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Chair ruled as described above. The proceedings were as follows:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 503 of the Rural Development Act of 1972 (7 U.S.C. 2663(a)) is amended by striking the word "and", and changing the period at the end thereof to a comma, and adding the following: "not to exceed $5,000,000 for the period July 1, 1976, through September 30, 1976, and not to exceed $20,000,000 for each fiscal year thereafter".

MR. [CHARLES] ROSE [of North Carolina] (during the reading): Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

THE CHAIRMAN:[15] Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MR. [KEITH G.] SEBELIUS [of Kansas]: Mr. Chairman, I have an amendment in the nature of a substitute at the desk.

THE CHAIRMAN: First we will have the Clerk report the committee amendments.

COMMITTEE AMENDMENTS

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

The Clerk read as follows:

Committee amendment: Page 1, line 8, strike the word "each" and insert in lieu thereof the word "the", and in line 9, strike the word "thereafter" and insert in lieu thereof the words "ending September 30, 1977".

The committee amendment was agreed to.

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

. . .

MR. SEBELIUS: Mr. Chairman, I make a point of order that I have an amendment in the nature of a substitute at the desk, and that that takes precedence at this time over the committee amendments.

THE CHAIRMAN: The Chair rules that the bill, consisting of one section, has been read and that the committee amendments are perfecting amendments and, therefore, take precedence over any amendment in the nature of a substitute.

Parliamentarian's Note: With a bill consisting 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; but if a committee amendment adding a new section two were permitted to be considered first in that context, its adoption would preclude offering an amendment in the nature of a substitute until the end of the bill (since the first section of the bill would no longer be subject to amendment, a new section having been inserted).

§ 16. Motions To Strike Out and Insert

15. Tom Bevill (Ala.).

A motion to strike out and insert is usually a perfecting amendment.[16] As a perfecting amendment, it takes precedence over a pending motion to strike out; it may be offered while the motion to strike out is pending and is first acted upon. Furthermore, if a motion to strike out an entire paragraph and insert new language is agreed to, a pending amendment proposing to strike out the paragraph falls and is not voted upon[17] under the theory that the House cannot change the precise text inserted by amendment.

A rule[18] provides that, "a motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert." The indivisibility of a motion to strike out and insert and the principle that a motion to strike out should not have precedence (should not be voted on first) over a motion to insert, underlie the well-established rule that a motion to strike out is not in order as a substitute for a pending motion to strike out and insert.[19] Of course, a motion to strike out a section may be offered if a pending amendment to strike out the section and insert new language is rejected.[20]

While it is not in order to strike out an amendment already agreed to, it is in order to strike out a larger portion of the paragraph which includes the amendment and insert a new paragraph of different meaning.[1]

Similarly, it is in order to propose as a substitute for a section, by way of a motion to strike out and insert, an amendment inserting the same section with modifications and omitting amendments to the section previously agreed to.[2]

Perfecting Amendment

§ 16.1 An amendment to strike out and insert is a perfecting amendment.

On July 7, 1949,[3] the following proceedings took place:

> MR. [JOHN A.] CARROLL [of Colorado]: Do I understand the parliamen-

16. See § 16.1, infra.
17. See § 31.11, infra.
18. Rule XVI clause 7, *House Rules and Manual* § 793 (101st Cong.).
19. See § 17.18, infra.
20. See § 17.11, infra.
1. See § 30.5, infra.
2. 81 CONG. REC. 4805, 75th Cong. 1st Sess., May 19, 1937.
3. 95 CONG. REC. 9064, 81st Cong. 1st Sess. Under consideration was S. 1008, to confine the application of the Federal Trade Commission Act and the Clayton Act to certain pricing practices.

tary situation is that the committee has offered an amendment striking out certain words which are contained in the parentheses?

THE CHAIRMAN:[4] Yes.

MR. CARROLL: Mr. Chairman, I offer a perfecting amendment to strike out those words and insert other words to be contained in that parenthetical expression. . . .

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that it is a substitute amendment and not a perfecting amendment.

THE CHAIRMAN: The Chair holds that this is a perfecting amendment to the text and is in order at this time.

Perfecting a Substitute

§ 16.2 A substitute may be amended by a motion to strike out all after the first clause and insert new text. Such a motion is properly classed as an amendment to the substitute and not a substitute.

