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

§ 2. Pro Forma Amendments

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

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

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

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

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

4. See § 6, infra.

5. See the discussion in the notes to Rule XXIII clause 5(a), *House Rules and Manual* § 873 (101st Cong.).

6. See § 3.38, infra.

7. See, for example, Sec. 2.6, infra.

See also Rule XXIV clause 6, *House Rules and Manual* § 893 (101st Cong.).

rule has been so broadly stated as to preclude such amendments on private bills generally.[8] But on one occasion it has been specifically ruled that it is in order during the consideration of individual bills on the Private Calendar to strike out the last word.[9]

When in Order

§ 2.1 Any Member who gains the floor to offer any permissible amendment is entitled to the floor, and it is not the duty of the Chair to ask such Member whether he offers his amendment as a bona fide or pro forma amendment.

On May 16, 1938,[10] the following exchange took place:

> MR. [JOHN J.] COCHRAN [of Missouri]: . . . My parliamentary inquiry is whether a point of order would lie against the motion of a Member to strike out the title when, as a matter of fact, the Member was not in favor of striking out the title.
>
> THE SPEAKER PRO TEMPORE:[11] The present occupant of the chair would have no way of reading a Member's mind or questioning his motive with reference to any amendment that he might offer. The Chair thinks that any Member who gained the floor to offer any permissible amendment would be in order and he would be entitled to the floor.

Amendments in Nature of Substitute

§ 2.2 When an amendment in the nature of a substitute is being read by sections pursuant to a special rule, substantive as well as pro forma amendments are in order following the reading of each section.[12]

§ 2.3 When an amendment in the nature of a substitute is, by unanimous consent, considered as read and open to amendment, the entire amendment is then subject to substantive or pro forma amendment.[13]

Scope of Debate

§ 2.4 Debate in the Committee of the Whole under the five-minute rule is confined to the subject and, if the point of order is raised, a Member may not under a pro forma

8. See 100 CONG. REC. 1826, 1827, 83d Cong. 2d Sess., Feb. 16, 1954; and 80 CONG. REC. 3158, 74th Cong. 2d Sess., Mar. 3, 1936.
9. 80 CONG. REC. 5075, 74th Cong. 2d Sess., Apr. 7, 1936.
   For discussion of private bills generally, see Ch. 22, supra, Calendars.
10. 83 CONG. REC. 6938, 75th Cong. 3d Sess.
11. Sam Rayburn (Tex.).
12. See Sec. 22.11, infra.
13. See Sec. 22.11, infra.

amendment discuss a section of the bill not immediately pending.

On Feb. 9, 1950,[14] The following proceedings took place:

MR. [CECIL F.] WHITE of California: Mr. Chairman, I make the point of order that the gentleman is not discussing the bill and he did not ask for unanimous consent to proceed out of order. . . .

MR. [REID F.] MURRAY of Wisconsin: . . . I moved to strike out the last word. I am talking in connection with this bill. . . .

THE CHAIRMAN:[15] The gentleman should discuss that matter which is pending at the present time. The part of the bill to which he refers has not been reached yet.

§ 2.5 Debate on a pro forma amendment must be confined to the portion of the bill to which the pro forma amendment has been offered.

On June 21, 1974,[16] during consideration of a bill in the Committee of the Whole, the Chair made the ruling described above:

MR. [PIERRE S.] DU PONT [of Delaware]: Mr. Chairman, I move to strike the requisite number of words. . . .

Mr. Chairman, I am taking this time now for fear that when we get down to the end of the bill there will be a limitation of time, and I will not have the opportunity to explain the amendment that I intend to offer on the last page of the bill.

Mr. Chairman, I intend to offer an amendment to set a maximum limit on the appropriations under this bill to $12.7 billion. . . .

MR. [JOHN E.] MOSS [of California]: Mr. Chairman, a point of order.

THE CHAIRMAN:[17] The gentleman will state his point of order.

MR. MOSS: Mr. Chairman, my point of order is that I must insist upon the regular order, and the regular order is not being observed. There has been no unanimous-consent request to proceed out of order, and the House is now proceeding out of order. So I call for the regular order.

THE CHAIRMAN: The gentleman will proceed in the regular order.

MR. [H. JOHN] HEINZ [of Pennsylvania]: Mr. Chairman, will the gentleman yield?

MR. DU PONT: I will be glad to yield to the gentleman from Pennsylvania.

