Chapter CXXV.

AMENDMENTS.[1]

5753. Under the rule relating to amendments four motions may be pending at once: To amend, to amend the proposed amendment, to amend by a substitute, and to amend the substitute.

An amendment in the nature of a substitute may not be voted on until the original matter is perfected.

History of the evolution of the amendment in the nature of a substitute.

In the House (as distinguished from the Committee of the Whole) an amendment, whether simple or in the nature of a substitute, may be withdrawn at any time before amendment or decision is had thereon.

Amendments to the title of a bill are in order after its passage, and were formerly debatable even though the bill had passed under the operation of the previous question; but a later rule prohibits such debate.

Present form and history of Rule XIX.

Rule XIX provides:

When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected; but either may be withdrawn[2] before amendment or decision is had thereon.

[1] As to the rule that amendments must be germane. (See Chap. CXXVI, secs. 5801–5924 of this volume.)

[2] In Committee of the Whole amendments may not be withdrawn. (See sec. 5221 of this volume.) Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate.

This rule was first framed in the revision of 1880. The Committee on Rules, in their report [1] at that time, said:

Rule XIX merely embraces, in the form of a rule, that which has long been the practice of the House without rule. Speaker Macon decided, in the Ninth Congress, that if a motion to amend the original matter was first submitted, it was not then in order to submit an amendment in the nature of a substitute. This decision was reversed by Speaker Polk in the Twenty-fourth Congress, who was sustained on appeal by a decisive vote; and the practice has since been in accordance with the latter decision.

This paragraph of the report does not give the entire history of this rule, which goes back to the Continental Congress. In that body a habit had grown up of displacing a pending proposition in order to take up another and entirely different matter. Thus, instead of a decision on the merits of a question, there was often a postponement forced by the merits of some other proposition. The Continental Congress abolished this practice by a rule: [2]

No new motion or proposition shall be admitted, under color of amendment, as a substitute for the motion or proposition under debate until it is postponed or disagreed to.

When the House of Representatives was organized under the Constitution, this rule, on April 7, 1789,[3] was made part of the rules; but the last clause, "until it is postponed or disagreed to" was dropped.

The early Speakers construed this rule as preventing what is now known as a substitute; that is, a proposition to strike out all after the enacting or resolving words and insert a new text. It does not appear that Mr. Speaker Macon ruled in the Ninth Congress, as stated in the report of 1880, but on January 11 and April 19, 1808,[4] Mr. Speaker Varnum did hold out of order, under the terms of the rule, amendments in the nature of substitutes. And on January 10, 1822,[5] in a case wherein it was proposed to strike out all after the word "Resolved" and insert a new but germane text, Mr. Speaker Barbour ruled that such an amendment was a substitute, and therefore inadmissible. The House seems to have seen the undesirability of rule that produced such a result, and on March 13, 1822,[6] about two months later, struck out all of the rule forbidding the substitute, leaving it in this form:

No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

That substitute amendments were thereafter admitted is to be inferred from a decision by Mr. Speaker Taylor, on January 31, 1826,[7] wherein he held that the motion of Mr. Daniel Webster, of Massachusetts, to strike out all after the word "Resolved" in the Panama resolution and insert a new text was not in order, while a motion to amend the original text was pending. In the time of Mr. Speaker Polk substitute amendments seem to have been admitted as a matter of course,

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[1] Second session Forty-sixth Congress, Record, p. 203.

[2] See Journal of Continental Congress, July 8, 1784.

[3] First session First Congress, Journal, p. 10.

[4] First session Tenth Congress, Journal, pp. 122, 283.

[5] First session Seventeenth Congress, Journal, p. 135.

[6] First session Seventeenth Congress, Journal, p. 351.

[7] First session Nineteenth Congress, Journal, pp. 794, 795.

and on January 6, 1836,[1] he ruled that an amendment might be made to the substitute.

The last clause, relating to amendments to the title, was added September 6, 1893,[2] to prevent debate on an amendment to the title after the bill had passed. Before this the practice of the House had permitted such debate. On March 8, 1836,[3] Mr. Speaker Polk had held that the title was a distinct part of the bill, and that an amendment to it was debatable, even when the vote on the bill itself had been taken under the operation of the previous question. And on February 26, 1845,[4] Mr. Speaker Jones ruled that a motion to amend the title admitted of limited debate on the general principles of the bill.

5754. With some exceptions an amendment may attach itself to secondary and privileged motions.

The motions to postpone, refer, amend, for a recess, and to fix the day to which the House shall adjourn may be amended.

An amendment may not attach to the motion for the previous question or the motions to lay on the table and adjourn when used in the House.

An amendment in the third degree is not permissible.

The older and the modern form for putting the previous question. (Footnote.)

Section XXXIII of Jefferson's Manual provides:

> Suppose an amendment moved to a motion for the previous question. Answer: The previous question can not be amended. Parliamentary usage, as well as the ninth rule of the Senate, has fixed its form to be, "Shall the main question be now put?"[5]—i. e., at this instant; and as the present instant is but one, it can admit of no modification. To change it to tomorrow, or any other moment, is without example and without utility.[6] But suppose a motion to amend a motion for postponement, as to one day instead of another, or to a special instead of an indefinite time. The useful character of amendment gives it a privilege of attaching itself to a secondary and privileged motion; that is, we may amend a postponement of a main question. So we may amend a commitment of a main question, as by adding, for example, "with instructions to inquire," etc. In like manner, if an amendment be moved to an amendment, it is admitted, but it would not be admitted in another degree, to wit, to amend an amendment to an amendment of a main question. This would lead to too much embarrassment. The line must be drawn somewhere, and usage has drawn it after the amendment to the amendment.[7] The same result must be sought by deciding against the amendment to the amendment, and then moving it again as it was wished to be amended. In this form it becomes only an amendment to an amendment.[8]

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[1] See section 5793 of this chapter.

[2] First session Fifty-third Congress, Record, p. 1269; House Report No. 2.

[3] First session Twenty-fourth Congress, Debates, p. 2717.

[4] Second session Twenty-eighth Congress, Journal, p. 481; Globe, p. 354.

[5] This was the previous question of the first years of Congress. The Senate does not have the previous question now. In the House the old form of putting the previous question has been discarded, the Speaker now saying: "The gentleman from——demands the previous question. As many as are in favor of ordering the previous question will say aye; as many as axe opposed will say no."

[6] It is evident also that an amendment may not attach itself to the motion to lay on the table or the motion to adjourn when that motion is used, as in the House, in connection with a standing order fixing the hour of meeting. The motion for a recess and to fix the day to which the House shall adjourn may evidently be subjected to amendment.

[7] On April 20, 1826 (first session Nineteenth Congress, Debates, p. 2410), Mr. Speaker Taylor, in accordance with this principle, ruled out a proposed amendment in the third degree.

[8] The rule of the House allows a substitute with an amendment.

5755. It is not in order to offer more than one motion to amend at a time.—On February 27, 1841,[1] the House was considering the naval appropriation bill, when Mr. George Evans, of Maine, presented motions to strike out and insert as follows:

In the 13th line thereof strike out "one million four hundred and twenty-five thousand," and insert "two Millions."

In line 18 strike out "fifteen" and insert "twenty-five.

And so on for similar changes in six other lines of the bill.

Mr. George C. Dromgoole, of Virginia, made the point of order that it was not in order to offer a series of amendments at one time.

The Speaker[2] decided that it was not in order to offer more than one amendment at a time, and that the foregoing amendments were not in order.

From this decision Mr. Evans appealed, but on the succeeding day withdrew the appeal.

5756. A proposed amendment may not be accepted by the Member in charge of the pending measure, but can be agreed to only by the House.—On January 30, 1902,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 10308) to provide for a permanent census office, the pending question being on agreeing to an amendment proposed by Mr. Thomas H. Ball, of Texas.

To this amendment Mr. Elias S. Holliday, of Indiana, proposed an amendment.

Mr. Ball announced that he accepted the amendment to his amendment.

The Chairman[4] said:

The gentleman can not accept the amendment. it is for the Committee of the Whole to decide whether it shall be adopted or rejected.[5]

5757. On January 10, 1905,[6] the Committee of the Whole House on the state of the Union were considering the bill (H. R. 4831) to improve currency conditions, the pending question being on an amendment offered by Mr. Charles N. Fowler, of New Jersey.

Mr. Sidney J. Bowie, of Alabama, proposed an amendment to the amendment.

Mr. Fowler announced that he accepted the amendment offered by Mr. Bowie.

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[1] Second session Twenty-sixth Congress, Journal, p. 336; Globe, pp. 212, 216.

[2] Robert M. T. Hunter, of Virginia, Speaker.

[3] First session Fifty-seventh Congress, Record, p. 1145. [4] William H. Moody, of Massachusetts, Chairman.

[5] Although the principle that an amendment may be adopted only by the will of the body, yet there is one ruling the other way. On January 31. 1826 (first session Nineteenth Congress, Journal, p. 794), Mr. George McDuffie, of South Carolina, proposed an amendment to a resolution which had been offered by Mr. James Hamilton, of South Carolina, and which had already been amended by a vote of the House. Mr. Hamilton proposed to accept the amendment offered by Mr. McDuffie, whereat a question was raised as to the right of Mr. Hamilton to accept a modification after amendment by the House.

The Speaker (John W. Taylor, of New York) decided that the action proposed by Mr. Hamilton was in order, since the amendment proposed to be accepted did not affect the amendment previously inserted by the House.

[6] Third session Fifty-eighth Congress, Record, pp. 659, 660.