On Mar. 22, 1960,[5] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. [George] Meader [of Michigan] to the amendment offered by Mr. Celler as a substitute for the amendment offered by Mr. McCulloch: On page 1 of the Celler substitute strike out "(a) Add the following as subsection (e)" and all that follows down through the last page of the McCulloch substitute, and insert in lieu thereof the following: . . .

MR. [EMANUEL) CELLER [of New York]: The amendment offered by the gentleman from Michigan is a substitute to the Celler amendment. So we have a substitute to a substitute to the McCulloch amendment. Therefore, I make the point of order that the amendment is not in order because it is a substitute.

THE CHAIRMAN:[6] The Chair is ready to rule. The amendment offered by the gentleman from Michigan strikes only a part of the substitute offered by the gentleman from New York as a substitute to the amendment offered by the gentleman from Ohio (Mr. McCulloch). This is clearly in order.

Precedence Over Motion To Strike Out

§ 16.3 A perfecting amendment, in the form of a motion to strike out and insert, offered to the text of a bill, is in order and takes precedence over a pending motion to strike out the text, and is first acted upon.

On Feb. 7, 1964,[7] during consideration of the Civil Rights Act of 1963 (H.R. 7152), a motion to strike a portion of text was offered by Mr. Basil L. Whitener, of North Carolina:

The Clerk read as follows:

4. George H. Mahon (Tex.).
5. 106 CONG. REC. 6288, 86th Cong. 2d Sess. Under consideration was H.R. 8601.
6. Francis E. Walter (Pa.).
7. 110 CONG. REC. 2462, 88TH CONG. 2D SESS.

Amendment offered by Mr. Whitener: Strike out all language commencing with line 1 on page 62 through and including line 15 on page 63, said language being that included under title VI.

(Mr. Whitener asked and was given permission to proceed for 10 additional minutes.)

Subsequently,[8] a perfecting amendment was offered by Mr. Oren Harris, of Arkansas:

The Clerk read as follows:

Amendment offered by Mr. Harris: On page 62, line 3, after "Sec. 601" strike out all language through and including line 15 on page 63 and insert the following:

"Notwithstanding any provision to the contrary in any law of the United States providing or authorizing direct or indirect financial assistance for or in connection with any program or activity by way of grant, contract, loan, insurance, guaranty, or otherwise, no such law shall be interpreted as requiring that such financial assistance shall be furnished in circumstances under which individuals participating in or benefiting from the program or activity are discriminated against on the ground of race, color, religion or national origin or are denied participation or benefits therein on the ground of race, color, religion, or national origin. All contracts made in connection with any such program or activity shall contain such provisions as the President may prescribe for the purpose of assuring that there shall be no discrimination in employment by any contractor or subcontractor on the ground of race, color, religion, or national origin."

A point of order was made against the amendment:[9]

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make a point of order that the amendment offered by the gentleman from Arkansas is not a perfecting amendment but is an amendment in the nature of a substitute, and therefore is out of order as a substitute to the amendment of the gentleman from North Carolina, which would strike out the entire title.

THE CHAIRMAN [Mr. Eugene J. Keogh of New York]: The Chair points out to the gentleman from New York that the amendment offered by the gentleman from Arkansas undertakes to strike out part of the language contained in title VI and to insert new language; and that therefore it is in fact a perfecting amendment. The point of order is overruled and the gentleman from Arkansas is recognized.

The Harris amendment was subsequently voted on and rejected,[10] after which a perfecting amendment was offered by Mr. George Meader, of Michigan, and subsequently rejected.[11] The Chair then stated that the question recurred on the Whitener motion to strike out the title. The Whitener amendment was rejected.[12]

—Effect of Agreeing to Perfecting Amendment

§ 16.4 The motion to strike out and insert takes precedence

8. *Id.* at pp. 2488, 2489.

9. *Id.* at p. 2489.

10. *Id.* at p. 2492.

11. *Id.* at p. 2497.

12. *Id.* at p. 2498.

as a perfecting amendment over a motion to strike out, and if the perfecting amendment is agreed to, and is co-extensive with the motion to strike, the motion to strike out the amended text fails and is not acted on.

