

Committees of the Whole

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A. Generally

§ 1. In General

Role and Functions; Historical Background

The Committee of the Whole has been described as an ancient parliamentary institution (4 Hinds § 4705), having been derived from the practice of the English House of Commons. Deschler Ch 19 § 5. The Continental Congress used the Committee of the Whole for important business on frequent occasions. The concept that the Committee of the Whole should receive what were called “the greater matters of legislation” has gradually resulted in the usage now crystallized in Rule XIII clause 1 (*Manual* § 742), which requires the reference to it of all bills directly or indirectly raising revenue, general appropriation bills, and public bills appropriating money or property. See 4 Hinds § 4705.

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

Every Member of the House is a member of the Committee of the Whole. But the Committee may sit with a smaller number (100 Members) than is required to transact business in the House (218 Members). Quorums generally, see QUORUMS.

Distinguishing the Committee of the Whole

The term “Committee of the Whole” ordinarily refers to the Committee of the Whole House on the state of the Union, which considers public bills. Deschler Ch 19 § 1. Historically, the term has also been used to refer to the “Committee of the Whole House,” which formerly considered business on the Private Calendar. Since 1935, however, bills on the Private Cal-

endar have been considered in the House *as in* Committee of the Whole; thus, the term “Committee of the Whole House” has no application in the modern practice of the House. Deschler Ch 19 § 1.

House As *In* Committee of the Whole

When the House sits *as in* Committee of the Whole, it does not actually resolve into the committee; it sits “as in” Committee of the Whole to allow consideration of bills under the five-minute rule without general debate and with the bill considered as read and open to amendment at any point. 4 Hinds § 4924; *Manual* § 424. This practice is permitted, in the consideration of public bills, only by unanimous consent (4 Hinds § 4923) or pursuant to a special rule from the Committee on Rules. 93–2, Dec. 18, 1974, p 40858.

When the House is sitting *as in* Committee of the Whole, it may invoke many procedures which are not available to it when it is meeting in the Committee of the Whole; it may:

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

Significance of the Mace

The position of the mace in the Chamber signifies to the Members whether the House has resolved itself into the Committee of the Whole. When the mace is in position on the higher pedestal at the Speaker’s right, the House is in regular session. When the Members begin deliberations in the Committee of the Whole, the mace is placed on the lower pedestal next to the desk of the Sergeant at Arms. 89–2, July 13, 1966, p 15403.

§ 2. Jurisdiction and Authority; Reference

Generally; Public Bills

The Committee of the Whole considers business on the Union Calendar—that is, public bills. 4 Hinds § 4705; Deschler Ch 19 § 1. Bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property, are referred to this calendar. *Manual* § 742. Where the purpose of a bill is to raise revenue, even though that purpose is affected indirectly, the bill is within the jurisdiction of the Committee of the Whole. 8 Cannon § 2399.

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

Measures Other Than Public Bills

Although the jurisdiction of the Committee of the Whole is devoted primarily to the consideration of public bills, other matters are sometimes considered in the Committee pursuant to House order. For example, as noted below, the annual message of the President is customarily referred to the Committee of the Whole by motion. And propositions to change the rules of the House are sometimes considered in Committee of the Whole. 4 Hinds § 4822; 91–2, July 13, 1970, p 23901. Moreover, although there are certain matters, such as propositions involving a tax or an appropriation, which must, by House rule, be considered in the Committee (see § 3, *infra*), it is now well settled that there are many subjects which are not specified in the rule which may nevertheless be considered in the Committee of the Whole. 4 Hinds § 4822.

Referrals; Effect of Special Rules

Reported legislative measures are referred by the Speaker to the Union Calendar for subsequent consideration in the Committee of the Whole. Their consideration therein is governed by special rules reported by the Committee on Rules or by the standing rules applicable to the Committee of the Whole. See Rule XXIII.

The Committee has no authority to change an order of the House governing the consideration of a particular measure in the Committee. 4 Hinds §§ 4712, 4713; 8 Cannon §§ 2321, 2323. Thus, where the Committee is considering a bill under a special rule that fixes the time for debate and the kinds of amendments that may be offered, a Member may be denied recognition to seek unanimous consent to offer a measure that is beyond the scope of the special rule (4 Hinds §§ 4712, 4713) or to extend the time for debate as fixed thereby (5 Hinds §§ 5212–5216). Minor modification by unanimous consent, see *Manual* § 877 and SPECIAL RULES.

Bills are sometimes referred to the Committee of the Whole as a result of action in the House resulting in its recommittal (4 Hinds § 4784; *Manual* § 875) or in unusual situations pursuant to a motion to recommit in the House either with or without instructions (5 Hinds §§ 5552, 5553).

Presidential Messages

The President's state of the Union message is referred by motion to the Committee of the Whole. 90–1, Jan. 10, 1967, p 35; 92–1, Jan. 22, 1971, p 165. Other Presidential messages are normally referred to the committee having jurisdiction by order of the Speaker. *Manual* § 882. At one time, annual messages of the President were referred to and reported by the Committee of the Whole with recommendations for reference to the proper standing or select committee, but this practice was discontinued in the 64th Congress. 8 Cannon § 3350.

Limitations on Authority

The Committee of the Whole is limited as to the powers which it may exercise. Many procedures and motions traditionally used in the House may not be invoked in the Committee of the Whole. The Committee of the Whole may not:

- Appoint, authorize, or discharge committees (4 Hinds §§ 4697, 4710).
- Entertain the question of consideration (7 Cannon § 952) except pursuant to those provisions of the Unfunded Mandates Act which permit the question of consideration in the disposition of certain points of order (*Manual* § 781a).
- Transact proceedings regarding words demanded to be taken down in debate (2 Hinds §§ 1257–1259; 8 Cannon § 2539).
- Extend the time for debate fixed by the House (8 Cannon §§ 2321, 2550; *Manual* §§ 871, 877).
- Recess without permission of the House (5 Hinds §§ 6669–6671).
- Instruct conferees (8 Cannon § 2320).
- Consider questions of privilege (2 Hinds § 1657; *Manual* § 666).

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

Authority to Originate Measures

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

if carried into effect, would change a rule of the House. 4 Hinds §§ 4907, 4908.

Conference Reports

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

§ 3. Matters Requiring Consideration in the Committee

Generally

A standing rule of the House specifies the matters which must be considered in the Committee of the Whole before consideration in the House. The matters so specified include all motions or propositions involving a tax or charge upon the people, all proceedings “touching” appropriations of money, or bills making appropriations of money, or property, or requiring such appropriation to be made or authorizing payments out of appropriations already made. Also included within the rule are bills releasing any liability to the United States for money or property, or referring any claim to the Court of Claims. A point of order under this rule may be raised at any time before the consideration of a bill has commenced. Rule XXIII clause 3. *Manual* § 865.

The rule requiring consideration in Committee of the Whole may be waived by unanimous consent. 4 Hinds § 4823; 8 Cannon § 2393. And the effect of a special order may be to discharge the Committee and bring the bill directly before the House. *Manual* § 867.

