since the clause contains an absolute and unambiguous prohibition against entertaining such a point of order (Sept. 16, 1977, pp. 29562–63). During debate on a measure in the House the Speaker will not respond to an inquiry as to the number of Members present in the Chamber, since a point of no quorum is not admissible unless he has put the pending question to a vote (Oct. 28, 1987, p. 29682).

In adopting this rule, the House has presumably determined that the mere conduct of debate in the House, where the Chair has not put the pending motion or proposition to a vote, is not such business as requires a quorum under the Constitution (art. I, sec. 5, cl. 1), and neither a point of order of no quorum during debate only nor a point of order against the enforcement of this clause lies independently under the Constitution (Sept. 8, 1977, p. 28114; Sept. 12, 1977, pp. 28800–01; Feb. 27, 1986, p. 3060). See also clause 2 of rule XVII, providing that after the previous question is ordered a call of the House shall only be in order if the Speaker determines by actual count of the House that a quorum is not present.

§774e. Yeas and Nays ordered on certain questions.

7. The yeas and nays shall be considered as ordered when the Speaker puts the question on final passage or adoption of any bill, joint resolution, or conference report making general appropriations or increasing Federal income tax rates, or on final adoption of any concurrent resolution on the budget or conference report thereon.

This clause was adopted in the 104th Congress (sec. 214, H. Res. 6, Jan. 4, 1995, p. ——).

RULE XVI.

ON MOTIONS, THEIR PRECEDENCE, ETC.

§775. Motions reduced to writing and entered on the Journal.

1. Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any Member, and shall be entered on the Journal with the name of the Member making it, unless it is withdrawn the same day.

This clause was made up in 1880 of old rules adopted in 1789 and 1806 (V, 5300).

Because of this rule it has been held not in order to amend or strike out a Journal entry setting forth a motion exactly as made (IV, 2783, 2789). A motion not entertained is not entered on the Journal (IV, 2813, 2844–2846). See §71, *supra*, for discussion of Journal entries. Any Member may demand that a motion be reduced to writing and in the proper form, including the motion to adjourn (Sept. 27, 1993, p. ——; Jan. 4, 1995, p. ——), and the demand may be initiated by the Chair (July 24, 1986, p. 17641). Consistent with this clause, the Chairman of the Committee of the Whole requires that each amendment be reduced to writing (July 22, 1994, p. ——).

§776. Stating and withdrawing of motions.

2. When a motion has been made, the Speaker shall state it or (if it be in writing) cause it to be read aloud by the Clerk before being debated, and it shall then be in possession of the House, but may be withdrawn at any time before a decision or amendment.

The provisions of this clause were adopted first in 1789. At that time a second was required for every motion, but in practice this requirement became obsolete very early, and it was dropped from the rule in 1880 (V, 5304).

The House always insists that the motion shall be stated or read before debate shall begin (V, 4983) and the Clerk's reading may be dispensed with only by unanimous consent (Dec. 15, 1975, p. 40671; see provision of Jefferson's Manual at §432, *supra*). It is the duty of the Speaker to put a motion in order under the rules and practice without passing on its constitutional effect (IV, 3550; VIII, 2225, 3031, 3071, 3427). In a case wherein a clerk presiding during organization of the House declined to put a question, a Member-elect put the question from the floor (I, 67).

Under certain circumstances, a Member may make a double motion (V, 5637).

§777. Conditions of withdrawal of motions.

Even after the affirmative side has been taken on a division the withdrawal of a motion has been permitted (V, 5348), also after a viva voce vote and the ordering and appointment of tellers (V, 5349). While the House was dividing on a second of the previous question (this second is no longer required) on a motion to refer a resolution, the Member was permitted to withdraw the resolution (V, 5350); also a motion was once withdrawn after the previous question had been ordered on an appeal from a decision on a point of order as to the motion (V, 5356). A motion to suspend the rules could be withdrawn at any time before a second was ordered (V, 6844; VIII, 3405, 3419), even on another suspension day (V, 6844) but not after a second was ordered, except by unanimous consent

(VIII, 3420); but where a second is not required on a motion to suspend the rules under clause 2 of rule XXVII, the motion may be withdrawn at any time before action is taken thereon (July 27, 1981, p. 17563). A motion may be withdrawn although an amendment may have been offered and be pending (V, 5347; VI, 373; VIII, 2639), and in the House an amendment, whether simple or in the nature of a substitute, may be withdrawn at any time before an amendment is adopted thereto or decision is had thereon (VI, 587; VIII, 2332, 2764); and the same right to withdraw an amendment exists in the House as in Committee of the Whole (IV, 4935; June 26, 1973, p. 21315); but unanimous consent to withdraw an amendment is required in Committee of the Whole (V, 5221, 5753; VI, 570; VIII, 2465, 2859, 3405). Withdrawal of a pending resolution is not in order when the absence of a quorum has been announced by the Chair (Oct. 14, 1970, pp. 36665–69). A motion that the House resolve into the Committee of the Whole for the consideration of a bill may be withdrawn pending a point of order against consideration of the bill, and if the motion is withdrawn the Chair is not obligated to rule on the point of order (VIII, 3405; Dec. 3, 1979, p. 34385). Unanimous consent is not required to withdraw a pending unanimous consent request (Speaker O'Neill, Dec. 16, 1985, p. 36575).

A ''decision'' which prevents withdrawal may consist of the ordering of the yeas and nays (V, 5353), either directly on the motion or on a motion to lay it on the table (V, 5354), the ordering of the previous question (V, 5355; June 29, 1995, p. ——), or the demand therefor (V, 5489), or the refusal to lay on the table (V, 5351, 5352; VIII, 2640). Where the Speaker has put the question on adoption of a resolution to a voice vote without the ordering of the previous question, and the yeas and nays have not been ordered, the resolution may be withdrawn (V, 5349; Feb. 26, 1985, p. 3501). A privileged resolution called up in the House is debated under the hour rule; and the Member calling up such a resolution is recognized for an hour notwithstanding the fact that the resolution has been previously considered, debated, and then withdrawn before action thereon (Apr. 8, 1964, pp. 7303–08).

Where proceedings are postponed on a motion for the previous question pending a point of no quorum on a voice vote thereon (pursuant to clause 5 of rule I), the manager may withdraw the motion when it is again before the House as unfinished business. See proceedings of July 24, 1989, where the motion for the previous question was withdrawn and an amendment was offered to a special order (p. 15818).

A Member having the right to withdraw a motion before a decision thereon has the resulting power to modify the motion (V, 5358; Oct. 23, 1990, p. ——), and a Member having the right to withdraw a motion to instruct conferees before a decision thereon has the resulting power to modify the motion by offering a different motion at the same stage of proceedings (July 14, 1993, p. ——). A motion being withdrawn, all proceedings on an appeal arising from a point of order related to it fell thereby (V, 5356).

3. When any motion or proposition is made, the question, Will the House now consider it? shall not be put unless demanded by a Member.

§778. The question of consideration.

The question of consideration is an outgrowth of the practice of the House, and was in use as early as 1808. The rule was adopted in 1817 in order to limit its use. It is the means by which the House protects itself from business that it does not wish to consider (V, 4936; VIII, 2436). The refusal to consider does not amount to the rejection of a bill or prevent its being brought before the House again (V, 4940), and an affirmative vote does not prevent the question of consideration from being raised on a subsequent day when the bill is again called up as unfinished business (VIII, 2438). It has once been held that a question of privilege which the House has refused to consider may be brought up again on the same day (V, 4942). The question of consideration is not debatable (VIII, 2447), and thus not subject to the motion to lay on the table (Oct. 4, 1994, p. ——). See also rule XXV (§900, *infra*), which provides that questions relating to the priority of business are not debatable.

§779. Raising the question of consideration.

A Member may demand the question of consideration, although the Member in charge of the bill may claim the floor for debate (V, 4944, 4945; VI, 404); but after debate has begun the demand may not be made (V, 4937–4939). It has been admitted, however, after the making of a motion to lay on the table (V, 4943). The demand for the question of consideration may not be prevented by a motion for the previous question (V, 5478), but after the previous question is ordered it may not be demanded (V, 4965, 4966), even on another day, unless other business has intervened (V, 4967, 4968). The question of consideration being pending, a motion to refer is not in order (V, 5554).

