RULE XVIII

THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

Resolving into the Committee of the Whole

§970. Selection of Chair of Committee of the Whole; and the power to preserve order.

1. Whenever the House resolves into the Committee of the Whole House on the state of the Union, the Speaker shall leave the chair after appointing a Member as Chair to preside. In case of disturbance or disorderly conduct in the galleries or lobby, the Chair may cause the same to be cleared.

This provision (formerly clause 1(a) of rule XXIII), adopted in 1880, was made from two older rules dating from 1789 and modified in 1794 to provide for the appointment of the Chair instead of the inconvenient method of election by the Committee (IV, 4704). It was amended in the 103d Congress to permit Delegates and the Resident Commissioner to preside in the Committee of the Whole (H. Res. 5, Jan. 5, 1993, p. 49). That authority was repealed in the 104th Congress (sec. 212(b), H. Res. 6, Jan. 4, 1995, p. 468), reinstated in the 110th Congress (H. Res. 78, Jan. 24, 2007, p. 2140), and repealed in the 112th Congress (sec. 2(e)(4), H. Res. 5, Jan. 5, 2011, p. 80). A Delegate first presided under the former authority on October 6, 1994 (p. 28533). Gender-based references were eliminated in the 111th Congress (sec. 2(l), H. Res. 5, Jan. 6, 2009, p. 7). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1(a) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47).

§971. Functions of the chair of the Committee of the Whole.

The Sergeant-at-Arms attends the sittings of the Committee of the Whole and, under direction of the Chair, maintains order (I, 257). After repeated disturbances in the gallery, the Chair warned its occupants of possible prosecution (under 40 U.S.C. 5104) and, in response to a parliamentary inquiry, affirmed his authority to have the gallery cleared (Apr. 15, 2011, p. 6296). The Chair recognizes for debate (V, 5003). Like the Speaker, the Chair is forbidden to recognize for requests to suspend the rule of admission to the floor (V, 7285).

The Chair decides questions of order arising in the Committee independently of the Speaker (V, 6927, 6928) but has declined to consider a question that had arisen in the House just before the Committee began to sit (IV, 4725, 4726) or a question that may arise in the House in the future (June 21, 1995, p. 16682). For example, the Chair does not respond to a parliamentary inquiry relating to possible proceedings in the House on a motion to recommit (Feb. 27, 2002, p. 2079). The Chair does not take cognizance of a "point of order" against the legislative schedule, its announcement being the prerogative of the Leadership (Nov. 10, 1999, p. 29537).

Decisions of the Chair on questions of order may be appealed. In stating the appeal the question is put as in the House: "Shall the decision of the Chair stand as the judgment of the Committee?" The Committee of the Whole may not postpone a vote on an appeal of a ruling of the Chair (even by unanimous consent); and an appeal of a ruling of the Chair may be withdrawn in the Committee of the Whole as a matter of right (June 8, 2000, p. 9954). An appeal is debatable in the

Committee of the Whole under the five-minute rule (June 24, 2003, pp. 15854–56). A majority vote sustains the ruling (Aug. 1, 1989, p. 17159).

The Chair may direct the Committee to rise when the hour previously fixed for adjournment of the House arrives, or when the hour previously fixed by the House for consideration of other business arrives, in which case the Chair reports in the regular way (IV, 4785; VIII, 2376; Aug. 22, 1974, p. 30077). However, if the Committee happens to be in session at the hour fixed for the meeting of the House on a new legislative day, it rests with the Committee and not with the Chair to determine whether or not the Committee shall rise (V, 6736, 6737). The Chair may declare an emergency recess under clause 12 of rule I. In rare cases wherein the Chair has been defied or insulted, the Chair has directed the Committee to rise, left the chair and, on the chair being taken by the Speaker, has reported the facts to the House (II, 1350, 1651, 1653).

Although the Committee of the Whole does not control the Congressional Record, the Chair may direct the exclusion of disorderly words spoken by a Member after having been called to order (V, 6987), but may not determine the privileges of a Member under general "leave to print" (V, 6988). Although arguments on a point of order may not be revised, extended, or inserted, the Committee of the Whole by unanimous consent has allowed a Member to insert remarks about a point of order to follow the ruling thereon (July 13, 2000, p. 14095).

§972. Speaker's declaration into Committee of the Whole pursuant to special order.

2. (a) Except as provided in paragraph (b) and in clause 6 of rule XV, the House resolves into the Committee of the Whole House on the state of the Union by motion. When such a motion is entertained, the Speaker shall put the question without debate: "Shall the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of this matter?", naming it.

(b) After the House has adopted a resolution reported by the Committee on Rules providing a special order of business for the consideration of a measure in the Committee of the Whole House on the state of the Union, the Speaker may at any time, when no question is pending before the House, declare the House resolved into the Committee of the Whole for the consideration of that measure without intervening motion, unless the special order of business provides otherwise.

Paragraph (a) was adopted when the House recodified its rules in the 106th Congress to codify the form of the motion to resolve into the Committee of the Whole (H. Res. 5, Jan. 6, 1999, p. 47). A conforming change to paragraph (a) was effected in the 109th Congress (sec. 2(f), H. Res. 5, Jan. 4, 2005, p. 43). Paragraph (b) was added in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). Before the House recodified its rules in the 106th Congress, paragraph (b) was found in former clause 1(b) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47).

Measures requiring initial consideration in the Committee of the Whole

§973. Subjects requiring consideration in Committee of the Whole.

3. All public bills, resolutions, or Senate amendments (as provided in clause 3 of rule XXII) involving a tax or charge on the people, raising revenue, directly or indirectly making appropriations of money or property or requiring such appropriations to be made, authorizing payments out of appropriations already made, releasing any liability to the United States for money or property, or referring a claim to the Court of Claims, shall be first considered in the Committee of the Whole House on the state of the Union. A bill, resolution, or Senate amendment that fails to comply with this clause is subject to a point of order against its consideration.

The first form of this rule was adopted in 1794 and was perfected by amendments in 1874 and 1896 (IV, 4792). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). A technical correction to this clause was effected in the 108th Congress (sec. 2(u), H. Res. 5, Jan. 7, 2003, p. 7).

To require consideration in Committee of the Whole, a bill must show on its face that it falls within the requirements of the rule (IV, 4811–4817; VIII, 2391). If the expenditure is a mere matter of speculation (IV, 4818–4821; VIII, 2388), or if the bill might involve a charge but does not necessarily do so (IV, 4809, 4810), the rule does not apply. However, if a bill sets in motion a train of circumstances destined ultimately to involve certain expenditures, it must be considered in Committee of the Whole (IV, 4827; VIII, 2399), as must bills ultimately authorizing officials in certain contingencies to part with property belonging to the United States (VIII, 2399). In passing upon the question as to whether a proposition involves a charge upon the Treasury, the Speaker is confined to the provisions of the text and may not take into consideration personal knowledge not directly deducible therefrom (VIII, 2386, 2391). The requirements of the rule apply to amendments as well as to bills (IV, 4793, 4794; VIII, 2331), and also to any portion of a bill requiring an appropriation, even though it be merely incidental to the bill's main purpose (IV, 4825).

The House may consider in Committee of the Whole subjects not specified in the rule (IV, 4822); for example, major amendments to the Rules of the House have been considered in Committee of the Whole pursuant to special orders (H. Res. 988, Committee Reform Amendments of 1974, considered in Committee of the Whole pursuant to H. Res. 1395, Sept. 30, 1974, p. 32953; H.R. 17654, Legislative Reorganization Act of 1970, considered in Committee of the Whole pursuant to H. Res. 1093, July 13, 1970, p. 23901). Although conference reports were formerly considered in Committee of the Whole, they may not be sent there as a result of a point of order that they contain matter ordinarily requiring consideration therein (V, 6559–6561).

When a bill is granted a special order for its consideration in the House by special rule (IV, 3216–3224) or by unanimous consent (IV, 4823; VIII, 2393), the effect is to discharge the

Committee of the Whole. If the special order so dictates, the bill is before the full House for consideration (IV, 3216; VII, 788). Otherwise, the bill is considered in the House as in the Committee of the Whole (VIII, 2393). In the modern practice of the House, a special order reported from the Committee on Rules that makes in order no amendments, or only one amendment, normally provides for consideration of a measure on the Union Calendar in the House (see, *e.g.*, Apr. 26, 2001, p. 6299).

