Before the question "Whether the main question shall now be put?" any person might formerly have spoken to the main question, because otherwise he would be precluded from speaking to it at all. *Mem. in Hakew., 28.*

The proper occasion for the previous question is when a subject is brought forward of a delicate nature as to high personages, &c., or the discussion of which may call forth observations which might be of injurious consequences. Then the previous question is proposed, and in the modern usage the discussion of the main question is suspended and the debate confined to the previous question. The use of it has been extended abusively to other cases, but in these it has been an embarrassing procedure. Its uses would be as well answered by other more simple parliamentary forms, and therefore it should not be favored, but restricted within as narrow limits as possible.

As explained in connection with rule XVII, the House of Representatives has changed entirely the old use of the previous question (V, 5445).

## SEC. XXXV.—AMENDMENTS.

**§ 465. Right of the Member who has spoken to the main question to speak to an amendment.**

On an amendment being moved, a Member who had spoken to the main question may speak again to the amendment. *Scob., 23.*

This parliamentary rule applies in the House of Representatives, where the hour rule of debate (clause 2 of rule XIV) has been in force for many years. A member who has spoken an hour to the main question, may speak another hour to an amendment (V, 4994; VIII, 2449).

**§ 466. The Speaker not to decide as to consistency of a proposed amendment with one already agreed to.**

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 or order, he might usurp a negative on important modifications, and suppress, instead of subserving, the legislative will.

The practice of the House of Representatives follows and extends the principle set forth by Jefferson. Thus it has been held that the fact that a proposed amendment is inconsistent with the text or embodies a proposition already voted (II, 1328–1336; VIII, 2834), or would in effect change a provision of text to which both Houses have agreed (II, 1335; V, 6183–6185), or is contained in substance in a later portion of the bill (II, 1327), is a matter to be passed on by the House rather than by the Speaker. It is for the House rather than the Speaker to decide on the legislative or legal effect of a proposition (II, 1323, 1324; VI, 254; VII, 2112; VIII, 2280, 2841); and the change of a single word in the text of a proposition may be sufficient to prevent the Speaker from ruling it out of order as one already disposed of by the House (II, 1274). The principle has been the subject of conflicting decisions, from which may be deduced the rule that the Chair may not rule out the proposition unless it presents a substantially identical proposition (VI, 256; VIII, 2834, 2835, 2838, 2840, 2842, 2850, 2856).

A perfecting amendment offered to an amendment in the nature of a substitute may be offered again as an amendment to the original bill if the amendment is first rejected or if the amendment in the nature of a substitute as perfected is rejected (Sept. 28, 1976, p. 33075). Rejection of an amendment consisting of two sections does not preclude one of those sections being subsequently offered as a separate amendment (July 15, 1981, pp. 15898–99), and the rejection of several amendments considered en bloc does not preclude their being offered separately at a subsequent time (Deschler's Precedents, vol. 9, ch. 27, sec. 35.15; Nov. 4, 1991, p. ——). A point of order against an amendment to a substitute does not lie merely because its adoption would have the same effect as the adoption of a pending amendment to the original amendment and would render the substitute as amended identical to the original amendment as amended (May 4, 1983, p. 11059).

**§ 467. The parliamentary law and the rules of the House as to germane amendments.**

Amendments may be made so as totally to alter the nature of the proposition; and it is a way of getting rid of a proposition by making it bear a sense different from what it was intended by the movers, so that they vote against it themselves. *2 Hats., 79; 4, 82, 84.* A new bill may be ingrafted, by way of amendment, on the words, "Be it enacted," etc. *1 Grey, 190, 192.*

This was the rule of Parliament, which did not require an amendment to be germane (V, 5802, 5825). But the House of Representatives from its first organization, has by rule required that an amendment should be germane to the pending proposition (clause 7 of rule XVI).

**§ 468. The amendment to strike out certain words of a bill.**

If it be proposed to amend by leaving out certain words, it may be moved, as an amendment to this amendment, to leave out a part of the words of the amendment, which is equivalent to leaving them in the bill. *2 Hats., 80, 9.* The parliamentary question is, always, whether the words shall stand part of the bill.

In the House of Representatives the question herein described is never put as in Parliament, but is always, whether the words shall be stricken out; and if there is a desire that certain of the words included in the amendment remain part of the bill, it is expressed, not by amending the amendment, but by a preferential perfecting amendment to strike from the specified words in the text of the bill a portion of them. If this is carried that portion of the specified words is stricken from the bill and the vote then recurs on the original amendment (V, 5770). Where a motion to strike an entire title of a bill is pending, it is in order to offer, as a perfecting amendment to that title, a motion to strike out a lesser portion thereof, and the perfecting amendment is voted on first (June 11, 1975, p. 18435). And when a motion to strike out certain words is disagreed to, it is in order to move to strike out a portion of those words (V, 5769); but when it is proposed to strike out certain words in a paragraph, it is not in order to amend those words by including with them other words of paragraph (V, 5768; VIII, 2848; June 2, 1976, pp. 16208–10). It is in order to insert by way of amendment a paragraph similar (but not actually identical) to

one already stricken out by amendment (V, 5760; Sept. 2, 1976, pp. 28939–58).