The intervention of an adjournment does not destroy the right to raise the question of consideration (V, 4946), but this right did not hold good in a case where the yeas and nays had been ordered and the House had adjourned pending the failure of a quorum on the roll call (V, 4949). A question of consideration undisposed of at an adjournment does not recur as unfinished business on a succeeding day (V, 4947, 4948). It is not in order to reconsider the vote whereby the House refuses to consider a bill (V, 5626, 5627), although it is in order to reconsider an affirmative vote on the question of consideration (Oct. 4, 1994, p. ——).

§780. Questions subject to the question of consideration.

The question of consideration may be demanded against a matter of the highest privilege, such as the right of a Member to his seat (V, 4941), a question involving the privilege of the House (VI, 560), against the motion to reconsider (VIII, 2437), but not against a bill returned with the President's objection (V, 4960, 4970). It may not be

raised against a proposition before the House for reference merely, as a petition (V, 4964). It may not be demanded against a class of business in order under a special order or rule, but may be demanded against each bill individually (IV, 3308, 3309; V, 4958, 4959). It may be raised against a bill which has been made a special order (IV, 3175; V, 4953–4957), unless the order provides for immediate consideration (V, 4960), and it may be raised against a bill on the Union Calendar on Calendar Wednesday before resolving into the Committee of the Whole even after one Wednesday has been devoted to it (VIII, 2447); but it may not be raised against a report from the Committee on Rules relating to the order of considering individual bills (V, 4961–4963; VIII, 2440, 2441).

The question of consideration may not be raised on a motion relating to the order of business (V, 4971–4976; VIII, 2442; May 21, 1958, p. 9216); to a motion to discharge a committee (V, 4977); or against a motion to take from the Speaker's table Senate bills substantially the same as House bills already favorably reported and on the House Calendar (VIII, 2443). On a motion to go into Committee of the Whole to consider a bill the House expresses its wish as to consideration by its vote on this motion (V, 4973–4976; VI, 51; VIII, 2442; May 21, 1958, p. 9216).

§781. Relation of question of consideration to points of order.

A point of order against the eligibility for consideration of a bill which if sustained might prevent consideration should be made and decided before the question of consideration is put (V, 4950, 4951; VII, 2439), but if the point relates merely to the manner of considering, it should be passed on afterwards (V, 4950). In general, after the House has decided to consider, a point of order raised with the object of preventing consideration, in whole or part, comes too late (IV, 4598; V, 4952, 6912–6914), but on a conference report the question of consideration may be demanded before points of order are raised against the substance of the report (VIII, 2439; Speaker Albert, Sept. 28, 1976, p. 33019).

§781a. Unfunded mandates.

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4; 109 Stat. 48 *et seq.*) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658–658g) that, effective on January 1, 1996, or 90 days after appropriations are made available to the Congressional Budget Office pursuant to the 1995 Act (whichever is earlier), imposes several requirements on committees with respect to "Federal mandates" (secs. 423–424; 2 U.S.C. 658b–c), establishes points of order to enforce those requirements (sec. 425; 2 U.S.C. 658d), and precludes the consideration of a rule or order waiving such points of order in the House (sec. 426(a); 2 U.S.C. 658e(a)). The latter provision also prescribes that such points of order be disposed of by putting the question of consideration with respect to the proposition against which they are lodged (sec. 426(b); 2 U.S.C. 658e(b)). See § 1007, *infra*.

§782. Precedence of privileged motions.

4. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question. After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution. However, with respect to any motion to recommit with instructions after the previous question shall have been ordered, it always shall be in order to debate such motion for ten minutes before the vote is taken on that motion, except that on demand of the floor manager for the majority it shall be in order to debate such motion for one hour. One half of any debate on such motions shall be given to debate by the mover of the motion and one half to debate in opposition to the motion. It shall be in order at any time during a day for the Speaker, in his discretion, to entertain motions that (1) the Speaker be authorized to declare a recess; and (2) when the House adjourns it stand adjourned to a day and time certain. Either motion shall be of equal privilege with the

motion to adjourn provided for in this clause and shall be determined without debate.

The first form of this clause appears in 1789, but amendments have been made at various times (V, 5301; VIII, 2757). That portion of the clause relating to debate on the motion to recommit with instructions was included as section 123 of the Legislative Reorganization Act of 1970 and was made a part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 14). The final two sentences of the clause were added in the 93d Congress to enable a privileged, nondebatable motion to fix the adjournment (H. Res. 6, Jan. 3, 1973, pp. 26–27), and amended in the 102d Congress to enable a privileged, nondebatable motion for recess authority (H. Res. 5, Jan. 3, 1991, p. ——). The clause was also amended in the 99th Congress to provide that on the demand of the majority floor manager of a bill or joint resolution, the ten minutes of debate on a motion to recommit with instructions, the previous question having been ordered, may be extended to one hour, equally divided and controlled (H. Res. 7, Jan. 3, 1985, p. 393).

The application of the first sentence of the clause is confined to cases wherein a question is "under debate" (V, 5379). It has been held that a question ceases to be "under debate" after the previous question has been ordered (V, 5415). But with the exception of the motion to adjourn it is obvious that the motions specified in this rule can only be used when some question is "under debate."

§ 783. The motion to adjourn.

The motion to adjourn not only has the highest precedence when a question is under debate, but, with certain restrictions, it has the highest privilege under all other conditions. Even questions of privilege (III, 2521), such as a motion privileged under the Constitution (VIII, 2641), the filing of a privileged report pursuant to clause 4(a) of rule XI (Apr. 29, 1985, p. 9699), a motion to suspend the rules (Aug. 11, 1992, p. ——), and the motion to reconsider yield to it (V, 5605), and a conference report may defer it only until the report is before the House (V, 6451–6453). The motion may be made after the yeas and nays are ordered and before the roll call has begun (V, 5366), before the reading of the Journal (IV, 2757) or the Speaker's approval thereof (Speaker Wright, Nov. 2, 1987, p. 30386), pending a motion to reconsider (Sept. 20, 1979, pp. 25512–13), after the House rejects a motion to table a motion to instruct conferees and before the vote occurs on the motion to instruct (May 29, 1980, pp. 12717–19), or when the Speaker is absent and the Clerk is presiding (I, 228), and in the absence of a quorum has precedence over the motion for a call of the House (VIII, 2642), takes priority of a motion to dispense with further proceedings under the call (VIII, 2643), and takes precedence of a motion directing the Sergeant-at-Arms to arrest absentees during a call of the House (June 6, 1973, p. 18403). But the motion to adjourn may not interrupt a Member who has the floor (V, 5369, 5370; VIII, 2646; Mar. 25, 1993, p. ——) as, for example, by

virtue of unanimous consent permission to announce to the House the legislative program (Dec. 14, 1982, p. 30549), or a call of the yeas and nays (V, 6053), or the actual act of voting by other means (V, 5360), or be made after the House has voted to go into Committee of the Whole (IV, 4728; V, 5367, 5368), or defer the right of a Member to take the oath (I, 622) and may not be repeated in the absence of intervening business (Speaker Albert, July 31, 1975, p. 26243); and when no question is under debate it may not displace a motion to fix the day to which the House shall adjourn (V, 5381). The Speaker has refused to recognize for a motion to adjourn pending a vote on a proposition, where a special order provided that the House vote thereon "without intervening motion" (IV, 3211–3213).

When the House has fixed the hour of daily meeting, the simple motion to adjourn may neither be amended (V, 5754) by specifying a particular day (V, 5360) or hour (V, 5364) (but see §784, *infra*, for a discussion of the equally privileged motion to fix the day and time to which the House shall adjourn); nor by stating the purposes of adjournment (V, 5371, 5372; VIII, 2647). However, when the hour of daily meeting is not fixed, the motion to adjourn may fix it (V, 5362, 5363). A motion to adjourn is in order in simple form only (VIII, 2647), is not debatable (V, 5359), may not be laid on the table (Aug. 3, 1990, p. ——), is not in order in Committee of the Whole (IV, 4716), and is not entertained when the Committee of the Whole rises to report proceedings incident to securing a quorum (VI, 673; VIII, 2436). After the motion is made neither another motion nor an appeal may intervene before the taking of the vote (V, 5361). When the House adopts the motion to adjourn, it must adjourn immediately; and a unanimous consent request that the House proceed to the calling of special order speeches is not in order (Sept. 27, 1993, p. ——).