When a bill once considered in Committee of the Whole is recommitted, it is not, when again reported, necessarily subject to the point of order that it must be considered in Committee of the Whole (IV, 4828, 4829; V, 5545, 5546, 5591).

Resolutions reported by the Committee on House Administration appropriating from the contingent fund (now referred to as "applicable accounts of the House described in clause 1(k)(1) of rule X") of the House are considered in the House (VIII, 2415, 2416). Authorizations of expenditures from the contingent fund, under the later ruling (IV, 4862–4867), do not fall within the specifications of the rule (IV, 4868). A bill providing for an expenditure that is to be borne other than by the Government (IV, 4831; VIII, 2400), or relating to money held in the Treasury in trust for a nongovernmental entity (IV, 4835, 4836, 4853; VIII, 2413), is not governed by the rule.

Provisions placing liability jointly on the United States and the District of Columbia (IV, 4833), granting an easement on public lands or streets belonging to the United States (IV, 4840–4842), dedicating public land to be forever used as a public park (IV, 4837, 4838), providing site for a statue (VIII, 2405), confirming grants of public lands (IV, 4843) and creating new offices (IV, 4824, 4846), have been held to require consideration in Committee of the Whole. Indian lands have not been considered property of the Government within the meaning of the rule (IV, 4844, 4845; VIII, 2413). Although a bill removing the rate of postage has been held to be within the rule as affecting revenues (IV, 4861), a bill relating to taxes on bank circulation have not been so considered (IV, 4854, 4855).

Order of business

§977. Order of business in Committee of the Whole.

4. (a) Subject to subparagraph (b) business on the calendar of the Committee of the Whole House on the state of the Union may be taken up in regular order, or in such order as the Committee may determine, unless the measure to be considered was determined by the House at the time of resolving into the Committee of the Whole.

(b) Motions to resolve into the Committee of the Whole for consideration of bills and joint resolutions making general appropriations have precedence under this clause.

The early practice left the order of taking up bills to be determined entirely by the Committee, but in 1844 the House began by rule to regulate the order, and in 1880 adopted the present rule (IV, 4729). When the House recodified its rules in the 106th Congress, this provision was transferred from former clause 4 of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). At that time references in this provision to revenue bills and rivers and harbors bills were deleted to conform to

changes made to the rules by the Committee Reform Amendments of 1974 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), which revoked the privilege to report such bills at any time.

The power of the Committee to determine the order of considering bills on its calendar is construed to authorize a motion to establish an order (IV, 4730) or a motion to take up a specified bill out of its order (IV, 4731, 4732; VIII, 2333). Except in cases in which the rules make specific provisions therefor, a motion is not in order in the House to fix the order in which business on the calendars of the Committee of the Whole shall be taken up (IV, 4733). The Committee of the Whole having voted to consider a particular bill, and consideration having begun, a motion to reconsider or change that vote is not in order (IV, 4765). When there is unfinished business in Committee of the Whole, it is usually first in order (IV, 4735; VIII, 2334). An amendment pending when the Committee rises remains pending when the Committee next considers that measure (July 27, 2011, p. 12252).

Reading for amendment

§978. General debate and amendment under the five-minute rule in Committee of the Whole.

5. (a) Before general debate commences on a measure in the Committee of the Whole House on the state of the Union, it shall be read in full. When general debate is concluded or closed by order of the House, the measure under consideration shall be read for amendment. A Member, Delegate, or Resident Commissioner who offers an amendment shall be allowed five minutes to explain it, after which the Member, Delegate, or Resident Commissioner who shall first obtain the floor shall be allowed five minutes to speak in opposition to it. There shall be no further debate thereon, but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment. An amendment, or an amendment to an amendment, may be withdrawn by its proponent only by the unanimous consent of the Committee of the Whole.

(b) When a Member, Delegate, or Resident Commissioner offers an amendment in the Committee of the Whole House on the state of the Union, the Clerk shall promptly transmit five copies of the amendment to the majority committee table and five copies to the minority committee table. The Clerk also shall deliver at least one copy of the amendment to the majority cloakroom and at least one copy to the minority cloakroom.

A rule of 1789 provided that bills should be read and debated in Committee of the Whole and in the House by clauses. Although that rule has disappeared, the practice continues in Committee of the Whole but not in the House. Originally there was unlimited debate in Committee of the Whole both as to the bill generally and also as to any amendment. However, in 1841 the rule that no Member should speak more than an hour was applied both to the Committee of the Whole and to the House. At the same time another rule was adopted to prevent indefinite prolongation of debate in Committee of the Whole by permitting the House by majority vote to order the discharge of the Committee of the Whole from the consideration of a bill after acting, without debate, on pending amendments and any other amendments that might be offered. The effect of this was to empower the House to close general debate at any time after it had actually begun in the Committee and thereby require amendments to be voted on without debate. In 1847 a rule provided that any Member proposing an amendment should have five minutes in which to explain it, and in 1850 an amendment to the rule also permitted five minutes in opposition and guarded against abuse by forbidding the withdrawal of an amendment once offered (V, 5221). Paragraph (b), placing the responsibility for providing copies of amendments on the Clerk, was part of the Legislative Reorganization Act of 1970 (sec. 124; 84 Stat. 1140) and was added to the rule in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5(a) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). The recodification also conformed paragraph (a) to the recodified clause 8 of rule XVI to reflect the modern practice of first and second readings (H. Res. 5, Jan. 6, 1999, p. 47).

General debate must close before amendments, or motions for disposition of the bill, may be offered (IV, 4744, 4778; V, 5221). General debate is closed by the fact that no Member desires to participate further (IV, 4745). If no member of a committee designated to control time is present at the appropriate time during general debate in Committee of the Whole, the Chair may presume the time to have been yielded back (June 11, 1984, p. 15744). Time unused by a minority manager in general debate will be considered as yielded back upon recognition of the majority manager to close general debate (Feb. 27, 2002, p. 2059). In the 104th Congress the Speaker announced his intention to strictly enforce time limitations on debate (Jan. 4, 1995, p. 457). The Chair manages the sequence in which committees use their time for general debate under a special rule as a matter of recognition and may recognize any member of the committee who is filling the role of chair or ranking minority member under the governing special rule (Mar. 9, 2005, pp. 3928, 3932). For a further discussion of management of time for general debate and debate on amendments in the Committee of the Whole, see §959, *supra*.

A simple motion to rise is in order during general debate if offered by a Member managing time or a Member to whom a manager yields for that purpose (June 10, 1999, p. 12522; Sept. 4, 2003, p. 21155, p. 21157, p. 21158). However, a Member may not, in time yielded for general debate, move that the Committee rise (May 25, 1967, p. 14121) or further yield to another for such motion (Feb. 22, 1950, p. 2178; May 17, 2000, p. 8200).

§979. Motion to close general debate in Committee of the Whole.

The motion to close general debate in Committee of the Whole, successor in practice to the motion to discharge provided by the rule of 1841, is made in the House pending the motion that the House resolve itself into Committee, and not after the House has voted to go into Committee (V, 5208). Though the motion is not debatable, the previous question is sometimes ordered on it to prevent amendment (V, 5203). If the previous question is ordered, the 40 minutes of debate under clause 1(a) of rule XIX (formerly clause 2 of rule XXVII) are not allowed (VIII, 2555, 2690). General debate must have already begun in Committee of the Whole before the motion to limit debate it is

in order in the House (V, 5204–5206). The motion may not apply to a series of bills (V, 5209) and must be offered to apply to the whole and not to a part of a bill (V, 5207). A proposition for a division of time may not be made as a part of it (V, 5210, 5211). The motion may not be made in Committee of the Whole (V, 5217; VIII, 2548); but, in the absence of an order by the House, the Committee of the Whole may by unanimous consent determine general debate (V, 5232; VIII, 2553). If the House has fixed the time, the Committee may not, even by unanimous consent, extend it (V, 5212–5216; VIII, 2321, 2550; Mar. 27, 1984, p. 6599; June 17, 1999, pp. 13437, 13442).