Mr. Charles F. Scott, of Kansas, said:

Mr. Chairman, I rise for a parliamentary inquiry. I understood the gentleman from New Jersey to accept the amendment of the gentleman from Alabama. Now, if he accepts it, does he not thereby make it part of his amendment, and must it not, therefore, stand with his amendment?

The Chairman [1] said:

The gentleman from New Jersey can not act for the Committee of the Whole; they must pass upon the question. The question is on agreeing to the amendment offered by the gentleman from Alabama to the amendment offered by the gentleman from New Jersey.

5758. When it is proposed to amend by inserting a paragraph, it should be perfected by amendment before the question is put on inserting.

When it is proposed to strike out a paragraph, it should be perfected by amendment before the question is put on striking out, although if the motion to strike out fails amendments may still be offered.

A negative vote on a motion to strike out and insert does not prevent the offering of another similar motion or a simple motion to strike out.

Words inserted by amendment may not afterwards be changed, except that a portion of the original paragraph including the words so inserted, may be stricken out if, in effect, it presents a new proposition, and a new coherence may also be inserted in place of that stricken out.

When it is proposed to perfect a paragraph, the motion to insert or strike out, if already pending, must remain in abeyance until the amendments to perfect have been moved and voted on.

Jefferson's Manual, in Section XXXV, provides:

When it is proposed to amend by inserting a paragraph, or part of one, the friends of the paragraph may make it as perfect as they can by amendments before the question is put for inserting it. If it be received, it can not be amended afterwards, in the same stage, because the House has, on a vote, agreed to it in that form. In like manner, if it is proposed to amend by striking out a paragraph, the friends of the paragraph are first to make it as perfect as they can by amendments, before the question is put for striking it out. If on the question it be retained, it can not be amended afterwards, because a vote against striking out is equivalent to a vote agreeing to it in that form.[2]

A motion is made to amend by striking out certain words and inserting others in their place, which is negatived. Then it is moved to strike out the same words, and to insert others of a tenor entirely different from those fast proposed. It is negatived. Then it is moved to strike out the same words, and insert nothing, which is agreed to. All this is admissible, because to strike out and insert A is one proposition. To strike out and insert B is a different proposition. And to strike out and insert nothing is still different. And the rejection of one proposition does not preclude the offering a different one.

But if it had been carried affirmatively to strike out the words and to insert A, it could not afterwards be permitted to strike out A and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B; in which case those who preferred it would join in rejecting A.

After A is inserted, however, it may be moved to strike out a portion of the original paragraph, comprehending A, provided the coherence to be struck out be so substantial as to make this effectively a different proposition; for then it is resolved into the common case of striking out a paragraph after amending it. Nor does anything forbid a new insertion instead of A and its coherence.

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[1] John Dalzell, of Pennsylvania, Chairman.

[2] The rule of the House specially provides that a motion to strike out being lost shall not preclude amendment or a motion to strike out and insert.

Also Section XXXIII of the Manual provides:

Another exception to the rule of priority is when a motion has been made to strike out or agree to a paragraph. Motions to amend it are to be put to the question before a vote is taken on striking out or agreeing to the whole paragraph.

5759. Words once inserted in a paragraph by way of amendment, may not be stricken out by another motion to amend, but words on the same subject, even though inconsistent, may be added to the paragraph.

An early instance wherein a resolution making inquiry of the President of the United States, contained the condition, "if not incompatible with the public interest."

On January 31, 1826,[1] this resolution was before the House, on motion of Mr. James S. Hamilton, of South Carolina:

Resolved, That the President of the United States be requested to transmit to this House copies of all such documents, or parts of correspondence (not incompatible with the public interest to be communicated), relating to an invitation that has been extended to the Government of this country "by the Republics of Colombia, of Mexico, and of Central America to join in the deliberations of a congress to be held at the Isthmus of Panama," and which has induced him to signify to this House that "ministers on the part of the United States will be commissioned to join in those deliberations."

Mr. Hamilton having modified his resolution by striking out the words in parentheses, Mr. Daniel Webster, of Massachusetts, moved, in substance, to insert these words. The amendment was adopted.

Later, on February 2, Mr. James S. Stevenson, of Pennsylvania, proposed an amendment to strike out the words inserted, on motion of Mr. Webster, in Mr. Hamilton's resolution, and to add to the concluding words of the resolution these words: "making so much of his communication confidential as he may think proper."

Mr. Webster inquired if Mr. Stevenson's motion was in order.

The Speaker[2] decided that so much of the motion as went to strike out was not in order, these words having been inserted by a vote of the House; but that the part of the motion to add certain words was in order.

Mr. John Forsyth, of Georgia, appealed, and in his appeal said that with proper deference to the longer experience of the Chair, he could not but deem the proposition of Mr. Stevenson in order. The rule of the House to which the Speaker referred was that words inserted by way of amendment could not be struck out on motion. The propriety of this rule was quite obvious. The House having decided upon the propriety of the words forming part of the proposition, ought not to be called upon again to decide the same question. But it did not apply here. The proposition of the gentleman from Pennsylvania to add words, and to strike out others inconsistent with them, did not bring back the same question that has just been decided. It was perfectly distinct in its character, and had not yet been before the House. The House had decided that it would call on the President for such information as, in his opinion, might be safely communicated. The proposition was that this discretion might be limited to the manner in which the communication was to be

[1] First session Nineteenth Congress, Journal, p. 794; Debates, p. 1261.

[2] John W. Taylor, of New York, Speaker.

made, whether openly or confidentially. In making it, the gentleman proposed additional words to the resolution, and the necessary erasure of words inconsistent with them. The additional words were decided to be in order. If adopted, the whole resolution became nonsensical. To make it sense, the words proposed to be erased must be removed from the whole sentence. To erase them was out of order. * * * The whole amendment was in order or none of it.

The House sustained the decision of the Speaker.

5760. It is in order to insert by way of amendment a paragraph similar (if not actually identical) to one already stricken out by amendment.—On January 7, 1885,[1] the House was considering the bill to regulate commerce between the States, when Mr. Bishop W. Perkins, of Kansas, moved an amendment in the nature of a substitute for several sections of the bill.

Mr. John H. Reagan, of Texas, made the point of order that a certain amendment, being a copy of certain sections of a bill which had been disagreed to by the House, was not in order.

After debate on the point of order, the Speaker[2] overruled the same, on the ground that while a large portion of the proposed amendment was identical with some of the provisions stricken out of the pending bill it was not the same proposition then voted on.

5761. After a vote to insert a new section in a bill it is too late to perfect the section by amendment.—On May 19, 1882,[3] the House was considering the bill (H. R. 4167) to enable national banks to extend their corporate existence, when an amendment in the nature of an entirely new section was offered.

This new section was considered and agreed to.

Thereupon Mr. William H. Calkins, of Indiana, proposed an amendment to the section.

The Speaker[4] said:

> The Chair thinks that amendments would have been in order before the vote was taken upon adopting the new section as amended, but not now. * * * The section was offered in the form of an amendment, and while pending, amendments to that section were in order.

5762. On May 22, 1902,[5] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12199) to regulate the immigration of aliens into the United States, when an amendment in the form of a new section was offered, and after being perfected by amendments, was agreed to.

Thereupon Mr. John H. Stephens, of Texas, proposed a further amendment.

The Chairman[6] held that, as the new section had been agreed to, no other amendments to the section were in order.

5763. It is not in order to amend an amendment that has been agreed to; but the amendment with other words of the original paragraph may be stricken out in order to insert a new text of a different meaning.—On

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[1] Second session Forty-eighth Congress, Journal, p. 191; Record, pp. 533, 534.

[2] John G. Carlisle, of Kentucky, Speaker.

[3] First session Forty-seventh Congress, Record, pp. 4128, 4129.

[4] J. Warren Keifer, of Ohio, Speaker.

[5] First session Fifty-seventh Congress, Record, p. 5833.

[6] Henry S. Boutell, of Illinois, Chairman.

February 11, 1902,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 9206) relating to oleomargarine and other imitation dairy products, when Mr. James A. Tawney, of Minnesota, offered an amendment, which was agreed to.

Thereupon Mr. James W. Wadsworth, of New York, proposed an amendment to the amendment which had already been agreed to.

The Chairman[2] said:

The committee has already adopted the amendment offered by the gentleman from Minnesota. * * * It is an amendment to that which the committee has already adopted. The original text would be open to amendment, but not the language of the amendment of the committee.

Then Mr. Wadsworth proposed an amendment striking out the section as amended by Mr. Tawney's amendment, and inserting a new text.

Questions of order arising as to this motion, the Chairman held it in order, causing the following from Jefferson's Manual to be read:

But if it had been carried affirmatively to strike out the words and to insert A, it could not afterwards be permitted to strike out A and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B; in which case those who preferred it would join in rejecting A.

After A is inserted, however, it may be moved to strike out a portion of the original paragraph, comprehending A, provided the coherence to be struck out be so substantial as to make this effectively a different proposition; for then it is resolved into the common case of striking out a paragraph after amending it. Nor does anything forbid a new insertion, instead of A and its coherence.

5764. While it is not in order to strike out a portion of an amendment once agreed to, yet words may be added to the amendment.—On April 12, 1828,[3] during consideration of the tariff bill, a proposition was made to amend by striking out a portion of an amendment already agreed to by the House.

The Speaker[4] decided that the motion could not be received, as the amendment from which it was proposed to strike out a portion had been agreed to by the House. Although it was open to be amended by adding to it, it could not be altered by striking out any of the words to which the House had agreed.