MR. HEINZ: I thank the gentleman for yielding.

I am afraid the intent——

MR. MOSS: Mr. Chairman, I insist on the regular order, and the regular order is the point of the bill where we are now reading. It is not a point to be reached at a later time. I insist upon the regular order.

THE CHAIRMAN: The gentleman is correct. The gentleman in the well received permission to strike out the last

14. 96 CONG. REC. 1753, 81st Cong. 2d Sess. Under consideration was H.R. 7201, a deficiency appropriation bill.

15. Mike Mansfield (Mont.).

16. 120 CONG. REC. 20595, 93d Cong. 2d Sess. Under consideration was H.R. 15472, agriculture, environment, and consumer appropriations, fiscal 1975.

17. Sam Gibbons (Fla.).

word and then proceeded to discuss an amendment to be offered to the last section of the bill. The gentleman from Pennsylvania is not discussing a part of the bill that is pending.

The point of order is sustained.

Private Bill

§ 2.6 The Chair on one occasion held that an amendment proposing to reduce the amount of money in an omnibus private bill was a pro forma amendment and therefore not in order.

On July 20, 1937,[18] the following proceedings took place:

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

On page 5, line 9, strike out "$5,000" and insert in lieu thereof "$4,999.99." . . .

MR. [JOHN E.] RANKIN [of Mississippi]: . . . I submit that this is too small a matter to be considered by the House at this time.

THE SPEAKER PRO TEMPORE:[19] The Chair must hold that under the spirit of the rule for the consideration of omnibus private bills, such an amendment, which is in effect a pro forma amendment, is not in order.

18. 81 CONG. REC. 7299, 7300, 75th Cong. 1st Sess.

19. John J. O'Connor (N.Y.).

Effects of Restrictive Rules on Pro Forma Amendments—Use of Pro Forma Amendments Where Rule Permits Only Printed Amendments Not Subject to Amendment

§ 2.7 Where there was pending a perfecting amendment to a title of a bill being considered under a special rule permitting only germane amendments printed in the Record for at least two calendar days to be offered to that title, and prohibiting amendments thereto, the Chairman of the Committee of the Whole indicated in response to parliamentary inquiries that Rule XXIII clause 5 permitted only the proponent and one opponent of the amendment to speak for five minutes each, and that the special rule prohibited other Members from offering pro forma amendments to that amendment to gain additional time; and that the pendency of a perfecting amendment precluded the offering of a pro forma amendment printed in the Record as a perfecting amendment to the bill.

The Chair responded as indicated to inquiries made on Mar.

26, 1974,[20] during consideration of H.R. 69, to amend and extend the Elementary and Secondary Education Act. He stated further that by unanimous consent additional time for debate on the amendment could be obtained for either the proponent or opponent of the amendment, but not for other Members.

MR. [PETER] PEYSER [of New York]: Mr. Chairman, I have a parliamentary inquiry. . . .

Was there a time limit on the amendment when the gentleman asked to be recognized in support of the amendment?

THE CHAIRMAN:[1] That is correct. The gentleman from New York already has been recognized for 5 minutes with several extensions by unanimous consent.

MR. PEYSER: I did not ask for it; the gentleman from Connecticut asked for it.

THE CHAIRMAN: The gentleman could have asked for an extension on the time of the gentleman from Minnesota, but none on his own time, under the rule.

MR. PEYSER: Mr. Chairman, I have another parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. PEYSER: I am not aware of any time limit to speak on the amendments under the regular 5-minute rule.

THE CHAIRMAN: The Chair might as well read the rule adopted in the House for the benefit of the membership so they will understand.

House Resolution 963 adopted in the House on March 12 provides in part:

> No amendment shall be in order to title I of said substitute except germane amendments which have been printed in the Congressional Record at least two calendar days prior to their being offered during the consideration of said substitute for amendment, and amendments offered by the direction of the Committee on Education and Labor, and neither of said classes of amendments shall be subject to amendment.

Under the provisions of the rule, the proponent of the amendment is to be allowed 5 minutes, and a Member in opposition to the amendment, 5 minutes. . . .

Under clause 5, rule XXIII, only one member may speak in opposition, and under Public Resolution 963, a pro forma amendment is in order only to the bill, not to an amendment. . . .

MR. [DONALD M.] FRASER [of Minnesota]: The Chairman stated that a pro forma amendment to the bill was in order?