§980. Reading and amendment under the five-minute rule.

The second reading was originally instituted by the rule of 1789 and has continued, although the rule was eliminated, undoubtedly by inadvertence, in the codification of 1880 (V, 5221). The recodification of the 106th Congress conformed paragraph (a) to reflect the modern practice of first and second readings (H. Res. 5, Jan. 6, 1999, p. 47).

Revenue, general appropriation, lighthouse, and river and harbor bills are generally read by paragraphs. Other bills are read by sections (IV, 4738, 4740). Absent an order of the House to the contrary, the matter is in the discretion of the Chair (VIII, 2341, 2344, 2346), although the Committee of the Whole has overruled a decision (VIII, 2347). A Senate amendment, however, is read in its entirety, and not by paragraphs or sections (V, 6194). An amendment in the nature of a substitute offered from the floor also must be read in its entirety and is then open to amendment at any point. If a special order of business provides that an amendment inserting a provision in a bill be considered as adopted in the House and in the Committee of the Whole, the text thereby inserted in the bill is not read for amendment in the Committee of the Whole (May 23, 2002, pp. 8923, 8924).

A bill (or the remainder of a bill) may be considered as having been read and open to amendment by unanimous consent but not by motion (June 18, 1976, p. 19296). A unanimous-consent request in Committee of the Whole that an amendment in the nature of a substitute offered from the floor be read for amendment by sections is not in order (Mar. 25, 1975, p. 8490). The chair of the Committee of the Whole normally looks to the manager of a general appropriation bill for any request to accelerate the reading by paragraph, although the Chair may recognize a Member seeking unanimous consent to offer an amendment to a portion of a bill not yet read (July 26, 2001, p. 14733).

To a bill read by paragraph, a motion to strike an entire title, encompassing multiple paragraphs, is not in order (Aug. 5, 1998, p. 18928; Apr. 29, 2015, p. __). If a bill is considered as read and open to amendment at any point, adoption of an amendment adding a new section at the end of the bill does not preclude subsequent amendments to previous sections of the bill (Apr. 17, 1986, p. 7861). If a bill is considered by title, the adoption of an amendment inserting a new title precludes subsequent amendment to the previous title (Sept. 14, 2005, p. 20220; see also Deschler-Brown, ch. 27, §10.13).

When a paragraph or section has been passed, it is not in order to return thereto (IV, 4742, 4743) except by unanimous consent (IV, 4746, 4747; Deschler, ch. 26, §2.26) or when, the reading of the bill being concluded and a motion to rise being decided in the negative, the Committee on motion votes to return (IV, 4748). By unanimous consent, the Committee of the Whole permitted a Member to withdraw an amendment and to reserve her right to reoffer it at a later time, even though that portion of the bill would have been passed in the reading (June 28, 2001, p. 12262). The Chair may direct a return to a section whereon, by error, no action was had on a pending amendment (IV, 4750).

Points of order against a paragraph (or other portion of the bill then open to amendment) should be made before the next paragraph (or portion of the bill) is read or before an amendment is offered thereto (V, 6931; VIII, 2351; June 16, 2004, p. 12565). The paragraph or section having been read, and an amendment offered, the right to explain or oppose that amendment has precedence of a motion to amend the amendment (IV, 4751).

The Member recognized during five-minute debate may not yield time (V, 5035–5037; May 8, 1987, p. 11832; Dec. 10, 1987, p. 34686) unless remaining standing (June 10, 1998, p. 11976); must confine remarks to the subject (V, 5240–5256; VIII, 2591); may not yield to another Member to offer an amendment (Dec. 12, 14, 1973, pp. 41171, 41716; Sept. 8, 1976, p. 29243; Mar. 7, 1995, p. 7107); or yield blocks of time (June 14, 2006, p. 11199). If debate on an amendment is limited or allocated by special order to a proponent and an opponent, the Members controlling the debate may yield and reserve time, whereas debate time on amendments under the five-minute rule cannot be reserved (Aug. 1, 1990, p. 21425). A Member may extend beyond five minutes by unanimous consent (Feb. 1, 2012, p. __). The offeror of an amendment is not recognized to commence debate under the five-minute rule during the pendency of a point of order against it (July 6, 2011, p. 10476). For a further discussion of management of time for debate on amendments in the Committee of the Whole, see §959, *supra*.

Where the Chair recognizes the proponent of an amendment to propound a unanimous-consent request to modify the text of the amendment before commencing debate thereon, the Chair does not charge time consumed under a reservation of objection against the proponent's time for debate on the amendment (Feb. 3, 1993, p. 1978; May 27, 1993, p. 11931).

The Chair endeavors to alternate recognition to offer amendments between majority and minority Members (giving priority to committee members) (July 20, 2000, p. 15735). Recognition of Members to offer amendments in the Committee of the Whole under the five-minute rule is within the discretion of the Chair and cannot be challenged on a point of order (Deschler-Brown, ch. 29, §9.6). The Chair does not anticipate the order in which amendments may be offered nor declare in advance the order in which Members proposing amendments will be recognized (Deschler-Brown, ch. 29, §21.3).

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 (July 31, 1984, p. 21701; Mar. 7, 1995, p. 11931). The fact that copies of an amendment have not been made available as required in this clause is not grounds for a point of order against the amendment (June 21, 1974, p. 20609; Mar. 25, 1976, p. 7997; June 1, 2011, p. 8521). An amendment that has been disposed of in the Committee of the Whole may not be withdrawn (June 17, 2004, pp. 12944, 12945). Debate may continue, and the Chair puts the question, on an amendment notwithstanding the manager's "acceptance" of it (July 31, 2007, p. 21953; June 14, 2011, p. 9179).

§981. Pro forma amendments under the five-minute rule.

The pro forma amendment to "strike the last word" has long been used for purposes of debate or explanation where an actual amendment is not contemplated (V, 5778; VIII, 2591). Unless a special rule precludes any amendment except pro forma amendments for the purpose of debate, a pro forma amendment may be voted on unless withdrawn (VIII, 2874) but the Chair does not as a matter of course put the question on a pro forma amendment. A special rule that precludes amendments to an amendment also precludes pro forma amendments thereto (Aug. 1, 2001, p. 15559; July 21, 2011, p. 11751). A Member who has occupied five minutes on a pro forma amendment to debate a pending substantive amendment may not lengthen this time by making another pro forma amendment (V, 5222; VIII, 2560), may not offer another pro forma amendment after intervening debate on a

pending amendment or proposition, even on a subsequent day (July 14, 1998, p. 15298; May 23, 2002, p. 8913 (see May 22, 2002, p. 8707)), and may not extend debate time by offering a substantive amendment while other Members are seeking recognition (July 28, 1965, p. 18631). A Member recognized to offer a pro forma amendment under the five-minute rule may not during that time offer a substantive amendment but must be separately recognized for that purpose (Nov. 19, 1987, p. 32880). A Member may speak in opposition to a pending amendment and subsequently offer a pro forma amendment and debate that (June 30, 1955, p. 9614; Oct. 11, 2011, p. __); a Member may offer a second degree amendment and then offer a pro forma amendment to debate the underlying first-degree amendment (June 28, 1995, p. 17633); a Member who has debated a substantive amendment may thereafter rise in opposition to a pro forma amendment thereto (July 20, 1951, p. 8566); and a Member may offer a pro forma amendment each to a pending amendment and a second-degree amendment thereto (June 12, 2007, p. 15525; July 31, 2007, pp. 21962, 21963), but not more than one (July 31, 2007, p. 21967). A Member who has offered a substantive amendment and then debated it for five minutes may not extend that time by offering a pro forma amendment, because it is not in order for the offeror of an amendment to amend his or her own amendment except by unanimous consent (Oct. 14, 1987, p. 27898). A pro forma amendment may be offered after a substitute has been adopted and before the vote on the amendment, as amended, by unanimous consent only, because the amendment has been amended in its entirety and no further amendments, including pro forma amendments, are in order (Oct. 18, 1983, p. 28185; June 28, 1995, p. 17633). A Member recognized on a pro forma amendment may not allocate or reserve time, but may in yielding indicate to the Chair when the Member intends to reclaim time (May 19, 1987, p. 12811; July 13, 1994, p. 16438). The Chair endeavors to alternate recognition to offer pro forma amendments between majority and minority Members (giving priority to committee members) rather than between sides of the question (Mar. 21, 1994, p. 5730). A pro forma amendment may not be offered while a point of order is pending (Feb. 16, 2011, p. 2174).