On Dec. 17, 1970,[13] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mrs. [Patsy T.] Mink [of Hawaii]: Amend section 3c on page 20 of the bill to read as follows:

"(c) Notwithstanding subsections (a) and (b). . . ."

The Clerk read as follows:

Amendment offered by Mr. [William A.] Steiger of Wisconsin as a substitute for the amendment offered by Mrs. Mink: On page 20, strike out lines 11 through 16. . . .

THE CHAIRMAN:[14] . . . The amendment offered by the gentlewoman from Hawaii is a motion to strike out the subsection and insert new language. The amendment offered by the gentleman from Wisconsin is a motion to strike out the subsection. The precedents indicate that in this situation the proponents of the subsection should be given a chance to perfect it before the vote is taken on striking it from the bill.

If the Mink amendment is agreed to, the motion to strike out then fails and is not voted on. If the amendment of the gentlewoman from Hawaii is defeated, then the vote will recur on the motion to strike.

Parliamentarian's Note: The Steiger amendment was not a proper substitute for the Mink amendment, but when no point of order was raised, the Chair properly treated the Steiger amendment as a perfecting amendment to the text and put the question first thereon.

§ 16.5 Where there is pending a motion to strike out language in a bill and a preferential perfecting amendment (to strike the same language and insert new language) is then offered and agreed to, the motion to strike out falls and is not voted on.

The principle stated above was the basis for the following proceedings which occurred on Aug. 5, 1986,[15] during consideration of H.R. 4428 in the Committee of the Whole:

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Stratton to the amendment offered by Mr. Nichols: Strike out section 101(c) (page 14, lines 4 through 12). . . .

13. 116 CONG. REC. 42227, 42230, 91st Cong. 2d Sess. Under consideration was H.R. 19446.

14. James C. Corman (Calif.).

15. 132 CONG. REC. 19056, 19058, 19059, 99th Cong. 2d Sess.

MR. [IKE] SKELTON [of Missouri]: Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. Skelton to the amendment offered by Mr. Nichols: Page 14, strike out lines 4 through 12 and insert in lieu thereof the following:

(c)(1) Notwithstanding any other provision of law, the President and the Secretary of Defense may assign missions, roles, and functions to the military departments . . . and other elements of the Department of Defense. . . .

THE CHAIRMAN PRO TEMPORE:[16] Does any Member rise in opposition to the perfecting amendment offered by the gentleman from Missouri?

If not, the question is on the perfecting amendment offered by the gentleman from Missouri (Mr. Skelton) to the amendment offered by the gentleman from Alabama (Mr. Nichols).

The perfecting amendment to the amendment was agreed to.

THE CHAIRMAN PRO TEMPORE: The Stratton amendment to strike will not be voted on, under the precedents, the text proposed to be stricken having been completely amended.

§ 16.6 A perfecting amendment may be offered while a motion to strike out is pending, and if the perfecting amendment changes all the words proposed to be stricken out, the motion to strike necessarily falls and is not voted on.

On Apr. 9, 1979,[17] the Committee of the Whole having under consideration H.R. 3324,[18] the above-stated proposition was illustrated as indicated below:

MR. [THOMAS B.] EVANS [Jr.] of Delaware: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Evans of Delaware: Page 22, strike out all of lines 13 through 20 and renumber each succeeding paragraph accordingly. . . .

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. Zablocki: Page 22, strike out lines 13 through 20 and insert:

"(2) It is the sense of Congress that funds made available under this chapter for countries in the Middle East are designed to promote progress toward a comprehensive peace settlement in the Middle East and that Syria and Jordan, to continue to receive funds under this chapter, should act in good faith to achieve further progress toward a comprehensive peace settlement and that the expenditure of the funds will serve the process of peace in the Middle East. . . .

THE CHAIRMAN:[19] The question is on the perfecting amendment offered by the gentleman from Wisconsin (Mr. Zablocki).

The perfecting amendment was agreed to.

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16. Kenneth J. Gray (Ill.).

17. 125 CONG. REC. 7753, 7755, 96th Cong. 1st Sess.

18. The International Development Cooperation Act of 1979.

19. Elliott H. Levitas (Ga.).

THE CHAIRMAN: The amendment offered by the gentleman from Delaware (Mr. Evans) will not be voted upon, because it is in the nature of a motion to strike.

