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§826. Relation of the motion to amend to other motions.

With some exceptions an amendment may attach itself to secondary and privileged motions (V, 5754). Thus, the motions to postpone, refer, amend, for a recess, and to fix the day to which the House shall adjourn may be amended (V, 5754; VIII, 2824). But the motions for the previous question, to lay on the table, to adjourn (V, 5754) and to go into Committee of the Whole to consider a privileged bill may not be amended (IV, 3078, 3079; VI, 723–725).

An amendment to the title of a bill is not in order in Committee of the Whole (Jan. 29, 1986, p. 682).

RULE XX.

OF AMENDMENTS OF THE SENATE.

§827. Consideration of Senate amendments in Committee of the Whole.

1. Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if, originating in the House, it would be subject to that point: *Provided, however,* That a motion to disagree with the amendments of the Senate to a House bill or resolution and request or agree to a conference with the Senate, or a motion to insist on the House amendments to a Senate bill or resolution and request or agree to a conference with the Senate, shall always be in order if the Speaker, in his discretion, recognizes for that purpose and if the motion is made by direction of the committee having jurisdiction of the subject matter of the bill or resolution.

The first part of this rule was adopted in 1880 to prevent Senate amendments of the class described from escaping consideration in Committee of the Whole (IV, 4796). The first sentence of the proviso, added by the 89th Congress (H. Res. 8, Jan. 4, 1965, p. 21), provides a method whereby bills can be sent to conference by majority vote. As contained in section 126(a) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and adopted as part of the rules of the House in the 92d Congress (H. Res.

5, Jan. 22, 1971, p. 144), this clause included language relating to separate votes on nongermane Senate amendments that was, in the 93d Congress, modified and transferred to clause 5 of rule XXVIII (H. Res. 998, Apr. 9, 1974, pp. 10195–99).

§828a. Practice in considering Senate amendments in Committee of the Whole.

While a Senate amendment that is merely a modification of a House proposition, like the increase or decrease of the amount of an appropriation, and does not involve new and distinct expenditure, may not be required to be considered in Committee of the Whole (IV, 4797–4806; VIII, 2382–2385), where the question was raised against a Senate amendment which on its face apparently placed a charge upon the Treasury the Speaker held it devolved upon those opposing the point of order to cite proof to the contrary (VIII, 2387). When in the House an amendment is offered to provide an appropriation for another purpose than that of the Senate amendment, the House goes into Committee of the Whole to consider it (IV, 4795). When an amendment is referred, the entire bill goes to the Committee of the Whole (IV, 4808), but the committee considers only the Senate amendment (V, 6192). It usually considers all the amendments, although they may not all be within the rule requiring such consideration (V, 6195). In Committee of the Whole a Senate amendment, even though it be very long, is considered as an entirety and not by paragraphs or sections (V, 6194). When reported from the Committee of the Whole, Senate amendments are voted on en bloc and only those amendments are voted on severally on which a separate vote is demanded (VIII, 3191). It has been held that each amendment is subject to general debate and amendment under the five-minute rule (V, 6193, 6196). The requirement of this clause that certain Senate amendments be considered in Committee of the Whole applies only before the stage of disagreement has been reached on the Senate amendment, and it is to too late to raise a point of order that Senate amendments should have been considered in Committee of the Whole after the House has disagreed thereto and the amendments reported from conference in disagreement (Oct. 20, 1966, p. 28240; Dec. 4, 1975, p. 38714). The motion to send a bill to conference under this clause is in order notwithstanding the fact that the stage of disagreement has not been reached (Aug. 1, 1972, p. 26153). On a bill that has been jointly referred and reported in the House, the motion must be authorized by all committees reporting thereon (Sept. 26, 1978, p. 31623), but a committee discharged from a sequential referral need not authorize a motion made by direction of the committee that reported the bill (Oct. 4, 1994, p. ——). Where such a motion has been rejected by the House, it may be repeated if the committee having jurisdiction over the subject matter again authorizes its chairman to make the motion (Oct. 3, 1972, pp. 33502–03). See also Procedure, ch. 32, sec. 5. The motion to send to conference is in order only if the Speaker in his discretion recognized for that purpose, and the Speaker will not recognize for the motion where he has referred a nongermane Senate amendment in question to a House committee with juris-

diction and they have not yet had the opportunity to consider the amendment (June 28, 1984, p. 19770). The Committee on Rules may recommend a special order of business providing that a Senate amendment pending at the Speaker's table and otherwise requiring consideration in Committee of the Whole under this clause be "hereby" considered as adopted, which special order if adopted would abrogate the requirement of this clause (Deschler's Precedents, vol. 6, ch. 21, sec. 16.11; Feb. 4, 1993, p. ——).

§828b. Stage of disagreement between Houses.

When the stage of disagreement has been reached on a bill with amendments of the other House, motions to dispose of said amendments are privileged in the House (IV, 3149, 3150; VI, 756; VIII, 3185, 3194). The stage of disagreement between the two Houses is reached after the House in possession of the papers has either disagreed to the amendment(s) of the other House or has insisted on its own amendment to a measure of the other House (Sept. 16, 1976, p. 30868), and not merely where the other House has returned a bill with an amendment (Dec. 7, 1977, pp. 38728–29). Thus where the House concurred in a Senate amendment to a House bill with an amendment, insisted on the amendment and requested a conference, and the Senate then concurred in the House amendment with a further amendment, the matter was privileged in the House for further disposition since the House had communicated its insistence and request for a conference to the Senate (Speaker Albert, Sept. 16, 1976, p. 30868).