The requirement of Rule XXIII clause 3 is that the class of business specified by the rule must be “first” considered in the Committee of the Whole. *Manual* § 865. It follows that a bill considered in the Committee of the Whole, reported to the House, and then recommitted by the House to a standing committee, is not, when again reported to the House, necessarily subject to the point of order that it must be considered in Committee of the Whole. 4 Hinds § 4828; 5 Hinds §§ 5545, 5546; *Manual* § 867.

Measures Requiring Consideration in the Committee

- A bill increasing the rate of postage. 4 Hinds § 4861.
- A bill creating a new Federal office. 4 Hinds § 4846.
- A bill authorizing an undertaking by a government agency which will incur an expense to the government, however small. 8 Cannon § 2401.

- A bill under which an expenditure is probable. Deschler Ch 19 § 1.
- A bill setting in motion a chain of circumstances destined ultimately to involve certain expenditures. 4 Hinds § 4827; 8 Cannon § 2399.

Measures Held Not to Require Consideration in the Committee

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

§ 4. — Amendments

The rule that any proposition involving a tax or an appropriation of money or property must be considered in the Committee of the Whole (§ 3, supra) is applicable to amendments to House bills (4 Hinds §§ 4793, 4794) and to Senate amendments to House measures as well. Deschler Ch 19 § 1. Accordingly, where a House bill returned with Senate amendments involving a new matter of appropriation has been referred by the Speaker to a standing committee, it is, upon being reported therefrom, referred directly to the Committee of the Whole. 4 Hinds §§ 3094, 3108–3110; *Manual* § 883. And when an amendment is offered in the House to provide an appropriation for a purpose other than that of the Senate amendment, the House goes into Committee of the Whole to consider it. 4 Hinds § 4795.

The question as to whether a Senate amendment involves a tax or an appropriation so as to require consideration in Committee of the Whole is applied to each amendment received from the Senate. The fact that the original House bill was considered in Committee of the Whole is not taken into consideration in determining this question. 8 Cannon § 2381.

An amendment of the Senate to a House bill is subject to the point of order that it must first be considered in the Committee of the Whole if, originating in the House, the amendment would be subject to that point of order. Rule XX clause 1. *Manual* § 827. Hence, a Senate amendment which on its face places a charge on the Treasury must be considered in Committee of the Whole absent proof to the contrary. 8 Cannon § 2387. But a Senate amendment which merely modifies a House proposition, such as an increase or decrease in the amount of an appropriation and which does not involve a new and distinct expenditure, is not required to be considered in the Committee of the Whole. 4 Hinds §§ 4797, 4800; 8 Cannon §§ 2382, 2385; *Manual* § 828a. Moreover, the requirement that certain Senate amendments be considered in the Committee applies only before the stage of disagreement

has been reached on the Senate amendment, and it is too late to raise a point of order that Senate amendments should have been considered in the Committee after the House has disagreed thereto and the amendments reported from conference in disagreement. 94–1, Dec. 4, 1975, p 38714. The fact that one of several Senate amendments must be considered in Committee does not prevent the House from proceeding with the disposition of those not subject to the point of order. 4 Hinds § 4807.

The requirement of Rule XX that the amendment be “first considered” in the Committee does not apply if the House has agreed to a special order providing that the amendment is “hereby” considered as adopted. 103–1, Feb. 4, 1993, p ____.

§ 5. Resolving Into the Committee

Generally; Declaration by Speaker

The House may resolve into the Committee of the Whole pursuant to motion (§ 6, *infra*), or to a special rule from the Committee on Rules. 4 Hinds § 3214; 7 Cannon §§ 783, 794; Deschler Ch 19 § 4. And when no other business is pending, the Speaker is authorized pursuant to a rule adopted in 1983 to declare the House resolved into the Committee without intervening motion to consider a measure at any time after the House has adopted a special order providing for its consideration, unless the resolution specifies otherwise. *Manual* § 862. Since this rule was adopted, it has become a frequently used mechanism for resolving into the Committee for the consideration of nonprivileged bills and even, on occasion, of general appropriation bills.

Resolving Automatically Into the Committee

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

- When a special rule from the Committee on Rules provides for the immediate consideration of the measure in the Committee of the Whole. 7 Cannon §§ 783, 794; Deschler Ch 19 § 4.1.
- After the Speaker has ruled on words taken down in the Committee during the consideration of the measure. Deschler Ch 19 § 4.8.
- After a recommendation of the Committee that the enacting clause of the measure be stricken is rejected by the House. Deschler Ch 19 § 10.9.
- When a bill on the Union Calendar is timely called up (or is the unfinished business) on Calendar Wednesday. 7 Cannon §§ 939, 940, 942; *Manual* § 898.

§ 6. — By Motion

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

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

This motion is listed eighth in the daily order of business (*Manual* § 878), but the motion is usually given more preferential status by the adoption of a special rule reported from the Committee on Rules (Deschler Ch 19 § 4). Where a motion that the House resolve itself into the Committee of the Whole is pending, the motion that the Committee be discharged and that the bill be laid on the table is not preferential and not in order. Deschler Ch 19 § 4.13. And the question of consideration may not be raised against the motion to resolve into the Committee, for the motion to resolve is itself a test of the will of the House on consideration. Deschler Ch 19 § 4.10.

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

A motion to resolve into the Committee of the Whole to consider general appropriation bills is in order on any day under Rule XVI clause 9, by direction of the Appropriations Committee. *Manual* § 802. The motion is in order under this rule on District Mondays (8 Cannon §§ 876, 1123; *Manual* § 802), and on Wednesdays subject to the limitations of the Calendar Wednesday rule (*Manual* § 802).

The motion is highly privileged. 4 Hinds § 3080. Rule XI clause 4(a) (*Manual* § 726) bestows the same status on joint resolutions continuing appropriations if reported before September 15 preceding the fiscal year to which the resolution applies. The use of the motion to consider revenue bills in the Committee was held to be of equal privilege, but this ruling was made prior to the change in Rule XI clause 4, which eliminated the privilege conferred on the Ways and Means Committee to report revenue measures at any time. Deschler Ch 19 § 4, note 17. There no longer is a privileged status for the motion to resolve into Committee of the Whole to consider bills raising revenue. *Manual* § 802.

Although highly privileged, the motion does not take precedence over a motion to reconsider (4 Hinds § 3087), or a motion to change the reference of a bill (7 Cannon § 2124).

The motion to resolve into the Committee of the Whole under Rule XVI clause 9 is neither debatable nor amendable (4 Hinds § 3078); it is not

subject to a demand for the previous question (4 Hinds § 3077), and may not be laid on the table or indefinitely postponed (6 Cannon § 726).

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

§ 7. The Chairman

The Chairman of the Committee of the Whole is appointed by the Speaker. *Manual* § 861a. Following a custom of the British Parliament (Deschler Ch 19 § 5), the House requires the Speaker “in all cases” to leave the Chair after appointing the Chairman. *Manual* § 861a. Where the Member named by the Speaker to act as Chairman is unavailable, the Speaker may ask another Member to assume the Chair as Chairman pro tempore. Where the Member appointed to preside over the Committee is a female Member, the proper form of address is “Madam Chairman.” 93–1, Sept. 20, 1973, p 30592.