THE CHAIRMAN: That is correct.

MR. FRASER: Should not a pro forma amendment to the bill be considered in the nature of a perfecting amendment in order during the consideration of Mr. Peyser's amendment?

THE CHAIRMAN: The Chair will state that a pro forma amendment would not be in order while the amendment is pending, because that would be considered as a perfecting amendment to the amendment under consideration.

MR. FRASER: If the Chair would permit me to state, a pro forma amendment is offered to the bill rather than

20. 120 CONG. REC. 8242, 8243, 93d Cong. 2d Sess.

1. Melvin Price (Ill.).

to an amendment. It seems to me it would not fall under the constraint which the Chair has placed on it.

THE CHAIRMAN: Under the rule there can be only one perfecting amendment pending at a time, and a perfecting amendment is pending. Therefore, a pro forma amendment would not be in order.

§ 2.8 Under a special rule permitting only germane amendments printed in the Record for at least two calendar days to be offered to a designated title of a bill, and prohibiting amendments thereto, a Member was permitted to offer a pro forma amendment to that title ("to strike the requisite number of words") where that amendment had been inserted in the Record by another Member, and at a time when no substantive amendment was pending.

On Mar. 26, 1974,[2] the following proceedings took place:

THE CHAIRMAN:[3] . . . Under the rule, no amendment shall be in order to title I of the substitute committee amendment printed in the reported bill except germane amendments which have been printed in the Congressional Record at least 2 calendar days prior to their being offered during the consideration of said substitute for amendment, and amendment offered by direction of the Committee on Education and Labor, and neither of said classes of amendments shall be subject to amendment.

Pursuant to the rule, the Clerk will now read by titles the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows: . . .

TITLE I—AMENDMENTS OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

EXTENSION OF TITLE I PROGRAMS

Sec. 101. Section 102 of title I of the Elementary and Secondary Education Act of 1965 (hereinafter referred to as "the Act") is amended (1) by striking out "for grants to local educational agencies". . . .

MR. [CARL D.] PERKINS [of Kentucky] (during the reading): Mr. Chairman, I ask unanimous consent that further reading of title I be dispensed with, it be printed in the Record, and open to amendment at any point.

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

There was no objection.

MR. PERKINS: Mr. Chairman, I move to strike the requisite number of words.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I make a point of order. Under the rule the motion is not in order unless he has printed the motion in the Record.

2. 120 CONG. REC. 8229, 8233, 8243, 93d Cong. 2d Sess. Under consideration was H.R. 69, to amend and extend the Elementary and Secondary Education Act.

3. Melvin Price (Ill.).

THE CHAIRMAN: The Chair overrules the point of order. The amendment offered by the gentleman from Kentucky was printed in the Record.

§ 2.9 Where there was pending an amendment to a title of a bill being considered under a special rule permitting only germane amendments printed in the Record for at least two calendar days to be offered to that title, and prohibiting amendments thereto, a modification of an amendment printed in the Record was permitted in Committee of the Whole by unanimous consent.

On Mar. 26, 1974,[4] during consideration in the Committee of the Whole of a bill,[5] a modification to an amendment was permitted, as described above. The proceedings were as follows:

MRS. [PATSY T.] MINK [of Hawaii]: Mr. Chairman, I offer an amendment to the committee substitute.

THE CHAIRMAN:[6] Is the amendment printed in the Record?

MRS. MINK: It is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mrs. Mink to the committee substitute: The first sentence of Section 103(a)(1), beginning on line 13 on page 28, is amended to read as follows: "Sec. 103. (a)(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under section 134(a). . . .

MR. [LLOYD] MEEDS [of Washington]: Mr. Chairman, I ask unanimous consent that at the end of the amendment . . . the following words be added: "and to the Secretary of the Interior for payments pursuant to (d)(1) and (d)(2)." . . .

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

There was no objection.

—Closed Rule Prohibiting Amendments Except by Direction of Committee

§ 2.10 Pro forma amendments are not in order when a bill is being considered under a "closed" rule which permits no amendments except by direction of the committee reporting the bill.[7]

—Recognition Under Rule Permitting Pro Forma Amendments

§ 2.11 Where the Committee of the Whole resumed consideration of a bill under a special rule prohibiting amendments

4. 120 CONG. REC. 8253, 93d Cong. 2d Sess.
5. H.R. 69, to amend and extend the Elementary and Secondary Education Act.
6. Melvin Price (Ill.).
7. See § 3.34, infra.

to a pending amendment except pro forma amendments for debate, the Chair announced that he would first recognize Members who had not offered pro forma amendments on the preceding day, priority of recognition being given to members of the reporting committee.