§ 16.7 A motion to strike out and insert language 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; but, even if agreed to, the perfected language is subject to being eliminated by subsequent adoption of the motion to strike out in cases where the perfecting amendment has not so changed the text as to render the original motion to strike meaningless. Thus, agreement to a perfecting amendment reducing the amount of an authorization does not foreclose a vote on a pending motion to strike the authorization altogether.

On July 16, 1981,[20] during consideration of H.R. 3519[1] in the Committee of the Whole, an amendment was offered striking an amount authorized for assistance in staging a bicentennial celebration of the Battle of Yorktown. A subsequent amendment to the bill proposed to reduce the amount authorized.

Amendment offered by Mr. [Harold L.] Volkmer [of Missouri]: On page 59, strike lines 20 through 24 and on page 60, strike lines 1 through 17.

MR. VOLKMER: Mr. Chairman, as I reviewed this bill last week and came to the very end of it, the last bit of it, I find herein an assistance to the Yorktown Bicentennial Celebration which will take place on or about October 19, for the 200-year celebration of the Battle of Yorktown. . . .

MR. [PETER A.] PEYSER [of New York]: Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. Peyser: Page 60, line 13, strike out "$1,000,000" and insert in lieu thereof "$750,000".

THE CHAIRMAN:[2] The question is on the perfecting amendment offered by the gentleman from New York (Mr. Peyser).

The perfecting amendment was agreed to.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Missouri (Mr. Volkmer).

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

MR. [ABRAHAM] KAZEN [Jr., of Texas]: Mr. Chairman, the committee has had an amendment before it offered by the gentleman from Missouri (Mr. Volkmer).

THE CHAIRMAN: The gentleman is correct.

20. 127 CONG. REC. 16057–59, 97th Cong. 1st Sess.

1. The Department of Defense Authorization for fiscal year 1982.

2. Paul Simon (Ill.).

MR. KAZEN: Then, Mr. Chairman, there was another amendment offered by the gentleman from New York (Mr. Peyser). Was that amendment a substitute amendment?

THE CHAIRMAN: It was a perfecting amendment to the bill. It was not an amendment to the amendment. A motion to strike cannot be amended by a substitute. . . .

The Peyser amendment was agreed to. The net effect is that there is $750,000 that is approved for the Yorktown celebration.

MR. KAZEN: I thank the Chair.

THE CHAIRMAN: For what reason does the gentleman from Pennsylvania (Mr. Ertel) seek recognition?

MR. [ALLEN E.] ERTEL: Mr. Chairman, I have a parliamentary inquiry.

Mr. Chairman, I was on my feet at the time we voted on the Volkmer amendment. Have we voted for the Volkmer amendment at this time to eliminate the funds for the Yorktown exposition altogether?

THE CHAIRMAN: No; the Chair will state that we are in the situation where the committee adopted the Peyser amendment authorizing $750,000, and then rejected the Volkmer motion to strike on a voice vote.

MR. ERTEL: Mr. Chairman, what is the effect of the Volkmer amendment at this point?

THE CHAIRMAN: There was no request for a recorded vote.

For what reason does the gentleman from Missouri (Mr. Volkmer) rise?

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

My parliamentary inquiry is this: Has the Chair announced the result of the vote on the motion to strike, which was my amendment?

THE CHAIRMAN: Yes.

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

Mr. Chairman, I would ask for a division on the Volkmer amendment at this point. I was on my feet at the time the vote was announced.

THE CHAIRMAN: The Chair did not see the gentleman, but the Chair will take the gentleman's word that he was seeking recognition before the voice vote was finally announced.

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

THE CHAIRMAN: The gentleman will state it.

MR. PEYSER: Mr. Chairman, I want to be sure that I understand what the situation is on the voting right now. The perfecting amendment that I offered, as I understand it, was accepted and passed?

THE CHAIRMAN: The gentleman is correct.

MR. PEYSER: So, Mr. Chairman, now if we vote for the Volkmer amendment, what are we then accomplishing? Are we then supporting the moneys in the amount of $750,000 for the celebration, or are we knocking out everything?

THE CHAIRMAN: The Chair will state that the perfected section would be stricken.

MR. PEYSER: So if we support the Volkmer amendment, everything is out and if we vote no, the $750,000 is in, is that correct?