Quorum and voting

§982. Failure of a quorum in Committee of the Whole.

6. (a) A quorum of a Committee of the Whole House on the state of the Union is 100 Members. The first time that a Committee of the Whole finds itself without a quorum during a day, the Chair shall invoke the procedure for a quorum call set forth in clause 2 of rule XX, unless the Chair elects to invoke an alternate procedure set forth in clause 3 or clause 4(a) of rule XX. If a quorum appears, the Committee of the Whole shall continue its business. If a quorum does not appear, the Committee of the Whole shall rise, and the Chair shall report the names of absentees to the House.

(b)(1) The Chair may refuse to entertain a point of order that a quorum is not present during general debate.

(2) After a quorum has once been established on a day, the Chair may entertain a point of order that a quorum is not present only when the Committee of the Whole House on the state of the Union is operating under the five-minute rule and the Chair has put the pending proposition to a vote.

(3) Upon sustaining a point of order that a quorum is not present, the Chair may announce that, following a regular quorum call under paragraph (a), the minimum time for electronic voting on the pending question shall be not less than two minutes.

(c) When ordering a quorum call in the Committee of the Whole House on the state of the Union, the Chair may announce an intention to declare that a quorum is constituted at any time during the quorum call when the Chair determines that a quorum has appeared. If the Chair interrupts the quorum call by declaring that a quorum is constituted, proceedings under the quorum call shall be considered as vacated, and the Committee of the Whole shall continue its sitting and resume its business.

(d) A quorum is not required in the Committee of the Whole House on the state of the Union for adoption of a motion that the Committee rise.

It was the early practice for the Committee of the Whole to rise on finding itself without a quorum (IV, 2977), and it was not until 1847 that a rule (formerly clause 2(a) of rule XXIII) was adopted. The rule was amended in 1880, again in 1890 (which included the concept that a quorum in the Committee should be 100 rather than a quorum of the House (IV, 2966)), and in 1971 (Jan. 22, 1971, p. 144). On October 13, 1972 (H. Res. 1123, p. 36012) the rule was amended to reflect the installation of the electronic voting system in the House Chamber. The clause was amended in the 93d Congress to give the Chair discretion to vacate proceedings under the call when a quorum appears (H. Res. 998, Apr. 9, 1974, pp. 10195–99). In the 95th Congress the clause was substantially changed to allow quorum calls only under the five-minute rule where the Chair has put the question on a pending proposition, after a quorum of the Committee of the Whole has been once established on that day (H. Res. 5, Jan. 4, 1977, pp. 53–70). The clause was amended again in the 96th Congress to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the chair to receive the Committee's report of absentees as in previous practice, and to enable the Chair to reduce to five minutes the period for a recorded vote immediately following a regular quorum call (H. Res. 5, Jan. 15, 1979, pp. 7–16), which time was reduced to not less than two minutes in the 113th Congress (sec. 2(b)(1), H. Res. 5, Jan. 3, 2013, p. __). In the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98) the clause was

amended to allow the Chair the discretion whether or not to entertain a point of order of no quorum during general debate only. Gender-based references were eliminated in the 111th Congress (sec. 2(l), H. Res. 5, Jan. 6, 2009, p. 7). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(a) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47).

The chair of the Committee of the Whole must entertain a point of order of no quorum during consideration under the five-minute rule if a quorum has not yet been established in the Committee on the bill then pending (and the fact that a quorum of the Committee has previously been established on another bill on that day is irrelevant during consideration (Sept. 19, 1984, p. 26082)). If a recorded vote on a prior amendment or motion during consideration under the five-minute rule on that bill on that day has established a quorum, a subsequent point of no quorum during debate is precluded (June 3, 1992, p. 13336), although a subsequent call of the Committee may be ordered by unanimous consent (May 10, 1984, p. 11869; Dec. 17, 1985, p. 37469; June 25, 1986, p. 15551). A vote by division is not such intervening business as would preclude a reduced-time vote under clause 6(b)(3) (July 22, 1994, p. 17609).

Clause 6(c) permits the chair of the Committee of the Whole to announce in advance, at the time that the absence of a quorum is ascertained, an intention to vacate proceedings when a quorum appears, and to convert to a regular quorum call if a quorum does not appear at any time during the call (May 13, 1974, p. 14148). The Chair need not convert to a regular quorum call precisely at the expiration of 15 minutes if 100 Members have not responded on a "notice" quorum call but may continue to exercise discretion to vacate proceedings at any time during the entire period permitted for the conduct of the call by clause 2 of rule XX (July 17, 1974, p. 23673).

Before the installation of the electronic system, a quorum in the Committee was established by a call of the roll. At one time the roll was called but once (IV, 2967); but in the later practice it was called twice as on other roll calls (VI, 668). Under the modern practice the Chair normally directs that Members record their presence by electronic device. The Chair may, however, in the Chair's discretion, order that Members respond by the alternative procedures in clause 3 of rule XX (alphabetical call of the roll) or clause 4(a) of rule XX (clerk tellers) (for the use of clerk tellers for a "notice" quorum call in Committee of the Whole, see July 13, 1983, p. 18858).

Where the Committee has risen to report the absence of a quorum, it resumes its session by direction of the Speaker on the appearance of a quorum (IV, 2968; VI, 674). The quorum that must appear to permit the Committee to continue its business is a quorum of the Committee and not of the House (IV, 2970, 2971). However, if such quorum fails to appear, a quorum of the House is required for the Committee to resume its sitting (VI, 674). It was formerly held that after the Committee has risen and reported its roll call, a motion to adjourn was in order before direction as to resumption of the session (IV, 2969); but under the later practice the Committee immediately resumed its session without intervening motion or unanimous-consent requests (VI, 672, 673; VIII, 2377, 2379, 2436). The failure of a quorum of the House to answer on this roll call does not interfere with the authority of the Speaker to direct the Committee to resume its session (IV, 2969). The Chair's count of a quorum is not subject to verification by tellers (VIII, 2369, 2436), may not be challenged by an appeal (July 24, 1974, p. 25012), and may include those present and not voting (VI, 641). On a division vote totaling less than 100, the Chair has relied on an immediately prior count on a point of no quorum and on the Chair's observation of several Members present but not voting on the division vote in finding the presence of a quorum of the Committee of the Whole (June 29, 1988, p. 16504). No quorum being present when a vote is taken

in Committee of the Whole, and the Committee having risen before a quorum appeared, such vote is invalid, and the question is put de novo when the Committee resumes its business (VI, 676, 677). Although an "automatic" roll call (under clause 6(a) of rule XX) is not in order in Committee of the Whole, a point of order of no quorum may intervene between the announcement of a division vote result and the transaction of further business, and a demand for a recorded vote following the quorum call is not thereby precluded (Oct. 9, 1975, p. 32598). Where a recorded vote is refused but the Chair has not announced the result of a voice vote on an amendment, and the demand for a division vote remains possible, the question remains pending and the Chair is obligated to entertain a point of order of no quorum under this provision (June 6, 1979, p. 13648).

§983. Rising and reports of Committee of the Whole.

Under clause 6(d), the presence of a quorum is not necessary for adoption of a motion that the Committee of the Whole rise (IV, 2975, 2976, 4914; Mar. 5, 1980, p. 4801; Oct. 3, 1985, p. 26096; May 21, 1992, p. 12394; July 21, 2004, p. 16849).

