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MR. OTTINGER: Mr. Chairman, therefore, Mr. Chairman, I would at this point ask unanimous consent that should the amendment offered by the gentleman from Minnesota (Mr. Weber) succeed, I would still be allowed to offer my amendment as a separate amendment.

§ 35. Effect of Consideration or Rejection

It is not in order to offer an amendment identical to one previously rejected.[18] On the other hand, while it is not in order to submit for consideration, by way of amendment, a proposition previously passed upon, an amendment that raises the same question by the use of different language may be admissible.[19] The general rule is that mere similarity of an amendment to one previously considered is not sufficient to preclude the amendment; if different in form, the amendment is permitted.[20] For example, a substitute amendment having been rejected, a proposition contained therein may nevertheless be offered as an amendment to an amendment in the nature of a substitute.[1]

To a motion to strike certain words and insert others, a simple motion to strike out the words may not be offered as a substitute; but if the motion to strike out and insert is rejected, the simple motion to strike out is in order.[2] Thus, a motion to strike out a title contained in a bill has been held to be in order notwithstanding the fact that the Committee of the Whole had previously considered two motions to strike out such title and insert other language.[3] On the other hand, while a perfecting amendment has precedence over an amendment to strike out, the rejection of the motion to strike does not preclude perfecting amendments.[4] Thus, defeat of a motion to strike out a paragraph does not preclude amendments nor motions to strike out and insert.[5]

Identical Amendment

§ 35.1 It is not in order to offer an amendment identical to one previously rejected.

On Feb. 10, 1964,[6] the Committee of the Whole had under

18. See § 35.1, infra.
19. See, for example, 92 CONG. REC. 1003, 1004, 79th Cong. 2d Sess., Feb. 6, 1946.
20. See § 35.11, infra, and see 101 CONG. REC. 10021, 84th Cong. 1st Sess., July 6, 1955.
1. See § 18.23, supra.
2. See § 17.16, supra.
3. See § 35.24, infra.
4. See § 15.27, supra.
5. See § 16.12, supra.
6. The proceedings described here are found at 110 CONG. REC. 2727, 88th Cong. 2d Sess.

consideration H.R. 7152, the Civil Rights Act of 1963. Mr. Richard H. Poff, of Virginia, offered an amendment to a particular line, seeking to strike certain words. The amendment was rejected. Subsequently, Mr. John V. Dowdy, of Texas, offered an amendment to the same line, seeking to strike the same words. Mr. Emanuel Celler, of New York, made a point of order against the Dowdy amendment, on the basis that the same amendment had been offered by Mr. Poff and had been rejected. The Chairman[7] sustained the point of order.

—*Floor Amendment Identical to Rejected Committee Amendment*

§ 35.2 An amendment once rejected cannot be re-offered in identical form; thus, where there was pending a committee amendment adding a new section at the end of a bill, the Chair indicated that rejection of the amendment would preclude the re-offering of the identical amendment from the floor.

On Feb. 12, 1980,[8] during consideration of H.R. 3995[9] in the Committee of the Whole, the situation described above occurred as follows:

> MR. [ELLIOTT H.] LEVITAS [of Georgia]: Mr. Chairman, in the event that the committee amendment is not agreed to, would it then be in order for the gentleman from Georgia or any other Member to offer the same amendment at some other point in these proceedings?
>
> THE CHAIRMAN:[10] The identical amendment could not again be offered.
>
> MR. LEVITAS: The only opportunity we would then have to vote, if this legislative veto amendment is in the bill, is at this point?
>
> THE CHAIRMAN: On the Public Works Committee amendment, that is correct.

Amendment Not Identical to Rejected Amendment

§ 35.3 Mere similarity of an amendment to one previously considered and rejected is not sufficient to prevent its consideration if a substantive change has been made.

On Feb. 23, 1978,[11] the Chairman of the Committee of the Whole overruled a point of order against an amendment that was offered during the consideration of H.R. 9179, the Overseas Private Investment Corporation Amend-

7. Eugene J. Keogh (N.Y.).
8. 126 CONG. REC. 2662, 96th Cong. 2d Sess.
9. The Noise Control Act Authorization.
10. Joseph L. Fisher (Va.).
11. 124 CONG. REC. 4470, 95th Cong. 2d Sess.

ments of 1977. The proceedings were as indicated below:

MR. [PHILIP M.] CRANE [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Crane: On page 8, add the following new subsection:

(m) Section 237 of such Act, as amended by subsection (h) of this section, is further amended by adding at the end thereof the following new subsection:

"(n) The Corporation shall not make any loan to, or guarantee or insure the obligations of, the National Finance Corporation of Panama unless the House of Representatives adopts a resolution approving such loan, guaranty, or insurance.".

MR. [JONATHAN B.] BINGHAM [of New York: Mr. Chairman, a point of order.

THE CHAIRMAN:[12] The gentleman will state it.

MR. BINGHAM: Mr. Chairman, I make a point of order that this amendment is virtually the same as the amendment that was dealt with when this bill, H.R. 7179, was previously before the House and was defeated by a rollcall vote. Accordingly, the gentleman does not have the right to reoffer it.

THE CHAIRMAN: Does the gentleman from Illinois care to be heard on the point of order?

MR. CRANE: I do, Mr. Chairman.

I yield to the gentleman from Maryland.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, the amendment that was offered by the gentleman from Illinois (Mr. Crane) on November 2, 1977, and which was narrowly defeated by a 14-vote margin in the House provided that these loan guarantees not take place to the National Finance Corporation of Panama unless both Houses of the Congress approved.