§784. Motion to fix the day to which the House shall adjourn.

The motion to fix the day and time to which the House shall adjourn, in its present form, was included in this clause of rule XVI and given privileged status in the 93d Congress (H. Res. 6, Jan. 3, 1973, pp. 26–27). At several times during the 19th Century the motion to fix the day to which the House should adjourn was included within the rule as to the precedence of motions but was dropped because of its use in obstructive tactics (V, 5301, 5379). The following precedents relate to the use of the motion in its earlier form: No question being under debate, a motion to fix the day to which the House should adjourn, already made, was held not to give way to a motion to adjourn (V, 5381). But if the motion to adjourn be made first, the motion to fix the day or for a recess is not entertained (V, 5302). The motion to fix the day is not debatable under the practice of the House (V, 5379, 5380; VIII, 2648, 3367), requires a quorum for adoption (IV, 2954; June 19, 1975, p. 19789; June 22, 1976, p. 19755), and is only in order if offered on the day on which the adjournment applies (Speaker pro tempore O'Neill, Sept. 23, 1976, p. 32104). The House may convene and adjourn twice on the same calendar day pursuant to a motion under this clause that when the House adjourn it adjourn

to a time certain later in the day, thereby meeting for two legislative days on the same calendar day (Nov. 17, 1981, p. 27771; Oct. 29, 1987, p. 29933; June 29, 1995, p. ——). When the Speaker exercises his discretion to entertain "at any time" a motion that when the House adjourn it stand adjourned to a day and time certain, the motion is of equal privilege with the simple motion to adjourn and takes precedence over a pending question on which the vote has been objected to for lack of a quorum (Nov. 17, 1981, p. 27770). The motion is not subject to the motion to lay on the table since it is not debatable and the precedence conferred on the motion to table only applies to a question that is "under debate" (Nov. 17, 1981, p. 27770).

§ 785. Motion to lay on the table.

The motion to lay on the table is used in the House for a final, adverse disposition of a matter without debate (V, 5389), and is in order before the Member entitled to prior recognition for debate has begun his remarks (V, 5391–5395; VIII, 2649, 2650). Under the explicit terms of this clause, the motion is not debatable (Oct. 16, 1991, p. ——). The motion is applicable to a motion to reconsider (VIII, 2652, 2659), motion to postpone to a day certain (VIII, 2654, 2657), resolution presenting question of privilege (VI, 560), appeal from decision of the Chair (VIII, 3453), motion to discharge committee from resolution of inquiry (VI, 415), motion that the Journal be approved as read (Sept. 13, 1965, p. 23600), proposal to investigate with view to impeachment (VI, 541), concurrent resolution to adjourn sine die (Mar. 27, 1936, p. 4512) and a resolution to expel a Member (Oct. 1, 1976, p. 35111). But a question of privilege (affecting the right of a Member to a seat) that has been laid on the table may be taken therefrom on motion made and agreed to by the House (V, 5438). The motion to lay on the table has the precedence given it by the rule, but may not be made after the previous question is ordered (V, 5415–5422; VIII, 2655), or even after the yeas and nays have been ordered on the demand for the previous question (V, 5408, 5409); but pending the demand for the previous question on a motion that is under debate, the motion to lay the primary motion on the table is preferential and is voted on first (Speaker Albert, Sept. 22, 1976, pp. 31876–82; Speaker O'Neill, July 10, 1985, pp. 18397–18400). The previous question having been ordered on a bill to final passage, the motion to lay the bill on the table may not then be offered pending a motion to reconsider the vote whereby the bill had been passed or rejected (Sept. 20, 1979, pp. 25512–13).

When a bill is laid on the table, pending motions connected therewith go to the table also (V, 5426, 5427); and when a proposed amendment is laid on the table the pending bill goes there also (V, 5423; VIII, 2656), and if a pending amendment to a special order reported from the Committee on Rules were tabled, it would carry the resolution with it and is thus considered dilatory under clause 4(b) of rule XI (Sept. 25, 1990, p. ——). This rule holds good as to a House bill with Senate amendments (V, 5424, 6201–6203; Sept. 28, 1978, p. 32334), but laying on the table the motion to postpone consideration of Senate amendments was held not to carry

to the table pending motions for their disposition (VIII, 2657). The Journal does not accompany a proposed amendment to the table (V, 5435, 5436); the original question does not accompany an appeal (V, 5434); a resolution does not accompany another resolution with which it is connected, or a preamble (V, 5248, 5430); and a petition does not accompany the motion to receive it when the latter is laid on the table (V, 5431–5433); a bill does not accompany a motion to instruct conferees which is laid on the table (VIII, 2658).

A motion to lay on the table a motion to reconsider the vote by which an amendment to a resolution had been agreed to would not carry the resolution to the table (VIII, 2652).

The motion is not in order in Committee of the Whole (IV, 4719, 4720; VIII, 2330, 2556a, 3455; Mar. 16, 1995, p. ——), or on motions to go into the Committee of the Whole (VI, 726). It may not be amended (V, 5754), for example, to operate for a specified time (Oct. 16, 1991, p. ——), or applied to the motions for adjournment (Aug. 3, 1990, p. ——), the previous question (V, 5410–5411; Oct. 4, 1994, p. ——), to suspend the rules (V, 5405), to commit after the previous question is ordered (V, 5412–5414; VIII, 2653, 2655), or to any motion relating to the order of business (V, 5403, 5404). It may not be applied to a motion to discharge a committee under rule XXVII (June 11, 1945, p. 5892) but may be applied to the motion to discharge a committee from consideration of a resolution of inquiry (V, 5407). It is generally not applicable to motions that are neither debatable nor amendable and hence cannot be applied to a motion to dispense with further proceedings under a call of the House (Speaker McCormack, Aug. 27, 1962, pp. 17651–54), or to a motion that when the House adjourn it stand adjourned to a day and time certain (Nov. 17, 1981, p. 27770). The motion to lay on the table is applicable to debatable secondary or privileged motions for disposal of another matter; thus a motion to refer (V, 5433; Aug. 13, 1982, pp. 20969, 20975–78) or a motion to recede and concur in a Senate amendment in disagreement may be laid on the table (Speaker O'Neill, Feb. 22, 1978, p. 4072) without carrying the pending matter to the table. The motion is not applicable to a conference report (V, 6540).

§786. The motions to postpone.

As indicated in the rule, the motions to postpone are two in number and distinct: One to postpone to a day certain; the other to postpone indefinitely. Each must apply to the whole and not a part of the pending proposition (V, 5306). Neither may be entertained after the previous question is ordered (V, 5319–5321; VIII, 2616, 2617), or be applied to a special order providing for the consideration of a class of bills (V, 4958); but when a bill comes before the House under the terms of a special order that assigns a day merely, a motion to postpone may be applied to the bill (IV, 3177–3182). Business postponed to a day certain is in order on that day immediately after the approval of the Journal and disposition of business on the Speaker's Table, unless displaced by more highly privileged business (VIII, 2614). Where consideration of a measure postponed to a day certain resumes as unfin-

ished business in the House, recognition for debate does not begin anew but recommences from the point where it was interrupted (June 10, 1980, p. 13801). It is not in order to postpone pending business to Calendar Wednesday (VIII, 2614), but if so postponed by consent, when consideration is concluded on that Wednesday, the remainder of the day is devoted to business in order under the Calendar Wednesday rule (VII, 970). The motion is not used in Committee of the Whole, but a motion that a bill be reported with the recommendation that it be postponed is in order in the Committee of the Whole proceeding under the general rules of the House (IV, 4765; VIII, 2372), is debatable (VIII, 2372), and is a preferential motion (VIII, 2372, 2615), but debate is confined to the advisability of postponement only (VIII, 2372). It has been held in order to postpone an appeal (VIII, 2613). A bill under consideration in the morning hour may not be made a special order by a motion to postpone to a day certain (IV, 3164).