**§ 469. Principles as to perfecting before inserting or striking out.**

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 cannot be amended afterward 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 cannot be amended afterward, because a vote against striking out is equivalent to a vote agreeing to it in that form.

These principles are recognized as in force in the House of Representatives, with the exception that clause 7 of rule XVI specifically provides that "a motion to strike out being lost shall neither preclude amendments nor a motion to strike out and insert." But after an amendment to insert has been agreed to, the matter inserted ordinarily may not then be amended (V, 5761–5763; VIII, 2852) in any way that would change its text; but an amendment may be added at the end (V, 5759, 5764, 5765; Dec. 14, 1973, p. 41740; Oct. 1, 1974, p. 33364), even if the perfecting amendment which was adopted struck out all after the short title of the amendment in the nature of a substitute and inserted a new text (May 16, 1979, p. 11480). While an amendment which has been adopted to an amendment (in the nature of a substitute) may not be further amended, another amendment adding language at the end of the amendment may still be offered (June 10, 1976, pp. 17368–75, 17381; Procedure, ch. 27, sec. 27.4 and 27.9; May 16, 1984, pp. 12566–67), and the Chair will not rule on the consistency of that language with the adopted amendment (June 10, 1976, p. 17381). While it may be in order to offer an amendment to the pending portion of the bill which not only changes a provision already amended but also changes an unamended pending portion of the bill, it is not in order merely to amend portions of the bill which have been changed by amendment, or to amend unamended portions which have been passed in the reading

and are no longer open to amendment (July 12, 1983, p. 18771), or to amend a figure already amended (Procedure, ch. 27, sec. 31), even if also changing other matter not already amended, where drafted as though the earlier amendment had not been adopted (Mar. 15, 1995, p. ——; Mar. 16, 1995, p. ——; Mar. 16, 1995, p. ——). When it is proposed to perfect a paragraph the motions to insert the paragraph, or strike it out, if already pending, must remain in abeyance until the amendments to perfect have been moved and voted on (V, 5758; VIII, 2860; May 5, 1992, p. ——); and while amendments are pending to a section a motion to strike it out may not be offered (V, 5771; VIII, 2861). While a motion to strike out is pending, it is in order to offer an amendment to perfect the language proposed to be stricken; such an amendment, which is in the first degree, may be amended by a substitute, and amendments to the substitute are also in order (Oct. 19, 1983, p. 28283), and such perfecting amendment, if agreed to when voted on first, remains part of the bill if the motion to strike is then rejected (Sept. 18, 1986, p. 28123). When a motion to strike out a paragraph is pending and the paragraph is perfected by an amendment, striking and inserting an entire new text, the pending motion to strike out must fall, since it would not be in order to strike out exactly what has been just voted to insert (V, 5792; VIII, 2854; July 12, 1951, p. 8090; Sept. 23, 1975, p. 29835; Aug. 5, 1986, p. 19059; May 18, 1988, p. 11404). A motion to strike out and insert a portion of a pending section is not in order as a substitute for a motion to strike out the section, but may be offered as a perfecting amendment to the section and is voted on first, subject to being eliminated by subsequent adoption of the motion to strike out (July 16, 1981, p. 16057). A motion to strike out an entire subsection of a bill is not a proper substitute for a perfecting amendment to the subsection, since it is broader in scope, but may be offered after disposition of the perfecting amendment (Sept. 23, 1982, p. 24963).

**§ 470. Reading the motion and putting the question on a motion to strike out and insert.**

When it is moved to amend by striking out certain words and inserting others, the manner of stating the question is first to read the whole passage to be amended as it stands at present, then the words proposed to be struck out, next those to be inserted, and lastly the whole passage as it will be when amended. And the question, if desired, is then to be divided, and put first on striking out. If carried, it is next on inserting the words proposed. If that be lost, it may be moved to insert others. *2 Hats., 80, 7.*

Clause 7 of rule XVI of the House of Representatives provides specifically that the motion to strike out and insert shall not be divided. Otherwise, as to the manner of stating the question, it is usual for the clerk to read only the words to be stricken out and the words to be inserted. Usually this is sufficient, as the Members may have before them printed copies of the bill under consideration.

**§ 471. Conditions of repetition of motions to strike out and insert.**

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 first 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. Nor would it change the case were the first motion divided by putting the question first on striking out, and that negatived; for, as putting the whole motion to the question at once would not have precluded, the putting the half of it cannot do it.

As to Jefferson's supposition that the principle would hold good in case of division of the motion to strike out and insert it is not necessary to inquire, since clause 7 of rule XVI of the House of Representatives forbids division of the motion. In a footnote Jefferson expressed himself as follows: "In the case of a division of the question, and a decision against striking out, I advanced doubtingly the opinion here expressed. I find no authority either way, and I know it may be viewed under a different aspect. It may be thought that, having decided separately not to strike out the passage, the same question for striking out cannot be put over again, though with a view to a different insertion. Still I think it more reasonable and convenient to consider the striking out and insertion as forming one proposition, but should readily yield to any evidence that the contrary is the practice in Parliament."