On Aug. 3, 1977,[8] the Committee of the Whole having under consideration H.R. 8444, the National Energy Act, the Chair made a statement pertaining to the recognition of Members to offer pro forma amendments, as indicated below:

THE CHAIRMAN:[9] The Chair would like to make a statement for the information of the Members of the Committee of the Whole.

The Chair has before it a list of those who spoke on this amendment yesterday. The Chair will recognize those who have not spoken on this amendment first and, of course, preference will be given to the members of the ad hoc committee and any Member, of course, under the rule has the right to offer pro forma amendments. The Chair will adhere to that direction.

The gentleman from Michigan (Mr. Dingell) did not speak on this amendment yesterday, so as a member of the ad hoc committee, for what purpose does the gentleman from Michigan (Mr. Dingell) rise?

MR. [JOHN D.] DINGELL: Mr. Chairman, I move to strike the last word.

—*Rule Permitting Only Committee Amendments*

§ 2.12 Pro forma amendments are not in order during consideration of a title of a bill being read pursuant to a special rule prohibiting all amendments except committee amendments to that title.

On Oct. 13, 1977,[10] the Committee of the Whole having under consideration H.R. 8309,[11] the Chair, citing from the rule providing for consideration of the bill and amendments thereto,[12] directed the Clerk to read by titles the committee amendment in the nature of a substitute:

THE CHAIRMAN:[13] . . . Pursuant to the rule, no amendment to title II of said substitute, and no amendment in the nature of a substitute changing title II of said substitute shall be in order, except amendments offered by direction of the Committee on Ways and Means, and said amendments shall not be subject to amendment.

The Clerk will now read by titles the committee amendment in the nature of a substitute. . . .

8. 123 CONG. REC. 26444, 95th Cong. 1st Sess.
9. Edward P. Boland (Mass.).
10. 123 CONG. REC. 33627, 33637, 95th Cong. 1st Sess.
11. The Navigation Development Act.
12. H. Res. 776, adopted Oct. 6, 1977.
13. John J. McFall (Calif.).

Are there any committee amendments to title II?

MR. [ROBERT W.] EDGAR [of Pennsylvania]: Mr. Chairman, I move to strike the last word.

THE CHAIRMAN: Without objection, the gentleman is recognized. The Chair would, however, state that under the rule even pro forma amendments are not allowed to title II.

—Preferential Motion Not Barred by Prohibition Against Pro Forma Amendments

§ 2.13 A special order governing consideration of a bill in Committee of the Whole which prohibits the Chair from entertaining pro forma amendments for the purpose of debate does not preclude the offering of a preferential motion that the Committee rise and report the bill to the House with the recommendation that the enacting clause be stricken, since that motion is not a pro forma amendment and must be voted on (or withdrawn by unanimous consent).

An illustration of the proposition described above occurred on May 4, 1983,[14] during consideration of House Joint Resolution 13 (relating to a nuclear weapons freeze). The proceedings in the Committee of the Whole were as follows:

MR. [ELLIOTT H.] LEVITAS [OF GEORGIA]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. Levitas moves that the Committee rise and report the resolution back to the House with the recommendation that the resolving clause be stricken.

MR. [THOMAS J.] DOWNEY of New York: Mr. Chairman, I have a point of order.

THE CHAIRMAN PRO TEMPORE (Leon E. Panetta, of California): The gentleman will state his point of order.

MR. DOWNEY of New York: Mr. Chairman, my understanding of the rule is that there is a provision in the rule that prohibits motions of this sort for the purpose of debate time. Is that correct?

THE CHAIRMAN PRO TEMPORE: The Chair will advise the gentleman it only prohibits pro forma amendments, not preferential motions such as the gentleman has offered.