5765. On February 25, 1837,[5] the House was considering the second amendment of the Senate to the bill (H. R. 756) making appropriations for fortifications, when, on motion of Mr. John Bell, of Tennessee, the said second amendment was amended by adding the following:

SEC.—*And be it further enacted,* That the money which shall be in the Treasury of the United States on the first day of January, eighteen hundred and thirty-eight, reserving the sum of five millions of dollars, shall be deposited with the several States, on the terms, and according to the provisions, of the thirteenth, fourteenth, and fifteenth sections of the act to regulate the deposits of the public money, approved the twenty-third day of June, eighteen hundred and thirty-six.

Thereupon, Mr. Abijah Mann, jr., of New York, moved to amend further the said second amendment, by adding as follows:

Provided, That said deposit shall be made with such States in proportion to the ratio of representation of such States in the House of Representatives of the Congress of the United States.

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[1] First session Fifty-seventh Congress, Record, pp. 1614–1616.

[2] John F. Lacey, of Iowa, Chairman.

[3] First session Twentieth Congress, Debates, p. 2309.

[4] Andrew Stevenson, of Virginia, Speaker.

[5] Second session Twenty-fourth Congress, Journal, pp. 526–530; Debates, p. 1967.

Mr. Sherrod Williams, of Kentucky, raised a question of order as to whether an amendment could be moved to an amendment already adopted.

The Speaker [1] ruled the amendment to be in order, because it might come in as a second branch of the proposition. It would not be in order to move to strike out any part of the adopted amendment, but it would be in order to add a paragraph or a proviso to it.

5766. Words embodying a distinct substantive proposition being agreed to as an amendment, it is not in order to amend by striking out a part of those words with other words.—On January 16, 1906,[2] the Philippine tariff bill (H.R. 3) was under consideration in Committee of the Whole House on the state of the Union, when Mr. Richard Wayne Parker, of New Jersey, proposed an amendment which would strike out the latter portion of an amendment already agreed to, and a succeeding portion of the text, as follows, the portion in brackets being the text of the amendment already agreed to and the portion in parentheses being what he proposed to strike out:

[That in consideration of the rates of duty aforesaid, sugar and tobacco, both manufactured and unmanufactured (wholly the growth and product of the United States, shall be admitted to the Philippine Islands from the United States free of duty:] *And provided further,* That on and after the eleventh day of April, nineteen hundred and nine, all articles and merchandise going from the United States into the Philippine Islands, and all articles wholly the growth and product of the Philippine Islands coming into the United states from the Philippine Islands, shall be admitted free of duty)

Mr. Parker's amendment proposed to strike out the above as included in the parentheses and to insert the following:

iron and steel and their manufactures, cotton and its manufactures, petroleum, schists and bitumen and their derivatives, and instruments, machinery, and apparatus employed in agriculture, industry, and locomotion, all being wholly the growth and product of the United States, shall be subject to pay only 25 per cent of the duties collected on merchandise imported into the Philippine Islands.

Mr. Sereno E. Payne, of New York, having raised a question of order, the Chairman [3] ruled:

The Chair finds that the amendment proposed is to strike out the words, beginning in line 5, page 3, "wholly the growth and product of the United States shall be admitted to the Philippine Islands from the United States free of duty." These words form a part of the amendment to which the Committee has already agreed. While the question is not entirely free from doubt, the Chair is of the opinion that the amendment proposing to strike out what the Committee has once voted in is not in order.

5767. The motion to strike out and insert may not be divided for the vote.

A rule of the House provides that even though a motion to strike out a proposition be decided in the negative, yet the proposition may be amended, even by a motion to strike out and insert.

An amendment must be germane to the subject which it is proposed to amend.

Present form and history of section 7 of Rule XVI.

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[1] James K. Polk, of Tennessee, Speaker.

[2] First session Fifty-ninth Congress, Record, pp. 1150–1151.

[3] Marlin E. Olmsted, of Pennsylvania, Chairman.

Section 7 of Rule XVI provides:

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; and no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

This rule is in the form reported in the revision of 1880.[1] The portion relating to the motion to strike out dates from December 23, 1811,[2] when the House adopted the rule that "a motion to strike out and insert shall be deemed indivisible," and from March 13, 1822,[3] when this clause was added:

But a motion to strike out being lost, shall preclude neither amendment nor a motion to strike out and insert.

The portion of the rule relating to germaneness was a part of the first rules of April 7, 1789,[4] in this form:

No new motion or proposition shall be admitted under color of amendment as a substitute for the motion or proposition under debate.[5]

On March 13, 1822,[5] the form was changed to that which continues at this time as the last clause of section 7 of Rule XVI.

5768. When it is proposed to strike out certain words in a paragraph, it is not in order to amend by adding to them other words of the paragraph.—On April 3, 1902,[7] the bill (S. 1025) to promote the efficiency of the Revenue-Cutter Service was under consideration in Committee of the Whole House on the state of the Union, when the following paragraph was read:

SEC. 8. That when any commissioned officer is retired from active service, the next officer in rank shall be promoted according to the established rules of the service, and the same rule of promotion shall be applied successively to the vacancies consequent upon such retirement.

Mr. James R. Mann, of Illinois, moved to strike out the words "according to the established rules of the service."

Mr. John F. Lacey, of Iowa, moved to amend the amendment by adding to the words proposed to be stricken out other words in the context of the paragraph.

The Chairman[8] held that the amendment of Mr. Lacey should be offered as an independent amendment rather than as an amendment to the amendment.

5769. A motion to strike out certain words being disagreed to, it is in order to strike out a portion of those words.—On March 2, 1904,[9] the District of Columbia appropriation bill was under consideration in Committee of the Whole House on the state of the Union when the following amendment was proposed and disagreed to:

Strike out, in line 1, page 15, the words "register of wills" and in line 2 the words "and the police court."

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[1] Second session Forty-sixth Congress, Record, p. 206.

[2] House Report No. 38, first session Twelfth Congress.

[3] First session Seventeenth Congress, Journal, p. 351.

[4] First session First Congress, Journal, p. 9.

[5] For a further history of this portion of the rule see section 5753 of this volume.

[6] First session Seventeenth Congress, Journal, p. 351.

[7] First session Fifty-seventh Congress, Record, p. 3636.

[8] Marlin E. Olmsted, of Pennsylvania, Chairman.

[9] Second session Fifty-eighth Congress, Record, p. 2693.

Thereupon Mr. Samuel W. Smith, of Michigan, moved to strike out the words "and the police court" in line 2.

Mr. Maecenas E. Benton, of Missouri, suggested the point that the amendment had already been voted on.

The Chairman [1] held:

The Chair will remind the gentleman that the amendment offered by the gentleman from Iowa (Mr. Smith] was to strike out the words "register of wills" in the first line and the words "and the police court" in the second line. No one called for a division. The proposition offered by the gentleman from Michigan [Mr. Samuel W. Smith] to strike out simply the words "and the police court" is a different proposition. Perhaps it would have been better to have called for a division of the amendment offered by the gentleman from Iowa, but that was not done, and the Chair must hold that this is a different proposition—one which has not been acted upon. The question then is upon the amendment offered by the gentleman from Michigan.

5770. It is in order to perfect words proposed to be stricken out by striking out a portion of them.—On April 20, 1904,[2] the House was considering the bill (H. R. 7262) to provide for the allotment of lands in severalty to the Indians in the State of New York, etc.

Mr. John J. Fitzgerald, of New York, proposed an amendment striking out certain lines in one section of the bill, these lines not comprising a separate paragraph by themselves, but standing consecutively.

Mr. Edward B. Vreeland, of New York, proposed an amendment striking out certain lines occurring consecutively, and within the portion proposed to be stricken out by Mr. Fitzgerald.

A question arising, the Speaker pro tempore [3] said:

The Chair will state the parliamentary situation to be that the gentleman from New York [Mr. Fitzgerald] offers to amend by striking out certain words. The other gentleman from New York (Mr. Vreeland] offers an amendment, which is to strike out certain words which are within and much less than the part proposed to be stricken out by the first amendment. * * * And under the rules the amendment offered by the second gentleman from New York [Mr. Vreeland] is in the nature of a perfection of the paragraph, and is therefore a preferential amendment, to be voted upon before the amendment offered by the gentleman from New York [Mr. Fitzgerald] is put.

5771. While amendments are pending to the section a motion to strike it out may not be offered.—On June 2,1906,[4] the bill (H. R. 15442) to establish a Bureau of Immigration and Naturalization and to provide for a uniform rule for the naturalization of aliens throughout the United States was under consideration in Committee of the Whole House on the state of the Union, when several amendments to section 9 of the bill were offered and were pending.

Mr. Philip P. Campbell, of Kansas, moved to strike out the whole of section 9.

The Chairman [5] held:

That is not in order at this time until the section has been perfected.

5772. The question on agreeing to committee amendments is put by the Chair without motion from the floor.—On May 25, 1906,[6] the bill

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[1] George P. Lawrence, of Massachusetts, Chairman.

[2] Second session Fifty-eighth Congress, Record, p. 5206.

[3] Marlin E. Olmsted, of Pennsylvania, Speaker pro tempore.

[4] First session Fifty-ninth Congress, Record, p. 7783.

[5] Frank D. Currier, of New Hampshire, Chairman.

[6] First session Fifty-ninth Congress, Record, p. 7445.

(H. R. 18523) granting an increase of pension to Hugh Reid was under consideration in Committee of the Whole House when the Chairman was proceeding to take the sense of the House on the Committee amendments to the bill.

Mr. John S. Williams, of Mississippi, suggested that the Chair wait until some Member make the motion to agree to the amendments.

The Chairman [1] said:

The Chair will state that it is not necessary under the rule; that the Committee amendments are considered pending by virtue of the report of the Committee, and hence it is unnecessary to wait for a motion.