**§ 472. Application of the motion to strike out.**

The principle set forth by Jefferson as to repetition of the motion to strike out prevails in the House of Representatives, where it has been held in order, after the failure of a motion to strike out certain words, to move to strike out a portion of those words (V, 5769; VIII, 2858). When a bill is under consideration by paragraphs, a motion to strike out applies only to the paragraph under consideration (V, 5774).

**§ 473. Effect of affirmative vote on motion to strike out and insert.**

But if it had been carried affirmatively to strike out the words and to insert A, it could not afterward 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.

This principle controls the practice of the House of Representatives (July 17, 1985, p. 19444; July 18, 1985, p. 19649; see Procedure, ch. 27, sec. 31).

**§ 474. Conditions of striking out an amendment already agreed to.**

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.

While it is not in order to move to strike a provision inserted by amendment (Oct. 9, 1985, p. 26957), a motion to strike more than that provision inserted would be in order (Apr. 23, 1975, p. 11536). But an amendment to strike out the pending title of a bill and re-insert all sections of that title except one is not in order where that section has previously been amended in its entirety (Aug. 1, 1975, p. 26946).

§475. Amendments filling blanks as to time.

In Senate, January 25, 1798, a motion to postpone until the second Tuesday in February some amendments proposed to the Constitution; the words "until the second Tuesday in February" were struck out by way of amendment. Then it was moved to add, "until the first day of June." Objected that it was not in order, as the question should be first put on the longest time; therefore, after a shorter time decided against, a longer cannot be put to question. It was answered that this rule takes place only in filling blanks for time. But when a specific time stands part of a motion, that may be struck out as well as any other part of the motion; and when struck out, a motion may be received to insert any other. In fact, it is not until they are struck out, and a blank for the time thereby produced, that the rule can begin to operate, by receiving all the propositions for different times, and putting the questions successively on the longest. Otherwise it would be in the power of the mover by inserting originally a short time, to preclude the possibility of a longer; for till the short time is struck out, you cannot insert a longer; and if, after it is struck out, you cannot do it, then it cannot be done at all. Suppose the first motion had been made to amend by striking out "the second Tuesday in February," and inserting instead thereof "the first of June," it would have been regular, then, to divide the question, by proposing first the question to strike out, and then that to insert. Now, this is precisely the ef-

fect of the present proceeding; only, instead of one motion and two questions, there are two motions and two questions to effect it—the motion being divided as well as the question.

The principles of this paragraph have been followed in the House of Representatives (V, 5763; Aug. 16, 1961, pp. 16059–60), but in one case wherein words embodying a distinct substantive proposition had been agreed to as an amendment to a paragraph, it was held not in order to strike out a part of the words of this amendment with other words of the paragraph (V, 5766).

The motion to strike out and insert may not be divided in the House of Representatives (clause 7 of rule XVI).

**§ 476. Joining and dividing bills.**

When the matter contained in two bills might be better put into one, the manner is to reject the one and incorporate its matter into another bill by way of amendment. So if the matter of one bill would be better distributed into two, any part may be struck out by way of amendment, and put into a new bill. * * *

In the modern practice of the House of Representatives each bill comes before the House by itself; and if it were proposed to join one bill to another it would be done by offering the text of the one as an amendment to the other, without disturbing the first bill in its place on the calendar. Where it is proposed to divide a bill, the object is accomplished in the House of Representatives by moving to recommit with instructions to the committee to report two bills (V, 5527, 5528).

**§ 477. Transposition of the sections of a bill.**

* * * If a section is to be transposed, a question must be put on striking it out where it stands and another for inserting it in the place desired.

This principle is followed in the practice of the House of Representatives (V, 5775, 5776).

§ 478. Filling blanks left by the other House.

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

§ 479. Clerk amends the section numbers of a bill.

The number prefixed to the section of a bill, be 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.

In the modern practice of the House, section numbers and other internal references are considered as part of the text which may be altered by amendment. The House sometimes authorizes the Clerk to make appropriate changes in section numbers, paragraphs and punctuation, and cross references when preparing the engrossment of the bill. Such a request is properly made in the House, following passage of the bill (Apr. 29, 1969, p. 10753).

## SEC. XXXVI.—DIVISION OF THE QUESTION.

§ 480. Parliamentary law for division of the question.

If a question contain more parts than one, it may be divided into two or more questions. *Mem. in Hakew., 29.* But not as the right of an individual member, but with the consent of the House. For who is to decide whether a question is complicated or not—where it is complicated—into how many propositions it may be divided? The fact is, that the only mode of separating a complicated question is by moving amendments to it; and these must be decided by the House, on a question, unless the House orders it to be divided; as, on the question, December 2, 1640, making void the election of the knights for Worcester, on a motion it was resolved to make two questions of it, to wit, one on each knight.