In general, the Chairman recognizes for debate and decides questions of order arising in the Committee independently of the Speaker. Deschler Ch 19 § 5.1. Where words are “taken down” in debate, the Chairman reports them to the Speaker who rules on their admissibility (see *Manual* § 761, and § 16, *infra*); otherwise, points of order relating to procedure in the Committee are decided by the Chairman rather than the Speaker. 5 Hinds § 6927. An appeal from the Chairman’s ruling may be made to the full Committee (5 Hinds § 6928; Deschler Ch 19 § 9.1), or, in exceptional cases, the Committee may rise and report the question to the House (4 Hinds § 4783).

The Chairman has a duty to call to order any Member who violates the privileges of debate (8 Cannon § 2515) even in the absence of any suggestion from the floor (8 Cannon § 2520). And he may cause the galleries or lobbies to be cleared in case of disturbance or disorderly conduct. *Manual* § 861a.

The Chairman directs the Committee to rise when the hour previously fixed for adjournment arrives or when the hour fixed by the House for termination of the consideration of the bill in Committee arrives. 4 Hinds § 4785; 8 Cannon § 2376.

§ 8. — Limitations on Jurisdiction and Authority

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

- Recognize for requests to suspend the rule governing admissions to the floor. 5 Hinds § 7285.
- Decide whether the Committee may sit in executive session. Deschler Ch 19 § 7.18.
- Rule on the sufficiency or legal affect of committee reports. Deschler Ch 19 § 7.17.
- Rule on questions of constitutionality. Deschler Ch 19 §§ 7.1–7.3, 8.10.
- Pass on the merits of a legislative proposition. Deschler Ch 19 § 7.4.
- Interpret the consistency of a provision in a bill with existing law. Deschler Ch 19 § 7.5.
- Pass on the legal effect of funding limitations that do not appear in the pending bill. Deschler Ch 19 § 7.16.
- Rule on the consistency of amendments. Deschler Ch 19 §§ 8.6–8.9.
- Construe the general meaning or effect of an amendment (Deschler Ch 19 §§ 8.1–8.4) or rule on whether it is ambiguous (Deschler Ch 19 § 8.5).
- Rule on hypothetical questions. Deschler Ch 19 §§ 7.6–7.8.
- Determine issues not presented in a point of order. Deschler Ch 19 § 6.1.
- Construe the result of a vote. 87–1, Sept. 13, 1961, p 19206.
- Interpret the rules or procedures of the Senate. Deschler Ch 19 § 7.19.
- Entertain requests to change an order of the House governing the consideration of the measure in the Committee. 8 Cannon § 2323; *Manual* § 877.
- Rule on the propriety of amendments including in a motion to recommit with instructions. 98–1, July 28, 1983, pp 21470, 21471.
- Respond to inquiries concerning the legislative schedule outside the Committee of the Whole. 97–2, July 29, 1982, p 18605.
- Rule on procedural questions that may arise when a bill is reported back to the House (Deschler Ch 19 § 7.10) or predict what action may take place in the House after the Committee rises (Deschler Ch 19 § 7.9).
- Determine the vote required to adopt a resolution in the House. Deschler Ch 19 § 7.13.
- Determine whether the House can rescind a time limitation imposed by the Committee. Deschler Ch 19 § 7.12.
- Determine whether or when a pending bill will be taken up again after the Committee rises. Deschler Ch 19 §§ 7.14, 7.15.

B. Consideration and Debate in Committee

§ 9. In General; Quorums

Generally

The conditions under which a particular measure is to be considered and debated are ordinarily determined under Rule XXIII clause 1 or pursuant to a special rule from the Committee on Rules or other House order. The Committee of the Whole may not set aside or modify such an order (4 Hinds §§ 4712, 4713; 8 Cannon §§ 2321, 2322; Deschler Ch 19 § 15), even by unanimous consent (8 Cannon §§ 2550–2552); *Manual* § 877.

Quorum Requirements

Until 1890, a quorum of the Committee of the Whole was the same as a quorum of the House. *Manual* § 329. In that year, a rule was adopted fixing a quorum of the Committee of the Whole at 100 Members. *Manual* § 863. Where the Chair has announced the absence of a quorum in the Committee of the Whole, no further business may be conducted until a quorum is established. 96–1, Sept. 6, 1979, p 23355. And when a vote is taken in Committee of the Whole notwithstanding the absence of a quorum, a timely point of order having been made, the vote is invalid. 6 Cannon §§ 676, 677. However, a quorum is inferred (or presumed) if no question is raised with respect thereto; that is, a quorum is presumed to be present unless otherwise determined. See 4 Hinds § 2895; 6 Cannon §§ 565, 624.

Under the modern practice, when a Committee of the Whole finds itself without a quorum, and a timely point of order is made, the Chairman directs that the Members record their presence by electronic device. *Manual* § 863. It is a quorum of the Committee—100 Members—and not a quorum of the House, which must appear. 89–2, Oct. 12, 1966, p 26247. In ascertaining the presence of a quorum, the Chairman includes those present but not voting as well as those Members voting. 6 Cannon §§ 641, 671; Deschler Ch 20 § 7.7.

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

The House rules (Rule XXIII clause 2) have sharply limited the circumstances under which a no-quorum point of order may be raised once the House has resolved into Committee. After the roll has once been called in

that Committee of the Whole to establish a quorum on any given day (or if a quorum was disclosed on a recorded vote), the Chairman may not thereafter entertain a point of order that a quorum is not present unless (1) the Committee is operating under the five-minute rule and (2) the Chairman has put the pending motion or proposition to a vote. *Manual* § 863. During general debate, there is no requirement of a quorum; but the Chairman is given the discretion to recognize for a point of no quorum. Rule XXIII clause 2(a).

The Chairman must entertain a point of order of no quorum during the five-minute rule if a quorum has not yet been established in the Committee on the bill then pending; the fact that a quorum of the Committee has previously been established on another bill on that day is irrelevant. 98–2, Sept. 19, 1984, p 26082. Where a recorded vote on a prior amendment or motion during the five-minute rule on that bill on that day has established a quorum, a subsequent point of no quorum during debate is precluded except by unanimous consent. 99–2, June 25, 1986, p 15551; 102–2, June 3, 1992, p ____.

§ 10. First Reading

When a bill is taken up in the Committee of the Whole, its reading in full may be demanded before general debate begins, unless such reading has been properly waived or dispensed with. 95–1, Apr. 28, 1977, p 12635. Such a reading may be demanded before general debate begins even though the bill may have just been read in the House. 4 Hinds § 4738.

The first reading of a bill in Committee of the Whole is normally dispensed with by unanimous consent (95–2, May 17, 1978, p 14147) or pursuant to a special rule from the Committee on Rules (95–2, Sept. 29, 1978, p 32662). A motion to dispense with the first reading of the bill is not in order. 8 Cannon §§ 2335, 2436; 95–1, Apr. 28, 1977, p 12635.