5773. Amendments reported by a committee are acted on before those offered from the floor—On December 28, 1826,[2] in the Senate, during consideration of the bankruptcy bill, the Chair [3] held that the amendments proposed by the committee would be first considered, then the propositions of other Senators would be in order.

This is the practice in the House also.[4]

5774. A bill being under consideration by paragraphs, a motion to strike out was held to apply only to the paragraph under consideration.—On May 24, 1900,[5] the bill (S. 3419) making further provision for the civil government of Alaska, and for other purposes, was under consideration in Committee of the Whole House on the state of the Union. This bill was printed in sections, a section sometimes including several paragraphs, and the sections were classified into chapters.

For convenience of amendment the Committee was proceeding with the reading paragraph by paragraph, as in the case of appropriation bills, rather than section by section.

The Clerk having read the first paragraph of chapter 12, Mr. James T. Lloyd, of Missouri, moved to strike out all of the chapter after the first section.

The Chairman [6] held:

The Chair is of opinion without unanimous consent it would not be in order. The Chair has stated that it would only be in order to strike out the section paragraph by paragraph as read. * * * The Chair ruled in accordance with the rule of the House. The practice is well settled and understood that you can not without unanimous consent strike out an entire chapter at one time. After reading by paragraphs or section you can not go back to a paragraph that has been read, but it is in order only to strike it out by paragraph or section. * * * Before we commenced, it was provided that at the conclusion of each paragraph the Committee amendments should be disposed of, rather than wait until the section is read.

5775. It is in order, by a motion to insert, to effect a transfer of paragraphs from the latter to the first portion of a bill.—On March 22, 1904,[7] the Post-Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. Thomas S. Butler proposed

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[1] Adin B. Capron, of Rhode Island, Chairman.

[2] Second session Nineteenth Congress, Debates, p. 23.

[3] John C. Calhoun, of South Carolina, Vice-President.

[4] Of course, if a committee amendment is to be amended in the House, it may not be voted on until perfected.

[5] First session Fifty-sixth Congress, Record, p. 5981.

[6] John J. Jenkins, of Wisconsin, Chairman.

[7] Second session Fifty-eighth Congress, Record, pp. 3524–3527.

an amendment which in effect would transpose a part of the bill from the latter portion to a page in the first part. He moved to insert, presumably intending, when the part should be reached in the latter portion, to move to strike out.

After several points of order had been raised and discussed, the Chairman[1] held:

The gentleman from Pennsylvania offers an amendment which has been reported by the Clerk, following line 16, page 12, of the bill. The gentleman from Pennsylvania moves to amend by adding what is conceded is the language now in the draft of the bill before the House contained on page 23, from line 5 down to and including line 16 on page 26 of the bill. To this amendment the gentleman from Indiana [Mr. Overstreet] makes the point of order, first, that the amendment is not germane; second, that it contains new legislation; and third, that in parts it is contrary to existing law. The gentleman from Illinois [Mr. Mann] has also made the point of order against a certain paragraph in the amendment.

Now, the Chair wishes to have it clearly understood in the first place that this amendment, left as it is before the Committee, is an entirety, and any point of order sustained against any part of the amendment would, of course, throw out the entire amendment.

First, as to the question as to its being germane. The Chair understands that it is in the power of the House to make the artificial arrangement of a bill, and the Chair does not think that the transfer of what happens to be in a part of the bill which has not been yet read to a part of the bill which is now under consideration necessarily raises the question of its germaneness. The question of the amendment being germane is raised as a new and independent question when the amendment is offered. Now, as to this amendment being germane at this time, the Chair would be constrained to hold that it is germane to this part of the bill, unless it can be conclusively shown to the Chair that there is some other part of the bill to which the amendment preeminently belongs.

Now, the Chair is not convinced that there is any other part of the bill to which this amendment applies in preference to this part of the bill. The Chair therefore holds that the amendment at this point is germane. In making this ruling, however, the Chair wishes to be distinctly understood as not considering that this amendment changes the discretion in any way of the Postmaster-General in reference to the expenditure of funds appropriated for his Department. The law rescribes that the funds appropriated for the Post-Office Department shall be expended and accounted for by the Postmaster-General, and the Chair is of opinion that it is a matter of indifference in what part of this appropriation bill an item of appropriation occurs so far as the discretion rested in the Postmaster-General is concerned. It is very clear from the points of order raised by the gentleman from Indiana and the gentleman from Illinois that this amendment, regarded as an entirety, changes the existing law and contains new legislation.

The Chair has looked through the amendment hurriedly, but in line 22, on page 23 of the bill, the words "five years" seem to be changed from "ten years." The first two words in line I of page 25, together with the last words of page 24, reading "in the field" seem by reference to the present law to be new legislation, and the parts of the amendment referred to by the gentleman from Indiana, beginning at the bottom of page 25, and the parts referred to by the gentleman from Illinois, at the top of page 26, are new legislation or change of existing law, and without going into any further detail as to the number of instances in which the pending amendment changes existing law, it is very clear to the Chair that the amendment does contain new legislation, does change existing law, and the Chair, therefore, sustains the point of order.

5776. On February 1, 1965,[2] the Post-Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. Jesse Overstreet, of Indiana, offered this amendment:

Insert after line 8, page 1, the following:

"Salaries of post-office inspectors: For salaries of fifteen inspectors in charge of divisions, at $2,500 each; six inspectors, at $2,400 each; fifteen inspectors, at $2,250 each; fifteen inspectors, at

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[1] Henry S. Boutell, of Illinois, Chairman.

[2] Third session Fifty-eighth Congress, Record, pp. 1734, 1735,

$2,000 each; seventy inspectors at, $1,600 each; sixty inspectors, at $1,400 each, and forty-two inspectors, at $1,200 each; in all, $362,050.

"For per diem allowance of inspectors in the field while actually traveling on official business away from their home, their official domicile, and their headquarters, $195,000: *Provided,* That the Postmaster-General may, in his discretion, allow post-office inspectors per diem while temporarily located at any place on business away from their home, or their designated domicile, for a period not exceeding twenty consecutive days at any one place, and may make rules and regulations governing the foregoing provisions relating to per diem: *And provided further,* That no per diem shall be paid to inspectors receiving annual salaries of $2,000 or more.

"For salaries of clerks and laborers at division headquarters, miscellaneous expenses at division headquarters, traveling expenses of inspectors without per diem, and of inspectors in charge, expenses incurred by field inspectors not covered by per diem allowance, and traveling expenses of the chief post-office inspector, $100,000: *Provided,* That of the amount herein appropriated not to exceed $2,000 may be expended, in the discretion of the Postmaster-General, for the purpose of securing information concerning violations of the postal laws, and for services and information looking toward the apprehension of criminals.

"For payment of rewards for the detection, arrest, and conviction of post-office burglars, robbers, and highway mail robbers, $15,000."

Mr. James R. Mann, of Illinois, made a point of order, saying:

The amendment, as I understand, is a provision in the bill on page 21 and running over several pages. * * * It changes at once a large number of separate paragraphs, each of which would have to be read by itself in the bill, and subject to amendment by itself in the bill; and now the gentleman offers all of these provisions as one amendment. If that amendment be in order, then the gentleman could offer, after the first paragraph of the bill, all the balance of the bill as one amendment, and prevent the amendment of different paragraphs of the bill. I think the gentleman ought to ask unanimous consent that he may take up that part of the bill at this place and insert it in this place in the bill, to which there probably would be no objection; but it does seem to me to offer a large number of paragraphs out of one place in the bill, where they should be read one at a time and subject to point of order each by itself, and offer them as one amendment in another place in the bill absolutely destroys the right of the committee properly to consider and amend the bill as it should be presented.

After debate, the Chairman said: [1]

The Chair will call the attention of the Committee to a ruling made at the last session, when the Post-Office appropriation bill was under consideration. That ruling is that "it is in order by a motion to insert to effect a transfer of paragraphs from the latter to the first portion of a bill." The chairman of the committee, therefore, has a right to move to transfer a paragraph from one place in the bill to another.

A motion to insert a paragraph containing different propositions can be divided, upon the request of any member of the committee, so that the rights of the committee are entirely safeguarded. If the committee sees fit to consider it as one paragraph, it can do so. If not, any member of the committee has the right to have the paragraph divided, and the different propositions contained in it considered separately.

The Chair overrules the point of order. The question is upon the amendment offered by the gentleman from Indiana [Mr. Overstreet].

5777. An amendment in the form of a new and separate paragraph may be offered to any part of the bill to which it is germane.—On March 10, 1902,[1] while the Committee of the Whole House on the state of the Union was considering the bill (H. R. 11728) relating to the free rural delivery service, and before the reading of the bill for amendment had been com-

[1] George P. Lawrence, of Massachusetts, Chairman.

[2] First session Fifty-seventh Congress, Record, pp. 2598, 2599.

pleted, Mr. Joshua S. Salmon, of New Jersey, proposed an amendment in the form of a new and separate paragraph.

Mr. Claude A. Swanson, of Virginia, made the point of order that such an amendment might be offered only at the end of the bill.

The Chairman [1] said:

> The Chair is of the opinion that a separate paragraph does not necessarily go to the end of the bill. The Chair thinks that this amendment is obviously germane. * * * The Chair is of opinion that the paragraph which the gentleman offers is plainly germane to the bill and can be introduced as a separate paragraph, but the Chair is of the opinion, as suggested by the gentleman from Virginia, that it would be more appropriate and more regular and much better if the paragraph was offered after the subject which is treated of here has been acted upon by the House; that is, after sections 3 and 4 have been disposed of. The Chair will suggest to the gentleman from New Jersey that he withdraw his amendment and renew it again, which will prevent all question.

