

Chapter 12

Committees of the Whole

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- 4 Hinds §§ 4704–4922
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- Deschler Ch 19
- Manual* §§ 326–340; 970–993

A. Generally

§ 1. In General

Role and Functions; Historical Background

The Committee of the Whole has been described as an ancient parliamentary institution, having been derived from the practice of the English House of Commons. 4 Hinds § 4705; Deschler Ch 19 § 5. The Continental Congress frequently used the Committee of the Whole for important business. The concept that the Committee of the Whole should receive what were called “the greater matters of legislation” has gradually resulted in the usage now crystallized in rule XVIII clause 3, which requires the reference to its calendar of all bills directly or indirectly raising revenue, general appropriation bills, and public bills appropriating money or property. See 4 Hinds § 4705.

The Committee of the Whole meets to consider matters referred to it under rules designed to expedite consideration and to allow greater participation by Members in debate. The Committee of the Whole is in this respect comparable to a standing committee. 4 Hinds § 4706. The Committee of the Whole is never completely dissolved. The House merely resolves into and out of Committee of the Whole, and bills remain on its calendar until reported after consideration. 4 Hinds § 4705.

Every Member of the House is a member of the Committee of the Whole. However, the Committee may sit with a smaller number (100 Members) than is required to transact business in the House (218 Members). Rule XVIII clause 6(a); quorums generally, see QUORUMS.

Distinguishing the Committee of the Whole

The term “Committee of the Whole” refers to the Committee of the Whole House on the state of the Union, which considers public bills. Desch-

ler Ch 19 § 1. Prior to 1935, the term was also used to refer to the “Committee of the Whole House,” which formerly considered business on the Private Calendar. Since 1935, however, bills on the Private Calendar have been considered in the House as in the Committee of the Whole. Thus, the term “Committee of the Whole House” has no application in the modern practice of the House (Deschler Ch 19 § 1) and was deleted from the rules when they were recodified in 1999.

House as in the Committee of the Whole

When the House sits as in the Committee of the Whole, it does not actually resolve into the committee; it sits “as in” Committee of the Whole to allow consideration of bills under the five-minute rule without general debate and with the bill considered as read and open to amendment at any point. *Manual* §§ 424, 427; 4 Hinds § 4924. This practice is permitted in the consideration of public bills only by unanimous consent or pursuant to a special rule from the Committee on Rules. *Manual* § 424. A motion that a proposition be considered under that procedure is not in order. *Manual* § 424; 4 Hinds § 4923.

The Speaker remains in the Chair, and a quorum of the House (and not of the Committee of the Whole) is required. 6 Cannon § 639. The measure is considered to have been read for amendment, and is open to amendment at any point. *Manual* § 424. A motion to close debate on the pending measure (or an amendment) is in order. *Manual* § 427.

When the House is sitting as in the Committee of the Whole, it may invoke many procedures that are not available to it when it is meeting in the Committee of the Whole. *Manual* § 427. For example, it may:

- Order the yeas and nays by one-fifth of those present or upon objection for lack of a quorum. 4 Hinds § 4923.
- Receive messages from the President or the Senate. 4 Hinds § 4923.
- Permit withdrawal of amendments before action thereon. 4 Hinds § 4935.
- Refer to a committee. 4 Hinds §§ 4931, 4932.
- Entertain the previous question. 4 Hinds §§ 4926–4929; 6 Cannon § 639.
- Entertain the motion to reconsider. 8 Cannon § 2793.
- Entertain motions to adjourn. 4 Hinds § 4923.

The procedures applicable in the House as in the Committee of the Whole apply generally to proceedings in standing committees of the House. *Manual* § 427; see also COMMITTEES.

Significance of the Mace

The position of the mace in the Chamber signifies to the Members whether the House has resolved itself into the Committee of the Whole.

When the mace is in position on the higher pedestal at the Speaker's right, the House is in regular session. When the Members begin deliberations in the Committee of the Whole, the mace is placed on the lower pedestal next to the desk of the Sergeant-at-Arms. Deschler Ch 19 § 1.1.

§ 2. Jurisdiction and Authority; Reference

Generally; Public Bills

Under rule XIII clause 1(a)(1), bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property are referred to the Union Calendar and considered in the Committee of the Whole. See also rule XVIII clause 3. Where the purpose of a bill is to raise revenue, even though that purpose is affected indirectly, the bill is within the jurisdiction of the Committee of the Whole. 8 Cannon § 2399.

Whether a bill should be referred to the Union Calendar is governed by the text of the bill as referred to committees, and amendments reported by the committee reporting it are not considered. Thus, a bill that includes a charge on the Treasury is referred to the Union Calendar notwithstanding a committee amendment striking that charge. 8 Cannon § 2392.

Measures Other Than Public Bills

Although the jurisdiction of the Committee of the Whole is devoted primarily to the consideration of public bills, other matters are sometimes referred to the Committee pursuant to House order. For example, the annual message of the President is customarily referred to the Committee of the Whole by motion. Propositions to change the rules of the House have been considered in Committee of the Whole pursuant to a special order. 4 Hinds § 4822; Deschler Ch 21 § 21.15.

Referrals; Effect of Special Rules

Measures referred by the Speaker to the Union Calendar for subsequent consideration in the Committee of the Whole are considered therein under special rules reported by the Committee on Rules or by the standing rules applicable to the Committee of the Whole. See rule XVIII.

The Committee has no authority to change an order of the House governing the consideration of a particular measure in the Committee of the Whole, although minor modifications may be accomplished by unanimous consent. *Manual* § 993; see also SPECIAL RULES. Thus, where the Committee of the Whole is considering a bill under a special rule that fixes the time for debate and the amendments that may be offered, a Member may be denied recognition to seek unanimous consent to offer a measure that is

beyond the scope of the special rule (4 Hinds §§ 4712, 4713) or to extend the time for general debate as fixed thereby (5 Hinds §§ 5212–5216).

Bills are sometimes referred to the Committee of the Whole as a result of action in the House resulting in its recommittal thereto (*Manual* § 988; 4 Hinds § 4784) or in unusual situations pursuant to a motion to recommit in the House either with or without instructions (5 Hinds §§ 5552, 5553).

Presidential Messages

The President's state of the Union message is referred by motion to the Committee of the Whole. See, *e.g.*, 106–2, Jan. 31, 2000, p _____. Other Presidential messages are normally referred to the committee having jurisdiction by order of the Speaker. *Manual* § 873. At one time, annual messages of the President were referred to and reported by the Committee of the Whole with recommendations for reference to the proper standing or select committee, but this practice was discontinued in the 64th Congress. 8 Cannon § 3350.

Limitations on Authority

Many procedures and motions traditionally available in the House may not be invoked in the Committee of the Whole. See § 8, *infra*. For example, the Committee of the Whole may not:

- Appoint, authorize, or discharge committees. 4 Hinds §§ 4697, 4710.
- Entertain the question of consideration (7 Cannon § 952) except pursuant to those provisions of the Unfunded Mandates Reform Act of 1995 that permit the question of consideration in the disposition of certain points of order (*Manual* §§ 910, 991).
- Transact proceedings regarding words demanded to be taken down in debate. 2 Hinds §§ 1257–1259; 8 Cannon § 2539.
- Recess without permission of the House. 5 Hinds §§ 6669–6671.
- Instruct conferees. 8 Cannon § 2320.
- Consider questions of privilege under rule IX. *Manual* § 711; 2 Hinds § 1657; Deschler Ch 11 § 4.3.
- Authorize extraneous matter to be included in the *Congressional Record*. *Manual* § 688.

Similarly, unanimous-consent requests may not be entertained in the Committee of the Whole by the Chair if their they materially alter proce-

dures required by special rule or order adopted by the House. For example, the Committee of the Whole may not:

- Permit a perfecting amendment to be offered to the underlying bill where a special rule permitted its consideration only as a perfecting amendment to a committee amendment.
- Permit a substitute to be read by sections for amendment where the special rule did not so provide.
- Extend the time limitation for consideration of amendments beyond that set by a special order requiring the Chair to put the question on the pending amendments at the expiration of certain hours of consideration.
- Restrict authority granted in a special order to offer amendments “en bloc.”
- Change the scheme for control or duration of general debate specified by the House.
- Reduce below 15 minutes the minimum time for recorded votes.
- Preempt the Chair’s discretion to postpone and cluster votes and schedule further consideration of a pending measure on a subsequent day.
- Permit an amendment to an amendment rendered unamendable by a special order or permit a subsequent amendment changing an unamendable amendment already adopted.
- Permit consideration of an amendment out of the order specified in a special rule.
- Permit consideration of an additional amendment or authorize a supplemental report from the Committee on Rules in lieu of the original report referred to in the special order.
- Permit another to offer an amendment vested in a specified Member.
- Permit a division of the question on an amendment rendered indivisible by a special order.