A simple motion that the Committee of the Whole rise is privileged (VIII, 2369), takes precedence over a motion to amend (May 21, 1992, p. 12394; June 12, 2007, p. 15522), and is not debatable (May 17, 2000, p. 8203). However, the motion cannot interrupt a Member who has the floor (VIII, 2370, 2371; June 12, 2007, p. 15527, pp. 15689, 15690) and may be ruled out when dilatory (VIII, 2800). For a further discussion of the motion to rise, see §334, *supra*. For a point of order against the motion to rise and report an appropriation bill to the House where the bill, as proposed to be amended, exceeds an applicable allocation of new budget authority under section 302(b) of the Congressional Budget Act of 1974, and setting forth procedures in the Committee of the Whole in the event that the point of order is sustained, see §1044b, *infra*.

A point of order of no quorum may not be entertained, on a day on which a quorum has been established, during the period after the Committee of the Whole has risen after completing its consideration of a bill or resolution and before the Chair has reported the bill or resolution back to the House. The Chair having announced the absence of a quorum in Committee of the Whole, a motion to rise is in order and, if a quorum develops on the vote by which the motion is rejected, the roll is not called and the Committee proceeds with its business (VIII, 2369). The passage of a bill by the House is not invalidated by the fact that the Committee of the Whole reported it on an erroneous supposition that a recorded vote had disclosed a quorum (IV, 2972).

Under the modern practice, the Committee of the Whole may rise informally without motion to enable the House to transact certain administrative business (see §330, *supra*).

§983a. Recorded votes in Committee of the Whole.

(e) In the Committee of the Whole House on the state of the Union, the Chair shall order a recorded vote on a request supported by at least 25 Members.

This provision was adopted in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). A gender-based reference was eliminated in the 111th Congress (sec. 2(l), H. Res. 5, Jan. 6, 2009, p. 7). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(b) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). A demand for a recorded vote on an amendment is untimely where the Chair has recognized for the next amendment (Dec. 15, 2005, p. 28739; May 28, 2014, p. __) or put the question on the next amendment pending on the tree (Procedure, ch. 30, §12.5), or where considerable time has elapsed after the Chair's announcement of the voice vote (June 13, 2006, p. 11037), but not when a Member is seeking recognition for that

purpose when the Chair announces the result of the voice vote (June 27, 2012, p. __; Sept. 20, 2012, p. __). The Committee may vacate a pending vote by electronic device by unanimous consent (see §993, *infra*) but not by motion (May 8, 2008, p. 8148).

§984. Reduced-time votes in Committee of the Whole.

(f) In the Committee of the Whole House on the state of the Union, the Chair may reduce to not less than two minutes the minimum time for electronic voting without any intervening business or debate on any or all pending amendments after a record vote has been taken on the first pending amendment.

(g) The Chair may postpone a request for a recorded vote on any amendment. The Chair may resume proceedings on a postponed request at any time. The Chair may reduce to not less than two minutes the minimum time for electronic voting—

(1) on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes; or

(2) on any postponed question taken without intervening debate or motion after the Committee of the Whole resumes its sitting if in the discretion of the Chair Members would be afforded an adequate opportunity to vote.

Paragraph (f) was added in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. 39). Paragraph (g)(1) was added in the 107th Congress (H. Res. 5, Jan. 3, 2001, p. 25). Gender-based references were eliminated from both in the 111th Congress (sec. 2(l), H. Res. 5, Jan. 6, 2009, p. 7). Both were amended in the 112th Congress to permit the Chair to reduce the minimum time for voting to not less than two minutes (instead of five minutes) (sec. 2(e)(1), H. Res. 5, Jan. 5, 2011, p. 80). Such two-minute voting had previously been granted ad hoc by unanimous consent in the House (*e.g.*, Mar. 16, 2006, p. 3767). Paragraph (g)(2) was added in the 113th Congress (sec. 2(b)(1), H. Res. 5, Jan. 3, 2013, p. __). Before the House recodified its rules in the 106th Congress, paragraph (f) was found in former clause 2(c) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). A vote by division is not such intervening business as would preclude a reduced-time vote under paragraph (f) (July 22, 1994, p. 17609). Pursuant to paragraph (g), the Chair may resume proceedings on a postponed question at any time, even while an amendment is pending (May 24, 2011, p. 7740; July 30, 2013, p. __).

Before the adoption of paragraph (g), the chair of the Committee of the Whole could not entertain a unanimous-consent request to reduce to fewer than 15 minutes the minimum time for recorded votes (June 18, 1987, p. 16764) or to postpone and cluster votes on amendments (July

13, 1995, p. 18871; Sept. 27, 1995, p. 26611; July 14, 1998, p. 15305). An amendment pending as unfinished business where proceedings on a request for a recorded vote have been postponed can be modified by unanimous consent on the initiative of its proponent (July 19, 2005, pp. 16487, 16488; see also Mar. 30, 2000, p. 4037). Special rules of the House before adoption of paragraph (g) commonly provided the chair of the Committee of the Whole authority to postpone and cluster requests for recorded votes. Where a special rule provided such authority: (1) use of that authority, and the order of clustering, was entirely within the discretion of the Chair (*e.g.,* Aug. 5, 1998, p. 18950); (2) a request for a recorded vote on an amendment on which proceedings had been postponed could be withdrawn by unanimous consent before proceedings resumed on the request as unfinished business, in which case the amendment stood disposed of by the voice vote thereon (May 16, 2000, p. 7994); (3) it did not permit the Chair to postpone a vote on an appeal of a ruling of the Chair (even by unanimous consent) (June 8, 2000, p. 9954); (4) the Committee of the Whole by unanimous consent could vacate postponed proceedings, thereby permitting the Chair to put the question de novo (June 20, 2000, p. 11526); and (5) the Chair could resume proceedings on unfinished business consisting of a "stack" of amendments even while an amendment was pending (July 10, 2000, p. 13615).

Pursuant to this clause, where the Chair has announced that the Chair will postpone a request for a recorded vote that was made pending a point of order of no quorum, the point of order is considered as withdrawn because the question is no longer pending after the Chair's announcement (see §1026, *infra*). The offering of a pro forma amendment to discuss the legislative program, or an extended one-minute speech by a Member to express gratitude to the Members on a personal matter, is considered intervening business such as to preclude a reduced-time vote under this authority except by unanimous consent (June 22, 2000, p. 12087; June 27, 2000, p. 12586). A request for a record vote under this paragraph may be withdrawn by unanimous consent before proceedings resume on the request as unfinished business, in which case the amendment stands disposed of by the voice vote thereon (*e.g.,* Sept. 17, 1998, p. 20845; June 25, 2004, pp. 14173–75) unless the request proposes that the Chair put the question de novo (*e.g.*,, Sept. 22, 2004, pp. 18957, 18958, 18962; July 18, 2013, p. __).

§985. Former provision for de novo vote where Delegates decisive.

When the 103d Congress enabled voting by the Delegates and Resident Commissioner in the Committee of the Whole (see §675, *supra*), it also added a new paragraph (h) to clause 6 (former clause 2(d) of rule XXIII) to provide for immediate reconsideration in the House of questions resolved in the Committee of the Whole by a margin within which the votes of Delegates and the Resident Commissioner were decisive (H. Res. 5, Jan. 5, 1993, p. 49). Such voting and reconsideration thereof was repealed in the 104th Congress (sec. 212(c), H. Res. 6, Jan. 4, 1995, p. 468), reinstated in the 110th Congress (H. Res. 78, Jan. 24, 2007, p. 2140), and repealed in the 112th Congress (sec. 2(e)(4), H. Res. 5, Jan. 5, 2011, p. 80).

Under the former paragraph (h), whether the votes cast by the delegates were decisive was determined by a "but for" test, the question being whether the result would be different if their votes were not counted (May 19, 1993, p. 10409; Feb. 8, 2007, p. 3550). The Chair's count in such matter was not subject to appeal (Feb. 8, 2007, p. 3550). The Chair did not differentiate between Members and Delegates and the Resident Commissioner in announcing the result of a record vote in the Committee of the Whole (Feb. 8, 2007, p. 3579). An amendment adopted by immediate proceedings de novo in the House did not disturb the sequence of a "king-of-the-hill" procedure established by a special rule waiving all points of order against subsequent amendments

(Mar. 17, 1994, p. 5388). Former paragraph (h) was applicable only to votes taken in the Committee of the Whole (Mar. 11, 2008, p. 3740).