5778. Pro forma amendments were in use in five minutes' debate as early as 1868.—In a resolution agreed to on February 25, 1868,[2] providing the order of business for considering articles of impeachment against Andrew Johnson in Committee of the Whole, pro forma amendments are mentioned, indicating their use at that time in the five-minute debate.[3]

5779. The formal amendment striking out the last word is not in order in considering an amendment to a substitute, being in the third degree.—On June 6, 1902,[4] the Committee of the Whole House on the state of the Union was considering the bill (S. 3653) for the protection of the President of the United States, and for other purposes. This bill had been reported from the Committee on the Judiciary with an amendment striking out all after the enacting clause and inserting a new text.

To this new text an amendment had been offered, when Mr. David H. Smith, of Kentucky, moved to strike out the last word of the amendment, and on this motion was proceeding to debate.

Mr. George W. Ray, of New York, having made a point of order, the Chairman [5] said:

> The point of order is made by the gentleman from New York [Mr. Ray] that the amendment proposed by the gentleman from Kentucky is not in order because it is an amendment in the third degree. The Chair will sustain the point of order.

5780. In 1886 the House abandoned the rule prohibiting the amendment of one bill by offering the substance of another bill pending before the House.—In the early days of the House it was not customary to allow the substance of a bill already pending before the House to be offered as an amendment to a bill under consideration. A ruling to this effect was made on

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[1] Frederick H. Gillett, of Massachusetts, Chairman.

[2] Second session Fortieth Congress, Journal, p. 407; Globe, p. 1425.

[3] The practice of making pro forma amendments in Committee of the Whole during the five-minute debate led to an attempt on March 29, 1880, to prohibit such amendments. (Second session Forty-sixth Congress, Journal, p. 907; Record, p. 1935.)

[4] First session Fifty-seventh Congress, Record, p. 6425.

[5] Charles H. Grosvenor, of Ohio, Chairman.

June 17, 1836.[1] This was in accordance with the practice of the House from the earliest times.

On December 17, 1808,[2] the Speaker[3] decided that it was not in order to offer as an amendment to a pending measure the substance of a proposition already referred to a Committee of the Whole.

On February 14, 1826,[4] a question arose and was debated in Committee of the Whole as to the propriety of offering as an amendment to the pending bill a matter referred to a standing committee and not reported by them.

On April 5, 1886,[5] on report from the Committee on Rules, the House repealed an old rule, which had been existing since 1837, and which prohibited the amendment of one bill by offering as an amendment any other bill pending before the House. The committee considered that this rule restricted unduly the right to amend.

5781. A bill is not amended on its first reading, but pending the engrossment and third reading.

A new bill may be engrafted by way of amendment on the words "Be it enacted," etc.

One House may pass a bill with blanks to be filled by the other House.

The amendment of the numbering of the sections of a bill is done by the Clerk.

The inconsistency of a proposed amendment with one already agreed to is not a matter for the decision of the Speaker.

Jefferson's Manual has these general provisions of the parliamentary law in relation to amendments:

In Section XXIV:

A bill can not be amended on its first reading.[6]

In Section XXXV:

If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress as if it were against order. For were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress, instead of subserving, the legislative will.[7]

A new bill may be ingrafted, by way of amendment, on the words "Be it enacted," etc.[8] (1 Grey, 190, 192.)

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[1] First session Twenty-fourth Congress, Journal, p. 1033; Debates, p. 4331.

[2] Second session Tenth Congress, Journal, pp. 133–143. Also, again on January 22, 1810, second session Eleventh Congress, Journal, p. 196.

[3] Joseph B. Varnum, of Massachusetts, Speaker.

[4] First session Nineteenth Congress, Debates, p. 1358.

[5] First session Forty-ninth Congress, Journal, pp. 1156, 1166.

[6] It is the practice in the House to amend bills after the second reading and when the next question would be on the engrossment. Senate bills in the House are amended when the question is on the third reading.

[7] Thus, Mr. Speaker Stevenson, in 1828 (first session Twentieth Congress, Debates, pp. 1155, 2309), held: "The Chair has no right to judge on the point of compatibility," and quoted the provision of Jefferson's Manual in justification therefor.

[8] Of course the new bill must, under the rules of the House, be germane to the text which it displaces.

A bill passed by the one House with blanks.[1] These may be filled up by the other by way of amendments, returned to the first as such, and passed. (3 Hats., 83.)

The number prefixed to the section of a bill, being merely a marginal indication, and no part of the text of the bill, the Clerk regulates that—the House or committee is only to amend the text.

5782. When unanimous consent has been given for the consideration of a bill, amendments may be offered and may not be prevented by the objection of a member.—On November 16, 1877[2] Mr. Roger Q. Mills, of Texas, asked and obtained unanimous consent for the consideration of a resolution relating to the strength of the Army.

The resolution being under consideration, and a proposition having been made to amend it, objection was made to such amendment.

Thereupon the Speaker[3] held:

The gentleman asked unanimous consent to introduce the resolution. It is the province of the House to pass the resolution. It is not the duty of the Chair. Unanimous consent having been given for its introduction, the resolution is before the House for consideration and is open to amendment.

5783. The admissibility of an amendment should be judged from the provisions of its text rather than from the purpose which circumstances may suggest.—On January 22, 1902,[4] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 9315) "making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30, 1902, and prior years, and for other purposes," when Mr. John A. T. Hull, of Iowa, made the point of order that the following paragraph involved new legislation:

For the establishment in the vicinity of Manila, P. I., of a military post, including the construction of barracks, quarters for officers, hospital, storehouses, and other buildings, as well as water supply, lighting, sewerage, and drainage necessary for the accommodation of a garrison of 2 full regiments of infantry, 2 squadrons of cavalry, and 2 batteries of artillery, to be available until expended, $500,000.

The Chairman[5] sustained the point of order, and the paragraph was ruled out.

Soon thereafter Mr. Joseph G. Cannon, of Illinois, offered the following amendment:

For the proper shelter and protection of officers and enlisted men of the Army of the United States lawfully on duty in the Philippine Islands, to be expended in the discretion of the President, $500,000.

Mr. James D. Richardson,, of Tennessee, made the point of order against the amendment.

After debate, the Chairman said:

The rules of the House provide that appropriations for deficiencies, whether for the military establishment, the naval establishment, the Post-Office, or Indian, or whatever purpose, are under the jurisdiction of the Committee on Appropriations rather than the general committees that care for the general appropriation bills covering the different Departments and subjects.

It is not for the Chair to determine whether a deficiency exists at the present time, or is likely to exist prior to the 1st day of July, the close of the fiscal year, in order to say whether or not the proposed amendment is in order; nor is it for the Chair to say whether or not it is wisdom on the part of the Committee or of the House to appropriate large amounts of money in a lump sum, as it is proposed to do

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[1] See Globe, second session Twenty-seventh Congress, for illustration of receiving motions for filling blanks as to numbers, by ranging them from highest to lowest, p. 436.

[2] First session Forty-fifth Congress, Record, pp. 458, 459; Journal, p. 223.

[3] Samuel J. Randall, of Pennsylvania, Speaker.

[4] First session Fifty-seventh Congress, Record, pp. 889–895.

[5] James S. Sherman, of New York, Chairman.

in this case. It has been the custom of the House to so appropriate for a great length of time in all sorts of appropriation bills. It is for the Chair to look, it seems to the present occupant of the chair, at the text of the amendment, and not at the purpose of the amendment. That idea of the Chair is strengthened by rulings of former occupants of the chair.

In the last Congress, when the amendment for irrigation was proposed, amendment after amendment was ruled out of order by the then occupant of the chair, the Committee understanding all the time that each succeeding amendment was intended for the same purpose as the preceding one was, until finally an amendment was proposed in such form that the Chair ruled it in order, holding at that time that it was the text that must govern the Chair, rather than the purpose back of the amendment.

It seems to the Chair that the question to be determined here is whether this amendment as it appears, as it reads, regardless of the purpose that may be back of it, is an appropriation provided for by existing law. It is not for the Chair to determine what is the purpose of the amendment. Jefferson in his Manual says: "It is not for the Chair to draw the question of consistence within the vortex of order." And that is this case, as it seems to the Chair. But it is for the Chair to determine whether or not there is existing law for the object for which this appropriation is provided or proposed. The Chair finds such existing law in what is known as the Spooner amendment to the last Army appropriation bill, which provides that—

"All military, civil, and judicial powers necessary to govern the Philippine Islands, acquired from Spain by the treaties concluded at Paris on the 10th day of December, 1898, and at Washington on the 7th day of November, 1900, shall, until otherwise provided by Congress, be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct, for the establishment of civil government and for maintaining and protecting the inhabitants of said islands in the free enjoyment of their liberty, property, and religion."

The Chair therefore is inevitably brought to the conclusion that there is existing law for this appropriation and that it is appropriate to make the appropriation upon a deficiency bill. The Chair therefore overrules the point of order.[1]

Mr. Richardson having appealed, the decision of the Chair was sustained, ayes 127, noes 110, on a vote by tellers.

5784. If a portion of a proposed amendment be out of order the whole of it must be ruled out.—On July 22, 1882,[2] Mr. Henry H. Bingham, of Pennsylvania, called up the bill (H. R. 859) regulating rates of postage on second-class mail matter at letter-carrier offices.

Mr. Richard W. Townshend, of Illinois, having offered an amendment,

Mr. Stanton J. Peele, of Indiana, made the point of order that the amendment was not germane; and Mr. Hernando D. Money, of Mississippi, made the point that it was the substance of a bill pending before the Committee on the Post-Office and Post-Roads.