Manual § 993.

Where the Committee of the Whole reports a recommendation that is ruled out as in excess of its powers, it is held that the accompanying bill stands recommitted to the Committee of the Whole. *Manual* § 335; 4 Hinds § 4908.

On the other hand, unanimous-consent requests may be entertained in the Committee of the Whole by the Chair if they do not materially alter procedures required by special rule or order adopted by the House. For ex-

ample, unanimous-consent requests have been entertained in the Committee of the Whole to:

- Permit the modification of a designated amendment made in order by a special rule, once offered, if the request is propounded by the proponent of the amendment, including as unfinished business where proceedings on a request for a recorded vote have been postponed.
- Permit a page reference to be included in a designated amendment made in order as printed where the printed amendment did not include that reference.
- Permit a supporter of an amendment to claim debate time allocated by special order to an opponent, where no opponent seeks recognition.
- Shorten the time set by special order for debate on a particular amendment.
- Lengthen the time set by special order for debate on a particular amendment under terms of control congruent with those set by the order of the House.
- Permit en bloc consideration of several amendments under a “modified-closed” special order providing for the sequential consideration of designated separate amendments.
- Permit one of two committees controlling time for general debate pursuant to a special order to yield control of its time to the other.
- Permit the offering of pro forma amendments for the purpose of debate under a “modified-closed” special order limiting both amendments and debate thereon.
- Reach ahead in the reading of a general appropriation bill to consider one amendment without prejudice to others earlier in the bill under a special order of the House contemplating that each remaining amendment be offered only at the “appropriate point in the reading of the bill.”
- Permit the reading of an amendment that already was considered as read under the special order of the House.

Manual § 993.

Authority to Originate Measures

In the early practice, the Committee of the Whole could consider a matter even though the matter had not been referred to it by the House. 4 Hinds § 4705. Today, the Committee of the Whole no longer originates measures, but receives only such as have been referred to it, usually by way of a special rule from the Committee on Rules. *Manual* § 326; 4 Hinds § 4707. Under this practice, the House may not resolve into the Committee of the Whole for the purpose of originating a measure except by unanimous consent. *Manual* § 412. Absent an appropriate referral, the Committee of the Whole may not report a recommendation, that, if carried into effect, would change a rule of the House. 4 Hinds §§ 4907, 4908.

Conference Reports

Conference reports are considered in the House rather than in the Committee of the Whole, and this is so notwithstanding a point of order that the report contains matter ordinarily requiring consideration in the Committee. 5 Hinds §§ 6559, 6561.

§ 3. Matters Requiring Consideration in the Committee of the Whole

Generally

Rule XVIII clause 3 specifies the matters that must be considered in the Committee of the Whole before consideration in the House. The matters so specified include all motions or propositions involving a tax or charge upon the people, all proceedings involving appropriations of money or property, requiring such appropriation to be made, or authorizing payments out of appropriations already made. Also included within the rule are bills releasing any liability to the United States for money or property, or referring any claim to the Court of Claims. A point of order under this rule may be raised at any time before the consideration of a bill has commenced. *Manual* § 976.

The giving of unanimous consent for the consideration of a measure waives any requirement as to consideration in Committee of the Whole. 4 Hinds § 4823; 8 Cannon § 2393. Similarly, the effect of a special order may be to discharge the Committee of the Whole and bring the bill directly before the House. *Manual* § 975. In the modern practice, special orders reported from the Committee on Rules often provide for consideration of a measure on the Union Calendar in the House where no amendments, or only one amendment, are made in order. See, *e.g.*, 107–1, H. Res. 199, Apr. 26, 2001, p ____.

The requirement of rule XVIII clause 3 is that the class of business specified by the rule must be “first” considered in the Committee of the Whole. *Manual* § 973. It follows that a bill considered in the Committee of the Whole, reported to the House, and then recommitted by the House to a standing committee, is not, when again reported to the House, necessarily subject to the point of order that it must be considered in Committee of the Whole. *Manual* § 975; 4 Hinds § 4828; 5 Hinds §§ 5545, 5546.

Measures Requiring Consideration in the Committee of the Whole

The following bills require consideration in the Committee of the Whole:

- Increasing the rate of postage. 4 Hinds § 4861.
- Creating a new Federal office. 4 Hinds § 4846.
- Authorizing an undertaking by a government agency that will incur an expense, however small, to the government. 8 Cannon § 2401.
- Requiring an expenditure with some probability. Deschler Ch 19 § 1.
- Setting in motion a chain of circumstances destined ultimately to involve certain expenditures. 4 Hinds § 4827; 8 Cannon § 2399.

Measures Held Not to Require Consideration in the Committee of the Whole

The following measures do not require consideration in the Committee of the Whole:

- A bill that does not directly make an appropriation of money or require one to be made, and that can be executed without such funds. 4 Hinds § 4856.
- A bill making an expenditure that is to be borne otherwise than by the Federal Government. 4 Hinds § 4831.
- A joint resolution proposing an amendment to the Constitution to extend the term of office of certain officials. 8 Cannon § 2395.

§ 4. — Amendments between the Houses

Rule XVIII clause 3, requiring that any proposition involving a tax or an appropriation of money or property must be considered in the Committee of the Whole, is applicable to Senate amendments to House measures. § 3, *supra*. Accordingly, where a House bill returned with Senate amendments involving a new matter of appropriation has been referred by the Speaker to a standing committee, it is, upon being reported therefrom, referred directly to the Committee of the Whole. *Manual* § 874; 4 Hinds §§ 3094, 3108–3110. Similarly, a House amendment to a Senate amendment is subject to clause 3. 4 Hinds § 4795. Normally, such Senate amendments are held at the Speaker's desk (pursuant to the Speaker's discretionary authority under rule XIV clause 2(b)) for disposition by the House by unanimous consent or special order and are not referred to committee. *Manual* §§ 874, 1073.

The question as to whether a Senate amendment involves a tax or an appropriation so as to require consideration in Committee of the Whole is applied to each amendment received from the Senate. The fact that the origi-

nal House bill was considered in Committee of the Whole is not taken into consideration in determining this question. 8 Cannon § 2381.

A Senate amendment to a House bill is subject to the point of order that it must first be considered in the Committee of the Whole if, originating in the House, the amendment would be subject to that point of order. Rule XXII clause 3; *Manual* § 1072. Hence, a Senate amendment that on its face places a charge on the Treasury must be considered in Committee of the Whole absent proof to the contrary. 8 Cannon § 2387. However, a Senate amendment that merely modifies a House proposition, such as an increase or decrease in the amount of an appropriation and that does not involve a new and distinct expenditure, is not required to be considered in the Committee of the Whole. *Manual* § 1073; 4 Hinds §§ 4797, 4800; 8 Cannon §§ 2382, 2385. Moreover, the requirement that certain Senate amendments be considered in the Committee of the Whole applies only before the stage of disagreement has been reached on the Senate amendment (and not thereafter), and it is too late to raise a point of order that Senate amendments should have been considered in the Committee after the House has disagreed thereto and the amendments are reported from conference in disagreement. *Manual* §§ 1073, 1074. The fact that one of several Senate amendments must be considered in Committee does not prevent the House from proceeding with the disposition of those not subject to the point of order. 4 Hinds § 4807.

The requirement of rule XXII clause 3 that the amendment be “first considered” in the Committee of the Whole does not apply if the House has agreed to a special order providing that the amendment is “hereby” considered as adopted. *Manual* § 1073.