—Effect of Rule on Scope of Debate

§ 2.14 While normally under the five-minute rule debate on a pro forma amendment may relate either to a pending amendment in the nature of a substitute or to a perfecting amendment thereto (as not necessarily in the

14. 129 CONG. REC. 11072, 98th Cong. 1st Sess.

third degree), where a special rule permitted the offering of both perfecting amendments in the second degree and of pro forma amendments to the substitute when perfecting amendments were not pending, the Chair permitted pro forma amendments during pendency of perfecting amendments but, in response to a point of order, required that debate be related solely to the perfecting amendment.

On May 26, 1982[15] during consideration of House Concurrent Resolution 345[16] in the Committee of the Whole, the situation described above occurred as follows:

> MR. [LES] AUCOIN [of Oregon]: Mr. Chairman, I rise to strike the requisite number of words not because I intend to speak to the amendment of the gentleman from Michigan, but instead to take this time in concert with colleagues who care very much about what the Latta amendment does to housing. Not for housing, but to housing. . . .
>
> MR. [JAMES H.] QUILLEN [of Tennessee]: Mr. Chairman, I understood we were debating the Conyers amendment, and I did not hear permission to speak out of order.
>
> MR. AUCOIN: Mr. Chairman, my remarks go to the Latta substitute, and I believe that is pending before the committee.
>
> THE CHAIRMAN:[17] The Chair will have to state that the matter that is pending is the Conyers amendment, and that debate should be germane to the Conyers amendment.

Parliamentarian's Note: The Chairman insisted that debate proceed in an "orderly fashion", that once a perfecting amendment was offered, debate under the five-minute rule be confined thereto, and not to one of the three underlying substitutes pending simultaneously. Separate debate on those substitutes was to be permitted only between consideration of numbered perfecting amendments.

§ 2.15 Where a special order permits both the offering of specified perfecting amendments in a certain order and pro forma amendments, the Chair has discretion to recognize Members to offer pro forma amendments to debate the underlying text between consideration of perfecting amendments.

On May 26, 1982,[18] The Committee of the Whole having under

15. 128 CONG. REC. 12088, 12090, 97th Cong. 2d Sess.

16. First concurrent resolution on the budget, fiscal 1983.

17. Richard Bolling (Mo.).

18. 128 CONG. REC. 12141, 97th Cong. 2d Sess.

consideration House Concurrent Resolution 345,[19] the Chair responded to a parliamentary inquiry regarding the circumstances described above. The proceedings were as indicated below:

MR. [HENRY A.] WAXMAN [of California]: At the appropriate time after we have completed this amendment, I will seek to strike the last word to make other comments that may be of interest to Members.

MR. [EDWARD R.] MADIGAN [of Illinois]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN:[20] The gentleman will state it.

MR. MADIGAN: Is the procedure that has just been suggested by the gentleman from California one that would be in order?

THE CHAIRMAN: The Chair will entertain pro forma amendments between amendments.

MR. MADIGAN: Further pursuing my parliamentary inquiry, Mr.Chairman, how would the gentleman from California be able to be recognized to speak in behalf of something that he says he is not going to offer?

THE CHAIRMAN: Between amendments, no amendment is pending. That is why a pro forma amendment presumably to one of the substitutes will be allowed. It provides an opportunity for discussion between amendments.

—Rule Permitting Only Designated Amendments

§ 2.16 Where a bill was being considered for amendment pursuant to a special "modified closed" rule permitting only designated amendments to be offered and precluding amendments thereto, with debate on each amendment limited and controlled, the Chair indicated that pro forma amendments for the purpose of debate were not in order.

On May 21, 1986,[1] the Committee of the Whole having under consideration H.R. 4800,[2] the Chair responded to a parliamentary inquiry in the circumstances described above:

THE CHAIRMAN:[3] When the Committee of the Whole rose on Tuesday, May 20, 1986, all time for general debate had expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. The amendments printed in section 2 of House Resolution 456, agreed to by the House on May 15, 1986, are considered as having been adopted.

No other amendments to the bill are in order except the following amendments printed in the Congressional Record of May 15, 1986, except amendment numbered (12) shall be the text of H.R. 4830 in lieu of being printed in the Record. . . .

MR. [DON] YOUNG of Alaska: Mr. Chairman, I have a parliamentary inquiry.

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19. First concurrent resolution on the budget, fiscal 1983.

20. Richard Bolling (Mo.).

1. 132 CONG. REC. 11484, 11566, 99th Cong. 2d Sess.

2. The Omnibus Trade Act of 1986.

3. Anthony C. Beilenson (Calif.).

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. YOUNG of Alaska: Mr Chairman, can I move to strike the last word and get 5 minutes?