Dispensing with the reading of an amendment

§986. Motion to dispense with reading.

7. It shall be in order in the Committee of the Whole House on the state of the Union to move that the Committee of the Whole dispense with the reading of an amendment that has been printed in the bill or resolution as reported by a committee, or an amendment that a Member, Delegate, or Resident Commissioner has caused to be printed in the Congressional Record. Such a motion shall be decided without debate.

This provision was added in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to permit a motion to dispense with the reading of certain amendments in the Committee of the Whole. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5(b) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47).

Closing debate

§987. Closing the five-minute debate in Committee of the Whole.

8. (a) Subject to paragraph (b) at any time after the Committee of the Whole House on the state of the Union has begun five-minute debate on amendments to any portion of a bill or resolution, it shall be in order to move that the Committee of the Whole close all debate on that portion of the bill or resolution or on the pending amendments only. Such a motion shall be decided without debate. The adoption of such a motion does not preclude further amendment, to be decided without debate.

(b) If the Committee of the Whole House on the state of the Union closes debate on any portion of a bill or resolution before there has been debate on an amendment that a Member, Delegate, or Resident Commissioner has caused to be printed in the Congressional Record at least one day before its consideration, the Member, Delegate, or Resident Commissioner who caused the amendment to be printed in the Record shall be allowed five minutes to explain it, after which the Member, Delegate, or Resident Commissioner who shall first

obtain the floor shall be allowed five minutes to speak in opposition to it. There shall be no further debate thereon.

(c) Material submitted for printing in the Congressional Record under this clause shall indicate the full text of the proposed amendment, the name of the Member, Delegate, or Resident Commissioner proposing it, the number of the bill or resolution to which it will be offered, and the point in the bill or resolution or amendment thereto where the amendment is intended to be offered. The amendment shall appear in a portion of the Record designated for that purpose. Amendments to a specified measure submitted for printing in that portion of the Record shall be numbered in the order printed.

This clause (formerly clause 6 of rule XXIII) was adopted in 1860, with amendments in 1880 and 1885 (V, 5221, 5224). Paragraph (b), permitting 10 minutes for debate on an amendment that has been printed in the Record even after the Committee of the Whole closes debate, was inserted in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144) following the enactment of an identical provision in section 119 of the Legislative Reorganization Act of 1970 (84 Stat. 1140). In the 105th Congress that provision was amended to accommodate the printing of amendments to measures not yet reported (H. Res. 5, Jan. 7, 1997, p. 121). The third sentence, relating to the procedure for submitting and printing of amendments, was added in the 93d Congress (H. Res. 1387, Nov. 25, 1974, p. 37270). The last sentence, relating to the numbering of printed amendments, was added in the 104th Congress (sec. 217, H. Res. 6, Jan. 4, 1995, p. 468). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6 of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). A clerical correction was effected to paragraph (c) in the 107th Congress (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 26).

The Speaker announced that amendments to be printed in the Record pursuant to this clause must be deposited in a separate box at the Rostrum or with the Official Reporters of Debates within 15 minutes following adjournment, and must bear the Member's original signature (Nov. 25, 1974, p. 37270). Although ordinarily the expiration of time for debate on a bill and all amendments thereto precludes debate on amendments offered thereafter (July 18, 1968, p. 22110), debate on an amendment printed in the Record may nevertheless proceed for 10 minutes under this clause (Aug. 2, 1973, p. 27715). Printing an amendment in the Record under this clause permits debate notwithstanding a limitation of debate only if the amendment has been properly offered, and does not permit the offering of an amendment not otherwise in order under the rules (Apr. 23, 1975, p. 11491); and the guaranteed five minutes may be claimed only if the offeror of the amendment is the Member who caused it to be printed under the rule (June 1, 1976, p. 16044; June 29, 1989, p. 13928; June 19, 1991, p. 15473). The guaranteed time applies to an amendment offered as a substitute for another amendment, rather than as a primary amendment, if offered in the precise form printed (June 26, 1979, p. 16682), but where such a substitute amendment has not been printed in the Record it may not be debated unless time is yielded within the original 10

minutes (Dec. 10, 1987, p. 34710). Where a special order requires amendments to be printed in the Record to qualify during the consideration of a bill under the five-minute rule, but makes no designation concerning offerors, any printed amendment may be offered by any Member (Mar. 22, 1990, p. 5017); but only the Member causing the amendment to be printed is entitled to the time for debate guaranteed by this clause.

The motion to close five-minute debate is not in order until such debate has begun (V, 5225; VIII, 2567), which means after one five-minute speech (V, 5226; VIII, 2573). The motion to strike the enacting clause under clause 9 (formerly clause 7) is preferential to the motion to close debate (June 28, 1995, p. 17647; July 13, 1995, p. 18872). Although any Member may move, or request unanimous consent, to limit debate under the five-minute rule, the manager of the bill has priority in recognition for such purpose (June 19, 1984, p. 17055). The House, as well as the Committee of the Whole, may close five-minute debate after it has begun (V, 5229, 5231), but rarely exercises this right. The motion to close debate, although not debatable (Apr. 23, 1975, p. 11534; June 5, 1975, p. 17187, July 14, 1998, p. 15304), may be amended (V, 5227; VIII, 2578). A time limitation imposed by the Committee of the Whole under this clause may be rescinded or modified only by unanimous consent (Sept. 17, 1975, p. 28904). Although the Committee of the Whole may limit debate on amendments, it may not restrict the offering of amendments in contravention of a special order adopted by the House (June 25, 1985, p. 17201). The Committee of the Whole by unanimous consent may limit and allocate control of time for debate on amendments not yet offered (May 6, 1998, p. 8348). The motion may be ruled out when dilatory (V, 5734).

The closing of debate on the last section of a bill does not preclude debate on a substitute for the whole text (V, 5228). Where there is a time limitation on debate on a pending amendment in the nature of a substitute and all amendments thereto, but not on the underlying original text, debate on perfecting amendments to the original text proceeds under the five-minute rule absent another time limitation (Apr. 13, 1983, p. 8402). Where the time for debate on a pending amendment in the form of a motion to strike (and all amendments thereto) has been limited, a subsequently offered perfecting amendment considered as preferential to (rather than as an amendment to) the motion to strike remains separately debatable outside the limitation (July 20, 1995, p. 19788). Where five-minute debate has been limited to a certain number of minutes without reference to a time certain, the time consumed by reading of amendments, quorum calls, points of order and votes does not reduce the amount of time remaining for debate (Oct. 3, 1969, p. 28459; Nov. 9, 1971, p. 40060). However, where debate has been limited to a time certain, such activities as reading and voting consume time otherwise available for debate (May 6, 1970, p. 14452; Aug. 2, 1984, 22180). Unlike time placed under a Member's control, five-minute debate (or time derived therefrom under a limitation) may not be reserved or yielded in blocks except by unanimous consent (Mar. 2, 1976, p. 4992; May 11, 1976, p. 13416). A motion to limit debate on a pending amendment may neither allocate the time proposed to remain nor vary the order of recognition to close debate, though the Committee of the Whole may do either separately by unanimous consent (July 12, 1988, p. 17767). The Committee of the Whole may by motion: (1) limit debate on a pending committee amendment in the nature of a substitute (considered as read) and on all amendments thereto to a time certain; and then (2) separately limit debate on each perfecting amendment as it is offered (Mar. 16, 1983, p. 5794).

Under a limitation on debate the Chair may, in the Chair's discretion, choose among the following: (1) permit continued debate under the five-minute rule; (2) divide the remaining time among those desiring to speak; or (3) divide the remaining time between a proponent and an opponent to be yielded by them to other Members (June 14, 1977, p. 18833; May 25, 1982, p.