§ 5. Resolving Into the Committee of the Whole

Generally; Declaration by Speaker

The House may resolve into the Committee of the Whole pursuant to motion or by declaration of the Speaker pursuant to rule XVIII clause 2 after the House has adopted a special rule from the Committee on Rules providing for consideration of a measure in the Committee of the Whole and permitting such declaration. 4 Hinds § 3214; 7 Cannon §§ 783, 794; Deschler Ch 19 § 4; § 6, *infra*. When employing the latter method, the Speaker may at any time after adoption of the resolution, when no other question is pending, declare the House resolved into the Committee of the Whole for consideration of a measure. Under the modern practice, this is the generally used mechanism for resolving into the Committee for the con-

sideration of both nonprivileged bills and privileged general appropriation bills.

Resolving Automatically Into the Committee of the Whole

The House automatically and without motion resolves itself into the Committee of the Whole to consider a measure:

- When a special rule from the Committee on Rules provides for the immediate consideration of the measure in the Committee of the Whole. 7 Cannon §§ 783, 794; Deschler Ch 19 § 4.1.
- After the Speaker has ruled on words taken down in the Committee of the Whole. Deschler Ch 19 § 4.8.
- After a recommendation of the Committee of the Whole that the enacting clause of the measure be stricken is rejected by the House. Deschler Ch 19 § 10.9.
- When a bill on the Union Calendar is timely called up (or is the unfinished business) on Calendar Wednesday. *Manual* § 901; 7 Cannon §§ 939, 940, 942.

§ 6. — By Motion

The House may resolve into Committee of the Whole pursuant to motion (Deschler Ch 19 § 4), as follows:

MEMBER: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the [further] consideration of _____.

This motion is listed eighth in the daily order of business. *Manual* § 869. However, the motion is usually given more preferential status by the adoption of a special rule reported from the Committee on Rules. Deschler Ch 19 § 4. Where a motion that the House resolve itself into the Committee of the Whole is pending, the motion that the Committee be discharged and that the bill be laid on the table is not preferential and not in order. Deschler Ch 19 § 4.13. The question of consideration may not be raised against the motion to resolve into the Committee, for the motion to resolve is itself a test of the will of the House on consideration. Deschler Ch 19 § 4.10.

A Member may withdraw his motion that the House resolve itself into the Committee of the Whole at any time before the motion is acted upon. Deschler Ch 19 § 4.11.

A motion to resolve into the Committee of the Whole to consider general appropriation bills and continuing appropriations after September 15 is privileged under rule XIII clause 5, if called up by direction of the Committee on Appropriations. *Manual* §§ 853, 856. The motion is in order under this rule on District Mondays and on Wednesdays, subject to the limitations

of the Calendar Wednesday rule. *Manual* §§ 856, 894, 901; 8 Cannon §§ 876, 1123. The motion is neither debatable nor amendable (4 Hinds § 3078), is not subject to a demand for the previous question (4 Hinds § 3077), and may not be laid on the table or indefinitely postponed (6 Cannon § 726).

Prior to 1975 the use of the motion to consider revenue bills in the Committee of the Whole was of equal privilege, but there no longer is a privileged status for the motion to resolve into Committee of the Whole to consider bills raising revenue. *Manual* § 856; Deschler Ch 19 § 4, note 17. Although highly privileged, the motion does not take precedence over a motion to reconsider or a motion to change the reference of a bill. 4 Hinds § 3087; 7 Cannon § 2124.

After refusing to go into Committee of the Whole to consider a particular bill, the House may then consider business prescribed by the regular order. 4 Hinds § 3088. Thus, the House may reach legislation of lesser privilege by rejecting the motion to resolve into the Committee of the Whole to consider an appropriation bill. Deschler Ch 19 § 4.4. Nonprivileged matters are considered in the Committee of the Whole pursuant to a special rule from the Committee on Rules or pursuant to a unanimous-consent request.

Under rule XVIII clause 4, the Committee of the Whole can determine its own order of business unless the House so determines, with general appropriation bills taking precedence. This procedure is not used in modern practice.

§ 7. The Chairman

The Chairman of the Committee of the Whole is appointed by the Speaker. *Manual* § 970. Following a custom of the British Parliament, the House requires the Speaker “in all cases” to leave the Chair after appointing the Chairman. *Manual* § 970; Deschler Ch 19 § 5. Where the Member named by the Speaker to act as Chairman is unavailable, the Speaker may ask another Member to assume the Chair as Chairman pro tempore. Where the Member appointed to preside over the Committee of the Whole is a female Member, the proper form of address is “Madam Chairman.” Deschler Ch 19 § 5.3.

In general, the Chairman recognizes for debate and decides questions of order arising in the Committee of the Whole independently of the Speaker. Deschler Ch 19 § 5.1. Where words are “taken down” in debate, the Chairman reports them to the Speaker, who rules on their admissibility. Otherwise, points of order relating to procedure in the Committee of the Whole are decided by the Chairman. *Manual* § 961; 5 Hinds § 6927; § 16, *infra*. An

appeal from the Chairman's ruling may be made to the full Committee (5 Hinds § 6928; Deschler Ch 19 § 9.1), or, in exceptional cases, the Committee of the Whole may rise and report the question to the House (4 Hinds § 4783).

The Chairman has a duty to call to order any Member who violates the privileges of debate with respect to the Senate. 8 Cannon §§ 2515, 2520. Under rule XVIII clause 1, he may cause the galleries or lobbies to be cleared in case of disturbance or disorderly conduct. *Manual* §§ 971, 973.

The Chairman directs the Committee of the Whole to rise when the hour previously fixed for adjournment arrives, when the hour fixed by the House for termination of the consideration of the bill in Committee arrives or when a rule provides for automatic rising after general debate. *Manual* § 971.

§ 8. — Limitations on Jurisdiction and Authority of Chairman

The functions of the Chairman of the Committee of the Whole are not unlimited; certain determinations are reserved to the Speaker, the House, or the Committee itself. *Manual* § 971. Thus, the Chairman does *not*:

- Decide whether the Committee may sit in executive session (reserved to the House). Deschler Ch 19 § 7.18.
- Entertain unanimous consent requests to change an order of the House governing the consideration of the measure in the Committee of the Whole. *Manual* § 993.
- Respond to inquiries concerning the legislative schedule outside the Committee of the Whole (97–2, July 29, 1982, p 18605); including whether or when a pending bill will be taken up again after the Committee rises (Deschler Ch 19 §§ 7.14, 7.15).
- Rule on procedural questions that may arise when a bill is reported back to the House (Deschler Ch 19 § 7.10) or predict what action may take place in the House after the Committee of the Whole rises (Deschler Ch 19 § 7.9).
- Consider a question that had arisen in the House just before the Committee began to sit. *Manual* § 971.
- Interpret the application of a rule of the House that sets forth the vote required to adopt a resolution in the House. Deschler Ch 19 § 7.13.
- Determine whether the House can rescind a time limitation imposed by the Committee. Deschler Ch 19 § 7.12.
- Determine the privileges of a Member under general “leave to print.” 5 Hinds § 6988.

For a limitation on the authority of the Committee of the Whole, see *Manual* § 993; § 2, *supra*. For the practice governing the Chair in deciding points of order and responding to parliamentary inquiries (both Speaker and

Chairman of the Committee of the Whole), see POINTS OF ORDER; PARLIAMENTARY INQUIRIES; *Manual* § 628.

B. Consideration and Debate in Committee

§ 9. In General; Quorums

Generally

The conditions under which a particular measure is to be considered and debated are ordinarily determined pursuant to a special rule from the Committee on Rules or other House order. The Committee of the Whole may not set aside or materially modify such an order, even by unanimous consent. *Manual* § 993.

Quorum Requirements

Until 1890 a quorum of the Committee of the Whole was the same as a quorum of the House. *Manual* § 329. In that year a rule was adopted fixing a quorum of the Committee of the Whole at 100 Members. *Manual* § 982. Where the Chair has announced the absence of a quorum in the Committee of the Whole, no further business may be conducted until a quorum is established. *Manual* § 982. When a vote is taken in Committee of the Whole notwithstanding the absence of a quorum, a timely point of order having been made, the vote is invalid. 6 Cannon §§ 676, 677. However, a quorum is inferred (or presumed) if no question is raised with respect thereto; that is, a quorum is presumed to be present unless otherwise determined. See 4 Hinds § 2895; 6 Cannon §§ 565, 624.