The motion to postpone to a day certain may not specify the hour (V, 5307). The motion may be amended (V, 5754; VIII, 2824). It is debatable within narrow limits only (V, 5309, 5310), the merits of the bill to which it is applied not being within those limits (V, 5311–5315; VIII, 2372, 2616, 2640).

The motion to postpone indefinitely opens to debate all the merits of the proposition to which it is applied (V, 5316). It may not be applied to the motion to refer (V, 5317), to suspend the rules (V, 5322), or motion to resolve into the Committee of the Whole (VI, 726), and it is reasonable to infer that it is equally inapplicable to the other secondary or privileged motions enumerated in the rule and to motions relating to the order of business. However, the motion to postpone indefinitely may be applied to the motion that the House resolve itself into the Committee of the Whole pursuant to the provisions of a statute, enacted under the rule-making power of the House of Representatives, that specifically allows such a motion in the consideration of a resolution disapproving a certain executive action (Mar. 10, 1977, p. 7021; Aug. 3, 1977, p. 26528).

§ 787. The motions to refer.

The parliamentary motion to refer is explicitly recognized and given status in four different situations under House rules: The ordinary motion provided for in the first sentence of this clause; the motion to recommit with or without instructions after the previous question has been ordered on a bill or joint resolution to final passage, provided in the second sentence of this clause; the motion to commit, with or without instructions, pending the motion for or after ordering of the previous question as provided in clause 1 of rule XVII (V, 5569) and the motion to refer, with or without instructions, pending a vote in the House to strike out the enacting clause as provided in clause 7 of rule XXIII. The terms "refer," "commit," and "recommit" are sometimes used interchangeably (V, 5521; VIII, 2736), but when used in the precise manner and situation contemplated in each rule, reflect certain differences based upon whether the question to which applied is "under debate," whether the motion itself is debatable, whether a Minority

Member or a Member opposed to the question to which the motion is applied is entitled to a priority of recognition, and whether the prohibition in clause 4(b) of rule XI against a special order reported from the Committee on Rules denying a motion to recommit a bill or joint resolution pending final passage is applicable. The motion may not be used in direct form in Committee of the Whole (IV, 4721; VIII, 2326); and where a bill is being considered under the provisions of a resolution stating that ''at the conclusion of the consideration of the bill for amendment under the five-minute rule the Committee shall rise and report the bill back to the House with such amendments as may have been adopted,'' a motion that the Committee rise and report to the House with the recommendation that the bill be recommitted to the legislative committee reporting it is not in order (Aug. 10, 1950, p. 12219). It may be made after the engrossment and third reading of a bill, even though the previous question may not have been ordered (V, 5562, 5563).

If the previous question is rejected on a preferential motion to dispose of Senate amendments in disagreement, the preferential motion remains ''under debate'' and the motion to refer may be offered under this clause (Speaker Albert, Sept. 16, 1976, pp. 30887–88). A motion to refer takes precedence over motion to amend when a question is under debate (such as where the previous question has been rejected), and the Chair recognizes the Member seeking to offer the preferential motion before the less preferential motion is read (Aug. 13, 1982, pp. 20969, 20975–78).

The simple motion to refer under the first sentence of this clause is debatable within narrow limits (V, 5054) and may be offered by any Member (who need not qualify as being in opposition to the pending question) when that question is ''under debate,'' *i.e.*, when the previous question has not been moved or ordered, but the merits of the proposition sought to be referred may not be brought into the debate (V, 5564–5568; VI, 65, 549; VIII, 2740). The motion to refer with instructions is also debatable (V, 5561); but the previous question is preferential (Mar. 22, 1990, p. 4997), and when the previous question is ordered on a bill to final passage, debate on a straight motion to recommit under the second sentence of this clause is no longer in order and only a motion to recommit with instructions is debatable for the ten minutes specified in the rule (June 22, 1995, p. ——). Prior to the amendment of clause 4 of rule XVI in the 92d Congress, no debate was permitted on a motion to recommit with instructions after the previous question was ordered (V, 5561, 5582–5584; VIII, 2741). The ten minutes' debate provided under this clause on motions to recommit with instructions does not apply to a motion to recommit with instructions a simple or concurrent resolution or conference report, since the clause limits its applicability to bills and joint resolutions (Nov. 15, 1973, p. 37151; Mar. 29, 1976, p. 8444; Speaker O'Neill, June 19, 1986, p. 14698). The manager of a bill or joint resolution and not the proponent of a motion to recommit with instructions has the right to close controlled debate on a motion to recommit (Speaker Wright, Dec. 3, 1987, p. 34066); the Member recognized

for five minutes in favor of the motion may not reserve time (Speaker Wright, June 29, 1988, p. 16510; June 29, 1989, p. 13938).

§ 788. Instructions with the motion to refer.

The motion to refer may specify that the reference shall be to a select as well as a standing committee (IV, 4401) without regard for rules of jurisdiction (IV, 4375; V, 5527) and may provide for reference to another committee than that reporting the bill (VIII, 2696, 2736), or to the Committee of the Whole (V, 5552–5553), and even that the committee be endowed with power to send for persons and papers (IV, 4402). Unless the previous question is ordered the motion may be amended (VIII, 2712, 2738), in part (V, 5754); by substitute (VIII, 2698, 2738, 2759); or by adding instructions (V, 5521, 5570, 5582–5584; VIII, 2695, 2762; Aug. 13, 1982, pp. 20969, 20975–78). The ordering of the previous question on a bill and all amendments to final passage precludes debate (other than that specified in clause 4 of rule XVI) on a motion to recommit but does not exclude amendments to such motion (V, 5582; VIII, 2741) and unless the previous question is ordered on a motion to recommit with instructions, the motion is open to amendment germane to the bill (see V, 6888; VIII, 2711), and a substitute striking out all of the proposed instructions and substituting others cannot be ruled out as interfering with the right of the minority to move recommitment (VIII, 2759). The Member offering a motion to recommit a bill with instructions may, at the conclusion of the 10 minutes of debate thereon, yield to another Member to offer an amendment to the motion if the previous question has not been ordered on the motion to recommit (Speaker Albert, July 19, 1973, p. 24967).

The motion to recommit may not be accompanied by preamble or otherwise include argument, explanation, or other matter in the nature of debate (V, 5589; VIII, 2749). Thus, a motion to recommit a bill to a standing committee with recommendations for producing legislation that the President could sign was held inadmissible in both form and content (Feb. 27, 1992, p. ——).

It is not in order to propose as instructions anything that might not be proposed directly as an amendment (V, 5529–5541; VIII, 2705), such as to eliminate an amendment adopted by the House (VIII, 2712), strike out an amendment that has been adopted and insert something in its place (VIII, 2715), to amend an adopted amendment (VIII, 2720, 2721, 2724), to propose an amendment containing legislation on a general appropriation bill (Sept. 1, 1976, pp. 28883–84), or to propose instructions to add a limitation to a general appropriation bill except pursuant to clause 2(d) of rule XXI (Sept. 19, 1983, p. 24646; Speaker Foley, Aug. 1, 1989, p. 17159, and Aug. 3, 1989, p. 18546, each time sustained by tabling of appeal; July 1, 1992, p. ——; June 22, 1995, p. ——); but it has been held in order to re-offer an amendment rejected by the House (VIII, 2728); and where a special rule providing for the consideration of a bill prohibited the offering of amendments to a certain title of the bill during its consideration (in both the House and the Committee of the Whole), it was held not in order

to offer a motion to recommit with instructions to incorporate an amendment in the restricted title (Jan. 11, 1934, pp. 479–83). Where an amendment in the nature of a substitute has been adopted, and no motion to recommit with an amendment is in order, the minority has sometimes used a motion that directs a committee to study an issue and to report "promptly" its recommendations (Mar. 29, 1990, p. 1834). Instructions must be germane to the bill regardless of whether they directly propose an amendment thereto (Sept. 23, 1992, p. ——). In the 104th Congress clause 4(b) of rule XI was amended to preclude the Committee on Rules from reporting a special order that would prevent the Minority Leader or his designee from offering a motion to recommit with instructions to report back an amendment otherwise in order (but for the adoption of a prior amendment). See § 729a, *supra*.