This is a substantial change in that amendment that requires only a one-House approval, that of the House of Representatives. It is not the same amendment.

THE CHAIRMAN: The Chair is ready to rule.

The amendment which was previously offered and defeated provided, as the gentleman from Maryland has stated, "unless the Congress" adopts a concurrent resolution.

The amendment offered by the gentleman from Illinois provides:

unless the House of Representatives adopts a resolution.

This is a significant difference in the amendment and, therefore, the point of order is overruled.

§ 35.4 An amendment previously rejected may not be offered a second time, but an amendment similar but not identical thereto may be considered.

On July 19, 1967[13] the following proceedings took place:

12. Frank E. Evans (Colo.).

13. 113 CONG. REC. 19417, 19418, 90th Cong. 1st Sess. Under consideration was H.R. 421. See also 119 CONG. REC. 41688, 93d Cong. 1st Sess., Dec. 14, 1973. And see 94 CONG. REC. 181, 80th Cong. 2d Sess., Jan. 14, 1948.

The Clerk read as follows:

Amendment offered by Mr. [Charles S.] Joelson [of New Jersey] as a substitute for the amendment offered by Mr. Holifield: On page 4, after line 19, insert the following:

"(d) nothing contained in this chapter shall be construed as making illegal any travel in interstate commerce or the use of any facility in interstate or foreign commerce, including the mail, for the purpose of orderly dissent or protest, or for the objectives of organized labor, including the organizing of workers or the urging of or conduct of a strike in a bona fide labor dispute."

[The substitute was rejected. The amendment was rejected.]

The Clerk read as follows:[14]

Amendment offered by Mr. Joelson: On page 4, after line 19, insert: "Nothing contained in this chapter shall be construed as making illegal any travel in interstate commerce or the use of any facility in interstate or foreign commerce, including the mail, for the purpose of orderly and peaceful dissent or protest or for pursuing the objectives of organized labor, provided they are pursued through orderly and legal means."

MR. [WILLIAM M.] MCCULLOCH [of Ohio]: Mr. Chairman, a point of order. . . . I make the point of order that this amendment in substance was offered in Committee of the Whole and was rejected. . . .

THE CHAIRMAN:[15] the Chair will state to the gentleman that the amendment offered by the gentleman from New Jersey is not identical to the amendment referred to by the gentleman from Ohio (Mr. McCulloch).

§ 35.5 Similarity of an amendment to one previously rejected will not render it inadmissible if, in addition, it treats of matters not made the subject of the prior amendment.

On Apr. 24, 1952,[16] the following proceedings took place:

Amendment offered by Mr. [Franklin D.] Roosevelt [Jr., of New York]: . . . [I]nsert new section 204, reading as follows:

All quota immigration visas available during any fiscal year which are not actually issued during such fiscal year, and all quota immigration visas which were issued in a previous year and expired during such fiscal year without being utilized, shall be assigned to a general immigration visa pool and shall be available, without reference to national origins, for issuance at any time during the fiscal year following such assignment as follows:

(a) Family reunion preferences: twenty-five percent of such pooled visas . . . shall be available exclusively, in such order as may be determined by the Secretary of State, to adult children, brothers, and sisters, and other relatives of citizens, and to spouses, children (both infant and adult), parents, brothers, and sisters, and other relatives of alien residents of the United States who

14. 113 CONG. REC. 19423, 90th Cong. 1st Sess.

15. Joseph L. Evins (Tenn.).

16. 98 CONG. REC. 4413, 82d Cong. 2d Sess. Under consideration was H.R. 5678, a revision of the laws relating to immigration, naturalization, and nationality.

have been lawfully admitted to the United States for permanent residence. . . .

MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from New York on the ground that it is similar to an amendment rejected on yesterday. . . .

THE CHAIRMAN:[17] Does the gentleman from New York desire to be heard on the point of order?

MR. ROOSEVELT: Yes, I do, Mr. Chairman.

While this does deal with unused quotas, as did the amendment offered by the gentleman from New York (Mr. Celler) yesterday—and I should like to read the Celler amendment:

> Section 201 (a), change period at the end of subsection to colon and add the following: "*Provided further*, That the unused portion of the sum total of all quotas for each fiscal year shall be made available in the following fiscal year in direct proportion to the quotas for each quota area affected, to immigrants specified in paragraph (4) of section 203(a) of this title if such immigrants are determined to be chargeable to quotas not exceeding 7,000 annually."

My amendment is entirely different. It does deal with the unused quotas in each fiscal year, but it sets up an entirely different method of allocating those unused quotas as distinguished from the Celler amendment. . . .

THE CHAIRMAN: . . . The Chair has examined the two amendments with some degree of care and finds that the amendment offered by the gentleman from New York [Mr. Roosevelt] has language similar to the other amendment, but in addition it treats of other matters, and for that reason the Chair will rule that the amendment is in order.

§ 35.6 While it is not in order to offer an amendment identical with one previously rejected, an amendment which specifies conditions under which particular acts should be undertaken and contains substantially different propositions from an amendment previously rejected is in order.

On Mar. 31, 1948,[18] the following amendment was offered:

> The Clerk read as follows:
>
> Amendment offered by Mr. (Lawrence H.) Smith of Wisconsin: On page 82, line 6, strike out "1952" and insert "1949"; and in line 15, strike out the sentence after the period and substitute therefor the following: "Nothing in this act shall be construed as placing either a legal or a moral obligation upon any succeeding Congress to continue the present aid program beyond the 12 months herein provided for." . . .