Under the modern practice, when a Committee of the Whole finds itself without a quorum and a timely point of order is made, the Chairman directs that the Members record their presence by electronic device. *Manual* § 982. It is a quorum of the Committee of the Whole—100 Members—and not a quorum of the House, which must appear. Deschler Ch 20 § 7.1. In ascertaining the presence of a quorum, the Chairman includes those Members present but not voting as well as those voting. 6 Cannon §§ 641, 671; Deschler Ch 20 § 7.7.

Where, following a timely point of order, the Chair announces that a quorum is not present, a motion that the Committee of the Whole rise is in order and does not require a quorum for adoption. 8 Cannon § 2369; Deschler Ch 20 § 7.13. If a quorum develops on a negative vote on the motion to rise, the Committee of the Whole proceeds with its business. 6 Cannon §§ 670, 671; 8 Cannon § 2369. For a discussion of motions to rise generally, see §§ 26–28, *infra*.

Rule XVIII clause 6 sharply limits the circumstances under which a point of order of no quorum may be raised once the House has resolved into Committee. After a quorum has been established in the Committee of the Whole on any given day (by quorum call or recorded vote), the Chairman may not thereafter entertain a point of order that a quorum is not present unless (1) the Committee of the Whole is operating under the five-minute rule (which has been interpreted to include any “modified-closed” amendment process under the terms of a special order) and (2) the Chairman has put the pending motion or proposition to a vote. *Manual* § 982. During general debate, there is no requirement of a quorum; but the Chairman is given the discretion to recognize for a point of order of no quorum. Rule XVIII clause 6(b)(1).

The Chairman must entertain a point of order of no quorum during the five-minute rule if a quorum has not yet been established in the Committee of the Whole on the bill then pending; the fact that a quorum of the Committee has previously been established on another bill on that day is irrelevant. *Manual* § 982. This precedent applies even when a measure is considered in the Committee of the Whole under a modified-closed rule that specifies the amendments that may be offered and establishes the time for their debate, such rule declaring the measure read for amendment under the five-minute rule. Where a recorded vote on a prior amendment or motion during the five-minute rule on that bill on that day has established a quorum, a subsequent point of order of no quorum during debate is precluded except by unanimous consent. *Manual* § 982.

§ 10. First Reading

When a bill is taken up in the Committee of the Whole, rule XVIII clause 5(a) requires its reading in full before general debate begins, unless such reading has been properly dispensed with by unanimous consent or by a rule from the Committee on Rules. The first reading is normally dispensed with. *Manual* § 942. A motion to dispense with the first reading of the bill is not in order. 8 Cannon §§ 2335, 2436.

§ 11. General Debate

Control by the House

The duration and allocation of time for general debate in Committee of the Whole is controlled by the House, not the Committee. 91–2, Dec. 17, 1970, p 42222. The Committee may not, even by unanimous consent, extend the general debate time as fixed by the House. *Manual* §§ 979, 993.

The control of the House over general debate time in the Committee of the Whole may be exercised through the adoption of a unanimous-consent request or through the adoption of a special rule from the Committee on Rules. See, *e.g.*, Deschler-Brown Ch 29 §§ 76.1, 76.7. Where the House has divided general debate time among certain Members, it is not in order for a Member to whom time has been yielded to ask unanimous consent for additional time because time is controlled by those to whom it is allotted by the House and is not subject to extension by the Committee of the Whole. *Manual* § 979. However, time may be reallocated by unanimous consent.

When the House has vested control of general debate in the Committee of the Whole in certain Members, their control may not be abrogated during that debate by another Member moving to rise, unless one of them yields for that purpose, nor may Members yielded time in general debate yield to another for such motion. *Manual* § 334.

The Hour Rule

In the absence of a House order limiting general debate in Committee of the Whole, debate in the Committee of the Whole is under the hour rule. A Member having control of such time may not consume more than one hour. *Manual* § 978.

Prior to 1841 there was no limit on the time that a Member might occupy when in possession of the floor in the Committee of the Whole. This practice hindered the ability of the Committee of the Whole to complete action on bills. 5 Hinds § 5221. In that year the rule of the House that no Member could speak for more than one hour was applied to the Committee of the Whole. *Manual* §§ 957, 978. This one-hour limitation applies to each Member recognized to speak in the Committee of the Whole. Deschler Ch 19 § 15. No matter how much time may have been placed within the control of those representing the two sides of a question, it must be assigned to Members in accordance with the rule limiting each Member to no more than one hour of debate time. 5 Hinds §§ 5005, 5006. However, a Member recognized for one hour of debate may yield time to a Member who has just occupied an hour in his own right. 8 Cannon § 2470.

Yielding Time

A Member engaged in general debate under the hour rule in Committee of the Whole may yield any portion of his time to another Member, who may in turn seek the consent of the Member originally holding the floor to yield to a third Member. 8 Cannon § 2553. Of course, if the first Member retains control of the floor, yielding to a second Member only for a ques-

tion, it is the first Member who would subsequently yield to a third. Deschler Ch 19 § 15. Conversely, where a matter is being debated pursuant to a special order vesting control of the time for debate in certain Members, one of those Members may yield a specific block of time to a second Member, in which case the second Member may yield to a third (although not a block of time) while remaining on his feet, and permission of the first Member is not necessary. Deschler Ch 19 § 15.

Members may speak in general debate on a bill as many times as they are yielded to by those in control of the debate. *Manual* § 959; Deschler Ch 19 § 15.8. Those in control of such debate time may yield as many times as they desire to whom they desire. Deschler Ch 19 § 15.4.

§ 12. — Closing General Debate

The right to close general debate inures to the majority manager of the primary committee who has opened. *Manual* § 979. General debate in Committee of the Whole is closed or terminated pursuant to an order of the House or sooner if no Member desires to participate further. *Manual* § 978; 4 Hinds § 4745; 5 Hinds § 5221. Amendments may not be offered in the Committee of the Whole until general debate has been closed or yielded back, and motions for the disposition of the pending bill are not in order before that time. 4 Hinds §§ 4744, 4778; 5 Hinds § 5221. However, those Members in control of the time for general debate need not use all of the time for the purpose prescribed by House order. Rather, they may agree among themselves to close further general debate, yield their remaining time, and allow consideration of the bill under the five-minute rule to begin. Deschler-Brown Ch 29 § 76.1.

For general discussion of the practice of limiting or closing general debate, see CONSIDERATION AND DEBATE.

§ 13. Debate Under the Five-minute Rule; Amendments

Generally

Amendments to measures pending in Committee of the Whole are in order following the close of general debate. Deschler Ch 19 § 15. Amendments are offered under the so-called five-minute rule. This rule provides that any Member “shall be allowed” five minutes to explain any amendment he may offer, after which the Member who first obtains the floor is allowed five minutes to oppose it. *Manual* §§ 978, 980. Thereafter, a Member may obtain five minutes for debate by offering a pro forma amendment “to strike the last word.” No actual change in text is contemplated by the

offering of such amendment. *Manual* §981. Pro forma amendments, generally, see § 14, *infra*.

The Committee of the Whole may not, even by unanimous consent, prohibit the offering of an amendment otherwise in order under the five-minute rule. 98–2, July 31, 1984, p 21701. To guard against abuse of the rule by Members offering an amendment for the sole purpose of gaining debate time (5 Hinds § 5221), the rule itself provides that amendments may be withdrawn only by unanimous consent. *Manual* § 978.

The five-minute rule is applicable to amendments that are offered to amendments. *Manual* § 978. However, where an amendment to a bill has been offered, the right to explain or oppose that amendment has precedence of a motion to amend it. 4 Hinds § 4751.

Under the modern practice of the House, bills increasingly are considered in the Committee of the Whole under a “modified-closed” amendment process. Such process vitiates, in part, the five-minute rule by considering the bill as having been read for amendment, restricting amendments that may be offered, and by limiting and controlling debate time on amendments made in order.

Limiting or closing five-minute debate, see CONSIDERATION AND DEBATE.