It has been a practice to permit a motion to recommit with instructions that the committee report "forthwith," in which case the chairman makes report at once without awaiting action by the committee (V, 5545–5547; VIII, 2730), and the bill is before the House for immediate consideration (V, 5550; VIII, 2735). If one motion to recommit is ruled out, a proper motion is admissible (VIII, 2736, 2760, 2761, 2763). The motion may be withdrawn in the House at any time before action or decision thereon (VIII, 2764). The simple motion to recommit and the motion to recommit with instructions are of equal privilege and have no relative precedence (VIII, 2714, 2758, 2762; Nov. 25, 1970, p. 38997). When a bill is recommitted it is before the committee as a new subject (IV, 4557; V, 5558), but the committee must confine itself to the instructions, if there be any (IV, 4404; V, 5526). Where the House has recommitted a bill to a committee with instructions to report it back forthwith with certain amendments, the amendments must be adopted by the House after the report by the Committee (VIII, 2734).

As stated in the second sentence of clause 4 of rule XVI, recognition to offer the motion to recommit, whether a "straight" motion or with instructions, is the prerogative of a Member who is opposed to the bill or joint resolution (Speaker Martin, Mar. 19, 1954, p. 3967); and the Speaker looks first to the Minority Leader or his designee (as imputed by the form of clause 4(b) of rule XI adopted in the 104th Congress), then to minority members of the committee reporting the bill, in order of their rank on the committee (Speaker Garner, Jan. 6, 1932, p. 1396; Speaker Byrns, July 2, 1935, p. 10638), then to other Members on the minority side (Speaker Rayburn, Aug. 16, 1950, p. 12608). Until a qualifying Minority Member has had his motion read by the Clerk, he is not entitled to the floor so as to prevent another qualifying senior Minority Member from the reporting committee from seeking recognition to offer the motion to recommit (Speaker O'Neill, Apr. 24, 1979, pp. 8360–61). If no Member of the minority qualifies, a majority Member who is opposed to the bill may be recognized (Speaker Garner, Apr. 1, 1932, p. 7327). The priority of recognition of a Member of the minority who is opposed is not diminished by the fact that

the minority party may have successfully led the opposition to the previous question on the special order governing consideration of the bill and offered a "modified closed rule" permitting only minority Members to offer perfecting amendments to the majority text (June 26, 1981, p. 14740). But while the motion to recommit is the prerogative of the minority if opposed, a Member who in the Speaker's determination leads the opposition to the previous question on the motion to recommit, such as the chairman of the committee reporting the bill, is entitled to offer an amendment to the motion to recommit, regardless of party affiliation (June 26, 1981, pp. 14791–93). A Member who is opposed to the bill "in its present form" (*i.e.*, in the form before the House when the motion is made) qualifies to offer the motion (Speaker Martin, Apr. 15, 1948, p. 4547; Speaker McCormack, Mar. 12, 1964, p. 5147; Speaker Albert, Feb. 19, 1976, p. 3920). The Chair does not assess the degree of a Member's opposition (Oct. 23, 1991, p. ——). These principles of recognition have been applied to motions to "commit" or "recommit" simple or concurrent resolutions as well under clause 1 of rule XVII in situations where the resolution or a similar measure has been reported from committee (Nov. 28, 1979, p. 33914).

§ 789. Repetition of motions.

The rule specifies that the motions to postpone and refer shall not be repeated on the same day at the same stage of the question (V, 5301, 5591; VIII, 2738, 2760). Under the practice, also, a motion to adjourn may be repeated only after intervening business (V, 5373; VIII, 2814), debate (V, 5374), the ordering of the yeas and nays (V, 5376, 5377), decision of the Chair on a question of order (V, 5378), reception of a message (V, 5375). The motion to lay on the table may also be repeated after intervening business (V, 5398–5400); but the ordering of the previous question (V, 5709), a call of the House (V, 5401), or decision of a question of order have been held not to be such intervening business, it being essential that the pending matter be carried to a new stage in order to permit a repetition of the motion (V, 5709).

§ 790. Entry of hour of adjournment on the Journal.

5. The hour at which the House adjourns shall be entered on the Journal.

This clause was adopted in 1837, and amended in 1880 (V, 6740).

§ 791. Division of the question.

6. On the demand of any Member, before the question is put, a question shall be divided if it includes propositions so distinct in substance that one being taken away a substantive proposition shall remain: *Provided*, That any motion or resolution to elect the

members or any portion of the members of the standing committees of the House and the joint standing committees shall not be divisible, nor shall any resolution or order reported by the Committee on Rules, providing a special order of business be divisible.

This clause was first adopted in 1789, and was amended in 1837 (V, 6107). The first part of the proviso was adopted April 2, 1917 (VIII, 2175) and the last part May 3, 1933 (VIII, 3164).

The House may by adoption of a resolution reported from the Committee on Rules suspend the rule providing for the division of a question (VII, 775).

§792. Principles governing the division of the question.

The principle that there must be at least two substantive propositions in order to justify division is insisted on rigidly (V, 6108–6113), as failure to do so produces difficulties (III, 1725). The question may not be divided after it has been put (V, 6162), or after the yeas and nays have been ordered (V, 6160, 6161); but division of the question may be demanded after the previous question is ordered (V, 5468, 6149; VIII, 3173). In passing on a demand for division the Chair considers only substantive propositions and not the merits of the question presented (V, 6122). It seems to be most proper, also, that the division should depend on grammatical structure rather than on the legislative propositions involved (I, 394; V, 6119), but a question presenting two propositions grammatically is not divisible if either does not constitute a substantive proposition when considered alone (VII, 3165). Thus a resolution censuring a Member and adopting a report of a committee thereon, which recommends censure on the basis of the committee's findings, is not divisible since those questions are substantially equivalent (Speaker O'Neill, Oct. 13, 1978, pp. 37016–17); and an adjournment resolution that also authorizes the receipt of veto messages from the President during the adjournment is not subject to a division of the question, as the receipt authority would be nonsensical standing alone (June 30, 1976, p. 21702); however, a concurrent resolution on the budget is subject to a demand for a division of the question if, for example, the resolution grammatically and substantively relates to different fiscal years (May 7, 1980, pp. 10185–87), or includes a separate, hortatory section having its own grammatical and substantive meaning (Speaker Foley, Mar. 5, 1992, p. ——). Decisions have been made that a resolution affecting two individuals may be divided, although such division may involve a reconstruction of the text (I, 623; V, 6119–6121). The better practice seems to be, however, that this reconstruction of the text should be made by the adoption of a substitute amendment of two branches, rather than by interpretation of the Chair (II, 1621). But merely formal words, such as "resolved," may be supplied by interpretation of the Chair (V, 6114–6118).

A resolution with two resolve clauses separately certifying the contemptuous conduct of two individuals is divisible (Feb. 27, 1986, p. 3040).

Except on resolutions to elect Members to committees or on resolutions reported from the Committee on Rules providing a special order of business, where division of the question is prohibited by clause 6, a resolution reported from the Committee on Rules may be divided where otherwise appropriate. Thus a resolution reported from that Committee establishing several select committees in grammatically divisible titles, not being a special order of business, is subject to a demand for a division of the question (Jan. 8, 1987, p. 1036). However, it is not in order to demand a division of a subject incorporated by reference in the pending text, as when a resolution to adopt a series of rules, not made a part of the resolution, was before the House, it was held not in order to demand a separate vote on each rule (V, 6159).

The question on engrossment and third reading under clause 1 of rule XXI is not divisible (Speaker Foley, Aug. 3, 1989, p. 18544); and in voting on the engrossment or passage of a bill or joint resolution, a separate vote may not be demanded on the various portions (V, 6144–6146; VIII, 3172), or on the preamble (V, 6147).

