before the motion to strike the entire section and, if adopted, the motion to strike the section falls and is not voted on, the whole text having been changed. Deschler Ch 27 § 30.14.

The adoption of a perfecting amendment to part of a section does not preclude a motion to strike the section and insert new text. Deschler Ch 27 § 30.12. Similarly, the adoption of a perfecting amendment inserting language at the end of a paragraph does not preclude an amendment striking the entire perfected paragraph and inserting new language. Deschler Ch 27 § 30.15. However, where a bill is being read by section, and committee amendments adding new sections at the end of a bill have been adopted, an amendment proposing to strike a section of the original bill and the new sections is not in order. Deschler Ch 27 § 30.9.

## **§ 40. Effect of Adoption of Motions to Strike**

### **Adoption of Motion to Strike**

A motion to strike a section of a bill, if adopted by the Committee of the Whole, strikes the entire section including a provision that was added as a perfecting amendment to that section. Adoption by the Committee of the amendment striking the section vitiates the Committee's prior adoption of perfecting amendments to that section, and only the motion to strike is reported to the House. Deschler Ch 27 §§ 31.1, 31.2. The bill returns to the form as originally introduced upon rejection by the House of the amendment reported by Committee. Deschler Ch 27 § 31.3. Where an amendment has been adopted striking language in a bill, a perfecting amendment to the stricken language comes too late and is not in order. Deschler Ch 27 § 31.9.

Although it is not in order to reinsert precise language stricken by amendment, an amendment similar but not identical to the stricken language may be offered if germane to the pending portion of the bill. Deschler Ch 27 § 31.6. See also *Manual* § 468; 5 Hinds 5760.

#### **Adoption of Motion to Strike and Insert**

If an amendment to strike a portion of a bill and insert new language is agreed to, a pending amendment proposing to strike the same portion falls and is not voted on. *Manual* § 469; Deschler Ch 27 §§ 31.11, 31.12. When an amendment striking certain language and inserting other provisions has been adopted, it is not in order to further amend the provisions so inserted. *Manual* § 469; Deschler Ch 27 § 31.14.

The adoption of a perfecting amendment to strike and insert does not preclude the offering of another amendment to strike and insert which goes beyond the changes made by the first amendment. Deschler Ch 27 § 31.18. Similarly, although it is not in order to perfect or reinsert language which has been stricken, an amendment may be offered to insert new language if it is germane to the bill and not identical to the language stricken. Deschler Ch 27 § 31.7. However, if a motion to strike all after the first word of text and insert a new provision is agreed to, the language thus inserted cannot thereafter be amended. Deschler Ch 27 § 31.14.

#### **§ 41. Adoption of Amendment in the Nature of a Substitute**

The adoption of an amendment in the nature of a substitute ends the amendment stage; and further amendment is not in order, including pro forma amendments for debate. Deschler Ch 27 §§ 32.1, 32.2, 32.22. Thus, absent a special order of business to the contrary, the adoption of an amendment in the nature of a substitute precludes the offering of another. Deschler Ch 27 § 32.4. Debate having been closed, adoption of the amendment causes the stage of amendment to be passed and amendments—though printed in the *Congressional Record*—cannot thereafter be offered. Deschler Ch 27 § 32.3.

The adoption of an amendment in the nature of a substitute, as amended by a substitute, precludes further amendment to the amendment and to the bill. Deschler Ch 27 § 32.8. When the substitute is agreed to, the question recurs immediately on the amendment as amended by the substitute, and further perfecting amendments to the amendment (including pro forma amendments) are not then in order. Deschler Ch 27 § 32.22.