§829. Conferees may not agree to certain Senate amendments.

2. No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of rule XXI, if said amendment had originated in the House, nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.

This clause of the rule was adopted on June 1, 1920 (pp. 8109, 8120).

While the rule provides for a motion authorizing the managers on the part of the House to agree to amendments of the Senate in violation of clause 2 of rule XXI, such as a motion to recommit a conference report on a general appropriation bill with instructions to agree to a legislative

Senate amendment (Speaker Albert, Dec. 19, 1973, p. 42565), it does not permit a motion to recommit a conference report on a general appropriation bill to include instructions to add legislation to that contained in a Senate amendment (Nov. 13, 1973, p. 36847). It is customary after a conference on a general appropriation bill with numbered Senate amendments for the managers to report certain Senate amendments in technical disagreement, and after the partial conference report (consisting of agreement on those Senate amendments not in violation of clause 2 of rule XXI) is disposed of, the remaining amendments are taken up in order and disposed of directly in the House by separate motion. When Senate amendments in disagreement are considered in this fashion, they are not subject to a point of order under this clause (Dec. 4, 1975, p. 38714); and a motion to (recede and) concur in the Senate amendment with a further amendment is also in order, even if the proposed amendment is also legislation on an appropriation bill. The only test is whether the proposed amendment is germane to the Senate amendment reported in disagreement (IV, 3909; VIII, 3188, 3189; Speaker McCormack, Dec. 15, 1970, pp. 41504–05; Aug. 1, 1979, pp. 22007–11; Speaker O'Neill, Dec. 12, 1979, pp. 35520–21; June 30, 1987, p. 18308).

In the event an appropriation bill with Senate amendments in violation of clause 2 of rule XXI is sent to conference by unanimous consent, such procedure does not thereby prevent a point of order being sustained against the conference report should the managers on the part of the House violate the provisions of clause 2 of rule XX (VII, 1574). But where a special rule in the House waives points of order against portions of an appropriation bill that are unauthorized by law, and the bill passes the House with those provisions included therein and goes to conference, the conferees may report back their agreement to those provisions even though they remain unauthorized, since the waiver in the House of points of order under clause 2 of rule XXI carries over to the consideration of the same provisions when the conference report is before the House (Dec. 20, 1969, pp. 40445–48, consideration of conference report; Dec. 9, 1969, p. 37948, adoption of special rule waiving points of order against the bill in the House). The rule is a restriction upon the managers on the part of the House only, and does not provide for a point of order against a Senate amendment when it comes up for action by the House (VII, 1572). Managers may be authorized to agree to an appropriation by a resolution reported from the Committee on Rules (VII, 1577). House managers may include in their report a modification of a Senate amendment that eliminates the appropriation in that amendment (June 8, 1972, pp. 20280–81); and the prohibition in this clause applies only to language in Senate amendments. Thus the conferees may without violating this clause agree to language in a Senate bill which was sent to conference (Speaker Albert, Jan. 25, 1972, pp. 1076, 1077; June 30, 1976, pp. 21632–34) or agree to language in a House bill which was permitted to remain and which constitutes an appropriation on a legislative bill (Speaker Albert, May 1, 1975, p. 12752).

A provision in a Senate amendment included in a conference report on an authorization bill considered after the relevant appropriation has been enacted into law, directing that funds appropriated pursuant to the authorization be obligated and expended on a project not specifically funded in the appropriation, is itself an appropriation and may not be agreed to by House conferees (Nov. 29, 1979, pp. 34113–15); and House conferees were held to have violated this clause when they had agreed to a provision in a Senate amendment not only authorizing appropriations to pay judgments against the U.S. for the award of attorney fees and other court costs, but also requiring that where such payments were not paid out of appropriated funds, payment be made in the same manner as judgments under 28 U.S.C. 2414 and 2517 (payable directly out of the Treasury pursuant to a direct appropriation previously provided by law in 31 U.S.C. 1304) (Oct. 1, 1980, pp. 28637–40).

RULE XXI.

ON BILLS.

§830. Reading, engrossment, and passage of bills.

1. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state the question to be: Shall the bill be engrossed and read a third time? and, if decided in the affirmative, it shall be read the third time by title, and the question shall then be put upon its passage.

This rule was adopted in 1789, amended in 1794, 1880 (IV, 3391), and on Jan. 4, 1965 (H. Res. 8, 89th Cong.). This latest amendment eliminated the provision which permitted a Member to demand the reading in full of the engrossed copy of a House bill.

§831. First and second readings.

Formerly a bill was read for the first time by title at the time of its introduction, but since 1890 all bills have been introduced by filing them with the Clerk, thus rendering a reading by title impossible at that time (IV, 3391). But the titles of all bills introduced are printed in the Journal and Record, thus carrying out the real purposes of the rule. The second reading formerly occurred in the House before commitment; but as the processes of handling bills have been shortened, the second reading now occurs for bills considered in the House alone when they are taken up for action (IV, 3391), and, for bills considered in Committee of the Whole, when they are taken