§ 11. General Debate

Control by the House

The duration and allocation of time for general debate in Committee of the Whole is controlled by the House, not the Committee. 91–2, Dec. 17, 1970, p 42222. The Committee may not, even by unanimous consent, extend the general debate time as fixed by the House. 96–2, Feb. 22, 1980, p 3564; *Manual* § 877.

The control of the House over general debate time in the Committee of the Whole may be exercised through the adoption of a unanimous-consent request (90–2, June 27, 1968, p 19105) or through the adoption of a

special rule from the Committee on Rules (89–2, Sept. 26, 1966, pp 23785, 23946). Thus, the House may by unanimous consent limit the general debate to a time certain and provide that at the conclusion of that debate the Committee shall rise (88–1, Apr. 9, 1963, pp 6044, 6073) or it may limit the time for general debate and divide that time among certain members (90–2, June 27, 1968, p 19105). The House having divided general debate time among certain Members, it is not in order for a Member to whom time has been yielded to ask unanimous consent for additional time, for time is controlled by those to whom it is allotted by the House and is not subject to extension by the Committee. 91–2, Dec. 17, 1970, p 42222.

When the House has vested control of general debate in the Committee in certain Members, their control may not be abrogated during that debate by another Member moving to rise, unless one of them yields for that purpose (90–1, May 25, 1967, p 14121), nor may Members yielded time in general debate yield to another for such motion (81–2, Feb. 22, 1950, p 2178).

The Hour Rule

In the absence of a House order limiting general debate in Committee of the Whole, debate in the Committee is under the hour rule. 91–1, July 28, 1969, p 20850. A Member having control of such time may not consume more than one hour. 87–2, Mar. 6, 1962, p 3484; 91–1, July 29, 1969, pp 21174–78.

Prior to 1841, there was no limit on the time which a Member might occupy when once in possession of the floor in the Committee of the Whole. Under this practice, the inability of the Committee to complete action on bills had become a serious problem. 5 Hinds § 5221. In that year, the rule of the House that no Member could speak for more than one hour (*Manual* § 758) was applied to the Committee of the Whole (*Manual* § 870). This one-hour limitation is applicable to each Member recognized to speak in the Committee. Deschler Ch 19 § 15. No matter how much time may have been placed within the control of those representing the two sides of a question, it must be assigned to Members in accordance with the rule limiting each Member to no more than one hour of debate time. 5 Hinds §§ 5005, 5006. However, a Member recognized for one hour of debate may yield time to a Member who has just occupied an hour in his own right. 8 Cannon § 2470.

Yielding Time

A Member engaged in general debate under the hour rule in Committee of the Whole may yield any portion of his time to another Member, who

may in turn yield to a third with the consent of the Member originally holding the floor. 8 Cannon § 2553. Of course, if the first Member retains control of the floor, yielding to a second Member only for a question, it is the first Member who would subsequently yield to a third. Deschler Ch 19 § 15. Conversely, where a matter is being debated pursuant to a special order vesting control of the time for debate in certain Members, one of those Members may yield a specific block of time to a second Member, in which case the second Member may yield to a third while remaining on his feet, and permission of the first Member is not necessary. Deschler Ch 19 § 15.

Members may speak in general debate on a bill as many times as they are yielded to by those in control of the debate (Deschler Ch 19 § 15.8), and those in control of such debate time may yield as many times as they desire to whom they desire (Deschler Ch 19 § 15.4).

§ 12. — Closing General Debate

General debate in Committee of the Whole is closed or terminated pursuant to House order (*Manual* § 870; see also 5 Hinds § 5221) or sooner if no Member desires to participate further (4 Hinds § 4745). Amendments may not be offered in the Committee until general debate has been closed or yielded back (4 Hinds § 4744; 5 Hinds § 5221), and motions for the disposition of the pending bill are not in order before that time (4 Hinds § 4778). However, those Members in control of the time for general debate need not use all of the time for the purpose prescribed by House order, but may agree among themselves to close further general debate, yield their remaining time, and begin consideration of the bill under the five-minute rule. 89–2, Sept. 26, 1966, pp 23785, 23946; 96–1, May 4, 1979, p 9918.

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

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

Generally

Amendments to measures pending in Committee of the Whole are in order following the close of general debate. Deschler Ch 19 § 15. Amendments are offered under the so-called five-minute rule. This rule provides that any Member “shall be allowed” five minutes to explain any amendment he may offer, after which the Member who first obtains the floor is allowed five minutes to oppose it. *Manual* § 870. Thereafter, a Member may obtain five minutes for debate by offering the *pro forma* amendment “to strike the last word” no actual amendment being contemplated. *Manual* § 873a. *Pro forma* amendments, generally, see § 14, *infra*.

The Committee of the Whole may not, even by unanimous consent, prohibit the offering of an amendment otherwise in order under the five-minute rule. 98–2, July 31, 1984, p 21701. To guard against abuse of the rule by Members offering an amendment for the sole purpose of gaining debate time (5 Hinds § 5221), the rule itself provides that amendments may be withdrawn only by unanimous consent. *Manual* § 870.

The five-minute rule is applicable to amendments that are offered to amendments. *Manual* § 870. But where an amendment to a bill has been offered, the right to explain or oppose that amendment has precedence of a motion to amend it. 4 Hinds § 4751.

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

Yielding Time During Five-minute Debate

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

Where debate on an amendment is limited or allocated by special order to a proponent and an opponent, the five-minute rule is abrogated and the Members controlling the debate may yield and reserve time; but debate time on an amendment under the five-minute rule cannot be reserved. 101–2, Aug. 1, 1990, p ____.

Reading for Amendment

In Committee of the Whole, bills are read for amendment pursuant to a practice dating from 1789. As a general rule, legislative bills have been considered by sections, because each section normally contains a substantive legislative provision. General appropriation bills, on the other hand, are ordinarily read by paragraphs, because such bills are normally drafted so that each paragraph concludes with an appropriation. This practice of reading by paragraphs has also been extended to revenue measures. 8 Cannon §§ 2340, 2347. But whether a bill shall be read by paragraphs, sections, subsections, or titles is often determined by special rule reported by the Committee on Rules, which may provide that the bill is to be “considered as read,” and open to amendment at any point. See, for example, 93–2, Aug. 7, 1974, p 27258.

When a paragraph or section has been passed in the reading it is not in order to return thereto (4 Hinds §§ 4742, 4743) except by unanimous consent (4 Hinds § 4746; 97–2, Nov. 30, 1982, p 28066). But the Chairman may direct a return to a section where, through his inadvertence, no action was had on a pending amendment. 4 Hinds § 4750.