After debate the Speaker[3] caused to be read section 4 of Rule XXI:

No bill or resolution shall at any time be amended by annexing thereto or incorporating therewith the substance of any other bill or resolution pending before the House,[4]

and then said:

The Chair does not think it matters whether the proposition is one that is to be found in several bills pending before the House or in only a single bill. But let us look at the question a little closer. The

[1] Section 1136, Revised Statutes, provides: "Permanent barracks or quarters and buildings and structures of a permanent nature shall not be constructed unless detailed estimates shall have been previously submitted to Congress and approved by a special appropriation for the same; and no such structures the cost of which shall exceed $20,000 shall be erected unless by special authority of Congress." This law was not brought to the attention of the Chairman in the debate and was not considered in relation to the ruling.

[2] First session Forty-seventh Congress, Record, pp. 6373–6375; Journal, p. 1704.

[3] J. Warren Keifer, of Ohio, Speaker.

[4] This rule no longer exists.

bill before the House is a bill to regulate the rates of postage on second-class mail matter at letter-carrier offices. The amendment proposed by the gentleman from Illinois is to reduce the rate of postage upon ordinary letters and newspapers. It undertakes to amend the statutes in another respect and entirely different from that proposed by the pending bill. The Chair is by no means satisfied that the amendment would be germane to this bill. This is not a general proposition to revise the postal laws of the United States; but if it be a fact that any portion of this amendment is, in substance, included in a pending bill or pending bills, then that portion would clearly not be in order. But there being a portion of the amendment not in order, as must be conceded, it is perfectly clear that the whole amendment must go out. If a portion of a proposition submitted is clearly not in order, the whole must be rejected, for under no cover of including that which is not in order with that which is could such an amendment be admitted. The Chair holds, therefore, the amendment is not in order under the point of order made against it.

5785. It was settled by the practice of the House, before the adoption of the rule, that there might be pending with the amendment, and the amendment to it, another amendment in the nature of a substitute and an amendment to the substitute.

Form of a substitute amendment for the text of an entire bill. (Footnote.)

After an amendment in the nature of a substitute is agreed to, the vote must then be taken on the original proposition as amended by the substitute.

On July 2, 1850,[1] the House resumed the consideration of the report of the select committee appointed to investigate the conduct and relation of the Hon. George W. Crawford to the claim of the representatives of George Galphin, together with the resolutions, submitted in the report of the majority of the committee. These resolutions recited that the claim was not a just demand against the United States, and that while the act of Congress made it the duty of the Secretary of the Treasury to pay the principal it did not authorize the payment of interest.

There was pending a motion of Mr. Robert Toombs, of Georgia, to add to the resolutions the following:

Resolved, That there is no evidence submitted by the committee to whom was referred the letter of the Hon. George W. Crawford, asking "an investigation" into his conduct in reference to the claim of the representatives of George Galphin, which impugns his personal or official conduct in relation to the settlement of said claim by the proper officers of the Government.

To this amendment Mr. Robert C. Schenck offered the following as an amendment:

Insert at the end thereof the following words: "*Provided, however,* That this House is not to be understood as approving his relation to that claim in continuing to be interested in the prosecution of it when it was to be examined, adjusted, and paid by one of the Departments of the Government, he himself being at the same time at the head of another of those Departments; but the House considers that such connection and interest of a member of a Cabinet with a claim pending and prosecuted before another Department would be dangerous as a precedent, and ought not to be sanctioned."

Mr. Schenck also submitted the following as a substitute for the original resolutions:

That while this House, after "full investigation," does not find cause to impute to the Secretary of War any corrupt "conduct" or fraudulent practice in procuring an allowance and payment of the claim of the representatives of George Galphin, yet it does not approve his "relation" to that claim, in

[1] First session Thirty-first Congress, Journal, pp. 1074, 1075; Globe, p. 1328.

this, that he continued to be interested in the prosecution of it while it was to be examined, adjusted, and paid by one of the Departments of the Government, he himself at the same time holding office as the head of one of those Departments.

Thereupon Mr. Jacob Thompson, of Mississippi, moved to amend the substitute by inserting between the word "approve" and the word "his" the following words:

But decidedly disapproves and dissents from the opinion given by the Attorney-General in favor of an allowance of interest on said claim, and from the action of the Secretary of the Treasury in payment of the same, and it does not approve.

And then, pending the question upon the amendment of Mr. Schenck to the amendment of Mr. Toombs, the House adjourned.[1]

5786. Both an original proposition and a proposed amendment in the nature of a substitute may be perfected by amendments before the vote is taken on the substitute.—On July 27, 1886,[2] the House had before it two propositions relating to the subject of interstate commerce, one a Senate bill and the other an amendment recommended by the Committee on Commerce in form of and as a substitute for the Senate bill.

In response to a parliamentary inquiry in regard to the bill and substitute, made by Mr. Frank Hiscock, of New York, the Speaker[3] said:

Both the Senate bill and the substitute proposed by the Committee on Commerce are before the House; and it is in order to move an amendment to either one before the vote is taken on agreeing to the substitute.

5787. An amendment in the nature of a substitute may be proposed before amendments to the original text have been acted on, but may not be voted on until after such amendments have been disposed of.—On April 17, 1844,[4] the House was considering the amendments reported from Committee of the Whole to the bill (H. R. 126) making appropriations for the improvement of certain harbors and rivers.

Mr. Andrew Kennedy, of Indiana, moved to amend the bill by striking out all after the enacting clause and inserting a new measure, and then moved the previous question.

Mr. George C. Dromgoole, of Virginia, raised the question of order that, according to the parliamentary practice, an amendment was not in order, except to an amendment of the Committee, until the House had first acted upon the amendments

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[1] This was before the adoption of the rule. See section 5753 of this volume.

The form of a substitute for the text of an entire bill (or joint resolution) is, "Strike out all after the enacting (or resolving) clause and insert," etc.

After a substitute has been agreed to, the vote must be again taken on the proposition as thus amended. (See sections 5799, 5800 of this chapter.)

A motion, however, to strike out and insert (as, for example, in the case of a substitute) being carried, precludes a motion to strike out or otherwise amend the matter inserted. Hence, after a substitute has been agreed to, no amendment to the substitute is in order. It is therefore important to perfect the substitute by desired amendments thereto before the question of agreeing to it is voted on.

[2] First session Forty-ninth Congress, Record, p. 7615.

[3] John G. Carlisle, of Kentucky, Speaker.

[4] First session Twenty-eighth Congress, Journal, p. 807; Globe, p. 529.

of the Committee;[1] and that the amendment proposed by Mr. Kennedy was not an amendment to an amendment.

The Speaker pro tempore[2] decided that, as the amendments proposed by the committee were embraced in the part proposed to be stricken out, the question would be first put on the amendments of the Committee, under the usual parliamentary practice of perfecting what is proposed to be stricken out, and therefore the motion of Mr. Kennedy was in the nature of an amendment to an amendment, and in order.[3]

From this decision Mr. Dromgoole appealed. The decision of the Chair was affirmed.

5788. When a bill is considered by sections or paragraphs, an amendment in the nature of a substitute is properly offered after the reading for amendment is concluded.—On July 16, 1894,[4] the House, under a special order and with a special arrangement for debate under the five-minute rule, was considering the bill (H. R. 4609) to establish a uniform system of bankruptcy.

After general debate the amendments recommended by the Committee on the Judiciary were agreed to in gross and, by unanimous consent, were considered subject to amendment in like manner as other parts of the bill.

Mr. George W. Ray, of New York, and Mr. William A. Stone, of Pennsylvania, submitted the question of order: At what period of the consideration would it be in order to move a substitute for the pending bill?

The Speaker pro tempore[5] held that the substitute would be in order after the reading of the bill by sections for amendment should be concluded, and not before.[6]

5789. Under exceptional circumstances a substitute amendment to a bill which was being considered by paragraphs was once voted on before all the paragraphs had been read.—On January 26, 1887,[7] the House was in Committee of the Whole House on the state of the Union considering the river and harbor appropriation bill.

A portion of the bill had been read through for amendment by paragraphs, when Mr. Knute Nelson, of Minnesota, moved to strike out all after the enacting clause, and in lieu thereof insert the following:

> That the sum of $7,500,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, which may be expended by a board of engineers, consisting of the Chief of Engineers and the four engineers now senior in service, either for the repair, preservation, construction, or completion of such public improvements of rivers and harbors as shall in their judgment afford practical and important facilities for transportation by water of interstate commerce.

After debate on the amendment, which Mr. Nelson declared that he offered because, after a struggle of two days, there appeared a determined effort to defeat the bill, Mr. William P. Hepburn, of Iowa, made the point of order that a vote

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[1] The amendments proposed by the Committee are first in order for action, according to the practice of the House.

[2] George W. Hopkins, of Virginia, Speaker pro tempore.

[3] Since this decision Rule XIX has been adopted. (See sec. 5753 of this volume.)

[4] Second session Fifty-third Congress, Journal, p. 485; Record, pp. 7547, 7560.

[5] James D. Richardson, of Tennessee, Speaker pro tempore.

[6] In this case the time for reading the bill for amendments was limited to two hours, so there was little chance that the bill would be perfected in this way. The Chair expressed the opinion that the substitute could not be offered unless the bill was perfected within the time. (See Record, p. 7560.)

[7] Second session Forty-ninth Congress, Record, p. 1059; Journal, p. 384.

could not be taken upon the substitute until every part of the bill had been considered. In support of his point Mr. Hepburn quoted Rule XIX.[1]

The Chairman[2] ruled:

The Chair is of opinion that in the state in which the Chair finds the question it is in order to take the vote upon the amendment offered by the gentleman from Minnesota [Mr. Nelson].