A measure containing a series of simple resolutions may be divided (V, 6149), and a division of the question may be demanded on a resolution confirming several nominations (Speaker Albert, Mar. 19, 1975, p. 7344). Where an amendment is offered to an appropriation bill providing that no part of the appropriation may be paid to named individuals, the amendment may be divided for a separate vote on each name (Feb. 5, 1943, p. 645). An amendment (to a joint resolution making continuing appropriations) containing separate paragraphs appropriating funds for different programs may be substantively and grammatically divisible although preceded by the same prefatory language applicable to all the paragraphs, and the Clerk will read each paragraph as including the prefatory language prior to the Chair's putting the question thereon (Nov. 8, 1983, p. 31495). An amendment proposing to change a figure in one paragraph of an appropriation bill and also to insert a new ("fetch-back") paragraph at another point in the bill is divisible (July 15, 1993, p. ——). A division may be demanded on the motion to recede from disagreement to a Senate amendment and concur therein (see § 525, *supra*; V, 6209; VIII, 3197–3199, 3203), on a proposition to strike out various unrelated phrases (VIII, 3166; Mar. 28, 1984, p. 6898), on a resolution of impeachment (VI, 545), but may not be demanded on Senate amendments when sending to conference (V, 6151–6156; VIII, 3175). A division of the question may not be demanded, with respect to a motion to concur in a Senate amendment with an amendment, between concurring and amending (VIII, 3176), and may not be demanded on separate parts of the proposed amendment if it is not properly divisible under the same tests that apply to any other amendment (Aug. 3, 1973, pp. 28124–26; Oct. 11, 1984, p. 32188). Thus a proposed amendment to a Senate amendment is not divisible under clause 7 of this rule if in the

form of a motion to strike out and insert (Oct. 15, 1986, p. 32135). Each Senate amendment must be voted on as a whole (VIII, 3175) but the Committee of the Whole having reported a Senate amendment with the recommendation that it be agreed to with an amendment, a separate vote was had on the amendment to the Senate amendment (VIII, 2420). When Senate amendments to a House bill are considered in the House a separate vote may be had on each amendment (VIII, 2383, 2400, 3191), and separate votes may be had on nongermane portions of Senate amendments as provided in clause 5 of rule XXVIII.

When a motion is made to lay several connected propositions on the table a division is not in order (V, 6138–6140), nor is a division in order where the previous question is moved on two related propositions, as on a special order reported from the Committtee on Rules and a pending amendment thereto (Sept. 25, 1990, p. ——). On a motion to commit with instructions it is not in order to demand a separate vote on the instructions or various branches thereof (V, 6134–6137; VIII, 2737, 3170; Speaker Rayburn, Apr. 11, 1956, p. 6157; June 29, 1993, p. ——). However, an amendment reported forthwith pursuant to instructions contained in a successful motion to recommit may be divided on the question of its adoption if composed of substantively and grammatically distinct propositions (June 29, 1993, p. ——). A motion to recommit a bill to conference with various instructions may not be divided (Sept. 29, 1994, p. ——). However, a motion to instruct conferees after 20 days of conference (when multiple motions are in order) may be divided (Speaker Byrns, May 26, 1936, p. 7951), provided that separate substantive propositions are presented (Speaker Rayburn, May 9, 1946, p. 4750).

A division of the question may not be demanded on a motion to strike out and insert (V, 5767, 6123; VIII, 3169; clause 7 of rule XVI), on bills or joint resolutions for reference (IV, 4376) or change of reference (VII, 2125), a motion to elect Members to committees of House (VIII, 2175, 3164; clause 6 of rule XVI), a question against which a point of order is pending (VIII, 3432), a proposition under a motion to suspend the rules (V, 6141–6143; VIII, 3171), or on substitutes for pending amendments (V, 6127; VIII, 3168; Aug. 17, 1972, pp. 28887–90; July 2, 1980, pp. 18288–92), but a perfecting amendment to an amendment may be divisible if not in the form of a motion to strike out and insert (V, 6131). A proposition reported from the Committee of the Whole as an entire and distinct amendment may not be divided, but must be voted on in the House as a whole (IV, 4883–4892). An amendment reported forthwith pursuant to instructions contained in a successful motion to recommit may be divided on the question of its adoption if composed of substantively and grammatically distinct propositions (June 29, 1993, p. ——). A separate vote may not be demanded in the House on an amendment adopted in the Committee of the Whole to an amendment (VIII, 2422, 2426, 2427).

On a decision of the Speaker involving two distinct questions, there may be a division on appeal (V, 6157). After the vote on the first member of

the question, the second is open to debate and amendments, unless the previous question is ordered (see § 482, *supra*). Where a division of the question is demanded on a portion of an amendment, the Chair puts the question first on the remaining portions of the amendment, and that portion on which the division is demanded remains open for further debate and amendment (Oct. 21, 1981, pp. 24785–89). However, where no further debate or amendment is in order on the divided portion, the Chair may put the question first on the divided portion(s) and then immediately on the remaining portion (Aug. 17, 1972, Deschler's Precedents, vol. 9, ch. 27, sec. 22.14; June 8, 1995, p. ——). Where a division of the question is demanded on more than one portion of an amendment, the Chair may put the question first on the remaining portions of the amendment (if any), then (after further debate) on the first part on which a division is demanded, and then (after further debate) on the last part on which a division is demanded (Oct. 21, 1981, pp. 24785–89). Where a motion to concur in a Senate amendment is divided pursuant to a special rule permitting that procedure, the Chair puts the question first on the first portion of the Senate amendment, and then on the remaining portion (Mar. 4, 1993, p. ——).

Absent a contrary order, the question may be divided on an amendment en bloc comprising discrete instructions to amend, even though unanimous consent has just been granted for the en bloc consideration (July 25, 1990, p. ——; July 18, 1991, p. ——). A demand for a division of the question on a separate portion of an amendment may be withdrawn before the question is put on the first portion thereof (July 15, 1993, p. ——), but once the Chair has put the question on the first portion of the amendment, a demand for a division may be withdrawn only by unanimous consent (Sept. 9, 1976, pp. 29538–40).

§ 793. Motion to strike out and insert not divisible.

7. A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert; * * *

This clause was adopted in 1811, and amended in 1822 (V, 5767).

When it is proposed to strike out and insert not one but several connected matters, it is not in order to demand a separate vote on each of those matters (V, 6124, 6125), as when an amendment in the nature of a substitute containing several resolutions is proposed; but after this amendment has been agreed to, it is in order to demand a division of the original resolution as amended (V, 6127, 6128). When, however, an amendment simply adding or inserting is proposed, it is in order to divide the amendment (V, 6129–6133). To a motion to strike certain words and insert others, a simple motion to strike out the words may not be offered as a substitute,

as it would have the effect of dividing the motion to strike out and insert (June 29, 1939, pp. 8282, 8284–85; June 19, 1979, pp. 15566–68).

§794. Germane amendments.

* * * and no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

This clause was adopted in 1789, and amended in 1822 (V, 5767, 5825).