THE CHAIRMAN: The gentleman is correct.

MR. PEYSER: I thank the Chair.

THE CHAIRMAN: A division has been requested on the Volkmer amendment.

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

THE CHAIRMAN: The gentleman will state it.

MR. STRATTON: Mr. Chairman, I have a copy of the Peyser amendment. It is an amendment to H.R. 3519, and it says:

> On page 60, line 13, strike out "$1,000,000" and insert in lieu thereof "$750,000."

So the Peyser amendment is an amendment to the bill and not a perfecting amendment to the Volkmer amendment?

THE CHAIRMAN: It is a perfecting amendment to the bill. That was the statement of the Chair.

MR. STRATTON: And it was accepted; was it not?

THE CHAIRMAN: That amendment was accepted. But if the Volkmer amendment by a vote on division should be approved, then that would be eliminated. Everything would be eliminated.

A division has been demanded on the Volkmer amendment.

On a division (demanded by Mr. Ertel) there were—ayes 33, noes 60.

So the amendment was rejected.

§ 16.8 While a committee amendment striking out a subsection is pending, another amendment perfecting the text by striking and inserting a new subsection may be offered and is voted on first, and if agreed to, the amendment striking the subsection falls and is not voted on, as the subsection has been amended in its entirety.

An example of the proposition described above occurred on Nov. 3, 1983,[3] during consideration of H.R. 2867, the Hazardous Waste Control and Enforcement Act of 1983. The proceedings in the Committee of the Whole were as follows:

JUDICIARY COMMITTEE AMENDMENTS

The Clerk will report the second committee amendment recommended by the Committee on the Judiciary.

The Clerk read as follows:

> Judiciary Committee amendment: Page 33, strike out line 1 and all that follows through line 12, page 34.

MR. [WILLIAM J.] HUGHES [of New York]: Mr. Chairman, I move to strike the last word. . . .

PERFECTING AMENDMENT TO THE JUDICIARY COMMITTEE AMENDMENT OFFERED BY MR. HUGHES

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

The Clerk read as follows:

> . . . amendment offered by Mr. Hughes: Page 33, strike out 1 and all that follows down through line 12 on page 34 and substitute:
>
> (e) LAW ENFORCEMENT AUTHORITY.—(3) The Attorney General shall, at the request of the Administrator [and on the basis of a showing of need,] deputize qualified employees of the Environmental Protection Agency to serve as Special Deputy United States Marshals in criminal investigations with respect to viola-

3. 129 CONG. REC. 30805, 30816, 30818, 30819, 98th Cong. 1st Sess.

tions of the criminal provisions of this Act. . . .

THE CHAIRMAN:[4] The question is on the perfecting amendment to the Judiciary Committee amendment offered by Mr. Hughes. . . .

So the perfecting amendment . . . was agreed to.

The result of the vote was announced as above recorded.

THE CHAIRMAN: Under the rule, the Judiciary Committee amendment to strike subsection 11(e) falls and is not voted on, since the subsection has been amended in its entirety.

Motion as Perfecting Amendment to Text, Not Substitute for Motion To Strike

§ 16.9 A motion to strike out and insert is not in order as a substitute for a simple motion to strike out.

On May 9, 1968,[5] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. [Basil L.] Whitener [of North Carolina]: On page 1, line 10, strike out "Memorial Day, the last Monday in May.". . .

MR. [JOHN H.] KYL [of Iowa]: Mr. Chairman, I offer a substitute amendment for the amendment offered by the gentleman from North Carolina.

The Clerk read as follows:

Amendment offered by Mr. Kyl as a substitute for the amendment offered by Mr. Whitener: On page 1, line 10, after the comma, strike the remainder of the sentence and insert "May 30.". . .

MR. [BYRON G.] ROGERS of Colorado: Mr. Chairman, this constitutes an amendment to the Whitener amendment, and the Whitener amendment is to strike the whole line. Therefore you cannot offer a substitute when you change it in the manner in which the gentleman does.

THE CHAIRMAN:[6] The gentleman from Colorado makes the point of order that the amendment offered by the gentleman from North Carolina is to strike out. The Chair feels that the proposed substitute of the gentleman from Iowa to the motion to strike out offered by the gentleman from North Carolina is not in order as a proper substitute.[7]

§ 16.10 When a motion to strike out one title of a bill being read by titles is pending, a motion to strike out and insert may not be offered as a substitute for the pending motion, but may be offered as a perfecting amendment to the title.