Yielding Time During Five-minute Debate

Members who have been recognized for debate under the five-minute rule may not yield time to another Member and be seated. 100–1, Dec. 10, 1987, p 34686. Although a Member recognized in debate under the rule may yield to another Member while remaining on his feet, he may not yield designated amounts of time. 5 Hinds §§ 5036, 5037; Deschler Ch 19 § 15. He may not yield to another Member to offer an amendment. 93–1, Dec. 12, 14, 1973, pp 41171, 41716; 94–2, Sept. 8, 1976, p 29243.

Where debate on an amendment is limited or allocated by special order, or by the Chair, to a proponent and an opponent, the Members controlling the debate may yield and reserve time; but debate time on an amendment under the five-minute rule cannot be reserved. *Manual* § 980.

Reading for Amendment

In Committee of the Whole, bills are read for amendment by section pursuant to a practice dating from 1789, because each section normally contains a substantive legislative provision. *Manual* § 980. General appropriation bills, on the other hand, are ordinarily read by paragraphs, because such bills are normally drafted so that each paragraph contains an appropriation. However, whether a bill shall be read by paragraphs, sections, or titles is

determined by unanimous consent or special rule reported by the Committee on Rules, which may provide that the bill is to be “considered as read,” and open to amendment at any point. Changing the reading cannot be accomplished by motion. *Manual* § 980; Deschler Ch 21 § 25.

When a paragraph or section has been passed in the reading, it is not in order to return thereto except by unanimous consent. *Manual* § 980. However, the Chairman may direct a return to a section where, through his inadvertence, no action was taken on a pending amendment. 4 Hinds § 4750.

§ 14. — Pro Forma Amendments

Generally

Pro forma amendments have been permitted in the Committee of the Whole since at least as early as 1868, when they were used during the consideration of articles of impeachment against President Andrew Johnson. 5 Hinds § 5778. Pro forma amendments are those offered during debate under the five-minute rule to make some superficial change in a measure—by tradition “to strike the last word”—where the underlying purpose is to obtain time for debate or to offer an explanation, no actual change in the measure being contemplated. *Manual* § 981; Deschler Ch 19 § 15.

When in Order

Like substantive amendments, pro forma amendments are in order following the reading of the section or paragraph of the pending measure and are liberally permitted during debate under the five-minute rule. See AMENDMENTS. A Member who has expended five minutes on a pro forma amendment may not lengthen this time by making another pro forma amendment. 5 Hinds § 5222; 8 Cannon § 2560; Deschler Ch 19 § 15. A Member who has offered a substantive amendment and then debated it for five minutes may not extend his time by offering a pro forma amendment, as it is not in order for the offerer of an amendment to amend his own amendment except by unanimous consent. *Manual* § 981. Conversely, a Member recognized on a pro forma amendment may not automatically extend his time by offering a substantive amendment, not having been recognized for that purpose. Deschler Ch 19 § 15.11.

Pro forma amendments are not in order when a bill is being considered under a “closed” or “modified-closed” rule prohibiting all, or permitting only certain, amendments unless the rule specifies to the contrary. Deschler-Brown Ch 29 § 77.20. Similarly, a pro forma amendment may be offered by unanimous consent only after a substitute has been adopted and before the vote on the amendment, as amended, because the amendment has been

amended in its entirety; and no further amendments, including pro forma amendments, are in order. *Manual* § 981.

§ 15. Relevancy in Debate

Latitude in general debate is normally limited by a special rule from the Committee on Rules or other order of the House, which routinely confines general debate to the subject of the measure. *Manual* § 948. Latitude in debate under the five-minute rule is limited by rule XVIII clause 5(a), which permits five minutes to “explain” an amendment and five minutes to speak “in opposition” to the amendment. *Manual* § 978. For a more thorough discussion of relevancy of debate in the Committee of the Whole, see CONSIDERATION AND DEBATE.

§ 16. Calling Members to Order

Jefferson suggested that, as a matter of parliamentary law, to avert the “danger of a decision by the sword” in the Committee of the Whole, the Speaker could take the Chair to restore order. *Manual* § 331. In several early instances, the Speaker did in fact exercise this authority. 2 Hinds §§ 1648–1652. Under the modern practice, the Chairman directs the Committee of the Whole to rise and report to the House when objections have been made to words spoken in debate. *Manual* § 971; Cannon §§ 2533, 2538; Deschler Ch 19 § 17.

Under this procedure, a Member must take his seat when he is called to order by the Chairman. Deschler Ch 19 § 17.1. The Chair or any Member may cause the words to be taken down at the Clerk’s desk and read in the Committee of the Whole, which then rises automatically without debate. 8 Cannon §§ 2533, 2538, 2539. The words are then reported to the House and are again read. 2 Hinds §§ 1257–1259. The words reported are then taken up in the House, with consideration being limited to the words reported. 8 Cannon § 2528. The Member uttering the words may withdraw them in the Committee of the Whole or in the House only by unanimous consent. 8 Cannon §§ 2528, 2538, 2540; Deschler Ch 19 § 17.7. The Speaker then rules on whether the words are unparliamentary (Deschler Ch 19 § 17.5), which is subject to appeal (*Manual* §§ 629, 961; 5 Hinds §§ 5157, 5178, 5194; Deschler-Brown Ch 29 § 50.8).

If a Member’s words are ruled out of order, motions in the House to strike unparliamentary words from the *Congressional Record* and to permit the offending Member to proceed in order are available before the Committee of the Whole resumes its sitting. Instances of disorder during debate in the Committee of the Whole may be disposed of in the House pursuant

to a motion to expunge the offending language from the *Record* (8 Cannon §§ 2538, 2539) or, in especially flagrant instances, pursuant to a resolution of censure (2 Hinds §§ 1257, 1259). However, censure is not a remedy available for words spoken if debate or business has intervened. Rule XVII clause 4(b).

After disposition of the matter in the House, the Committee of the Whole automatically resumes its sitting. *Manual* § 961; 8 Cannon § 2541; Deschler Ch 19 § 17.5.

For general discussion of disorder in debate, see CONSIDERATION AND DEBATE.

§ 17. Voting

The methods and procedures by which Members vote in Committee of the Whole are prescribed by the rules of the House, particularly rule XX and rule XVIII clause 6. They include:

- *Voice vote*—Based on volume of sound of Members responding aye or no. Rule I clause 6; *Manual* § 630.
- *Division (or standing) vote*—May be invoked by the Chair or any Member, and is in order following a voice vote. Under this procedure, Members stand to be counted, first those voting in the affirmative, then those voting in the negative. Rule XX clause 1; *Manual* § 1012.
- *Recorded vote*—The Members insert a personalized electronic voting card to be recorded as “yea,” “nay,” or “present.” The request for such a vote must be supported by at least 25 Members. A recorded vote may be preceded by a point of order of no quorum, which requires the Chair to first count for 100 Members. Rule XVIII clause 6; *Manual* §§ 982, 983. The Chair’s count is not subject to challenge. *Manual* § 629.
- *Record vote by tellers or a “roll call”*—During a record vote by tellers, the Members cast their votes by depositing a signed green (yea) or red (no) card in a ballot box. Rule XX clause 4; *Manual* § 1019. During a “roll call” the Chair directs the Clerk to call the roll alphabetically. Rule XX clause 3; *Manual* § 1015. These procedures have been supplanted by the use of the electronic voting equipment and are used only as a backup voting system when that equipment becomes inoperative.

A vote by the yeas and nays, which may be demanded in the House under the Constitution or obtained automatically under rule XX clause 6, is not in order in Committee of the Whole. *Manual* §§ 76, 1026.

Under rule XVIII clause 6(g), the Chairman may postpone a request for a recorded vote on any amendment; and he may resume proceedings on that request at any time. An electronic vote ordered on the postponed request may be reduced to five minutes, provided the first vote in a series is 15 minutes. *Manual* § 984.

For a discussion of voting procedures generally, see VOTING.

§ 18. Points of Order

Generally

In Committee of the Whole, questions of order relating to procedure (except for words taken down) are decided by the Chairman, not the Speaker. *Manual* § 971; 5 Hinds §§ 6927, 6928; Deschler Ch 19 § 19. The Speaker cannot rule on a point of order arising in the Committee of the Whole unless the point of order is reported to the House for a decision. 5 Hinds § 6987. Appeals from a decision of the Chairman on a point of order are ordinarily resolved in the Committee of the Whole, but in rare cases an appeal from a decision on a point of order may be reported to the House for its determination. 4 Hinds § 4783.