11672; May 10, 2000, p. 7515). The Chair also may, in the Chair's discretion, give priority in recognition under a limitation to those Members seeking to offer amendments, over other Members standing at the time the limitation was agreed to (May 26, 1977, pp. 16950–52). Where time for debate has been limited on a bill and all amendments thereto to a time certain several hours away, the Chair may, in the Chair's discretion, continue to proceed under the five-minute rule until desiring to allocate remaining time on possible amendments, and may then divide that time among proponents of anticipated amendments and committee members opposing those amendments (*e.g.*, July 16, 1981, p. 16044; Feb. 28, 1995, pp. 6306–08). The Chair has discretion to reallocate time to conform to the limit set by unanimous consent of the Committee of the Whole (Mar. 16, 1995, p. 8115).

As codified in clause 3(c) of rule XVII (and except as indicated in §959, *supra*) a manager of the bill controlling time in opposition to an amendment, and not the proponent of the pending amendment, has the right to close debate on the amendment (July 16, 1981, p. 16043), even where the manager is the proponent of a pending amendment to the amendment (Mar. 16, 1983, p. 5792).

Striking the enacting clause

§988. The motion to strike the enacting words of a bill.

9. A motion that the Committee of the Whole House on the state of the Union rise and report a bill or resolution to the House with the recommendation that the enacting or resolving clause be stricken shall have precedence of a motion to amend, and, if carried in the House, shall constitute a rejection of the bill or resolution. Whenever a bill or resolution is reported from the Committee of the Whole with such adverse recommendation and the recommendation is rejected by the House, the bill or resolution shall stand recommitted to the Committee of the Whole without further action by the House. Before the question of concurrence is submitted, it shall be in order to move that the House refer the bill or resolution to a committee, with or without instructions. If a bill or resolution is so referred, then when it is again reported to the House it shall be referred to the Committee of the Whole without debate.

The practice of rejecting a bill by striking the enacting clause dates from a time as early as 1812, but the first rule on the subject was not adopted until 1822. By amendments in 1860, 1870, and 1880 the rule has been brought into its present form (V, 5326). The rule before 1880 applied in the House as well as in Committee of the Whole. In the revision of 1880, it was classified among the rules relating to the Committee of the Whole, but there is nothing to indicate that this change was intended to limit the scope of the motion. It was probably a recognition merely of the fact that the motion was used most frequently in Committee of the Whole (V, 5326, 5332). Before the

House recodified its rules in the 106th Congress, at which time the rule was also expanded to include resolutions and resolving clauses, it was found in former clause 7 of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). The motion must be in writing and in the proper form (July 24, 1986, p. 17641; Aug. 15, 1986, p. 22071; Sept. 12, 1986, p. 23178).

§989. Practice as to use of the motion to strike the enacting clause.

The motion may not be made until the first section of the bill has been read (V, 5327; VIII, 2619), and may be offered while an amendment is pending (V, 5328–5331; VIII, 2622, 2624, 2627). The motion takes precedence over the motion to amend and therefore over the motion to rise and report at the end of the reading of a general appropriation bill for amendment under clause 2(d) of rule XXI (July 24, 1986, p. 17641). The motion also takes precedence over a motion to limit debate on pending amendments (June 28, 1995, p. 17647; July 13, 1995, p. 18874). If a special order provides that a bill shall be open to amendment in Committee of the Whole, the motion is in order (VII, 787); contra (IV, 3215), but after the stage of amendment has been passed the motion is not in order (IV, 4782; VIII, 2368). Where a bill is being considered under a special order that permits only committee amendments and no amendments thereto, the motion is not in order if no committee amendments are in fact offered (Apr. 16, 1970, p. 12092). Where a bill is being considered under a special order that permits only specified amendments to an amendment in the nature of a substitute made in order as original text, the motion is in order even after disposition of the specified amendments (Nov. 30, 2011, p. __).

The motion is debatable as to the merits of the bill, but may not go beyond its provisions (V, 5336). The debate on the motion is governed by the five-minute rule (V, 5333–5335; VIII, 2618, 2628–2631); only two five-minute speeches are in order (V, 5335; VIII, 2629), and time may not be reserved (May 22, 1991, p. 11830); thus where a Member recognized for five minutes in opposition to the motion yields back the time, another Member may not claim the unused portion thereof (Mar. 3, 1988, p. 3241). Members of the committee managing the bill have priority in recognition for debate in opposition to the motion (May 5, 1988, p. 9955; June 26, 1991, p. 16436). The Chair will not announce in advance the Member to be recognized in opposition to the motion (July 17, 1996, p. 17543). The motion is not debatable after the expiration of time for debate on the pending bill and all amendments thereto (July 9, 1965, p. 16280; July 19, 1973, p. 24961; June 19, 1975, p. 19785). However, it is debatable 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 and not on the bill itself (June 20, 1975, p. 19966). For more concerning debate on the motion, see Deschler, ch. 19, §13.

A second motion to strike the enacting clause is not entertained on the same legislative day in the absence of any material modification of the bill (VIII, 2636), but the motion may be repeated on a subsequent legislative day without change in the bill (May 6, 1950, p. 6571). The rejection of a proposed amendment to the bill does not qualify as a modification of the bill (June 21, 1962, p. 11369), nor does the adoption of an amendment to a proposed amendment to the bill. However, adoption of an amendment to an amendment in the nature of a substitute read as an original bill pursuant to a special order does qualify as a modification of the bill (June 20, 1975, p. 19970). A motion that is withdrawn by unanimous consent rather than voted on by the Committee does not preclude the offering of another motion on the same day without a material modification of the bill (May 9, 1996, p. 10758).

A point of order against the motion should be made before debate thereon has begun (V, 6902; VIII, 3442; May 6, 1950, p. 6571), and when challenged the Member offering the motion must qualify as being opposed to the bill (Mar. 13, 1942, p. 2439; May 6, 1950, p. 6571; June 14, 1979,

p. 14995; Jan. 26, 1995, p. 2521). When a bill is reported from the Committee of the Whole with the recommendation that the enacting words be stricken, the motion to strike is debatable (V, 5337–5340), but a motion to lay on the table is not in order (V, 5337). The previous question may be moved on the motion to concur without applying to further action on the bill (V, 5342). When the House disagrees to the action of the Committee in striking the enacting words and does not refer it under the provisions of the rule, it goes back to the Committee of the Whole, where it becomes unfinished business (V, 5326, 5345, 5346; VIII, 2633). Notwithstanding that consideration of the pending bill was governed by a "modified-closed" rule permitting only specified amendments, pending the concurrence of the House with a recommendation of the Committee of the Whole that the enacting clause be stricken, the House could by instructions in a motion to refer under this clause direct the Committee of the Whole to consider additional germane amendments (Apr. 14, 1994, p. 7452). When the enacting words of a bill are stricken, the bill is rejected (V, 5326). When the enacting clause of a Senate measure is stricken, the bill is rejected (V, 5326); and the Senate is so informed (IV, 3423; VIII, 2638; June 20, 1946, p. 7211; Oct. 4, 1972, p. 33787).

When, on Calendar Wednesday, the House disagrees to the recommendation of the Committee of the Whole that the enacting words be stricken, the House automatically resolves into Committee of the Whole for further consideration (VII, 943).

Concurrent resolution on the budget

§990. Reading concurrent resolution on budget for amendment.

10. (a) At the conclusion of general debate in the Committee of the Whole House on the state of the Union on a concurrent resolution on the budget under section 305(a) of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as read for amendment.

(b) It shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent resolution on the budget, or an amendment thereto, unless the concurrent resolution, as amended by such amendment or amendments—

(1) would be mathematically consistent except as limited by paragraph (c); and

(2) would contain all the matter set forth in paragraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974.

(c)(1) Except as specified in subparagraph (2), it shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent

resolution on the budget, or an amendment thereto, that proposes to change the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported.

(2) Amendments to achieve mathematical consistency under section 305(a)(5) of the Congressional Budget Act of 1974, if offered by direction of the Committee on the Budget, may propose to adjust the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported, to reflect changes made in other figures contained in the concurrent resolution.