After the rejection of this amendment, another was offered as follows:

> Amendment offered by Mr. (John) Phillips of California: ". . . No au-

17. Chet Holifield (Calif.).

18. 94 CONG. REC. 3828, 3832, 3833, 80th Cong. 2d Sess. Under consideration was S. 2202, the Foreign Assistance Act of 1948.

thorization in this bill shall be construed to imply any commitment, legal or moral, to advance further aid after June 30, 1949. Although the bill recites later dates, it is the sense of this Congress that such aid will be extended only if the recipient countries are doing all they can to aid themselves, and if such further aid is justified by the then economic and financial condition in the United States." . . .

MR. [JOHN M.] VORYS [of Ohio]: As I understand, the amendment is substantially the amendment that has just been passed upon.

THE CHAIRMAN:[19] The Chair is prepared to rule. The amendment submitted goes much further and suggests other conditions, is stated differently, and involves substantially different propositions than the amendment heretofore voted upon.

The Chair overrules the point of order.

§ 35.7 The Chair will not rule out as dilatory an amendment similar but not identical to one previously rejected.

On Aug. 7, 1978,[20] during consideration of H.R. 13635, defense appropriations for fiscal 1979, the Chair ruled that, where an amendment to a figure in a bill considered en bloc with other amendments had been rejected, no point of order would lie against a subsequent amendment to that figure containing a different amount and offered as a separate amendment, even though it was contended that the change in the amount was not substantial. The amendment, objected to as dilatory, was offered by Mr. William L. Dickinson, of Alabama:

MR. DICKINSON: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dickinson: On page 6, line 4, strike "$9,097,422,000" and insert in lieu thereof "$9,115,421,000".

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Alabama (Mr. Dickinson).

First, Mr. Chairman, I would ask whether this is the same amendment that has been offered before or if this is a part of that amendment?

MR. DICKINSON: Mr. Chairman, if the gentleman will yield, I would respond by saying that this is similar to the one that was offered before but it is in fact different. I am offering it for the purpose of obtaining a recorded vote. I am going to attempt to obtain a recorded vote until I get one. But this amendment is different to that offered before.

MR. MAHON: Mr. Chairman, I make a point of order against the amendment. . . .

THE CHAIRMAN:[1] The Chair recognizes the gentleman from Florida (Mr. Sikes) on the point of order.

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

20. 124 CONG. REC. 24701, 24702, 95th Cong. 2d Sess.

1. Dan Rostenkowski (Ill.).

MR. [ROBERT L. F.] SIKES [of Florida]: Mr. Chairman, as I understand it, there is a $1,000 change in the amount in the amendment which is offered now.

This is dilatory. It is consuming the time of the House while we have many important things still to be considered.

Mr. Chairman, I would trust that the amendment would be considered out of order.

THE CHAIRMAN: The Chair will make the observation that this particular amendment has not been offered before. The figure is a substantial change from a previously considered amendment, and the Chair does not consider the amendment to be dilatory.

The Chair recognizes the gentleman from Alabama (Mr. Dickinson) for 5 minutes in support of his amendment. . . .

MR. SIKES: Mr. Chairman, if I may make a further parliamentary inquiry, do I not understand that this amendment is essentially the same as the ones offered en bloc and previously disposed of on the floor?

THE CHAIRMAN: The Chair will state that this amendment is offered separately and contains a different figure.

MR. SIKES: A $1,000 difference, Mr. Chairman.

THE CHAIRMAN: It is a different figure. The Chair has already made that observation.

MR. SIKES: Mr. Chairman, it is a dilatory amendment which, I think, is taking the time of the House unnecessarily.

THE CHAIRMAN: The Chair has already ruled.

—Different in Form

§ 35.8 A motion offered as a substitute for an amendment and rejected may be offered again as a separate amendment.

On July 19, 1967,[2] the following proceedings took place:

THE CHAIRMAN:[3] The question is on the substitute amendment offered by the gentleman from New Jersey [Mr. Joelson] to the amendment offered by the gentleman from California [Mr. Holifield].

The substitute amendment to the amendment was rejected.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from California [Mr. Holifield]. . . .

So the amendment was rejected. . . .

Amendment offered by Mr. [Charles S.] Joelson [of New Jersey]: On page 4, after line 19, insert: "Nothing contained in this chapter. . . ."

MR. [WILLIAM M.] MCCULLOCH [of Ohio]: Mr. Chairman, I make the point of order that this amendment in substance was offered in Committee of the Whole and was rejected. . . .

THE CHAIRMAN: The Chair will state to the gentleman that the amendment offered by the gentleman from New Jersey is not identical to the amendment referred to by the gentleman from Ohio [Mr. McCulloch].

§ 35.9 A proposition offered as an amendment to an amend-

2. 113 CONG. REC. 19417, 19418, 19423, 90th Cong. 1st Sess. Under consideration was H.R. 421. The proceedings are discussed more fully in § 35.4, supra.

3. Joseph L. Evins (Tenn.).

ment and rejected may be offered again, in identical form, as an amendment to the bill.

On Oct. 31, 1963,[4] a question was raised concerning the propriety of an amendment that was identical to one that had previously been defeated.

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I make the point of order that the amendment is not germane. It is identical to the amendment which was offered earlier and which was just defeated.

THE CHAIRMAN:[5] Does the gentleman from Tennessee desire to be heard?

MR. [ROSS] BASS [of Tennessee]: Mr. Chairman, I would like to say to the chairman of the Committee on Agriculture, the gentleman from North Carolina [Mr. Cooley] that it is an amendment which is offered to the main bill. The other amendment was offered to the substitute. Now it is offered to the main bill.

THE CHAIRMAN: The Chair would like to inform the gentleman from North Carolina that this is an amendment now offered to the bill. . . .