§ 14. — Pro Forma Amendments

Generally

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

When in Order

Like substantive amendments, *pro forma* amendments are in order following the reading of the section or paragraph of the pending measure. See AMENDMENTS. But *pro forma* amendments are not in order when a bill is being considered under a “closed” rule prohibiting all amendments unless the rule specifies to the contrary. 87–2, Oct. 5, 1962, p 22636; 95–1, Oct. 13, 1977, p 33637. Such amendments are also subject to the standing rule precluding amendments in the third degree. Thus, if the point is raised, a *pro forma* amendment is not in order during consideration of an amendment to a substitute, being in the third degree. 5 Hinds § 5779.

When Permitted

Pro forma amendments are liberally permitted during debate under the five-minute rule. Thus, while a Member may not speak twice on the same amendment, a Member may speak in opposition to a pending amendment and subsequently offer a *pro forma* amendment and debate that (Deschler Ch 19 § 15.9); and a Member who has debated a substantive amendment may thereafter rise in opposition to a *pro forma* amendment thereto (Deschler Ch 19 § 15.10). However, a Member who has occupied five minutes on a *pro forma* amendment may not lengthen this time by making another *pro forma* amendment. 5 Hinds § 5222; 8 Cannon § 2560; Deschler Ch 19 § 15. And a Member who has offered a substantive amendment and then debated it for five minutes may not extend his time by offering a *pro forma*

amendment, as it is not in order for the offerer of an amendment to amend his own amendment except by unanimous consent. *Manual* § 873a. Conversely, a Member recognized on a *pro forma* amendment may not automatically extend his time by offering a substantive amendment, not having been recognized for that purpose. Deschler Ch 19 § 15.11.

§ 15. Relevancy in Debate

General Debate

During general debate in the Committee of the Whole, a Member need not confine himself to the subject. 5 Hinds §§ 5234–5238; 93–2, June 28, 1974, p 21743. During this period, the House rules allow extraordinary freedom and latitude in debate. “Anything may be discussed which may by the liveliest imagination be supposed to relate to the state of the Union in any particular or any degree, however remote.” 8 Cannon § 2590. But such latitude in general debate is normally limited by a special rule from the Committee on Rules or other House order. See 93–2, June 28, 1974, p 21743. If the bill is being considered under the terms of a special rule which requires that debate be confined to the bill, a Member may proceed out of order only by unanimous consent. 90–1, Nov. 27, 1967, p 33772.

Five-minute Debate

The scope of debate under the five-minute rule is more narrowly confined than is allowed in general debate. In five-minute debate, the Member recognized is confined to the pending subject. 5 Hinds §§ 5240–5256; 8 Cannon § 2591. He must confine himself to the subject of the amendment and its relation to the bill. A discussion of amendments which may be offered at a later time is not in order. See CONSIDERATION AND DEBATE. This is due in part to the language of the applicable rule, which states that a Member is to be allowed five minutes “to explain” an offered amendment. *Manual* § 870. This rule has been strictly construed. A Member yielded to may speak out of order, on a matter not relevant to the pending measure or amendment, only by unanimous consent. 98–1, Apr. 28, 1983, p 10432. And it has been held that remarks on the general merits of the bill are not in order as “explaining” an amendment, and remarks touching on the demerits of the bill are not in order as opposing an amendment. 5 Hinds § 5242.

The rule confining debate under the five-minute rule to the subject is applicable even to *pro forma* amendments. 8 Cannon § 2591. Debate on a *pro forma* amendment must be confined to the portion of the bill to which the *pro forma* amendment has been offered. 93–2, June 21, 1974, p 20595.

However, a Member may move to strike the last word and then ask unanimous consent to speak out of order. 98–1, June 8, 1983, p 14860.

§ 16. Calling Members to Order

Jefferson suggested that, as a matter of parliamentary law, to avert the “danger of a decision by the sword” in the Committee of the Whole, the Speaker could take the Chair to restore order. *Manual* § 331. In several early instances, the Speaker did in fact exercise this authority. 2 Hinds §§ 1648–1652. Under the modern practice, the Chairman directs the Committee of the Whole to rise and report to the House when objections have been made under the House rules (*Manual* § 861b) for words spoken in debate. See 8 Cannon §§ 2533, 2538; Deschler Ch 19 § 17.

Under this procedure, when a Member is called to order by the Chairman he must take his seat. Deschler Ch 19 § 17.1. If unparliamentary language is used, the Chair or any Member may cause the words to be taken down at the Clerk’s desk and read in the Committee, which then rises automatically and without debate. 8 Cannon §§ 2533, 2538, 2539; 98–1, May 26, 1983, p 14048. The words are then reported to the House, and are again read. 2 Hinds §§ 1257–1259. The words reported are then taken up in the House, with consideration being limited to the words reported. 8 Cannon § 2528. The Member uttering the words may withdraw them, but this is permitted at this time only by unanimous consent. 8 Cannon §§ 2528, 2538, 2540; Deschler Ch 19 § 17.7. The Speaker then rules on whether the words are unparliamentary. Deschler Ch 19 § 17.5. 78–1, Dec. 20, 1943, p 10922. It has been held that the Speaker’s ruling on the propriety of the words taken down is not subject to appeal. 98–1, May 26, 1983, p 14049. However, under the modern practice, such appeals have been frequently permitted. 5 Hinds §§ 5157, 5178, 5194; 78–1, Dec. 20, 1943, p 10922.

Motions in the House to strike the words from the Record, if held out of order, and to proceed in order, are available before the Committee resumes its sitting. Instances of disorder during debate in the Committee may be disposed of in the House pursuant to a motion to expunge the offending language from the Record (8 Cannon §§ 2538, 2539), or, in especially flagrant instances, pursuant to a resolution of censure (2 Hinds §§ 1257, 1259).

After disposition of the matter in the House, the Committee of the Whole automatically resumes sitting. 8 Cannon § 2541; Deschler Ch 19 § 17.5; *Manual* § 761.

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

§ 17. Voting

The methods and procedures by which Members vote in Committee of the Whole are prescribed by the House rules. See particularly Rule I clause 5. They include:

- *Voice vote*—Based on volume of sound of Members responding aye or no. See *Manual* § 629.
- *Division (or standing) vote*—May be invoked by the Chair or any Member, and is in order following a voice vote. Under this procedure, Members divide to be counted, with those first standing who are in favor, then those in the negative. *Manual* § 629.
- *Recorded vote*—The Members insert a personalized electronic voting card to be recorded as “yea,” “nay,” or “present.” The request for such a vote must be supported by at least 25 Members. Rule XXIII clause 2b.
- *Recorded vote by clerks* or a “roll call”—The Members cast their votes by depositing a signed green (yea) or red (no) card in a ballot box. This procedure has been largely supplanted by the use of the electronic voting equipment, and is used only as a backup voting system when that equipment becomes inoperative. See 92–1, Feb. 25, 1971, p 3833. Or in the alternative as a backup, the Chair may direct the Clerk to call the roll alphabetically.

The demand which may be made in the House under the Constitution for the yeas and nays is not in order in Committee of the Whole. 4 Hinds §§ 4722, 4723; 95–1, June 2, 1977, p 17292.

Voting procedures generally are discussed elsewhere. See VOTING.