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4. Doug Barnard, Jr. (Ga.).

5. 114 CONG. REC. 12606, 12608, 90th Cong. 2d Sess. Under consideration was H.R. 15951, providing for uniform annual observances of certain legal holidays on Mondays.

6. Robert N. Giaimo (Conn.).

7. The motion to strike out and insert could, however, be offered as a perfecting amendment to the text of the bill (see § 16.10, infra), and in that case would take precedence over the motion to strike out the text and be first acted upon (see § 16.3, supra).

On Feb. 7, 1964,[8] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. [Basil L.] Whitener [of North Carolina]: Strike out all language commencing with line 1 on page 62 through and including line 5 on page 63, said language being that included under title VI. . . .

MR. [OREN] HARRIS [of Arkansas]: Mr. Chairman, I offer a perfecting amendment.

MR. [GEORGE] MEADER [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:[9] The gentleman will state it.

MR. MEADER: Is it in order to offer an amendment in the nature of a substitute to the motion by the gentleman from North Carolina (Mr. Whitener) to strike title VI?

THE CHAIRMAN: The answer is "No". . . .

The gentleman from Arkansas [Mr. Harris] has offered a perfecting amendment, which is in order at this time. . . .

Amendment offered by Mr. Harris: On page 62, line 3, after "Sec. 601" strike out all language through and including line 15 on page 63 and insert the following: . . .

Motion To Strike Out and Insert as Indivisible

§ 16.11 A motion to strike out and insert is indivisible.

8. 110 CONG. REC. 2462, 2488, 88th Cong. 2d Sess. Under consideration was H.R. 7152.

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

On Oct. 19, 1945,[10] the following exchange took place:

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I ask for a division of the question. The amendment is to strike out and insert and I ask that the question be divided so that the Committee may first vote on the part of the amendment which provides for striking out the language included in the bill.

THE CHAIRMAN:[11] As the Chair recalls the rule, a motion to strike out is not divisible. Clause 7 of the rule XVI reads as follows:

A motion to strike out and insert is indivisible.

Defeat of Motion To Strike

§ 16.12 Defeat of a motion to strike out a paragraph does not preclude amendments nor motions to strike out and insert.

On May 19, 1937,[12] the following exchange took place:

MR. [JOHN] TABER [of New York]: This is a perfecting amendment, and the committee having voted on a motion to strike out the paragraph, a perfecting amendment is not in order.

10. 91 CONG. REC. 9859, 79th Cong. 1st Sess. Under consideration was H.R. 4407, reducing certain appropriations and contract authorizations available for fiscal year 1946.

11. Fritz G. Lanham (Tex.).

12. 81 CONG. REC. 4797, 75th Cong. 1st Sess. Under consideration was H.R. 6958, Interior Department appropriation for 1938.

THE CHAIRMAN:[13] The Chair invites attention to clause 7 of rule 16, which provides as follows:

> A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert.

On the basis of the rule just quoted, the point of order is overruled.

§ 16.13 An amendment proposing to strike out a section of a bill having been defeated, the proponent of such amendment may offer an amendment to strike out the section and insert new language.

On June 6, 1944,[14] the following proceedings took place:

> Amendment offered by Mr. [Francis E.] Walter [of Pennsylvania]: Beginning on page 2, line 6, strike out section 2 and insert. . . .
>
> MR. [DEWEY] SHORT [of Missouri]: Mr. Chairman, I make the point of order against the amendment that it strikes out section 2, the very thing that we just voted on. . . .
>
> THE CHAIRMAN:[15] . . . This amendment . . . differed from the first amendment in that this not only seeks to strike out section 2 but inserts new wording for section 2.
>
> The Chair overrules the point of order.

13. Jere Cooper (Tenn.).
14. 90 CONG. REC. 5412, 78th Cong. 2d Sess.
15. Graham A. Barden (N.C.).

Motion To Strike Out and Insert After Text Perfected by Amendment

§ 16.14 After a section has been perfected by amendments, it may be in order to move to strike out such section as amended and insert a new one therefor.