THE CHAIRMAN: The time is controlled by the gentleman from Wisconsin (Mr. Roth). The gentleman has to seek time from the gentleman from Wisconsin or the gentleman from Washington (Mr. Bonker).

After Expiration of Debate

§ 2.17 Where a limitation on debate under the five-minute rule on an amendment and all amendments thereto has expired, no further debate is in order and a Member may not gain time for debate by offering a pro forma amendment "to strike the last word."

On Aug. 2, 1978,[4] the Committee of the Whole having under consideration H.R. 12514,[5] the above-stated proposition was illustrated as indicated below:

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I move that all debate on the pending amendment and all amendments thereto end at 4 o'clock.

THE CHAIRMAN:[6] The question is on the motion offered by the gentleman from Wisconsin (Mr. Zablocki).

The motion was agreed to.

THE CHAIRMAN: Members standing at the time the motion was made will be recognized for 1 minute and 20 seconds each. . . .

THE CHAIRMAN: For what purpose does the gentleman from California (Mr. Lagomarsino) rise?

MR. [ROBERT J.] LAGOMARSINO: Mr. Chairman, I move to strike the last word.

THE CHAIRMAN: The Chair will inform the gentleman that no further debate is in order at this time.

§ 2.18 A motion to strike the last word is not in order after all time for debate on a bill has expired.[7]

§ 2.19 When the time for debate on a bill is closed by unanimous consent prior to the conclusion of the reading thereof, and debate time has expired, the remainder of the bill is read but pro forma amendments are not then in order.[8]

Pro Forma Amendment Offered by Proponent of Pending Amendment

§ 2.20 Under the five-minute rule the proponent of a pending amendment may offer a pro forma amendment thereto (for additional debate

4. 124 CONG. REC. 23947, 23954, 95th Cong. 2d Sess.
5. The International Security Assistance Act of 1978.
6. Don Fuqua (Fla.).
7. See § 14.18, infra.
8. See § 14.17, infra.

time) only by unanimous consent.

On Apr. 13, 1983,[9] the Committee of the Whole having under consideration House Joint Resolution 13,[10] the above-stated proposition was illustrated as indicated below:

MR. [ELLIOTT H.] LEVITAS [of Georgia]: Mr. Chairman, I move to strike the requisite number of words.

THE CHAIRMAN:[11] Without objection, the gentleman from Georgia (Mr. Levitas) is recognized for 5 minutes.

There was no objection.

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. STRATTON: Mr. Chairman, does the gentleman from Georgia (Mr. Levitas) have an amendment pending?

THE CHAIRMAN: The gentleman from New York is correct. The gentleman from Georgia has an amendment in the nature of a substitute to the text pending.

MR. STRATTON: Well, is it proper to strike the last word on one's own amendment?

THE CHAIRMAN: The gentleman asked for recognition, and without objection, he was recognized for 5 minutes.

MR. STRATTON: I just wanted to make sure the amendment was still pending.

THE CHAIRMAN: The gentleman is correct.

§ 2.21 A Member who has been recognized for five minutes in support of his amendment in Committee of the Whole may offer a pro forma amendment to his amendment to gain an additional five minutes only by unanimous consent.

The proposition stated above was the basis for the following proceedings which occurred on Mar. 18, 1986,[12] during consideration of H.R. 4151[13] in the Committee of the Whole:

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

The Clerk read as follows:

Amendment offered by Mr. Walker:

(1) in the section heading, strike out "EFFECTIVE DATE OF ENTITLEMENTS" and insert in lieu thereof "SPECIAL BUDGET ACT RULES FOR ENTITLEMENTS"; and

(2) strike out the period at the end of the section and insert in lieu thereof the following: ", and shall be effective for any fiscal year only to the extent or in the amounts provided in appropriation Acts.".

After Mr. Walker's initial remarks in support of the amend-

9. 129 CONG. REC. 8382, 98th Cong. 1st Sess.

10. Nuclear weapons freeze.

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

12. 132 CONG. REC. 5257, 5260, 5261, 99th Cong. 2d Sess.

13. The Omnibus Diplomatic Security and Antiterrorism Act.

ment, the following proceedings took place:

MR. WALKER: Mr. Chairman, I move to strike the requisite number of words.

THE CHAIRMAN:[14] Is there objection to the request of the gentleman from Pennsylvania?