§ 18. Points of Order

Generally

In Committee of the Whole, questions of order relating to procedure (except for words taken down) are decided by the Chairman, not the Speaker. 5 Hinds §§ 6927, 6928; Deschler Ch 19 § 19. *Manual* § 861b. The Speaker cannot rule on a point of order arising in the Committee unless the point of order is reported to the House for a decision. 5 Hinds § 6987. Appeals from a decision of the Chairman on a point of order are ordinarily resolved in the Committee, but in rare cases an appeal from a decision on a point of order may be reported to the House for its determination. 4 Hinds § 4783.

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

When in Order

Generally, points of order in the Committee of the Whole against a provision in a bill or amendment are properly made when that provision or amendment is reached in the reading. Points of order against bills in their entirety are normally in order when they are called up. Deschler Ch 19 § 20. A point of order against an amendment comes too late after there has been debate on the amendment. 90–1, July 29, 1967, p 19417; 93–1, May 10, 1973, p 15320. And once the amendment has been agreed to in Committee and reported to the House, a point of order against it is ordinarily untimely, the proper time being at the point the amendment was offered in Committee. 92–2, June 1, 1972, pp 19479, 19483. See, however, Rule XXI clause 5, permitting the raising “at any time” of a point of order against a bill carrying appropriations or a tax or tariff if the bill was reported by a committee not having jurisdiction to report such matters. *Manual* § 846a. Generally, see APPROPRIATIONS.

Some points of order against bills are properly raised in the House and may not subsequently be raised in Committee of the Whole. Such points of order come too late in the Committee, and should be raised in the House against consideration of the bill pending the motion to resolve into the Committee. Deschler Ch 19 § 20. This rule has been applied to points of order against consideration of the measure for:

- Violations of committee reporting requirements, such as the Ramseyer rule (that proposed changes in law be indicated typographically). Deschler Ch 19 §§ 20.1–20.3. *Manual* § 745.
- Printing requirements prior to floor consideration of measures. Deschler Ch 19 § 20.4.

Points of order generally are discussed elsewhere in this work (see POINTS OF ORDER; PARLIAMENTARY INQUIRIES), as are points of order relating to particular measures or matters. See, for example, APPROPRIATIONS. Conference reports, see CONFERENCES BETWEEN THE HOUSES.

§ 19. Unfinished Business

Business unfinished when the Committee of the Whole rises remains unfinished, to be considered first in order when the House next goes into the Committee to consider that business. 4 Hinds §§ 4735, 4736. See also UNFINISHED BUSINESS. Thus, when the Committee rises before the time fixed for debate expires, debate continues when the Committee resumes its deliberations. Deschler Ch 19 § 26.1. And when a recommendation of the Committee that the enacting clause of a bill be stricken is rejected by the

House, the House, without motion, resolves itself into the Committee for the further consideration of the bill. Deschler Ch 19 § 26.2.

Absent a special rule to the contrary, when the Committee rises on the adoption of a simple motion to rise, a bill pending at that time remains the unfinished business for subsequent consideration in the Committee. 95–2, May 12, 1978, p 13504. Similarly, if such a motion intervenes pending a request for a recorded vote, that request remains the pending business upon resumption of consideration of the bill in Committee. 95–1, Sept. 30, 1977, p 31718; 97–1, July 15, 1981, p 15921.

C. Motion Practice in Committee

§ 20. In General

Motions Permitted

The principle motions used in Committee of the Whole are:

- Motions to amend under the five-minute rule. *Manual* § 870. See also § 13, *supra*.
- Motions to dispense with the reading of an amendment printed in the bill as reported or as printed in the Record and properly and timely submitted. *Manual* § 873b.
- Motions to close five-minute debate. *Manual* § 874. Generally, see CONSIDERATION AND DEBATE.
- Motions relating to the enacting clause. *Manual* § 875. For comprehensive discussion, see § 22, *infra*.
- Motions to rise. Deschler Ch 19 § 22. See also § 26, *infra*.

Motions Not Entertained

The Committee of the Whole may not entertain motions involving functions properly performed by the House. Of all the motions specified by Rule XVI clause 4—to adjourn, to lay on the table, for the previous question, to postpone, to refer, or to amend—only the motion to amend is authorized in the Committee of the Whole. See *Manual* §§ 782 *et seq*. The Committee may not entertain a motion to:

- Limit general debate (as distinguished from five-minute debate). Deschler Ch 19 § 2. Generally, see CONSIDERATION AND DEBATE.
- Close general debate. 5 Hinds § 5217; *Manual* § 871.
- Dispense with the reading of a bill unless authorized pursuant to a special rule from the Committee on Rules. Deschler Ch 19 § 2.11.
- Return to a section of the bill passed in the reading. Deschler Ch 19 § 2.10.
- Effect a conference or instruct conferees. 8 Cannon §§ 2319, 2320; Deschler Ch 19 § 2.

- Order a call of the House. 8 Cannon § 2369.
- Expunge remarks from the Record. Deschler Ch 19 § 3.2.
- Order the previous question. 4 Hinds § 4716; Deschler Ch 19 § 2.6.
- Reconsider. 4 Hinds §§ 4716–4718; 8 Cannon §§ 2324, 2325; Deschler Ch 19 § 2.5.
- Recommit. 4 Hinds § 4721; 8 Cannon § 2326.
- Postpone (*Manual* § 786) or rise and resume sitting on a day certain (Deschler Ch 19 § 22.2).
- Lay on the table. 4 Hinds §§ 4719, 4720; 8 Cannon § 2330; Deschler Ch 19 § 2.7.
- Recess (absent permission of the House). 5 Hinds §§ 6669–6671; 8 Cannon § 3357; Deschler Ch 19 § 2.
- Adjourn. Deschler Ch 19 § 2.4.

Motions Recommending House Action

As noted above, the motions to postpone, recommit, or lay on the table, are not in order in the Committee of the Whole. However, under certain circumstances, the Committee may entertain a motion to rise and report with the *recommendation* that the House entertain such an action. Whether such a motion will or will not lie in the Committee is ordinarily determined by the terms of the special rule under which the measure is being considered. If, for example, the special rule provides that after consideration the Committee shall rise and report the measure to the House, with the previous question to be considered as ordered on the bill and amendments thereto to final passage, the Committee may not report to the House a recommendation that the bill be recommitted. Deschler Ch 19 § 23.12. But if not precluded by this language in the special rule ordering the previous question, the Committee may entertain a motion to rise and report with:

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

Requirement That Motions Be Written

Although motions made in the Committee of the Whole are often put forward orally, any Member may demand that a motion be made in writing. Deschler Ch 19 § 2.1 (motion to rise); 95–1, May 18, 1977, p 15418 (motion to limit debate under the five-minute rule).