Under the rules of the House the gentleman from Tennessee may now offer his amendment.

§ 35.10 A perfecting amendment offered to an amendment in the nature of a substitute may be offered again as an amendment to the original bill if the amendment is first rejected or if the amendment in the nature of a substitute as perfected is rejected.

On Sept. 28, 1976,[6] the Committee of the Whole having under consideration H.R. 15,[7] the Chair responded to several parliamentary inquiries as described above:

MR. [GEORGE E.] DANIELSON [of California]: Mr. Chairman, as I understand it, we are at the present time considering amendments to the amendment in the nature of a substitute which was offered by the Committee on Standards of Official Conduct.

THE CHAIRMAN:[8] That is correct. We are considering perfecting amendments to the amendment in the nature of a substitute offered by the gentleman from Florida on behalf of the Committee on Standards of Official Conduct.

MR. DANIELSON: . . . Mr. Chairman, in the event the substitute should be defeated, would it be proper to offer the same amendments to the committee bill?

THE CHAIRMAN: In substance, they would be in order. They might have to be redrafted, but essentially the same kind of amendments could be offered.

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4. 109 CONG. REC. 20729, 20730, 88th Cong. 1st Sess. Under consideration was H.R. 8195 (Committee on Agriculture).

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

6. 122 CONG. REC. 33075, 94th Cong. 2d Sess.

7. Public Disclosure of Lobbying Act of 1976.

8. Richard Bolling (Mo.).

MR. DANIELSON: But the defeat of an amendment to the substitute which we are now considering would not bar this same amendment, in substance?

THE CHAIRMAN: That is correct.

§ 35.11 Mere similarity to a prior amendment is not sufficient to warrant rejection of an amendment, and if different in form the proposition is not subject to the point of order that it has been previously passed upon.

On May 11, 1949,[9] the following proceedings took place:

Amendment offered by Mr. [Stephen M.] Young [of Ohio]: On page 2, line 8, after the word "storage" insert the following: . . .

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I make the point of order that the amendment is substantially the same as that which was decided by the Committee.

THE CHAIRMAN:[10] The Chair wishes to inquire of the gentleman from Ohio if this is the same text as the amendment which he offered to the Sutton amendment. . . .

MR. YOUNG: It is not the same language, Mr. Chairman. This is an amendment to the bill. My amendment to the amendment carried.

THE CHAIRMAN: The Chair overrules the point of order.

Similarly, on Mar. 18, 1960,[11] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. [Hamer H.] Budge [of Idaho] to the amendment offered by Mr. Celler as a substitute for the amendment offered by Mr. McCulloch: On page 6, line 9, after the word "office", insert "in any election in which any candidate for the office of President, Vice President, presidential elector, Member of the Senate or Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico is voted upon". . . .

So the amendment was rejected.

The proceedings continued on Mar. 21:[12]

The Clerk read as follows:

Amendment offered by Mr. [August E.] Johansen [of Michigan] to the substitute amendment offered by Mr. Celler: On page 6, line 10, after the word "election" insert "for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.". . .

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9. 95 CONG. REC. 6069, 81st Cong. 1st Sess. Under consideration was H.R. 2682, to amend the Commodity Credit Corporation Charter Act and the Strategic Materials Stock Piling Act.

10. Albert Gore (Tenn.).

11. 106 CONG. REC. 6016, 6017, 6027, 86th Cong. 2d Sess. Under consideration was H.R. 8601. See also 113 CONG. REC. 19418, 19423, 90th Cong. 1st Sess., July 19, 1967.

12. 106 CONG. REC. 6159, 6160, 86th Cong. 2d Sess.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that this amendment in substance has been voted on by this Committee and voted down last week; therefore, it is not in order. It is like an amendment we have voted on and voted down.

THE CHAIRMAN:[13] The Chair has had an opportunity to examine the amendment offered by the gentleman from Idaho [Mr. Budge], which was to page 6, line 9. This is on page 6, line 10. It is couched in entirely different language. The point of order is overruled.

§ 35.12 Similarity of an amendment to one previously rejected will not render it inadmissible if sufficiently different in form to present another proposition; an amendment striking a portion of text having been defeated, a subsequent amendment striking a lesser portion of the same text is in order.

On June 1, 1961,[14] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. (H. R.) Gross of Iowa: "On page 7, strike out all of lines 21 through 25 and on page 8, strike all of lines 1 through 3.". . .

The amendment was rejected. . . .

Amendment offered by Mr. [Clare E.] Hoffman of Michigan: "On page 8, lines 2 and 3, strike all after the semicolon."

MR. HOFFMAN of Michigan: Mr. Chairman, being a realist I understand——

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I make the point of order that the amendment now offered by the gentleman from Michigan is the same in effect as that which was offered by the gentleman from Iowa and just defeated.

MR. GROSS: Mr. Chairman, I make the point of order that the point of order comes too late. . . .

THE CHAIRMAN:[15] While the point of order does come too late, the amendment does strike out language different from that stricken out by the amendment offered by the gentleman from Iowa.

§ 35.13 An amendment previously rejected may not be offered a second time, but an amendment of different form although of similar effect is admissible.

On May 26, 1969,[16] an amendment proscribing the use of funds in an agriculture appropriations bill for purchase of "chemical pesticides" having been considered and rejected, a second amendment prohibiting funds for purchase of certain enumerated pesticides was held admissible as not repetitive

13. Francis E. Walter (Pa.).

14. 107 CONG. REC. 9349, 9350, 87th Cong. 1st Sess.