### § 42. Amendments Pertaining to Monetary Figures

When a specific amendment to a monetary figure in a bill has been agreed to, further amendment of that specific sum is not in order. Deschler Ch 27 §§ 33.1-33.3; *Manual* § 455. However, an amendment inserted following the figure agreed upon and providing funds “in addition thereto” is in order. Deschler Ch 27 § 33.13. An amendment adding a new section having the indirect effect of changing amended amounts in the bill may also be in order. Deschler Ch 27 § 33.10. In recent practice an amount in an appropriation bill has been changed by inserting a parenthetical “increased by” or “decreased by” after the amount rather than by directly changing the figure in order to avoid such a point of order. *Manual* § 455.

Where the Committee of the Whole has adopted an amendment changing the total figure in a paragraph of an appropriation bill, it is not in order to further amend such figure. Deschler Ch 27 § 33.9.

Although it is not in order to offer an amendment merely changing an amendment already adopted, it is in order to offer a subsequent amendment more comprehensive than the amendment adopted, changing unamended portions of the bill as well. Deschler Ch 27 § 33.7 (note); § 38, *supra*. Thus, after adoption of amendments changing monetary figures in a bill, an amendment making a general percentage reduction in all figures contained in the bill and indirectly affecting those figures, is still in order. Deschler Ch 27 § 33.10. Likewise, the adoption of a perfecting amendment to a concurrent resolution on the budget changing several figures would preclude further amendment merely changing those amended figures but would not preclude more comprehensive amendments changing other portions of the resolution which had not been amended. Deschler Ch 27 § 29.47.

Although it may be in order to offer an amendment to the pending portion of the bill that changes not only a provision already amended but also an unamended pending portion of the bill, it is not in order merely to amend a figure already amended. Even if the amendment also changes other matter not already amended (including where it is drafted to address figures as though the earlier amendment had not been adopted), it is still out of order. *Manual* § 469.

Members have offered “fetch-back” amendments to appropriation bills, which are new paragraphs inserted to change amounts contained in previous paragraphs. “Fetch-back” amendments may be in order as long as the amendment is germane to the portion of the bill to which offered and amounts only to a reduction of funds contained in previous paragraphs. See, *e.g.*, 106-1, Aug. 5, 1999, pp 20143, 20144. However, a “fetch-back” amendment increasing an amount contained in a prior paragraph must be

supported by an authorization. Such support is necessary because the precedents that admit a germane perfecting amendment to an unauthorized item permitted to remain deal with actual changes in the figure permitted to remain and not with the insertion of new matter beyond that permitted to remain. *Manual* § 1058; see APPROPRIATIONS.

### § 43. Effecting Changes by Unanimous Consent

By unanimous consent, it is in order to amend an amendment which has already been agreed to. Deschler Ch 27 § 34.1. For example, unless otherwise restricted by a special order of business governing consideration of a measure (*Manual* § 993), the Committee of the Whole may by unanimous consent:

- Permit Members to offer amendments to change an amended figure in an appropriation bill. Deschler Ch 27 § 34.7.
- Permit a previously adopted amendment to an amendment to be considered as adopted instead to a pending substitute for the underlying amendment. 99-2, Aug. 5, 1986, pp 19107, 19108.
- Permit a modification of an amendment by its proponent. *Manual* § 993.
- Permit a page reference to be included in a designated printed amendment made in order under a special order of business where the printed amendment did not include that reference. *Manual* § 993.

In one instance, the Committee of the Whole by unanimous consent vacated the proceedings whereby it had agreed to an amendment, agreed to an amendment to that amendment, and then adopted the original amendment as amended. Deschler Ch 27 § 34.2.

### § 44. Amendments Previously Considered and Rejected

#### Generally

It is not in order to offer an amendment identical to one previously rejected. Deschler Ch 27 §§ 35.1, 35.2. However, an amendment that raises the same question by the use of different language may be admissible. Deschler Ch 27 § 35. An amendment similar but not identical to one previously rejected may be considered if a substantive change has been made. Deschler Ch 27 §§ 35.3, 35.4. Rejection of an amendment changing a figure in a bill does not preclude the offering of a different amendment to that provision. Deschler Ch 27 § 35.21.