The gentleman from Minnesota was permitted to offer his amendment without objection or interposition of point of order. It has been discussed at length, and an amendment has been offered to it which has not only been discussed but been voted upon by the committee; and the proposition of the gentleman from Minnesota has, for an hour or more, been considered in the absence of any proposition to further amend, perfect, or even consider the original text of the bill. During all that time no further amendment to the text of the bill has been proposed; nor is any offered now. There is no other amendment pending than that of the gentleman from Minnesota [Mr. Nelson]; and none other being offered, the Chair thinks it is in order to vote upon it.

Mr. Hepburn having appealed, the decision of the Chair was sustained—ayes 118, noes 46.

5790. To a motion to insert words in a bill a motion to strike out certain words of the bill may not be offered as a substitute.—On May 29, 1902,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12704) relating to subsidiary coinage, the pending question being on an amendment proposed by Mr. Galusha A. Grow, of Pennsylvania, to insert a certain provision after the word "coin" in line 9.

Thereupon Mr. Samuel W. T. Lanham, of Texas, proposed as a substitute the following amendment:

Strike out the words "and thereafter as public necessity may demand to recoin silver dollars into subsidiary coin," in lines 7, 8, and 9; strike out the words "and so much of any acts as directs the coinage of any portion of the bullion purchased under the act of July 14, 1890, into standard silver dollars, "in lines 10, 11, 12, and 13.

The Chairman[4] said:

The Chair would state to the gentleman from Texas that the matter he has set out is not a substitute to the amendment offered by the gentleman from Pennsylvania. It is a distinct amendment. * * * As the Chair understands the gentleman's proposition, it involves striking out two lines or three lines of the bill above the point where the amendment offered by the gentleman from Pennsylvania comes in, and therefore embodies more than the amendment of the gentleman from Pennsylvania includes, and it is not a substitute, but is a different amendment. * * * The gentleman's amendment may be in order when the other two are disposed of. The gentleman from Texas offers it as a substitute for the original amendment offered by the gentleman from Pennsylvania, and includes therein the striking out of a considerable portion of the bill which is not in the least affected by the amendment offered by the gentleman from Pennsylvania. * * * The gentleman from Texas proposes, as a substitute for a motion to insert, a provision with a motion to strike out of the bill. The Chair thinks, while the amendment might be in order after the pending amendments are disposed of, it is clear that it is not a substitute to the amendment.

5791. In considering an amendment to a substitute, an amendment in the nature of a substitute for the pending amendment was not admitted,

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[1] See section 5753 of this volume.

[2] Benton McMillin, of Tennessee, Chairman.

[3] First session Fifty-seventh Congress, Record, p. 6114.

[4] James A. Tawney, of Minnesota, Chairman.

being in the third degree.—On June 22, 1906,[1] the bill (S. 88) for preventing the manufacture, sale, or transportation of adulterated, etc., foods, drugs, medicines and liquors, etc., was under consideration in the Committee of the Whole House on the state of the Union, there being pending a committee amendment in the nature of the substitute.

Mr. James R. Mann, of Illinois, offered the following amendment to the substitute:

On page 22 strike out lines 19 and 20 and insert in lieu thereof the following:

"That for the purpose of carrying out the provisions of this act it shall be the duty of the Secretary of Agriculture, from time to time, to determine and make known standards of the various articles of food in compliance with the definitions and provisions of this act."

Mr. Edgar D. Crumpacker, of Indiana, rising to a parliamentary inquiry, asked if it would be in order to offer a substitute for the amendment proposed by Mr. Mann.

The Chairman[2] replied that it would not be in order.[3]

5792. A motion to strike out a paragraph being pending, and the paragraph then being perfected by an amendment in the nature of a substitute, the motion to strike out necessarily falls.—On January 10, 1905,[4] the Committee of the Whole House on the state of the Union were considering the bill (H. R. 4831) to improve currency conditions, under the five-minute rule, and the following section was read:

SEC. 7. That every national banking association having United States bonds on deposit to secure its circulating notes shall pay to the Treasurer of the United States, in the months of January and July, a tax of one-fourth of 1 per cent each half year upon the average amount of its notes in circulation, and such taxes shall be in lieu of all existing taxes on circulating notes of national banking associations.

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[1] First session Fifty-ninth Congress, Record, p. 9001.

[2] Frank D. Currier, of New Hampshire, Chairman.

[3] There has been one ruling based on the opposite view. On June 26, 1902 (first session Fifty-seventh Congress, Record, p. 7446), the Committee of the Whole House on the state of the Union was considering under the five minute rule the bill (S. 2295) temporarily to provide for the affairs of civil government in the Philippine Islands. To this bill the Committee on Insular Affairs had reported an amendment to strike out all after the enacting clause and insert a new text. Mr. William A. Jones, of Virginia, had offered an amendment to this substitute.

Mr. William Sulzer, of New York, moved to strike out the last word.

The Chairman (Frederick H. Gillett, of Massachusetts, Chairman) held that the motion was not in order. Later, when Mr. John W. Gaines, of Tennessee, again raised the question, the Chairman said:

"The Chair stated early in the day, when probably the gentleman from New York and the gentleman from Tennessee were absent, and therefore it may be well to state it again, that under the rules of the House this whole House bill is an amendment, and as parliamentary law allows only one amendment to an amendment, therefore there can be but one amendment pending to the House bill. Hence the proposition which the gentleman from Tennessee just made, and has made before, to amend an amendment to the House bill is clearly out of order."

Mr. Champ Clark, of Missouri, then proposed an amendment in the nature of a substitute for the amendment of Mr. Jones.

The Chairman said: "The gentleman from Missouri offers this as a substitute to the amendment, not as an amendment to the amendment. There is some question whether that is permissible or not, but the Chair is inclined to rule that a substitute is admissible."

[4] Third session Fifty-eighth Congress, Record, p. 662.

The amendment recommended by the Committee on Banking and Currency was read, as follows:

Strike out all of the section.

Mr. Ebenezer J. Hill, of Connecticut, said:

Mr. Chairman, before striking out the section, or acting on the committee amendment, I would like to make a statement. I offer an amendment for the purpose of perfecting the section.

Thereupon Mr. Hill moved to strike out all of section 7 and insert the following:

That every national banking association having 'United States bonds on deposit to secure its circulating notes shall pay to the Treasurer of the 'United States, in the months of January and July, a tax of one-fourth of 1 per cent each half year upon the average amount of its notes in circulation, and such taxes shall be in lieu of all existing taxes on circulating notes of national banking associations: *Provided,* That the provisions of this section shall not apply to circulating notes secured by bonds issued under the following titles, or any reissue of such bonds bearing the same rates of interest:

Loan of 1908–1918, authorized under act approved June 13, 1898, and bearing interest at the rate of 3 per cent per annum.

Refunding certificates, authorized under act approved February 26, 1879, and bearing interest at the rate of 4 per cent per annum.

Loan of 1925, authorized under act approved January 14, 1875, and bearing interest at the rate of 4 per cent per annum.

A question arising as to the parliamentary situation, the Chairman[1] said:

The Chair would like to state the parliamentary situation. The motion of the gentleman from Connecticut [Mr. HILL] proposes to strike out and insert, and in case that motion prevails the committee would not beat liberty thereafter to strike out the section inserted. This is in the nature of a perfecting of this paragraph.

Mr. Hill suggested that his motion would perfect the section, and that, after it should be agreed to, the proper procedure would be to vote down the pending committee amendment to strike out the section.

The Chairman replied that if Mr. Hill's amendment should be agreed to, the Committee of the Whole would not vote on the pending committee (of Banking and Currency) amendment to strike out the section.[2]

The Committee of the Whole then agreed to Mr. Hill's amendment, and the pending committee amendment to strike out was disregarded.

5793. A substitute amendment may be amended by striking out all after its first word and inserting a new text.—On January 6, 1836,[3] Mr. Leonard Jarvis, of Maine, offered this resolution:

Resolved, That, in the opinion of this House, the subject of the abolition of slavery in the District of Columbia ought not to be entertained by Congress: *And be it further resolved,* That, in case any petition praying the abolition of slavery in the District of Columbia be hereafter presented, it is the deliberate opinion of the House that the same ought to be laid upon the table, without being referred or printed.

Mr. Henry A. Wise, of Virginia, moved to strike out all after the word *"Resolved"* and insert the following:

That there is no power of legislation granted by the Constitution to the Congress of the United States to abolish slavery in the District of Columbia, and that any attempt of Congress to legislate upon the subject of slavery will not only be unauthorized but dangerous to the Union of the States.

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[1] John Dalzell, of Pennsylvania, Chairman.

[2] On the theory that words once inserted may not be stricken out.

[3] First session Twenty-fourth Congress, Debates, pp. 2135–2137.

Mr. Thomas Glascock, of Georgia, announced his purpose to offer the following additional resolution:

Resolved, That any attempt to agitate the question of slavery in this House is calculated to disturb the compromises of the Constitution, to endanger the Union, and, if persisted in, to destroy, by a servile war, the peace and prosperity of the country.

The Speaker [1] said that the gentleman must move his proposition as an amendment to the amendment, and that it could be done by moving to strike out from the amendment all after a certain word. It would be competent for the gentleman from Georgia to move to strike out all after the word "That," and insert his amendment. (Of course Mr. Glascock would drop from the portion which he proposed to insert the words "*Resolved*, That.")

5794. On January 17, 1903,[2] the Committee of the Whole House on the state of the Union reported the bill (S. 569) to establish a Department of Commerce and Labor, with an amendment striking out all after the enacting clause and inserting a new text.