15. W. Homer Thornberry (Tex.).

16. 115 CONG. REC. 13754, 91st Cong. 1st Sess. Under consideration was H.R. 11612.

of the proposition previously considered.

§ 35.14 Rejection of a substitute does not preclude further ad hoc offering of amendments to a pending amendment.

On Sept. 29, 1965,[17] the following proceedings took place:

> MR. [WILLIAM H.] HARSHA [Jr., of Ohio]: As I understand it, the Committee may now proceed to amend both the Multer amendment and the Sisk substitute to the amendment; is that correct?
>
> THE CHAIRMAN:[18] That is correct. . . .
>
> MR. HARSHA: Then when the vote comes upon the Sisk substitute or amendment to the Multer amendment, assuming the Sisk substitute is voted down, may this Committee then continue to amend the Multer amendment?
>
> THE CHAIRMAN: The Multer amendment, in the nature of a substitute, would at that time be open to further amendment.

§ 35.15 Rejection of several amendments considered en bloc by unanimous consent does not preclude their being offered separately at a subsequent time.

On June 7, 1973,[19] the following proceedings took place:

> The Clerk read as follows:
>
> Amendments offered by Mr. [Lawrence G.] Williams [of Pennsylvania]: . . .
>
> In page 11, line 19, following, "The Administrator is authorized to use" add: appropriated and
>
> On page 12, line 13 following, "otherwise available" add: appropriated or
>
> MR. WILLIAMS: Mr. Chairman, I ask unanimous consent that the three amendments I am offering be considered en bloc. . . .
>
> [The amendments, considered en bloc, were rejected.]
>
> Amendment offered by Mr. [James R.] Mann [of South Carolina]: Page 11, line 19, after "use", insert appropriated and."
>
> And on page 12, line 13, after "available", insert "appropriated or". . .
>
> MR. [M. CALDWELL] BUTLER [of Virginia]: Mr. Chairman, I believe this amendment was disposed of in the last amendment considered, addressed to the same point.
>
> THE CHAIRMAN:[20] The amendments presented by the gentleman from Pennsylvania were presented, three in number, en bloc. This amendment is one which may be presented separately.
>
> The Chair overrules the point of order.

§ 35.16 Mere similarity of an amendment to one pre-

17. 111 CONG. REC. 25418, 89th Cong. 1st Sess. Under consideration was H.R. 4644.
18. Eugene J. Keogh (N.Y.).
19. 119 CONG. REC. 18518, 18521, 93d Cong. 1st Sess. Under consideration was H.R. 7446.
20. Henry B. Gonzalez (Tex.).

viously considered and rejected is not sufficient to warrant the Chair ruling it out of order; if different in form it is admitted.

On Sept. 23, 1975,[1] during consideration of a bill[2] in the Committee of the Whole, the Chair overruled a point of order against an amendment as described above. The proceedings were as follows:

Amendment offered by Mr. Dodd: Page 230, after line 12, insert the following:

(f) (1) The Secretary shall, by rule, prohibit the granting of any right to develop crude oil, natural gas, coal, or oil shale on Federal lands to any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. The rules required to be promulgated pursuant to this paragraph shall apply to the granting of any such right which occurs after the 60-day period which begins on the date of enactment of this Act.

(2) For purposes of this subsection—

(A) The term "major oil company" means any person who, together with any affiliate of such person, produces 1.6 million barrels of crude oil, natural gas liquids, and natural gas equivalents per day. . . .

(C) The term "significant ownership interest" means—

(i) with respect to any corporation, 10 percent or more in value of the outstanding stock or the capital assets of such corporation.

(ii) with respect to a partnership, 10 percent or more interest in the profits or capital of such partnership. . . .

Sec. 1201. (a) The Secretary of Interior shall, by rule, prohibit the granting of any right to develop crude oil, natural gas, coal, or oil shale on Federal lands to any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. The rules required to be promulgated pursuant to this subsection shall apply to the granting of any such right which occurs after the 60-day period which begins on the date of enactment of this act.

(b) For purposes of this subsection—

(1) The term "major oil company" means any person who, together with any affiliate of such person, produces 1.65 million barrels of crude oil, natural gas liquids, and natural gas equivalents per day. . . .

(3) The term "significant ownership interest" means—

(A) with respect to any corporation, 20 percent or more in value of the outstanding stock or the capital assets of such corporation,

(B) with respect to a partnership, 20 percent or more interest in the profits or capital of such partnership. . . .

MR. [LOUIS] FREY [Jr., of Florida]: . . . I would like to speak on my point of order. On page 9 of Cannon's procedures it states as follows:

1. 121 CONG. REC. 29839, 29841, 94th Cong. 1st Sess.
2. H.R. 7014, Energy Conservation and Oil Policy Act of 1975.

Previously rejected.

Mere change of figures not sufficient to admit.

It is my understanding that this amendment was rejected by the House on July 31 and the only change in this amendment, if I am correct, between that date and today is the figure of 1.65 million barrels of crude oil and 1.6 million barrels of crude oil. I think that is not a substantial change. I think that comes within the rules stated on page 9 of Cannon's procedures. . . .

MR. [CHRISTOPHER J.] DODD [of Connecticut]: Mr. Chairman, in addition to the change in the production figures there is also a change in the definition of a significant ownership in this, the change from 10 percent to 20 percent. I would submit, Mr. Chairman, that these are significant changes in that the actual production that would be involved means that we are talking about 500,000 barrels of oil a day, and that is significant.

Also, I would point to similar cases which have raised this point. I am referring to Deschler's procedure, section 33, referring to amendments previously considered and rejected, and there are numerous cases that are referred to which involve the very point of order raised by the gentleman from Florida, and I would quote from one particular one:

> Mere similarity of an amendment to one previously considered and rejected is not sufficient to warrant the Chair ruling it out of order; if different in form it is admitted.