It introduced a principle not then known to the general parliamentary law (V, 5825), but of high value in the procedure of the House (V, 5866). Prior to the adoption of rules, when the House is operating under general parliamentary law, as modified by the usage and practice of the House, an amendment may be subject to the point of order that it is not germane to the proposition to which offered (Jan. 3, 1969, p. 23). The principle of the rule applies to a proposition by which it is proposed to modify the pending bill, and not to a portion of the bill itself (V, 6929); thus a point of order will not lie that an appropriation in a general appropriation bill is not germane to the rest of the bill (Dec. 16, 1963, p. 24753). In general, an amendment simply striking out words already in a bill may not be ruled out as not germane (V, 5805; VIII, 2918) unless such action would change the scope and meaning of the text (VIII, 2917–2921; Mar. 23, 1960, p. 6381); and a pro forma amendment "to strike out the last word" has been considered germane (July 28, 1965, p. 18639). While a committee may report a bill or resolution embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment (V, 5825). The rule that amendments should be germane applies to amendments reported by committees (V, 5806), but a resolution providing for consideration of the bill with committee amendments may waive points of order (Oct. 10, 1967, p. 28406), and the point of order under this rule does not apply to a special order reported from the Committee on Rules "self-executing" the adoption in the House of a nongermane amendment to a bill, since the amendment is not separately before the House during consideration of the special order (Feb. 24, 1993, p. ——; July 27, 1993, p. ——). A resolution reported from the Committee on Rules providing for the consideration of a bill relating to a certain subject may be amended neither by an amendment that would substitute the consideration of an unrelated proposition (V, 5834–5836; VIII, 2956; Sept. 14, 1950, p. 14844) nor an amendment that would permit the additional consideration of a non-germane amendment to the bill (May 29, 1980, pp. 12667–73; Aug. 13, 1982, p. 20972). The Chair will not interpret as a point of order under a specific rule of the House, on which he must rule, an objection to a substitute as "narrowing the scope" of a pending amendment, absent some stated or necessarily implied reference to the germaneness or other rule (June 25, 1987, p. 17415). The burden of proof is on the proponent of an amendment to establish its germaneness (VIII, 2995), and where

an amendment is equally susceptible to more than one interpretation, one of which will render it not germane, the Chair will rule it out of order (June 20, 1975, p. 19967).

§ 795. Proposition to which amendment must be germane.

Under the later practice an amendment should be germane to the particular paragraph or section to which it is offered (V, 5811–5820; VIII, 2922, 2936; Oct. 14, 1971, pp. 36194, 36211; Sept. 19, 1986, p. 24729), without reference to subject matter of other titles not yet read (July 31, 1990, p. ——), and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered (V, 5822; VIII, 2927, 2931; July 14, 1970, pp. 24033–35), though it may be germane to more than one portion of a bill (Mar. 27, 1974, pp. 8508–09), and when offered as a separate paragraph is not required to be germane to the paragraph immediately preceding or following it (VII, 1162; VIII, 2932–2935).

While it is a proper test of germaneness that instructions in a motion to recommit must be germane to the section of the bill to which offered (VIII, 2709), instructions inserting a new title at the end of a bill need only be germane to the bill as a whole (Sept. 19, 1986, p. 24769).

Subject to clause 2(c) of rule XXI (requiring that limitation amendments to general appropriation bills be offered at the end of the reading of the bill for amendment), an amendment limiting the use of funds by a particular agency funded in a general appropriation bill may be germane to the paragraph carrying the funds, or to any general provisions portion of the bill affecting that agency or all agencies funded by the bill (July 16, 1979, p. 18807). However, to a paragraph containing funds for an agency but not transferring funds to that account from other paragraphs in the bill, an amendment increasing that amount by transfer from an account in another paragraph is not germane, since affecting budget authority for a different agency not the subject of the pending paragraph (July 17, 1985, p. 19436).

In passing on the germaneness of an amendment, the Chair considers the relationship between the amendment and the bill as modified by the Committee of the Whole (Apr. 23, 1975, p. 11545; July 8, 1987, p. 19013).

An amendment adding a new section to a bill being read by titles must be germane to the pending title (Sept. 17, 1975, p. 28925), but where a bill is considered as read and open to amendment at any point, an amendment must be germane to the bill as a whole and not to a particular section (Sept. 29, 1975, p. 30761; Jan. 30, 1986, p. 1052). Where a title of a bill is open to amendment at any point, the germaneness of an amendment perfecting one section therein depends on its relationship to the title as a whole and not merely on its relationship to the one section (June 25, 1991, p. ——). An amendment in the form of a new title, when offered at the end of a bill containing several diverse titles on a general subject, need not be germane to the portion of the bill to which offered, it being sufficient that the amendment be germane to the bill as a whole in its modified form (Nov. 4, 1971, p. 39267; July 2, 1974, p. 22029; Sept. 18,

1975, p. 29322; July 11, 1985, pp. 18601–02; Oct. 8, 1985, pp. 26548–51). While the heading of the final title of a bill as "miscellaneous" does not thereby permit amendments to that title which are not germane thereto, the inclusion of sufficiently diverse provisions in such title affecting various provisions in the bill may permit further amendments which need only be germane to the bill as a whole (Apr. 10, 1979, pp. 8034–37).

Under clause 4 of rule XXVIII, a portion of a conference report incorporating part of a Senate amendment in the nature of a substitute to a House bill, or incorporating part of a Senate bill that the House has amended, must be germane to the bill in the form passed by the House; thus where a House-passed bill contained several sections and titles amending diverse portions of the Internal Revenue Code relating to tax credits, a modified Senate provision adding a new section dealing with another tax credit was held germane to the House-passed measure as a whole (Speaker Albert, Mar. 26, 1975, p. 8900); but a Senate provision in a conference report, on a Senate bill with a House amendment in the nature of a substitute, which authorized appointment of a special prosecutor for any criminal offenses committed by certain Federal officials was held not germane to the bill as passed by the House, which related to offenses directly related to official duties and responsibilities of Federal officials (Oct. 12, 1978, pp. 36459–61).

The test of germaneness of an amendment to or a substitute for an amendment in the nature of a substitute is its relationship to the substitute and not its relationship to the bill to which the amendment in the nature of a substitute has been offered (July 19, 1973, p. 24958; July 22, 1975, p. 23990; June 1, 1976, pp. 16051–56; July 28, 1982, pp. 18355–58, 18361), and an amendment to a substitute is not required to affect the same page and line numbers as the substitute in order to be germane, it being sufficient that the amendment is germane to the subject matter of the substitute (Aug. 1, 1979, pp. 21944–47). When an amendment in the nature of a substitute is offered at the end of the first section of a bill, the test of germaneness is the relationship between the amendment and the entire bill, and the germaneness of an amendment in the nature of a substitute for a bill is not necessarily determined by an incidental portion of the amendment which if offered separately might not be germane to the portion of the bill to which offered (July 8, 1975, p. 21633).

The test of germaneness of an amendment offered as a substitute for a pending amendment is its relationship to the pending amendment and not its relationship to the underlying bill (Feb. 14, 1995, p. ——).

An amendment germane to the bill as a whole, but hardly germane to any one section, may be offered at an appropriate place with notice of motions to strike out the following sections which it would supersede (V, 5823; July 29, 1969, p. 21221). Where a perfecting amendment to the text is offered pending a vote on a motion to strike out the same text, the perfecting amendment must be germane to the text to which offered, not to the motion to strike (Oct. 3, 1969, p. 28454).

§ 796. Instructions to committees and amendments thereto.

The rule that amendments must be germane applies to amendments to the instructions in a motion to instruct conferees (VIII, 3230, 3235), and the test of an amendment to a motion to instruct conferees is the relationship of the amendment to the subject matter of the House or Senate version of the bill (Deschler-Brown Precedents, vol. 11, ch. 28, sec. 28.2). The rule of germaneness similarly applies to the instructions in a motion to recommit a bill to a committee of the House, as it is not in order to propose as part of a motion to recommit any proposition that would not have been germane if proposed as an amendment to the bill in the House (V, 5529–5541; VIII, 2708–2712; Mar. 2, 1967, p. 5155), and the instructions must be germane to the bill as perfected in the House (Mar. 22, 1949, p. 2936; Nov. 19, 1993, p. ——), even where the instructions do not propose a direct amendment to the bill but merely direct the committee to pursue an unrelated approach (Speaker O'Neill, Mar. 2, 1978, p. 5272; July 16, 1991, p. ——) or direct the committee not to report the bill back to the House until an unrelated contingency occurs (VIII, 2704). Under the same rationale as amendments to a motion to instruct conferees, amendments to a motion to recommit to a standing committee with instructions must be germane to the subject matter of the bill (see V, 6888; VIII, 2711).

The fact that an amendment is offered in conjunction with a motion to recommit a bill with instructions to a standing committee does not affect the requirement that the subject matter of the amendment be germane and within the jurisdiction of the committee reporting the bill (Mar. 2, 1967, p. 5155; July 16, 1991, p. ——).

§ 797. Senate amendments and matter contained in conference reports.