An amendment in different form may be entertained even though its effect may be similar to that of a rejected amendment. Deschler Ch 27 §§ 35.11, 35.13. Thus, in one instance, after an amendment containing a limitation on the use of funds in an appropriation bill had been rejected, the

Chair held that another amendment—containing a similar limitation and also stating an exception from that limitation—was not an identical amendment and therefore could be offered. Deschler Ch 27 § 35.18. Presiding officers have been reluctant to rule out an amendment as dilatory merely because of its similarity to one previously rejected. Deschler Ch 27 § 35.7.

A motion offered as a substitute for an amendment and rejected may be offered again as a separate amendment. Deschler Ch 27 § 35.8. Similarly, a proposition offered as an amendment to an amendment and rejected may be offered again, in identical form, as an amendment to the bill. Deschler Ch 27 § 35.9.

A portion of a rejected amendment may be subsequently offered as a separate amendment if presenting a different proposition. Thus, rejection of an amendment consisting of two sections does not preclude one of those sections being subsequently offered as a separate amendment. Deschler Ch 27 § 35.17.

#### **Rejection of Motion to Strike**

A motion to strike certain language having been previously rejected, it may not be offered a second time. Deschler Ch 27 § 35.22. However, a motion to strike that language and insert a new provision is in order. Deschler Ch 27 § 35.23. Conversely, if the motion to strike and insert is rejected, the simple motion to strike is in order. Deschler Ch 27 § 35.11.

#### **Rejection of En Bloc Amendments**

Rejection of several amendments considered en bloc by unanimous consent does not preclude their being offered separately at a subsequent time. Deschler Ch 27 § 35.15. It follows that where an amendment to a figure in a bill considered en bloc with other amendments has been rejected, no point of order lies against a subsequent amendment to that figure which specifies a different amount and which is offered as a separate amendment. Deschler Ch 27 § 33.16.

### **G. House Consideration of Amendments Reported From the Committee of the Whole**

#### **§ 45. In General; Voting**

##### **Generally**

Only amendments adopted in the Committee of the Whole are reported to the House. All amendments so reported stand on an equal footing and must be voted on by the House, notwithstanding inconsistencies among

them, and are subject to amendment in the House unless the previous question is ordered. 4 Hinds §§ 4871, 4881; 8 Cannon § 2419. However, under modern practice, the previous question is ordered by special order of business upon the rising and reporting of the Committee of the Whole. Where in the unusual case it is in order to submit additional amendments to the pending bill, the first question is on the amendments reported from the Committee of the Whole. 4 Hinds § 4872.

### **Kinds of Amendments Reported to the House**

Some amendments adopted in the Committee are not reported to the House. Pursuant to a practice originating in the 19th Congress (1825), the Committee reports amendments only in their perfected form. 4 Hinds § 4904; Deschler Ch 27 § 36.1. Thus, if the Committee of the Whole perfects a bill by adopting certain amendments and then adopts an amendment striking those provisions and inserting a new text, only the adopted motion to strike and insert is reported to the House. Deschler Ch 27 §§ 36.5, 36.13. Similarly, the adoption by the Committee of an amendment striking a section of a bill vitiates the Committee's prior adoption of perfecting amendments to that section, so that only the motion to strike is reported to the House. Deschler Ch 27 § 31.2. However, when the bill is being considered under a special order of business permitting separate consideration in the House of *any* amendments adopted in the Committee, all amendments adopted in the Committee are reported to the House, regardless of their inconsistency. Deschler Ch 27 § 36.13.