I repeat that this is a substantial change in the figures; it is different in form, and therefore is in order.

THE CHAIRMAN:[3] The Chair is ready to rule.

There are numerous precedents that affect this matter, and the Chair will cite them, section 2840, volume 8 of Cannon's precedents, and other precedents following section 2840, that the Chair might state but will not do so in order not to prolong the matter.

The Chair feels that the changes are sufficient to be completely in line with section 2840, page 438, volume 8 of Cannon's precedents:

> Similarity of an amendment to one previously rejected will not render it inadmissible if sufficiently different in form to present another proposition.

The Chair feels the various changes make this another proposition and therefore overrules the point of order.

—*Portion of Rejected Amendment Offered*

§ 35.17 Rejection of an amendment consisting of two sections does not preclude one of those sections being subsequently offered as a separate amendment, since a portion of a rejected amendment may be subsequently offered as a separate amendment if presenting a different proposition.

An example of the proposition described above occurred on July 15, 1981,[4] during consideration

3. Richard Bolling (Mo.).

4. 127 CONG. REC. 15874, 15875, 15898, 15899, 97th Cong. 1st Sess.

of H.R. 3519, the Department of Defense authorization bill for fiscal year 1982. The proceedings in the Committee of the Whole were as follows:

THE CHAIRMAN:[5] The Clerk will report the next Government Operations Committee amendment.

The Clerk read as follows:

> Government Operations Committee amendment: Page 45, beginning on line 9, strike out all of section 909 through line 14 on page 51 and insert in lieu thereof the following new sections (and redesignate the succeeding sections accordingly). . . .
>
> Sec. 908. (a) Chapter 137 of title 10, United States Code, relating to procurement generally, is amended by adding at the end thereof the following new section. . . .
>
> "Notwithstanding any other provision of this title, procurement of any automatic data processing equipment or services by or for the use of the Department of Defense shall be conducted in accordance with section 111 of the Federal Property and Administrative Services Act of 1949. . . .

So the Government Operations Committee amendment was rejected. . . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Brooks: Page 59, insert before line 6 the following new section (and redesignate the succeeding sections accordingly):
>
> Sec. 910. (a) Chapter 137 of title 10, United States Code, relating to procurement generally, is amended by adding at the end thereof the following new section. . . .
>
> "Notwithstanding any other provision of this title, procurement of any automatic data processing equipment or services by or for the use of the Department of Defense shall be conducted in accordance with section 111 of the Federal Property and Administrative Services Act of 1949. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, the amendment which the gentleman has offered and which has just been read is part of the amendment which has just been voted down overwhelmingly by the House. I make the point of order that since the amendment has been rejected, it is out of order. . . .

MR. BROOKS: Mr. Chairman, I would like to say that the amendment is designed to save the ADP law that the Congress has passed, and would endorse the current situation in the ADP law and would maintain it. It is offered as an amendment appropriately, because it was a part of the previous amendment just voted on. It is a part of that amendment, and the precedents of the House allow the consideration as amendments of portions of an amendment previously considered. . . .

THE CHAIRMAN: The Chair will rule under the principle contained in Deschler's Procedures, chapter 27, section 33.8, where it says:

> Rejection of several amendments considered en bloc by unanimous consent does not preclude their being offered separately at a subsequent time.

The Chair will rule that the point of order is not well taken, and that the amendment is in order.

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

THE CHAIRMAN: The gentleman will state it.

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5. Paul Simon (Ill.).

MR. STRATTON: Mr. Chairman, the Chair just stated in ruling against the point of order that two amendments offered en bloc can be separated. The parliamentary inquiry is, was the preceding amendment offered by the gentleman from Texas offered as two amendments en bloc?

My understanding was, it was the committee amendment. It embraces two paragraphs and was not offered as two amendments en bloc.

THE CHAIRMAN: The precedent cited—and this is not an exact parallel, the gentleman from New York is correct in that—but it does suggest that the original amendment, once rejected as an entire proposition, may be re-offered in part as a narrower different proposition.

—Amendment Narrower in Scope Than Rejected Amendment

§ 35.18 Where an amendment proposing preferential treatment of particular governmental agencies pending under reorganization plans had been rejected, an amendment proposing preference for certain of the agencies enumerated in the rejected amendment was held to be in order.

On Feb. 7, 1949,[6] the following proceedings took place:

The Clerk read as follows:

> Amendment offered by Mr. [Charles A.] Halleck [of Indiana]: Page 7, line 20, after the word "commission" strike out the period and insert the following: "National Mediation Board, National Railroad Adjustment Board, Railroad Retirement Board, Federal Communications Commission, Civil Aeronautics Board. . . ."

So the amendment was rejected. . . .

The Clerk read as follows:

> Amendment offered by Mr. [Cleveland M.] Bailey [of West Virginia]: On page 7, line 20, after the words "Securities and Exchange Commission", strike out the period, insert a comma and add "Railroad Retirement Board, National Mediation Board, and National Railroad Retirement Adjustment Board.". . .

MR. [HERBERT C.] BONNER [of North Carolina]: Mr. Chairman, these agencies were included in the amendment that has just been defeated.

THE CHAIRMAN:[7] The Chair may say to the gentleman that this is a different amendment in that in the previous amendment there were additional agencies included. The point of order is overruled.

—Limitation on Use of Funds

§ 35.19 An amendment containing a limitation on the use of funds in an appropriation bill having been rejected, the Chair held that another amendment—containing a similar limitation

6. 95 CONG. REC. 910, 912, 81st Cong. 1st Sess. Under consideration was H.R. 2361, to provide for the reorganization of government agencies.