Withdrawal

A motion may be withdrawn in the Committee of the Whole only by unanimous consent. 89–1, Mar. 26, 1965, p 6101. Thus, when an amend-

ment is offered, it can be withdrawn only by unanimous consent (5 Hinds § 5221) whether or not debate has proceeded (8 Cannon § 2859). This principle has also been applied to the motion to close debate under the five-minute rule (8 Cannon § 2564) and to the motion to recommend the striking of the enacting clause (98–1, July 29, 1983, p 21675).

§ 21. Precedence of Motions

Motions to Rise

As a motion of high privilege (Deschler Ch 19 § 23.2), the simple motion to rise is preferential (Deschler Ch 19 § 23.1). It takes precedence over motions to amend (4 Hinds § 4770) and over amendments pending under the five-minute rule (Deschler Ch 19 § 23.3), though it may not interrupt other Members in debate. § 26, *infra*. The motion takes precedence over a demand for a recorded vote on a pending amendment (95–1, Sept. 30, 1977, p 31718; 97–1, July 15, 1981, p 15921), and over a point of order of no quorum pending such a demand (see 95–1, Sept. 21, 1977, p 30126). The simple motion to rise also takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken. Deschler Ch 19 § 11.13; 95–2, May 17, 1978, p 14183.

Motions Relating to the Enacting Clause

The motion that the Committee rise and report to the House with the recommendation that the enacting clause be stricken is of high privilege. Deschler Ch 19 § 10.4. The motion is preferential because, if adopted, it constitutes a final disposition of the bill in the Committee. Deschler Ch 19 § 11.11, note. The motion may be offered where another Member has been recognized to offer an amendment (94–1, Apr. 23, 1975, p 11513) or when an amendment is pending (*Manual* § 875). The motion also takes precedence over a motion to limit debate (93–1, Dec. 14, 1973, pp 41711–14), and over a motion to rise and report with a favorable recommendation (8 Cannon § 2620). See also § 22, *infra*.

Motions to Amend

With one exception, a motion to amend a bill takes precedence over a motion to rise and report the bill. 4 Hinds §§ 4752–4758; 8 Cannon § 2364; Deschler Ch 19 § 23.14. The exception is in Rule XXI clause 2(d) (*Manual* § 834d), which specifies that when a general appropriation bill has been read for amendment, a motion to rise and report, if offered by the Majority Leader or his designee, takes precedence of a “limitation” amendment.

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

§ 22. Motions Relating to Enacting Clauses

Generally; Effect of Rejection or Adoption

Every bill that becomes law contains the phrase: “Be it enacted by the Senate and House . . . in Congress assembled. . . .” It is in order to move that the Committee rise and report a bill back to the House with the recommendation that this clause, known as the enacting clause, be stricken out. 5 Hinds §§ 5326–5346; 8 Cannon §§ 2618–2638; Deschler Ch 19 § 10. Such a motion is not, strictly speaking, an amendment, since it can be dispositive of the entire bill. See Deschler Ch 19 § 10 (note 13). If the House agrees to the recommendation, its action is equivalent to a rejection of the bill. *Manual* § 875; see also 5 Hinds § 5326; Deschler Ch 19 § 10.6. If the House rejects the recommendation, it automatically resolves itself back into the Committee for the further consideration of the bill. Deschler Ch 19 § 10.9.

The motion must be in writing and in the proper form. 99–2, Aug. 15, 1986, p 22071; 99–2, Sept. 12, 1986, p 23178.

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

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

Application to Particular Measures

The motion that the Committee rise and report to the House the recommendation that the enacting clause be stricken is applicable to the enacting clause of a Senate-passed bill. 92–2, Oct. 4, 1972, p 33785; Deschler Ch 19 § 10.14. The motion has also been used to recommend the striking of the resolving clause of a simple resolution (93–2, Oct. 7, 1974, p 34170), the resolving clause of a concurrent resolution on the budget (96–1, May

9, 1979, p 10490), and the resolving clause of a joint resolution (Deschler Ch 19 § 11.4).

Who May Offer or Oppose

A Member offering the motion to rise and report with the recommendation that the enacting clause be stricken must qualify as being opposed to the bill when challenged. *Manual* § 876a; 95–1, June 17, 1977, p 19719. A challenge being made, it is not in order for a Member in favor of a bill to offer this motion. Deschler Ch 19 § 12.2. If challenged, the Member offering the motion is required to declare his opposition to the bill. Deschler Ch 19 § 12.1. Generally, in recognizing a Member for the motion, the Chair will accept the statement of that Member that he is opposed to the bill. Deschler Ch 19 § 12.5. Similar rules are applied with respect to the qualification of a Member to oppose the motion. To obtain recognition to oppose the motion, a Member must qualify by stating that he is opposed thereto. Deschler Ch 19 § 12.11.

The practice of offering the motion merely to obtain time for debate, though subject to criticism (Deschler Ch 19 § 12.10) has been permitted (Deschler Ch 19 §§ 12.8, 12.9).

Repetition of Motion

A second motion on the same day to recommend the striking of the enacting clause is not entertained in the absence of any material modification of the bill. 8 Cannon § 2636; Deschler Ch 19 §§ 14.1, 14.2; compare 81–2, Jan. 3, 1950, p 6571. Although a second motion is in order if the bill has been substantially amended since disposition of the first motion (Deschler Ch 19 § 14.4; 97–2, July 21, 1982, p 17348), a second motion is not in order if the only action of the Committee in the interim has been the rejection of a proposed amendment to the bill (Deschler Ch 19 § 14.5). Of course, if the first such motion is withdrawn by unanimous consent, a second motion relating to the enacting clause is in order. Deschler Ch 19 § 14.7. And the motion may be renewed on a subsequent day regardless of any modification of the bill. Deschler Ch 19 § 14.8.

§ 23. — When in Order

The motion that the Committee rise and report with the recommendation that the enacting clause be stricken is not in order during general debate on the measure. Deschler Ch 19 § 10. The motion is in order only during the stage of amendment. 88–2, Aug. 7, 1964, p 18606. Thus, the motion is properly offered when the bill is being read for amendment. Deschler Ch 19 § 11.2. The motion is in order after the Clerk has begun reading the bill

for amendment under the five-minute rule (95–2, May 17, 1978, p 14173), assuming that another Member has not obtained the floor for purposes of debate (96–1, June 13, 1979, p 14710). The motion is no longer in order when the stage of amendment is passed. And the stage of amendment is passed in Committee where a bill is being considered under a rule permitting only committee amendments, and where no committee amendments are offered at the conclusion of general debate. 91–2, Apr. 16, 1970, p 12092. The adoption of an amendment in the nature of a substitute may also foreclose the opportunity to offer the motion. Deschler Ch 19 § 11.6.

§ 24. — Debate

Generally; Time Limitations

The debate on a motion that the Committee of the Whole rise and report with the recommendation that the enacting clause be stricken is governed by the five-minute rule. 5 Hinds §§ 5333–5335; 8 Cannon §§ 2628–2631; Deschler Ch 19 § 13. Debate on the motion is thus limited to 10 minutes, five minutes in favor and five minutes in opposition. Deschler Ch 19 § 13.1. The Chair has declined to recognize for requests to extend the five-minute time (Deschler Ch 19 § 13.2), and a Member may not extend his time by using time yielded to him by unanimous consent under an allocation of time on the remainder of the bill (94–1, June 24, 1975, p 20618). Debate is limited to two five-minute speeches even though the proponent and the Member in opposition both speak in favor of the motion. Deschler Ch 19 § 13.3.