Debate on a point of order raised in the Committee of the Whole is within the discretion of the Chairman and must be confined to the point of order. Deschler Ch 19 § 19.2.

When in Order

Generally, points of order in the Committee of the Whole against a provision in a bill or amendment are properly made when that provision or amendment is reached in the reading. For a discussion of points of order in the Committee of the Whole against provisions in general appropriation bills and amendments thereto, see *Manual* § 1044. A point of order against an amendment comes too late after there has been debate on the amendment (*Manual* § 924) or when the amendment has been reported to the House (92–2, June 1, 1972, pp 19479, 19483). However, rule XXI clauses 4 and 5(a) permit the raising “at any time” of a point of order against a legislative bill carrying appropriations or a tax or tariff if the bill was reported by a committee not having jurisdiction to report such matters. *Manual* §§ 1065, 1066; see also APPROPRIATIONS.

Points of order against consideration of bills are properly raised in the House pending resolution into the Committee and may not subsequently be raised in Committee of the Whole. Deschler Ch 19 § 20. This rule has been applied to points of order against consideration of the measure for:

- Violations of committee reporting requirements, such as the Ramseyer rule (that proposed changes in law be indicated typographically). *Manual* § 846; Deschler Ch 19 §§ 20.1–20.3.
- Availability requirements prior to floor consideration of measures. *Manual* § 850.

For points of order generally, see POINTS OF ORDER; PARLIAMENTARY INQUIRIES; for points of order relating to particular measures or matters, see APPROPRIATIONS and CONFERENCES BETWEEN THE HOUSES.

§ 19. Unfinished Business

Business unfinished when the Committee of the Whole rises remains unfinished, to be considered first in order when the House next goes into the Committee to consider that business. 4 Hinds §§4735, 4736; see also UNFINISHED BUSINESS. Thus, when the Committee of the Whole rises before the time fixed for debate expires, debate continues when the Committee resumes its deliberations. Deschler Ch 19 § 26.1. When a recommendation of the Committee of the Whole that the enacting clause of a bill be stricken is rejected by the House, the House, without motion, resolves itself into the Committee for the further consideration of the bill. Deschler Ch 19 § 26.2.

Absent a special rule to the contrary, when the Committee of the Whole rises on the adoption of a simple motion to rise, a bill pending at that time remains the unfinished business for subsequent consideration in the Committee. *Manual* § 977. Similarly, if such a motion intervenes pending a request for a recorded vote, that request remains the pending business upon resumption of consideration of the bill in Committee. Deschler-Brown Ch 30 § 33.15.

C. Motions in Committee

§ 20. In General

Motions Permitted

The principal motions used in Committee of the Whole are as follows:

- Motions to amend under the five-minute rule. *Manual* § 978; see also § 13, *supra*.
- Motions to dispense with the reading of an amendment printed in the bill as reported or as printed in the *Congressional Record*. *Manual* § 986.
- Motions to close five-minute debate. *Manual* § 987; see also CONSIDERATION AND DEBATE.
- Motions relating to the enacting clause. *Manual* § 988; for a comprehensive discussion, see § 22, *infra*.
- Motions to rise. Deschler Ch 19 § 22; see also § 26, *infra*.

Motions Not Entertained

The Committee of the Whole may not entertain motions involving functions properly performed by the House. Of the motions specified by rule

XVI clause 4—to adjourn, to lay on the table, for the previous question, to postpone, to refer, or to amend—only the motion to amend is authorized in the Committee of the Whole. *Manual* § 911. The Committee may not entertain a motion to:

- Limit general debate (as distinguished from five-minute debate). Deschler Ch 19 § 2; for a general discussion, see CONSIDERATION AND DEBATE.
- Close general debate. *Manual* § 979; 5 Hinds § 5217.
- Dispense with the reading of a bill unless authorized pursuant to a special rule from the Committee on Rules. Deschler Ch 19 § 2.11.
- Return to a section of the bill passed in the reading. Deschler Ch 19 § 2.10.
- Effect a conference or instruct conferees. 8 Cannon §§ 2319, 2320; Deschler Ch 19 § 2.
- Order a call of the House. 8 Cannon § 2369.
- Expunge remarks from the *Congressional Record*. Deschler Ch 19 § 3.2.
- Order the previous question. 4 Hinds § 4716; Deschler Ch 19 § 2.6.
- Reconsider. 4 Hinds §§ 4716–4718; 8 Cannon §§ 2324, 2325; Deschler Ch 19 § 2.5.
- Recommit. 4 Hinds § 4721; 8 Cannon § 2326.
- Postpone or rise and resume sitting on a day certain. *Manual* § 915; Deschler Ch 19 § 22.2.
- Lay on the table. 4 Hinds §§ 4719, 4720; 8 Cannon § 2330; Deschler Ch 19 § 2.7.
- Recess (absent permission of the House). 5 Hinds §§ 6669–6671; 8 Cannon § 3357; Deschler Ch 19 § 2.
- Adjourn. Deschler Ch 19 § 2.4.

Motions Recommending House Action

As noted above, the motions to postpone, recommit, or lay on the table, are not in order in the Committee of the Whole. However, under certain circumstances, the Committee of the Whole may entertain a motion to rise and report with the *recommendation* that the House entertain such an action. Whether such a motion will or will not lie in the Committee of the Whole is ordinarily determined by the terms of the special rule under which the measure is being considered. Under the modern practice, a special rule normally provides that after consideration the Committee of the Whole shall rise and report the measure to the House, with the previous question to be considered as ordered on the bill and amendments thereto to final passage. In that case, the Committee of the Whole may not report to the House a recommendation that the bill be recommitted. Deschler Ch 19 § 23.12. In the exceptional circumstance where this language is not included in the spe-

cial rule, the Committee of the Whole may entertain a motion to rise and report with:

- A recommendation that the consideration of the bill be postponed. 4 Hinds §§ 4765, 4774; 8 Cannon § 2372; Deschler Ch 19 § 22.
- A recommendation that the bill be referred or recommitted. 4 Hinds § 4774; Deschler Ch 19 § 23.12.
- A recommendation that the bill lie on the table. 4 Hinds § 4777.

Requirement That Motions Be Written

Although motions made in the Committee of the Whole are often put forward orally, any Member may demand that a motion be made in writing. See, *e.g.*, Deschler Ch 19 § 2.1.

Withdrawal

A motion may be withdrawn in the Committee of the Whole only by unanimous consent. Deschler Ch 23 § 2.10. Rule XVIII clause 5(a) specifically prohibits the withdrawal of an amendment except by unanimous consent, whether or not debate has proceeded. 5 Hinds § 5221; 8 Cannon § 2859. This principle has also been applied to the motion to close debate under the five-minute rule (8 Cannon § 2564) and to the motion to recommend the striking of the enacting clause (98–1, July 29, 1983, p 21675).

§ 21. Precedence of Motions

Motions to Rise

The simple motion to rise is of highest privilege. *Manual* §§ 334, 983; Deschler Ch 19 §§ 23.1, 23.2. It takes precedence over motions to amend (*Manual* § 983; Hinds § 4770) and over amendments pending under the five-minute rule (Deschler Ch 19 § 23.3), though it may not interrupt other Members in debate (Deschler Ch 19 § 23.6; § 26, *infra*). The motion takes precedence over a demand for a recorded vote on a pending amendment (97–1, July 15, 1981, p 15921), and over a point of order of no quorum pending such a demand (see 95–1, Sept. 21, 1977, p 30126). The motion is in order pending the Chair’s count of a quorum (Deschler Ch 19 § 23.5) and pending a decision of the Chair on a point of order (Deschler Ch 19 § 23.7). The simple motion to rise also takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken. Deschler Ch 19 § 23.13.