7. Oren Harris (Ark.).

and also stating an exception from that limitation—was not an identical amendment and could be offered.

On June 29, 1972,[8] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. [Garry E.] Brown of Michigan: On page 43, line 9, delete the period after the figure "$2,341,146,000" and insert the following: "Provided that no part of the funds appropriated by this Act shall be used during the fiscal year ending June 30, 1973 to make food stamps available to a household where the necessity and eligibility of such household for assistance stems solely from the unemployment of a member of such household who is a member of an employee unit which has voluntarily terminated employment due to a labor dispute or controversy, except that such limitation shall not apply to a household eligible for general assistance directly payable by such household's local unit of government."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment. It is legislation on an appropriation bill and, for all practical purposes, it is a perfecting amendment and identical to the one we have already voted on. . . .

MR. BROWN of Michigan: . . . [I]t is not the same amendment as the Michel amendment because it is not an absolute prohibition on food stamps to strikers, so called. It says that eligibility for food stamps shall be based upon eligibility for general assistance, not the food stamp program itself. . . .

THE CHAIRMAN:[9] . . . [The amendment] is not identical to the amendment previously offered, nor is it subject to the interpretation that it would simply do exactly the same thing as the amendment previously offered and rejected.

Rejection of Prior Amendment Striking or Changing Figure in Appropriation Bill

§ 35.20 If an amendment seeking to strike out a figure in an appropriation bill has been rejected, it is in order to offer another amendment to change such figure.

On Mar. 26, 1942,[10] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. [Joshua L.] Johns [of Wisconsin]: Page 79, line 18, strike out "$500,000" and insert "$350,000." . . .

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I make the point of order that this question has already been settled under the previous amendment, which was to strike out the entire amount. [Note: The amendment referred to had been rejected.]

THE CHAIRMAN:[11] This amendment seeks to insert a different amount. The Chair overrules the point of order.

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8. 118 CONG. REC. 23378, 23379, 92d Cong. 2d Sess. Under consideration was H.R. 15690.

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

10. 88 CONG. REC. 3023, 77th Cong. 2d Sess. Under consideration was H.R. 6845, Interior Department appropriations for 1943.

11. Jere Cooper (Tenn.).

§ 35.21 Rejection of an amendment changing a figure in a bill does not preclude the offering of a different amendment to that provision.

On Nov. 18, 1981,[12] the Committee of the Whole having under consideration H.R. 4995,[13] the Chair responded to a parliamentary inquiry as described above. The proceedings were as indicated below:

> MR. [ELLIOTT H.] LEVITAS [of Georgia]: If the amendment of the gentleman from New York is not agreed to, would it then be in order for a further amendment to the same figures to be offered relating solely to the basing mode?
>
> THE CHAIRMAN:[14] If the amendment is not agreed to and the figures are not changed, further amendments to those figures and to this paragraph would be in order.

Rejection of Motion To Strike

§ 35.22 A motion to strike out certain language having been previously rejected may not be offered a second time.

On Aug. 5, 1966,[15] the following proceedings took place:

> The Clerk read as follows:
>
> Amendment offered by Mr. [Howard W.] Smith of Virginia: On page 65, line 15, strike all of section 404 down to and through page 66, line 3.
>
> MR. [PETER W.] RODINO [Jr., of New Jersey]: Mr. Chairman, a point of order. . . .
>
> The amendment has already been voted upon. . . .
>
> MR. [BASIL L.] WHITENER [of North Carolina]: . . . I had an amendment to that effect, which was voted down.
>
> THE CHAIRMAN:[16] That is the Chair's recollection, too. The point of order is sustained.

§ 35.23 A motion to strike out a paragraph having been rejected, a motion to strike out the paragraph and insert a new provision is in order.

On Sept. 21 and 22, 1965,[17] the following proceedings took place:

> The Clerk read as follows:
>
> Amendment offered by Mr. [Joseph S.] Clark [of Pennsylvania]: On page 41, strike out lines 3 through 12, inclusive. . . .
>
> [The amendment was rejected.][18]
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Clark: Substitute the following language for the language on page 41, lines 4 through 12, inclusively:

12. 127 CONG. REC. 28048, 97th Cong. 1st Sess.
13. Department of Defense appropriation bill for fiscal year 1982.
14. Dan Rostenkowski (Ill.).
15. 112 CONG. REC. 18418, 18419, 89th Cong. 2d Sess. Under consideration was H.R. 14765.
16. Richard Bolling (Mo.).
17. 111 CONG. REC. 24631, 24632, 24658, 89th Cong. 1st Sess. Under consideration was S. 2300.
18. 111 CONG. REC. 24635, 89th Cong. 1st Sess.

"The Secretary of the Army is hereby authorized. . . ."

MR. [ROBERT E.] JONES [Jr.] of Alabama: Mr. Chairman, I make a point of order against the amendment. . . .

This amendment has been considered and was subject to amendment under the previous amendment offered to strike this project.

THE CHAIRMAN:[19] he Chair will inform the gentleman from Alabama that the purpose of this amendment is to insert something other than that which was taken into consideration yesterday. So the point of order against this amendment is overruled. . . .[20]

Rejection of Motion To Strike Out and Insert

§ 35.24 A motion to strike out a title contained in a bill was held to be in order notwithstanding the fact that the Committee of the Whole had previously considered two motions to strike out such title and insert other language.