Time may not be reserved. 102–1, May 22, 1991, p _____. Where a Member recognized for five minutes in opposition to the motion yields back his time another Member may not claim the unused portion thereof. 100–2, Mar. 3, 1988, p 3241.

Members of the committee managing the bill have priority in recognition for debate in opposition to the motion. 100–2, May 5, 1988, p 9955; 102–1, June 26, 1991, p _____.

Effect of Limitation of Time for Debate

A limitation of all debate time on a bill and amendments thereto to a time certain does not preclude debate on a motion to recommend the striking of the enacting clause during the time remaining under the limitation. 97–1, Oct. 5, 1981, p 23154. But the motion is not debatable after all time for debate on the bill and all amendments thereto has expired. Deschler Ch 19 § 13.7. On the other hand, where debate has been closed only as to amendments to a bill, and not on the bill itself, a Member offering the mo-

tion to strike the enacting clause is entitled to five minutes to debate that motion. 94–1, May 20, 1975, p 15465. A similar practice is followed where the limitation is only on an amendment in the nature of a substitute being read as an original bill for the purpose of amendment under a special order. 94–1, June 20, 1975, p 19966.

Scope of Debate

Since the motion to rise and report with the recommendation that the enacting clause be stricken applies to the entire bill, debate may be directed to any part of the bill—or to a pending amendment—and need not be confined to the merits of the preferential motion. 94–1, June 20, 1975, p 19951; 97–2, July 29, 1982, p 18605. Thus, the motion may be used by a Member to secure five minutes to debate a pending amendment notwithstanding a limitation of time for debate on the pending amendment and all amendments thereto. 94–1, June 20, 1975, p 19951. But the motion, while debatable as to the merits of the bill, may not be debated on matters beyond its provisions. 5 Hinds § 5336.

D. Rising; Reporting to the House

§ 25. Generally

Formal and Informal Rising Distinguished

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

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

Effect of Special Rules or Orders

The Committee of the Whole rises automatically and without motion when it rises pursuant to a special rule providing that at the conclusion of

consideration of the bill for amendment the Committee “shall” rise and report back to the House (94–1, July 30, 1975, p 25881) or to a House order limiting general debate to a time certain and providing that the Committee rise at the conclusion of that time. Deschler Ch 19 § 21.3. But a motion to rise is required to enable the Committee to rise prior to the time fixed by the applicable special rule. 7 Cannon § 793.

§ 26. Motions to Rise

Generally; Forms

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

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

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

The motion to rise and report may recommend to the House either a favorable or adverse disposition of the bill. Or it may recommend that the consideration of the reported measure be postponed, or that it be recommitted or tabled, provided that such motion is not precluded by the applicable special rule. § 20, *supra*. As to the motion to rise and report with the recommendation that the enacting clause be stricken, see § 22, *supra*.

The motion to rise (or to rise and report) must be in writing if the demand is made. Deschler Ch 19 § 22.3. The simple motion to rise does not require a quorum for adoption. 4 Hinds §§ 2975, 2976; Deschler Ch 19 § 22.7; *Manual* § 774c. But a quorum is required on an affirmative vote on a motion to rise and report. See 4 Hinds § 2973. Neither motion is debatable. 4 Hinds §§ 4766–4768; Deschler Ch 19 § 22.4. Either may be withdrawn by unanimous consent. Deschler Ch 19 § 22.9. They may not include restrictions on the amendment process or limitations on future debate on amendments. 101–2, June 6, 1990, p ____.

§ 27. — When in Order

The motion that the Committee of the Whole rise is privileged during debate under the five-minute rule, and may be offered during debate on a pending amendment, except where another Member has the floor. 99–2, Aug. 13, 1986, p 21215. The motion is in order notwithstanding an informal

agreement among the floor managers of a bill to conclude consideration at a different time (Deschler Ch 19 § 23.4). The motion is in order:

- Pending a decision on a point of order. Deschler Ch 19 §§ 23.7, 23.8.
- After agreement to a motion to limit debate on an amendment. Deschler Ch 19 § 23.10.
- Pending a count of a quorum. Deschler Ch 19 § 23.5.
- After the absence of a quorum has been ascertained and pending a vote on an amendment (96–1, June 6, 1979, p 13648), but comes too late when the Chair has announced the absence of a quorum and the roll call has begun (91–2, Sept. 16, 1970, p 32229).
- Pending a demand for a record vote but prior to the time the Chair begins the count to determine whether a sufficient number support the demand. 94–1, Aug. 1, 1975, p 26947.

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

§ 28. — Who May Offer

In the Committee of the Whole, any Member may move to rise and the Chairman is constrained to recognize for that purpose (8 Cannon § 2369), unless another Member controls the floor (Deschler Ch 19 § 24.2). Although the motion may be offered by any Member entitled to the floor in his own right (Deschler Ch 19 § 23.1), the motion is commonly made by the Member handling the bill before the Committee (Deschler Ch 19 §§ 22.5, 22.8). The motion may also be made by a Member who holds the floor by virtue of having offered an amendment. 90–1, Nov. 15, 1967, p 32694.

A Member holding the floor may not be interrupted by a motion to rise even though he has not yet begun to speak. 8 Cannon § 2370. A Member may not, in time yielded to him for general debate, move that the Committee rise (90–1, May 25, 1967, p 14121) or yield to another for such a motion (81–2, Feb. 22, 1950, p 2178). But the majority or minority member controlling the time for general debate may yield for a motion that the Committee rise, and he may do so without losing his right to continue at the next sitting of the Committee on the same matter. 5 Hinds §§ 5012, 5013.

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

§ 29. Reporting to the House

Generally

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

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

§ 30. House Action on Committee Reports

Generally

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

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

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

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

House action on amendments reported from the Committee of the Whole, including the demand for separate votes, see AMENDMENTS. For

steps to be taken in the passage of a bill in the House, see PREVIOUS QUESTION and READING, PASSAGE, AND ENACTMENT.

Recommittal to the Committee of the Whole

Bills are sometimes recommitted to the Committee of the Whole as the result of the action of the House (4 Hinds § 4784) or on motion either with or without instructions (5 Hinds §§ 5552, 5553). If the bill is reported from the Committee with an adverse recommendation, and such recommendation is disagreed to by the House, the bill stands recommitted to the Committee without further action by the House, unless the bill is disposed of pursuant to a motion to refer. *Manual* §§ 875. When a recommendation of the Committee that the enacting clause of a bill be stricken is rejected by the House, the House, without motion, resolves itself into the Committee of the Whole for the further consideration of the bill. *Manual* § 876a; 7 Cannon § 943; 89-1, Sept. 29, 1965, p 25418; 90-1, Apr. 6, 1967, p 8611.