Thereupon Mr. William P. Hepburn, of Iowa, proposed an amendment:

Strike out all after the first word, "That," in the substitute amendment proposed by the Committee of the Whole House on the state of the Union and insert in lieu thereof the following: "there shall be at the seat of government an executive department."

Mr. James D. Richardson, of Tennessee, made a point of order, as follows:

The Committee of the Whole House on the state of the Union perfected a substitute, a substitute reported by the chairman of the Committee on Interstate and Foreign Commerce. They reported it as a substitute. Now, Mr. Speaker, that substitute has been perfected, so to speak. It has been considered and amended. Now the gentleman comes and undertakes to offer a substitute for that substitute. I say he can not do it. There can be but one substitute at one time.

The Speaker pro tempore [3] held:

The Committee on Interstate and Foreign Commerce reported to the House a Senate bill with an amendment in the nature of a substitute. The Chairman of the Committee of the Whole House on the state of the Union reported that that committee had had under consideration the amendment in the nature of a substitute and had perfected it, and recommended that the bill as amended do pass. The motion of the gentleman from Iowa now is clearly an amendment to the substitute recommended by the Committee of the Whole House to the House, and is certainly in order. The question of admitting such an amendment to a substitute was settled as long ago as 1836 by Mr. Speaker Polk.

5795. When it is proposed to offer a single substitute for several paragraphs of a bill which is being considered by paragraphs, the substitute may be moved to the first paragraph with notice that if it be agreed to motions will be made to strike out the remaining paragraphs.—On May 6, 1880,[4] the Post-Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, under the five-minute rule.

When line 86 of the bill was reached, Mr. Hernando D. Money, of Mississippi, arose and said that he desired to offer as an amendment a substitute for certain paragraphs of the bill.

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[1] James K. Polk, of Tennessee, Speaker.

[2] Second session Fifty-seventh Congress, Journal, pp. 132, 133; Record, p. 926.

[3] John Dalzell, of Pennsylvania, Speaker pro tempore.

[4] Second session Forty-sixth Congress, Record, p. 3093.

The Chairman suggested that he wait until the paragraphs had been read.

The paragraphs having been read for amendment, Mr. Money proposed his substitute, whereupon Mr. Joseph C. S. Blackburn, of Kentucky, objected that a substitute might not be offered for a paragraph that had been passed.

During the debate Mr. James A. Garfield, of Ohio, suggested:

I think it would be a hardship, and perhaps a little sharp practice, to say to a Member offering an amendment, "You can not strike out what we have not yet reached," and he waits until it is read, and then to say, "You can not strike out what we have passed over." In that way he would be ruled out at both ends in his attempt to move an amendment.

The Chairman [1] said:

The point of order and amendment present a singular and unusual question. The gentleman could not have offered his amendment as a substitute for the first clause alone, or for the second, or the third, or the fourth clause alone. * * * The question as to whether or not the gentleman from Mississippi, independently of anything that might have occurred between him and the Chair in the presence of the Committee of the Whole, could have offered a substitute for these four clauses after they had been read and amended in the committee is one which the Chair has very great doubt about; one upon which he prefers not to express an opinion. But the gentleman from Mississippi undoubtedly had the right, when lines 86 and 87 were read, to move his amendment as a substitute for those lines, giving notice he would thereafter move to strike out the other lines. Or he could have moved, as these clauses were successively reached, to strike out each one of them, giving notice that after they were stricken out he would offer a proviso to take the place of the whole of them.

Now, the gentleman from Mississippi stated when the first clause was read that he had an amendment which he desired to offer as a substitute for the four clauses. The Chair said perhaps the gentleman from Mississippi had better wait till the four clauses were read. Then he took his seat. No gentleman on the floor objected. The Chair thinks under those circumstances he ought not to be deprived of the privilege of having a vote on his amendment.

5796. An instance wherein a substitute text for a bill was offered as a substitute for the first section and agreed to, the remaining sections being stricken out afterwards.—On January 22, 1903,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 15520) providing for the Philippine coinage. The first section had been read under the five-minute rule, when Mr. William A. Jones, of Virginia, proposed a motion to strike out all of the bill after the enacting clause and insert a new text.

The Chairman [3] said:

The gentleman from Virginia offers it as a substitute for the entire bill. His offer is submitted to the House and will be pending, but before the Committee will take a vote on it the reading of the bill will be completed.

Later, Mr. Jones modified his proposition, and instead of offering the new text as a substitute for the whole bill, offered it as a substitute for all of the first section after the enacting clause, giving notice that if it should be adopted be would then move to strike out the remaining sections of the bill as they should be reached.

The Chairman entertained the amendment, and after debate it was agreed to.

Thereupon the remainder of the bill was read under the five-minute rule, and each of the sections was on motion made and carried stricken out.

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[1] John G. Carlisle, of Kentucky, Chairman.

[2] Second session Fifty-seventh Congress, Record, pp. 1078, 1081, 1084.

[3] James R. Mann, of Illinois, Chairman.

The Committee having risen, the Chairman [1] reported that the Committee had had under consideration the bill (H. R. 15520) to establish a standard of value and to provide a coinage system in the Philippine Islands, and had directed him to report it back to the House, with sundry amendments, with the recommendation that the bill, as amended, do pass.

The House being about to vote on the amendments, a question arose as to the nature of the first one, whereupon the Speaker [2] said:

The Chair sees no difficulty arising from any statement that has been made. There is only one question now, and that is the demand of the gentleman from Pennsylvania for a separate vote on the amendment offered by the gentleman from Virginia. That is the first amendment; it is not a substitute. It is an amendment by way of substitute to the first section. The only question is on agreeing to the first amendment.

This amendment was agreed to, and then the question was taken on the remaining amendments.

5797. A proposition offered as a substitute amendment and rejected may nevertheless be offered again as an amendment in the nature of a new section.—On June 7, 1902,[3] the Committee of the Whole House on the state of the Union was considering the bill (S. 3653) for the protection of the President of the United States, and for other purposes, when Mr. Patrick Henry, of Mississippi, offered the following amendment as an additional section:

SEC. 14. On the trial of all cases under the first seven sections of this act, the defendant shall be presumed to be innocent until the contrary is proven to the exclusion of all reasonable doubt.

Mr. George W. Ray, of New York, made the point of order that this was a provision which had already been voted on as an amendment.

The Chairman [4] said:

The gentleman from Mississippi offered the proposition to the thirteenth section of the bill as an amendment in the shape of a substitute. Thereupon he proposed to withdraw it and objection was made and the vote was taken and the Committee voted against permitting that matter to become an amendment to section 13. But the Chair is of opinion that the gentleman has now a right to offer it as an additional section to the bill, and that the former vote did not bar his right. The House might desire to have it in this form and not in the other.

5798. Sometimes by unanimous consent the House allows more than one substitute to be pending at once, in order that a choice may be offered between different propositions.—On January 11, 1897,[5] the first business in order was the consideration of the Pacific Railroad funding bill (H. R. 8189), which came over from the preceding day with the previous question ordered under the terms of a special order.

The condition of the bill was as follows:

There were committee amendments to the bill, which had been agreed to by the Committee of the Whole.

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[1] James A. Tawney, of Minnesota, Chairman.

[2] David B. Henderson, of Iowa, Speaker.

[3] First session Fifty-seventh Congress, Record, p. 6473.

[4] Charles H. Grosvenor, of Ohio, Chairman.

[5] Second session Fifty-fourth Congress, Record, pp. 554, 587.

There were also pending two substitutes, which had been offered by unanimous consent, one proposed by Mr. George P. Harrison, of Alabama, as a substitute for the bill, and the other proposed by Mr. Charles K. Bell, of Texas, as a substitute for the substitute offered by Mr. Harrison.

To the substitute offered by Mr. Harrison there was also pending an amendment offered by Mr. Stephen A. Northway, of Ohio.

The question was first taken on the committee amendments to the original bill, and these having been agreed to, the question was next put on Mr. Northway's amendment to Mr. Harrison's substitute. This was rejected.

Then the question was taken on Mr. Bell's substitute, and this being disagreed to, the vote on Mr. Harrison's substitute was next in order.

5799. An amendment in the nature of a substitute having been agreed to, the vote is then taken on the original proposition as amended by the substitute.—On January 13, 1875,[1] the House had voted on and agreed on an amendment in the nature of a substitute.

Thereupon Mr. Charles A. Eldridge, of Wisconsin, made a motion relating to the final disposition of the subject.

The Speaker[2] said:

That motion at this point is premature. The substitute * * * has been agreed to; but the House has yet to vote to agree to the original proposition as amended by the adoption of the substitute.

5800. On February 20, 1877,[3] Mr. John Randolph Tucker, of Virginia, submitted the following resolution:

Resolved by the House of Representatives, That Daniel L. Crossman was not appointed an elector by the State of Michigan as its legislature directed, and that the vote of said Daniel L. Crossman as an elector of said State be not counted.

Mr. George A. Jenks, of Pennsylvania, submitted the following substitute therefor:

Whereas the fact being established that it is about twelve years since the alleged ineligible elector exercised any of the functions of a United States commissioner, it is not sufficiently proven that at the time of his appointment he was an officer of the United States: Therefore,

Resolved, That the vote objected to be counted.

And the question being put, first, upon the substitute submitted by Mr. Jenks, the same was agreed to.

The question then recurring on the resolution submitted by Mr. Tucker, as amended by the substitute of Mr. Jenks, the same was agreed to.[4]

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[1] Second session Forty-third Congress, Record, p. 516.

[2] James G. Blaine, of Maine, Speaker.

[3] Second session Forty-fourth Congress, Journal, pp. 492, 493; Record, pp. 1705–1716.

[4] The Journal makes no mention of separate action on the preamble.