On July 25, 1957,[1] the following proceedings took place:

The Clerk read as follows:

Amendment offered by Mr. [Donald E.] Tewes [of Wisconsin]: On page 31, line 19, strike out all of title I through page 46, line 11. . . .

MR. [STEWART L.] UDALL [of Arizona]: Mr. Chairman, we considered earlier today two amendments, one offered by the gentleman from Kansas [Mr. Scrivner] and one by the gentleman from Connecticut [Mr. May]. The purpose of both these amendments was to strike out title I. Both amendments were considered. One was voted down and one was knocked out on a point of order. I make the point of order, Mr. Chairman, that this motion has been made and has been considered and voted down by the Committee of the Whole.

THE CHAIRMAN:[2] he Chair calls the attention of the gentleman to the fact that the motions heretofore made were to strike and insert. This is the first time a motion has been made to strike out the entire title. Therefore, the point of order is overruled. Francis E. Walter (Pa.).

Rejection of Substitute as Not Precluding Motion To Strike

§ 35.25 Where a substitute amendment had been rejected, the Chair permitted a motion to strike language from a pending amendment, even though the motion was offered to accomplish one of the purposes of the rejected substitute.

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19. Daniel D. Rostenkowski (Ill.).

20. 111 Cong. Rec. 24658, 89th Cong. 1st Sess.

1. 103 CONG. REC. 12744, 85th Cong. 1st Sess. Under consideration was H.R. 1, to authorize federal assistance to the states and local communities in financing an expanded program of school construction so as to eliminate the national shortage of classrooms.

2. Francis E. Walter (Pa.).

On Mar. 11, 1958,[3] he following exchange took place with respect to an amendment which was alleged to have the same purpose as one previously considered:

MR. [FRANK E.] SMITH of Mississippi: Mr. Chairman, I make the point of order that the amendment has the same purpose and the same, identical result as the Mack substitute, which has been voted down. We are voting twice upon the same language, the same point made by the gentleman from Alabama a moment ago. The same lines and item are in the Blatnik amendment.

THE CHAIRMAN:[4] The Chair overrules the point of order.

Substitute Agreed To as Amended, Then Rejected in Vote on Original Amendment

§ 35.26 Where a proposed substitute for an amendment is itself amended and then agreed to as amended, the rejection of the original amendment as amended by the substitute does not preclude re-offering, as an amendment to text, the same proposition as initially contained in the substitute.

The proceedings of Mar. 14 and 15, 1960, are discussed in § 32.24, supra.

Inclusion of Rejected Amendment in Motion To Recommit

§ 35.27 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.

On July 8, 1940,[5] the following proceedings took place:

The Clerk read as follows:

Mr. [Hamilton] Fish [Jr., of New York] moves to recommit the bill S. 326 to the Committee on Foreign Affairs with instructions to that committee to report the same back forthwith with the following amendment: . . .

MR. LUTHER A. JOHNSON [of Texas): An identical amendment was voted upon in Committee of the Whole, offered by the gentleman from Pennsylvania [Mr. Rich].

THE SPEAKER:[6] That was an amendment which was offered in Com-

3. 104 CONG. REC. 4010, 85th Cong. 2d Sess. Under consideration was S. 497, authorizing construction, repair, and preservation of certain public works, etc.

See the language sought to be stricken at 104 CONG. REC. 3820, 85th Cong. 2d Sess., Mar. 10, 1958. The motion sought to strike the language; the rejected substitute had similarly sought to omit the language.

4. Howard W. Smith (Va.).

5. 86 CONG. REC. 9302, 9303, 76th Cong. 3d Sess. Under consideration was S. 326, the Mexican claims bill.

6. William B. Bankhead (Ala.).

mittee of the Whole, the Chair will state. The House takes no judicial notice of action in Committee of the Whole or the rejection of an amendment in the Committee. The point of order is overruled.

Similarly, on July 26, 1947,[7] the Speaker indicated that, since the House has no information as to actions of the Committee of the Whole on amendments which are not reported therefrom, a point of order against an amendment that is offered in a motion to recommit with instructions cannot be based on the ground that the amendment was voted down in the Committee of the Whole.

The proceedings were as follows:

THE SPEAKER:[8] The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. [Christian A.] Herter [of Massachusetts] moves to recommit the bill to the Committee on Agriculture with instructions to report it back forthwith with the following amendment: Beginning in line 5, page 1, strike out the words "at the price it supported wool in 1946" and insert in lieu thereof the words, "at a price not less than 90 percent of parity."

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Mr. Speaker, I make the point of order that it is not in order now to offer a motion to recommit with that provision, for the simple reason that the same provision has just been voted down by the House.

THE SPEAKER: In a parliamentary way the House has no knowledge of what happened in the Committee.

The Chair overrules the point of order.

Vacating Proceedings by Unanimous Consent

§ 35.28 The Committee of the Whole by unanimous consent vacated the proceedings by which it had rejected an amendment and then agreed to the amendment.

On May 27, 1948,[9] the following proceedings took place:

MR. [BEN F.] JENSEN [of Iowa]: . . . I ask unanimous consent to reconsider the vote by which action was taken on the amendment offered by the gentleman from North Carolina. . . .

THE CHAIRMAN:[10] Without objection, the Chair will again put the question, so there will be no mistake. . . .

The amendment was agreed to.

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7. 93 CONG. REC. 10455, 80th Cong. 1st Sess. Under consideration was S. 1498, to provide support for wool.

8. 93 Joseph W. Martin, Jr. [Mass.].

9. 94. CONG. REC. 6629, 80th Cong. 2d Sess. Under consideration was H.R. 6705, the Interior Department appropriation bill for 1949.

10. Earl C. Michener (Mich.).