On May 19, 1937,[16] the following proceedings took place:

> MR. [ROBERT] LUCE [of Massachusetts]: Mr. Chairman, I rise to a point of order. . . .
>
> This section reverses the action just taken by the Committee and my point is that that cannot be accomplished except by a motion to reconsider. . . .
>
> THE CHAIRMAN:[17] . . . The gentleman from Mississippi [Mr. Ford] has offered an amendment striking out the entire paragraph and inserting new language.

The Chair cited (from 8 Cannon's Precedents §§ 2904 and 2905) the following principles in overruling the point of order:

> A substitute offered after the reading of a bill has been concluded is in order regardless of whether it includes language stricken from the bill or inserted in the bill when read for amendment. . . .
>
> It is in order to propose as a substitute for a section an amendment in-

16. 81 CONG. REC. 4805, 75th Cong. 1st Sess. Under consideration was H.R. 6958, Interior Department appropriation for 1938.
17. Jere Cooper (Tenn.).

serting the same section with modifications and omitting amendments to the section previously agreed to by the Committee of the Whole.

Not in Order as Substitute in Some Cases

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

On Sept. 8, 1976,[18] the Committee of the Whole had under consideration H.R. 10498, the Clean Air Act Amendments of 1976:

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

Amendments were offered, as follows:[19]

> Amendment offered by Mr. Rogers: Page 216, after line 23, insert:
>
> (f) The Clean Air Act, as amended by sections 306, 201, 304, 312, 313, 108, and 211 of this Act, is further amended by adding the following new section at the end thereof:
>
> "NATIONAL COMMISSION ON AIR QUALITY
>
> "Sec 325. (a) There is established a National Commission on Air Quality which shall study and report to the Congress. . . .

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

The Clerk read as follows:

> Amendment offered by Mr. Chappell as a substitute for the amendment offered by Mr. Rogers: Page 198, line 5, after section 108, strike out everything following Sec. 108 and insert the following:
>
> Sec. 108. The Clean Air Act is amended by inserting a new section 315 and renumbering succeeding sections accordingly:
>
> "NATIONAL COMMISSION ON AIR QUALITY
>
> "Sec. 315(a) There is established a National Commission on Air Quality which shall study and report to the Congress on:
>
> "(1) the effects of any existing or proposed policy or prohibiting deterioration of air quality in areas identified as having air quality better than that required under existing or proposed national ambient standards on employment . . . the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense and its other social and environmental effects. . . .

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

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18. 122 CONG. REC. 29225, 94th Cong. 2d Sess.

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

THE CHAIRMAN:[20] Does the gentleman from Florida (Mr. Rogers) wish to be heard on the point of order?

MR. ROGERS: Mr. Chairman, I would insist that at this time . . . we should vote on my amendment and the amendment of the gentleman from New Jersey first and then allow the gentleman from Florida to offer his amendment as a substitute for the section.

May I say the reason why this is not simply an amendment to the Rogers amendment, or a substitute for it; rather, it goes far beyond striking the Rogers amendment. It strikes the whole section of the bill and simply adds the same amendment, so I would think it is not germane at this time. . . .

MR. CHAPPELL: Mr. Chairman, as I see the situation, the Rogers amendment seeks to add a provision to section 108.

Mr. Chairman, as I see my amendment, it is in substitute to that and seeks to strike the wording of section 108 which it is attempting to amend, so I think it is clearly a proper substitute amendment.

THE CHAIRMAN: Does the gentleman from Kentucky wish to be heard on the point of order?

MR. [TIM LEE] CARTER [of Kentucky]: I do, Mr. Chairman.

Mr. Chairman, I agree with the distinguished gentleman from Florida (Mr. Rogers). My good friend, the chairman of the subcommittee, stated that the amendment was to his amendment. His amendment has not been accepted, and of course the Chappell amendment does not amend it. It is an original amendment, Mr. Chairman, of a substitute to section 108 of the bill. Therefore, I should think it would be in order.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Florida (Mr. Rogers) correctly stated the situation. His amendment calls for a study and inserts a new subsection in section 108. The Chappell amendment is much broader, and does deal with the standards which are set out in this particular section of the bill, while the Rogers amendment merely adds the study.

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

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

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

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

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

20. J. Edward Roush (Ind.).