### **Demanding a Separate Vote**

Although the House may act at once on all the amendments to a bill reported from the Committee of the Whole *en gros*, it is the right of any Member to demand a separate vote on any reported first-degree amendment. 4 Hinds §§ 4893, 4894; 8 Cannon § 2419. However, a special order of business may prohibit a demand for separate votes on sundry amendments, requiring all amendments to be acted upon *en gros*. In the absence of a special order of business providing therefor, a separate vote may not be had in the House on an amendment to an amendment which has been adopted by the Committee of the Whole. Deschler Ch 27 § 36.6. This principle precludes a separate vote in the House on an amendment to an amendment in the nature of a substitute adopted in the Committee. Deschler Ch 27 § 36.8. Because the Committee in reporting a bill with an amendment to the House reports such amendment in its perfected form, it is not in order in the House to have a separate vote upon each perfecting amendment to the amendment

that has been agreed to in the Committee absent a special order of business providing to the contrary. Deschler Ch 27 § 36.

A special order of business may, of course, provide for separate votes on second-degree amendments. Deschler Ch 27 § 36. However, where separate votes are permitted, only those amendments reported to the House from the Committee of the Whole are voted on; it is not in order to demand a separate vote in the House on amendments rejected in the Committee. Deschler Ch 27 § 36.12. The House theoretically has no information as to actions of the Committee of the Whole on amendments not reported therefrom. Deschler Ch 27 § 36.

Where a special order of business permits a demand in the House for a separate vote on an amendment adopted to an amendment in the nature of a substitute for a bill reported from the Committee of the Whole, the Speaker inquires whether a separate vote is demanded before putting the question on the amendment in the nature of a substitute. Deschler Ch 27 § 36.14. A Member must demand the separate vote before the question is taken on the substitute. Deschler Ch 27 § 36.18. A demand in the House for a separate vote on an amendment to the amendment comes too late after the amendment, as amended, has been agreed to. Deschler Ch 27 § 36.19.

### **En Bloc Amendments**

Where the Committee of the Whole reports a bill back to the House with amendments, some of which were considered en bloc pursuant to a special order of business, the en bloc amendments may be voted on again en bloc on a demand for a separate vote. Deschler Ch 27 § 36.27. A separate vote being demanded, the Chair puts the question separately on the amendments en bloc in the House, where no Member demands a division of the question. Deschler Ch 27 § 36.28. However, another amendment separately considered in Committee may not be voted on with the en bloc amendments in the House (absent unanimous consent). Deschler Ch 27 § 36.27.

For division of an amendment for voting, see VOTING.

### **Order of Consideration**

When demand is made for separate votes in the House on several amendments adopted in the Committee of the Whole, such amendments are read and voted on in the House in the order in which they appear in the bill as reported from the Committee of the Whole—not in the order in which agreed to in Committee or in which demanded in the House. *Manual* § 337; Deschler Ch 27 §§ 36.16, 37.1. However, where a special order of business prescribes the order for consideration of amendments (with the bill being considered as read) in the Committee of the Whole, then separate

votes demanded in the House on adopted amendments are taken in that same order, regardless of the order in which the amendments may appear in the bill. *Manual* § 337.

Where a special order of business provides for a separate vote on an amendment to an amendment in the nature of a substitute reported from the Committee of the Whole, the Speaker puts the question first on the amendment on which a separate vote is demanded, then on the amendment in the nature of a substitute, as amended. Deschler Ch 27 § 37.6.

### **§ 46. Effect of Rejection of Amendment**

#### **Generally**

When the House rejects an amendment adopted in the Committee of the Whole, the original text of the bill is before the House. Deschler Ch 27 § 38.1. Thus, if an amendment in the nature of a substitute is reported from the Committee of the Whole and rejected by the House, the original bill is before the House. Deschler Ch 27 § 38.5. Similarly, if an amendment striking and inserting is reported from the Committee of the Whole and rejected by the House, the language of the original bill is before the House. Deschler Ch 27 § 38.12.