Motion Relating to the Enacting Clause

The motion that the Committee of the Whole rise and report to the House with the recommendation that the enacting clause be stricken is of

high privilege. Deschler Ch 19 § 10.4. The motion is preferential because, if adopted, it constitutes a final disposition of the bill in the Committee of the Whole. Deschler Ch 19 § 11.11, note. The motion may be offered where another Member has been recognized to offer an amendment (Deschler-Brown Ch 29 § 12.13) or when an amendment is pending. However, the motion may not interrupt debate. *Manual* § 989. The motion also takes precedence over a motion to limit debate (*Manual* § 989) and over a motion to rise and report with a favorable recommendation (8 Cannon § 2620). See also § 22, *infra*.

Motions to Amend

With one exception, a motion to amend a bill takes precedence over a motion to rise and report the bill. 4 Hinds §§ 4752–4758; 8 Cannon § 2364; Deschler Ch 19 § 23.14. The exception is in rule XXI clause 2(d), which specifies that when a general appropriation bill has been read for amendment, a motion to rise and report, if offered by the Majority Leader or his designee, takes precedence over an amendment.

The initial right of the proponent to explain an amendment offered under the five-minute rule, or of a Member to rise in opposition thereto, takes precedence over a motion to amend that amendment. 4 Hinds § 4751.

§ 22. Motion Relating to Enacting Clauses

Generally; Effect of Rejection or Adoption

Every bill that becomes law contains the phrase: “Be it enacted by the Senate and House . . . in Congress assembled. . . .” It is in order to move that the Committee of the Whole rise and report a bill back to the House with the recommendation that this clause, known as the enacting clause, be stricken. 5 Hinds §§ 5326–5346; 8 Cannon §§ 2618–2638; Deschler Ch 19 § 10. Such a motion is not, strictly speaking, an amendment, because it can be dispositive of the entire bill. See Deschler Ch 19 § 10 (note 13). If the House agrees to the recommendation, its action is equivalent to a rejection of the bill. *Manual* § 988; 5 Hinds § 5326; Deschler Ch 19 § 10.6. If the House rejects the recommendation, it automatically resolves itself back into the Committee of the Whole for the further consideration of the bill. Deschler Ch 19 § 10.9.

The motion must be in writing and in the proper form. *Manual* § 988.

MEMBER: I move that the Committee of the Whole do now rise and report the bill back to the House with the recommendation that the enacting clause (or the resolving clause) be stricken. Deschler Ch 19 § 10.2.

Motions that deviate from this form are subject to a point of order. Deschler Ch 19 § 10.3. Thus, a simple motion to strike the enacting clause, although at one time permitted in the Committee of the Whole, is, under the modern practice, not in proper form and not in order. 5 Hinds § 5332; Deschler Ch 19 § 10.1. A motion to strike “all after the enacting clause” is likewise out of order. Deschler Ch 19 § 10.3. The recommendation that the enacting clause be stricken may not be combined with a provision that the bill be recommitted to a committee. Deschler Ch 19 § 10.10.

Application to Particular Measures

The motion that the Committee of the Whole rise and report to the House the recommendation that the enacting clause be stricken is applicable to the enacting clause of a Senate-passed bill. Deschler Ch 19 § 10.14. The motion has also been used to recommend the striking of the resolving clause of a simple resolution (Deschler Ch 19 § 11.10), the resolving clause of a concurrent resolution on the budget (96–1, May 9, 1979, p 10490), and the resolving clause of a joint resolution (Deschler Ch 19 § 11.4).

Who May Offer or Oppose

A Member offering the motion to rise and report with the recommendation that the enacting clause be stricken must qualify as being opposed to the bill when challenged. A Member in favor of the bill may not offer the motion. *Manual* § 989; Deschler Ch 19 § 12.2. A challenge being made by another Member, the Member offering the motion must declare his opposition to the bill. Deschler Ch 19 § 12.1. Generally, in recognizing a Member for the motion, the Chair will accept the statement of that Member that he is opposed to the bill. Deschler Ch 19 § 12.5. Similar rules are applied with respect to the qualification of a Member to oppose the motion. To obtain recognition to oppose the motion, a Member must qualify by stating that he is opposed thereto. Deschler Ch 19 § 12.11.

The practice of offering the motion merely to obtain time for debate, though subject to criticism, has been permitted. Deschler Ch 19 §§ 12.8–12.10. In fact, under the modern practice, extended debate is the usual intent of the offeror, who then withdraws the motion by unanimous consent.

Repetition of Motion

A second motion on the same day to recommend the striking of the enacting clause is not entertained in the absence of any material modification of the bill. 8 Cannon § 2636; Deschler Ch 19 §§ 14.1, 14.2. Thus, a second motion is in order if the bill has been amended since disposition of the first motion (Deschler Ch 19 § 14.4) but is not in order if the only action of the

Committee of the Whole in the interim has been the rejection of a proposed amendment to the bill (Deschler Ch 19 § 14.5). If the first such motion is withdrawn by unanimous consent, a second motion relating to the enacting clause is in order. *Manual* § 989; Deschler Ch 19 § 14.7. The motion may be renewed on a subsequent day regardless of any modification of the bill. Deschler Ch 19 § 14.8.

§ 23. — When in Order

The motion that the Committee of the Whole rise and report with the recommendation that the enacting clause be stricken is not in order during general debate on the measure. Deschler Ch 19 § 10. The motion is in order only after the Clerk has begun reading the bill for amendment under the five-minute rule (Deschler Ch 19 § 11.2), assuming that another Member has not obtained the floor for purposes of debate (96–1, June 13, 1979, p 14710). The motion is no longer in order when the stage of amendment is passed. The stage of amendment is passed in Committee where a bill is being considered under a rule permitting only committee amendments, and where no committee amendments are offered at the conclusion of general debate. *Manual* § 989. The adoption of an amendment in the nature of a substitute also may foreclose the opportunity to offer the motion. Deschler Ch 19 § 11.6.

§ 24. — Debate

Generally; Time Limitations

The debate on a motion that the Committee of the Whole rise and report with the recommendation that the enacting clause be stricken is governed by the five-minute rule. 5 Hinds §§ 5333–5335; 8 Cannon §§ 2628–2631; Deschler Ch 19 § 13. Debate on the motion is thus limited to 10 minutes, five minutes in favor and five minutes in opposition. Deschler Ch 19 § 13.1. The Chair has declined to recognize for requests to extend the five-minute time (Deschler Ch 19 § 13.2), and a Member may not extend his time by using time available to him to debate the bill and amendments thereto (Deschler-Brown Ch 29 § 31.33). Debate is limited to two five-minute speeches even though the proponent and the Member in opposition both speak in favor of the motion. Deschler Ch 19 § 13.3. The Chair will not announce in advance who will be recognized in opposition to the motion. *Manual* § 989.

Time may not be reserved. Where a Member recognized for five minutes in opposition to the motion yields back his time, another Member may not claim the unused portion thereof. *Manual* § 989.

Members of the committee managing the bill have priority in recognition for debate in opposition to the motion. *Manual* § 989.

Effect of Limitation of Time for Debate

A limitation of all debate time on a bill and amendments thereto to a time certain does not preclude debate on a motion to recommend the striking of the enacting clause during the time remaining under the limitation. 97-1, Oct. 5, 1981, p 23154. However, the motion is not debatable after all time for debate on the bill and all amendments thereto has expired. Deschler Ch 19 § 13.7. On the other hand, where debate has been closed only as to amendments to a bill, and not on the bill itself, a Member offering the motion to strike the enacting clause is entitled to five minutes to debate that motion. Deschler-Brown Ch 29 § 6.28. A similar practice is followed where the limitation is only on an amendment in the nature of a substitute being read as an original bill for the purpose of amendment under a special order. *Manual* § 989.

Scope of Debate

Since the motion to rise and report with the recommendation that the enacting clause be stricken applies to the entire bill, debate may be directed to any part of the bill—or to a pending amendment—and need not be confined to the merits of the preferential motion. Deschler-Brown Ch 29 § 37.11. Thus, the motion may be used by a Member to secure five minutes to debate a pending amendment notwithstanding a limitation of time for debate on the pending amendment and all amendments thereto. Deschler-Brown Ch 29 § 37.8. However, debate on the motion may not include matters beyond the provisions of the bill. 5 Hinds § 5336.