Paragraph (a) (first sentence of former clause 8 of rule XXIII) was added on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70). Paragraph (b) (second sentence of former clause 8 of rule XXIII) was adopted in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). In the 96th Congress paragraph (b) was amended further and paragraph (c) (third sentence of former clause 8 of rule XXIII) was added by Public Law 96–78 (93 Stat. 589) and was originally intended to apply to concurrent resolutions on the budget for fiscal years beginning on or after October 1, 1980. However, in the 96th Congress the provisions of that public law amending the Rules of the House were made applicable to the third concurrent resolution on the budget for fiscal year 1980 as well as the first concurrent resolution on the budget for fiscal year 1981 (H. Res. 642, Apr. 23, 1980, p. 8789). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 8 of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47).

§991. Former amendment to strike an unfunded mandate.

A prior clause 11 (formerly clause 5(c) of rule XXIII) provided that an amendment in the Committee of the Whole proposing only to strike an unfunded mandate from a portion of the bill could be precluded only by specific terms of a special order of business. It was repealed in the 112th Congress (sec. 2(e)(5), H. Res. 5, Jan. 5, 2011, p. 80). For the text of the former rule and its history, see §991 of the House Rules and Manual for the 111th Congress (H. Doc. 110–162).

Applicability of Rules of the House

§992. Application of Rules of House to the Committee of the Whole.

11. The Rules of the House are the rules of the Committee of the Whole House on the state of the Union so far as applicable.

This clause was adopted in 1789 (IV, 4737). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 9 of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). It was redesignated as clause 11 when a prior clause 11 was repealed in the 112th Congress (sec. 2(e)(5), H. Res. 5, Jan. 5, 2011, p. 80).

§993. Modification of special orders.

The Chair may not entertain a unanimous-consent request in the Committee of the Whole if its effect is to materially modify procedures required by a special rule or order adopted by the House. For example, the following unanimous-consent requests may not be entertained in the Committee of the Whole: (1) to 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 (Aug. 2, 1977, p. 26161); (2) to permit a substitute to be read by section for amendment where the special rule did not so provide (Dec. 12, 1973, p. 41153); (3) to 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 (Apr. 10, 1986, p. 7079; Oct. 30, 1991, p. 29213; Aug. 3, 1999, p. 19218; Oct. 21, 1999, p. 26492); (4) to restrict "en blocking" authority granted in a special order (Sept. 11, 1986, p. 22871; June 21, 1989, p. 12744); (5) to change the scheme for control (other than among committees controlling time) (Oct. 9, 1986, p. 29984; Jan. 26, 2011, p. 910) or duration (Aug. 1, 1989, p. 17143; Mar. 12, 1991, p. 5799; Mar. 17, 1993, p. 5385; June 17, 1999, pp. 13437, 13442; Feb. 9, 2005, pp. 1923, 1925 (Chair corrected himself)) of general debate specified by the House, including a "wrap up" debate following the amendment process (Mar. 25, 2004, pp. 5318–20) but the allotment of time to a chair or ranking minority member inures to all members of the committee (Nov. 5, 2009, p. 26948); (6) to preempt the Chair's discretion (granted by a special order) to postpone and cluster votes or to schedule further consideration of a pending measure to a subsequent day (June 4, 1992, p. 13625; July 13, 1995, p. 18872); (7) to postpone a vote on an appeal of a ruling of the Chair (June 8, 2000, p. 9954); (8) to permit an amendment offered by another Member to an amendment rendered unamendable by a special order or to permit a subsequent amendment changing such unamendable amendment already adopted (Nov. 18, 1987, p. 32643; July 26, 1989, p. 16411; July 24, 1996, p. 18907); (9) to permit consideration of an amendment out of the order specified in a special rule (May 25, 1988, p. 12275; Oct. 3, 1990, p. 27354; Oct. 31, 1991, p. 29359; Nov. 19, 1993, p. 30472; June 10, 1998, p. 11914; July 29, 1999, p. 18735; May 3, 2007, p. 11198; Feb. 28, 2012, p. __; July 23, 2014, p. __); (10) to permit consideration of an additional amendment (July 28, 1988, p. 19491; June 10, 1998, p. 11914; June 24, 2005, p. 14215; Mar. 15, 2006, p. 3702); (11) to authorize a supplemental report from the Committee on Rules in lieu of the original report referred to in the special order (Speaker Wright, Aug. 11, 1988, p. 22105); (12) to permit another to offer an amendment vested in a specified Member (May 1, 1990, p. 9030); (13) to permit a division of the question on an amendment rendered indivisible by a special order (July 16, 1996, p. 17318); (14) to preclude procedural votes (where the order of the House refrained from precluding any form of motion to rise) (July 26, 2001, p. 14754); (15) to preclude further amendment except as specified (Apr. 3, 2003, p. 8490); (16) to permit the offering of a pro forma amendment to an amendment when the special order governing consideration occupied the field by permitting pro forma amendments to the bill only (July 7, 2004, pp. 14678, 14692).

Unanimous-consent requests have been entertained in Committee of the Whole: (1) 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 (see, *e.g.*, June 10, 1993, p. 12486; July 24, 1996, p. 18906; May 6, 1998, p. 8332; Mar. 29, 2000, p. 4017; Mar. 13, 2002, p. 3127), including as unfinished business where proceedings on a request for a recorded vote have been postponed (Mar. 30, 2000, p. 4037); (2) to 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 (Apr. 1, 1976, p. 9091); (3) to permit a supporter of an amendment to claim debate time allocated by special order to an opponent, where no opponent seeks recognition (May 23, 1990, p. 11988); (4) to shorten the time set by special order for debate on a particular amendment (Aug. 1, 1990, p. 21510; Mar. 29, 1995, p. 9742); (5) to 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

(May 11, 1988, p. 10495; May 21, 1991, p. 11646; Mar. 22, 1995, p. 8769; June 27, 1995, p. 17329; Nov. 2, 1995, p. 31376; Mar. 25, 2004, pp. 5318–20) but not for an unspecified amount, such as the "time that the Speaker may claim to speak on her side of this issue" (May 27, 2010, p. 9686); (6) to permit en bloc consideration of several amendments under a "modified-closed" special order providing for the sequential consideration of designated separate amendments (Aug. 10, 1994, p. 20768); (7) to permit one of two committees controlling time for general debate pursuant to a special order to yield control of its time to the other (Aug. 18, 1994, p. 23118); (8) to permit the proponent (or opponent) of an amendment to yield control of time in support (or in opposition) to another (Mar. 9, 2006, p. 3144; Mar. 28, 2012, p. __); (9) to permit the offering of pro forma amendments for the purpose of debate under a "modified-closed" special order limiting both amendments and debate thereon (July 17, 1996, p. 17563; July 24, 1996, p. 18896); (10) to 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" (Mar. 29, 2000, p. 3980); (11) to permit the reading of an amendment that already was considered as read under the special order of the House (June 13, 2000, p. 10546; July 10, 2002, p. 12441; June 24, 2009. p. 16124; May 29, 2014, p. __, p. __) or that had been read when offered (June 20, 1991, pp. 15610, 15611; May 31, 2012, p. __); (12) to permit a request for a recorded vote even though untimely (June 24, 2005, p. 14182; Mar. 28, 2007, p. 8168; July 18, 2012, p. __); (13) to vacate a pending recorded vote in favor of taking the question de novo (although a motion to that effect is not available) (May 8, 2008, p. 8148) or to vacate a prior recorded vote to the end that the request for a recorded vote remain pending as unfinished business, such that it could be added to the end of a current vote "stack" (where it was alleged that Members were improperly prevented from being recorded) (June 6, 2012, p. __).

By unanimous consent the House may delegate to the Committee of the Whole authority to entertain unanimous-consent requests to change procedures contained in an adopted special order (Aug. 11, 1986, p. 20633). The Member offering an amendment in the Committee of the Whole pursuant to a special order of the House has the burden of proving that it meets the description of the amendment made in order (July 17, 1996, p. 17553). The Chair advised the Committee that an amendment made in order was described by subject matter rather than by prescribed text and that the pending amendment fit such description (July 20, 2000, p. 15751). For a description of the authority under clause 6(g) for the chair of the Committee of the Whole to postpone and cluster requests for recorded votes on amendments (which, before the adoption of that clause, was commonly provided by special orders of the House), and the Chair's interpretation thereof, see §984, *supra*.