MR. [DANIEL A.] MICA [of Florida]: Mr. Chairman, the normal procedure is each individual is allowed to speak for one time, is it not?

THE CHAIRMAN: By unanimous consent, the gentleman can be recognized for another period of time.

MR. MICA: Mr. Chairman, I will not object at this time.

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

There was no objection

Parliamentarian's Note: Occasionally, the proponent of an amendment has sought recognition as a matter of right "in opposition to a pro forma amendment" offered by another Member in order to gain an additional five minutes, on the assumption that in such case he is not amending his own amendment but is complying with the five-minute rule by speaking in opposition to another Member's amendment.

Debate After Adoption of Substitute

§ 2.22 Under the five-minute rule, no debate may intervene after a substitute for an amendment has been adopted and before the vote on the amendment, as amended, except by unanimous consent, since the amendment has been amended in its entirety and no further amendments including pro forma amendments are in order.

On Oct. 18, 1983,[15] the Committee of the Whole having under consideration H.R. 3231,[16] the above-stated proposition was illustrated as indicated below:

THE CHAIRMAN PRO TEMPORE:[17] The question is on the amendment offered by the gentleman from Washington (Mr. Bonker), as amended, as a substitute for the amendment offered by the gentleman from Wisconsin (Mr. Roth), as amended. . . .

MR. [TOBY] ROTH [of Wisconsin]: Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 240, noes 173, answered "present" 1, not voting 19, as follows. . . .

So the amendment, as amended, offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

MR. [EDWIN V.W.] ZSCHAU [of California]: Mr. Chairman, I move to strike the last word.

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14. Gerald D. Kleczka (Wisc.).

15. 129 Cong. Rec. 28185, 98th Cong. 1st Sess.

16. Export Administration Act Amendments of 1983.

17. George E. Brown, Jr. (Calif.).

THE CHAIRMAN PRO TEMPORE: Without objection, the gentleman from California (Mr. Zschau) is recognized for 5 minutes.

There was no objection.

§ 3. Effect of Special Rule; Amending Special Rule

Bills are frequently considered pursuant to the terms of a special rule or resolution reported from the Committee on Rules which specifies whether amendments may be offered to the bill, the kind and number of amendments that may be offered, and the order of consideration and voting thereon. Broadly speaking, bills considered pursuant to an "open" rule may be amended whereas bills considered pursuant to a "closed" rule may not. In addition, special resolutions providing rules that are "open in part" or "closed in part" or providing a "modified closed or open rule" are not uncommon.(18) The effect of a special rule is, of course, limited by the terms of the rule itself. A special rule may waive points of order against a bill or amendments thereto. Where the House waives all points of order against the bill, such waiver does not apply to amendments offered from the floor.(19)

For example, where the House by resolution waives all points of order against any provisions in an appropriation bill, such action does not waive points of order against amendments offered from the floor. (However, where provisions of a bill, otherwise subject to a point of order are permitted to remain in the bill, because the rule protects them, "perfecting amendments" to those provisions may be immune from a point of order.)(20)

Similarly, where the House has adopted the resolution waiving

18. Compare 117 CONG. REC. 15599, 92d Cong. 1st Sess., May 18, 1971 [H. Res. 437, providing for consideration of H.R. 3613 pursuant to an "open" rule]; 112 CONG. REC. 13990, 89th Cong. 2d Sess., June 23, 1966, where the Committee on Rules reported a "closed" rule, although the legislative committee requesting the resolution had asked for an "open" rule; 116 CONG. REC. 23901, 91st Cong. 2d Sess., July 13, 1970 [H. Res. 1093, providing for a rule "closed in part"]; 117 CONG. REC. 18614, 92d Cong. 1st Sess., June 8, 1971 [H. Res. 466, providing for a rule "open in part" and "closed in part"]; 117 CONG. REC. 21082, 92d Cong. 1st Sess., June 21, 1971 [H. Res. 487, providing for consideration of H.R. 1, Social Security Amendments of 1971, under a "modified closed rule"].

19. 97 CONG. REC. 11682, 82d Cong. 1st Sess., Sept. 19, 1951.

20. See, for example, Ch. 26 § 3.21, supra. (And see Ch. 26 §3, generally, for discussion of waiver of points of order against provisions of appropriation bills, and amendments that may be offered to such provisions.)