#### **Rejection of Motion to Strike**

Where the Committee of the Whole adopts perfecting amendments to the language of a bill and then agrees to an amendment striking that language, only the latter amendment is reported to the House. In the event of its rejection by the House, the original language, and not the perfected text, is before the House. Deschler Ch 27 §§ 38.3, 38.8. However, the practice may be otherwise where the House is operating under a special order of business allowing separate votes in the House on *any* amendment adopted in the Committee of the Whole. As indicated elsewhere (§ 45, *supra*), under such a rule all amendments adopted in Committee to the amendment are reported to the House regardless of their inconsistency. The House may retain a section as perfected in the Committee of the Whole by first adopting on separate votes the perfecting amendments to the section and then rejecting on a separate vote the motion to strike that section. Deschler Ch 27 § 38.11 (note).

### **§ 47. Motions to Recommit with Instructions Pertaining to Amendments**

The House may recommit a bill to committee with instructions to report it back “forthwith” with an amendment. 5 Hinds § 5545. In such cases the

chair of the committee reports the amendment at once without awaiting committee action. 5 Hinds §§ 5545-5547. Instructions to report “forthwith” accompanying a motion to recommit must be complied with immediately. *Manual* § 1002b. However, it is not in order to propose as instructions anything that might not be proposed directly as an amendment, such as to propose an amendment that is not germane to the bill, or to propose an amendment containing legislation or a limitation on a general appropriation bill not in order in the Committee of the Whole. *Manual* § 1002b; 5 Hinds §§ 5529-5541; 8 Cannon §§ 2705, 2712.

A motion to recommit may not include instructions to modify any part of an amendment previously agreed to by the House. 8 Cannon §§ 2720, 2721, 2740; Deschler Ch 27 § 32.5. However, where a bill is being considered under a special order of business permitting a motion to recommit “with or without instructions,” a motion to recommit may include an amendment which changes an amendment already adopted by the House, even where the House has adopted an amendment in the nature of a substitute. Clause 6(c) of rule XIII precludes the Committee on Rules from reporting a rule that would prevent a motion to recommit a bill or joint resolution with or without instructions if offered by the Minority Leader or a designee. See generally REFER AND RECOMMIT.

The rejection of an amendment in the Committee of the Whole does not preclude the offering of the same amendment in the House in a motion to recommit with instructions. Deschler Ch 27 § 35.27.

## H. Amendments to Titles and Preambles

### § 48. In General

#### Amending Titles

Amendments to the title of a bill are not in order until after passage of the bill, and are then voted upon without debate. Deschler Ch 24 § 9.4; Deschler Ch 27 § 19.1; clause 6 of rule XVI. An amendment in the Committee of the Whole proposing an amendment to the title is not in order. *Manual* § 922; Deschler Ch 27 § 19.4. Committee amendments to the title of a bill are automatically reported by the Clerk after passage of the bill, although an amendment to a committee amendment to the title may be offered from the floor. Deschler Ch 27 § 19.6.

#### Amending Preambles of Joint Resolutions

In the Committee of the Whole, amendments to the preamble of a joint resolution are considered following disposition of any amendments to the

body of the resolution. Deschler Ch 27 §§ 19.7, 19.8; *Manual* § 414. In the House an amendment to the preamble of a joint resolution reported from Committee of the Whole is considered following engrossment and before the third reading of the resolution. 4 Hinds § 3414; Deschler Ch 27 § 19.9.

An amendment to the preamble of a Senate joint resolution is considered after disposition of amendments to the text of the joint resolution and pending the third reading. 97-1, Nov. 19, 1981, pp 28208, 28209.

#### **Amending Preambles of Simple or Concurrent Resolutions**

Amendments to the preamble of a simple or concurrent resolution are considered and voted on in the Committee of the Whole after amendments to the body of the resolution. Amendments to the preamble of such a resolution are voted on in the House after the resolution has been adopted. 7 Canon § 1064; Deschler Ch 27 §§ 19.11-19.13. In the House the previous question is ordered separately on the preamble after adoption of the resolution if amendments to the preamble are offered. Deschler Ch 24 § 9.9. The motion for the previous question may be applied at once to both a resolution and its preamble. 105-2, Feb. 12, 1998, pp 1333, 1334.