D. Rising; Reporting to the House

§ 25. Generally

Formal and Informal Rising Distinguished

When the Committee of the Whole terminates or suspends its proceedings, it “rises,” either formally or informally. Deschler Ch 19 § 21.1. When the Committee of the Whole rises formally, it normally does so by motion or by operation of a special order. § 26, *infra*. When the Committee of the Whole rises informally, it does so by unanimous consent (4 Hinds § 4788) or simply at the direction of the Chairman without a formal motion from the floor (Deschler Ch 19 § 21.1).

The Committee of the Whole may rise informally to permit the House to transact unrelated business, such to swear in a Member (by unanimous consent of the House), to receive a message, or to lay down a signed enrolled bill. *Manual* § 330; 4 Hinds § 4791; Deschler Ch 19 § 21.1. Having no power to receive a message, the Committee of the Whole rises informally to permit the House to do so. *Manual* § 330; 4 Hinds § 4786. At this rising, the House may not have the message read or transact other business except by unanimous consent. 4 Hinds §§ 4787–4791.

Effect of Special Rules or Orders

The Committee of the Whole rises automatically and without motion when it rises pursuant to a special rule providing that at the conclusion of consideration of the bill for amendment the Committee of the Whole “shall” rise and report back to the House (94–1, July 30, 1975, p 25881) or pursuant to a House order limiting general debate to a time certain and providing that the Committee rise at the conclusion of that time (Deschler Ch 19 § 21.3). However, a motion to rise is required to enable the Committee of the Whole to rise prior to the time fixed by the applicable special rule. 7 Cannon § 793.

§ 26. Motions to Rise

Generally; Forms

The motion to rise in the Committee of the Whole is analogous to the motion to adjourn in the House. In the Committee of the Whole, the motion takes two forms: (1) the simple motion to rise and (2) the motion to rise and report. 4 Hinds §§ 4766, 4767; Deschler Ch 19 §§ 22.1, 23.13. The motions are expressed as follows:

Mr. Chairman, I move that the Committee do now rise.

Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that _____.

The motion to rise and report may recommend to the House either a favorable or adverse disposition of the bill. It may recommend that the consideration of the reported measure be postponed, or that it be recommitted or tabled. However, under the modern practice, such motion is normally precluded by the applicable special rule. § 20, *supra*. For the motion to rise and report with the recommendation that the enacting clause be stricken, see § 22, *supra*.

The motion to rise (or to rise and report) must be in writing if the demand is made. Deschler Ch 19 § 22.3. The simple motion to rise does not require a quorum for adoption, although a negative voice vote is subject to

a point of order of no quorum pending a request for a recorded vote. *Manual* § 983; 4 Hinds §§ 2975, 2976; Deschler Ch 19 § 22.7. However, a quorum is required on an affirmative vote on a motion to rise and report. See 4 Hinds § 2973. Neither motion is debatable. 4 Hinds §§ 4766–4768; Deschler Ch 19 § 22.4. Either may be withdrawn by unanimous consent. Deschler Ch 19 § 22.9. They may not include restrictions on the amendment process or limitations on future debate on amendments. *Manual* § 334.

§ 27. — When in Order

The motion that the Committee of the Whole rise is privileged during debate under the five-minute rule. *Manual* § 334. The motion is in order notwithstanding an informal agreement among the floor managers of a bill to conclude consideration at a different time. Deschler Ch 19 § 23.4. The motion is in order:

- While an amendment is pending, except where another Member has the floor. *Manual* § 334.
- Pending a decision on a point of order. Deschler Ch 19 §§ 23.7, 23.8.
- After agreement to a motion to limit debate on an amendment. Deschler Ch 19 § 23.10.
- Pending a count of a quorum. Deschler Ch 19 § 23.5.
- After the absence of a quorum has been ascertained and pending a vote on an amendment (*Manual* § 982) but comes too late when the Chair has announced the absence of a quorum and the roll call has begun (91–2, Sept. 16, 1970, p 32229).
- Pending a demand for a record vote but prior to the time the Chair begins the count to determine whether a sufficient number support the demand. 94–1, Aug. 1, 1975, p 26947.
- During general debate if offered by a manager or by a Member to whom a manager has yielded for that purpose. *Manual* § 334.

A motion that the Committee of the Whole rise may be made between the time an amendment is offered and read and before recognition of its proponent for debate thereon. 97–1, May 12, 1981, pp 9320, 9323. Where a special rule provides that the Committee rise and report at the conclusion of the consideration of a bill for amendment, a motion that the Committee of the Whole rise and report the bill with certain amendments, before the bill has been completely read for amendment, is not in order. However, a simple motion that the Committee of the Whole rise is in order at that time. 96–1, Dec. 5, 1979, p 34755.

§ 28. — Who May Offer

In the Committee of the Whole, any Member may move to rise and the Chairman is constrained to recognize for that purpose, unless another Member controls the floor. Deschler Ch 19 § 24.2; 8 Cannon § 2369. Although the motion may be offered by any Member entitled to the floor in his own right, the motion is commonly made by the Member handling the bill before the Committee. Deschler Ch 19 §§ 22.5, 22.8, 23.1. The motion also may be made by a Member who holds the floor by virtue of having offered an amendment. Deschler Ch 19 § 24.1.

A Member holding the floor may not be interrupted by a motion to rise even though he has not yet begun to speak. 8 Cannon § 2370. A Member may not, in time yielded to him for debate, move that the Committee of the Whole rise (Deschler Ch 19 § 10) or yield to another for such a motion (Deschler Ch 29 § 23). However, the majority or minority member controlling the time for general debate may yield for a motion that the Committee of the Whole rise, and he may do so without losing his right to continue at the next sitting of the Committee on the same matter. 5 Hinds §§ 5012, 5013.

For precedence of a motion to rise and report a general appropriation bill, if offered by the Majority Leader, over an amendment, see § 21, *supra*.

§ 29. Reporting to the House**Generally**

When a matter is concluded in the Committee of the Whole, it is reported to the House. The permission of the House is neither required nor sought when the Chairman reports on a measure. The report is made and received and is then before the House for action. *Manual* § 334. When the Committee of the Whole rises without concluding the matter, the Chairman reports that it “has come to no resolution thereon.” Under this procedure the Chairman does not report the measure back to the House. Deschler Ch 19 § 21.4. The measure remains as unfinished business for subsequent consideration in the Committee of the Whole. § 19, *supra*.

The Speaker recognizes only reports from the Committee of the Whole made by the Chairman thereof. 5 Hinds § 6987. The Speaker has no official knowledge of proceedings in the Committee of the Whole beyond those reported by its Chairman. A matter alleged to have arisen therein but not reported may not be brought to the attention of the House. 8 Cannon §§ 2429, 2430.

§ 30. House Action on Committee Reports

Generally

When the Committee of the Whole reports to the House, the House usually acts at once on the report without reference to select or other committees. *Manual* § 326. The recommendation of the Committee being before the House, the motion to carry out the recommendation is usually considered as pending without being offered from the floor. 4 Hinds § 4896.

The recommendation of the Committee of the Whole may be favorable or adverse, and the bill may be reported with or without amendments:

CHAIRMAN: Mr. Speaker, the Committee of the Whole House on the state of the Union, having had under consideration the bill H.R. _____, directs me to report it back to the House with sundry amendments and with the recommendation that the amendments be agreed to and the bill as amended do pass.

SPEAKER: The gentleman from _____ reports that the Committee of the Whole House on the state of the Union, having had under consideration the bill H.R. _____, directs him to report

For House action on amendments reported from the Committee of the Whole, including the demand for separate votes, see AMENDMENTS. For steps to be taken in the passage of a bill in the House, see PREVIOUS QUESTION and READING, PASSAGE, AND ENACTMENT.

Recommittal to the Committee of the Whole

Bills are sometimes recommitted to the Committee of the Whole as the result of the action of the House (4 Hinds § 4784) or on motion either with or without instructions (5 Hinds §§ 5552, 5553). If the bill is reported from the Committee of the Whole with an adverse recommendation, and such recommendation is disagreed to by the House, the bill stands recommitted to the Committee without further action by the House, unless the bill is disposed of pursuant to a motion to refer. *Manual* § 988. When a recommendation of the Committee of the Whole that the enacting clause of a bill be stricken is rejected by the House, the House, without motion, resolves itself into the Committee of the Whole for the further consideration of the bill. *Manual* § 989; 7 Cannon § 943.