In the consideration of Senate amendments to a House bill an amendment must be germane to the particular Senate amendment to which it is offered (V, 6188–6191; VIII, 2936; May 14, 1963, p. 8506; Dec. 13, 1980, p. 34097), and it is not sufficient that an amendment to a Senate amendment is germane to the original House bill if it is not germane to the subject matter of a Senate amendment that merely inserts new matter and does not strike out House provisions (V, 6188; VIII, 2936). But where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken, as well as those to be inserted, by the Senate amendment (June 8, 1943, p. 5511; June 15, 1943, p. 5899; Dec. 12, 1974, pp. 39272–73). The test of the germaneness of an amendment to a motion to concur in a Senate amendment with an amendment is the relationship between the amendment and the motion, and not between the amendment and the Senate amendment to which the motion has been offered (Aug. 3, 1973, the Deschler-Brown Precedents, vol. 11, ch. 28, sec. 27.6). Formerly, a Senate amendment was not subject to the point of order that it was not germane

to the House bill (VIII, 3425), but under changes in the rules points of order may be made and separate votes demanded on portions of Senate amendments and conference reports containing language that would not have been germane if offered in the House. Clause 4 of rule XXVIII permits points of order against language in a conference report which was originally in the Senate bill or amendment and which would not have been germane if offered to the House-passed version, and permits a separate motion to reject such portion of the conference report if found non-germane (Oct. 15, 1986, pp. 31498–99). For purposes of that rule, the House-passed version, against which Senate provisions are compared, is that finally committed to conference, taking into consideration all amendments adopted by the House, including House amendments to Senate amendments (July 28, 1983, p. 21401). Clause 5 of rule XXVIII permits points of order against motions to concur or concur with amendment in non-germane Senate amendments, the stage of disagreement having been reached, and, if such points of order are sustained, permits separate motions to reject such non-germane matter. Clause 5 of rule XXVIII is not applicable to a provision contained in a motion to recede and concur with an amendment (the stage of disagreement having been reached) which is not contained in any form in the Senate version, the only requirement in such circumstances being that the motion as a whole be germane to the Senate amendment as a whole under clause 7 of rule XVI (Oct. 4, 1978, pp. 33502–06; June 30, 1987, p. 18294).

§ 798a. Subject matter as test of germaneness.

An amendment must relate to the subject matter under consideration: to a bill seeking to eliminate wage discrimination based on the sex of the employee, an amendment to make the provisions of the bill applicable to discrimination based on race was ruled out as not germane (July 25, 1962, p. 14778). To a bill establishing an office in the Department of the Interior to manage biological information, an amendment addressing socio-economic matters was held not germane (Oct. 26, 1993, p. ——). To a bill authorizing military assistance to Israel and funds for the United Nations Emergency Force in the Middle East, an amendment expressing the sense of Congress that the President conduct negotiations to obtain a peace treaty in the Middle East and the resumption of diplomatic and trade relations between Arab nations and the U.S. and Israel was held not germane (Dec. 11, 1973, pp. 40842–43). To a concurrent resolution expressing Congressional concern over certain domestic policies of a foreign government and urging that government to improve those internal problems in order to enhance better relations with the United States, amendments expressing the necessity for U.S. diplomatic initiatives as a consequence of that foreign government's policies are not germane (July 12, 1978, pp. 20500–05). But to a proposition directing a feasibility investigation, an amendment requiring the submission of legislation to implement that investigation is germane (Dec. 14, 1973, pp. 41747–48). To a resolution amending several clauses of a rule of the House but confined in its scope to the issue of

access to committee hearings and meetings, an amendment to another clause of that rule relating to committee staffing was held not germane (Mar. 7, 1973, p. 6714). But to an amendment in the nature of a substitute comprehensively amending several sections of the Clean Air Act with respect to the impact of the shortages of energy resources upon standards imposed under that Act, an amendment to another section of that Act suspending for a temporary period the authority of the Administrator of the E.P.A. to control automobile emissions was held germane (Dec. 14, 1973, pp. 41688–89), and to a section of a bill prescribing the functions of a new Federal Energy Administration by conferring wide discretionary powers upon the Administrator, an amendment directing the Administrator to issue preliminary summer guidelines for citizen fuel use was held germane as a further delineation of those functions (Mar. 6, 1974, pp. 5436–37); however, to a title of a bill that only addresses the administrative structure of a new department and not its authority to carry out transferred programs, an amendment prohibiting the department from withholding funds to carry out certain objectives is not germane (June 12, 1979, pp. 14485–86). To an amendment authorizing the use of funds for a specific study, an amendment naming any program established in the bill for an unrelated purpose for a specified Senator was held not germane (Aug. 15, 1986, p. 22075).

An amendment that is germane, not being "on a subject different from that under consideration," belongs to a class illustrated by the following: To a bill providing for an interoceanic canal by one route, an amendment providing for a different route (V, 5909); to a bill providing for the reorganization of the Army, an amendment providing for the encouragement of marksmanship (V, 5910); to a proposition to create a board of inquiry, an amendment specifying when it shall report (V, 5915); to a bill relating to "oleomargarine and other imitation dairy products," an amendment on the subject of "renovated butter" (V, 5919); to a resolution rescinding an order for final adjournment, an amendment fixing a new date therefor (V, 5920).

§ 798b. Fundamental purpose as test of germaneness.

Whether or not an amendment is germane should be judged from the provisions of its text rather than from the motives that circumstances may suggest (V, 5783, 5803; Dec. 13, 1973, pp. 41267–69; Aug. 15, 1974, pp. 28438–39). Thus an amendment that does relate to the subject matter of the bill is not subject to challenge solely on the basis that it may be characterized as private legislation benefitting certain individuals, offered to a public bill (May 30, 1984, p. 14495). The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII, 2911). Thus for a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that additional provisions not contained in the original bill were merely incidental conditions or exceptions that were related to the fundamental

purpose of the bill (Aug. 2, 1973, pp. 27673–75; July 8, 1975, p. 21633; Sept. 29, 1980, pp. 27832–52). But to a bill relating to one government agency, an amendment having as its fundamental purpose a change in the law relating to another agency was held not germane even though it contemplated a consultative role for the agency covered by the bill (July 8, 1987, p. 19014).

In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter sought to be amended (Aug. 11, 1970, p. 28165). Thus to a proposition to accomplish a result through regulation by a governmental agency, an amendment to accomplish the same fundamental purpose through regulation by another governmental agency was held germane (Dec. 15, 1937, pp. 1572–89; June 9, 1941, p. 4905; Dec. 19, 1973, pp. 42618–19); to a bill to achieve a certain purpose by conferring discretionary authority to set fair labor standards upon an independent agency, an amendment in the nature of a substitute to attain that purpose by a more inflexible method (prescribing fair labor standards) was held germane (Dec. 15, 1937, pp. 1590–94; Oct. 14, 1987, p. 27885); to a proposition to accomplish the broad purpose of settling land claims of Alaska natives by a method general in scope, an amendment accomplishing the same purpose by a method more detailed in its provisions was held germane (Oct. 20, 1971, p. 37079); to an amendment comprehensively amending the Natural Gas Act to de-regulate interstate sales of new natural gas and regulate aspects of intrastate gas use, a substitute providing regulatory authority for interstate and intrastate gas sales of large producers was held germane (Feb. 4, 1976, p. 2387); to a bill providing a temporary extension of existing authority, an amendment achieving the same purpose by providing a nominally permanent authority was held germane where both the bill and the amendment were based on reported economic projections under which either would achieve the same, necessarily temporary result by method of direct or indirect amendment to the same existing law (May 13, 1987, p. 12344); and to a bill subjecting employers who fail to apprise their workers of health risks to penalties under other laws and regulations, a substitute subjecting such employers to penalties prescribed in the substitute itself was held germane (Oct. 14, 1987, p. 27885). To a bill raising revenue by several methods of taxation the Committee of the Whole, overruling the Chair, held that an amendment proposing a tax on undistributed profits was germane (VII, 3042). To an amendment freezing the obligation of funds for fiscal year 1996 for missile defense until the Secretary of Defense rendered a specified readiness certification, an amendment permitting an increase in the obligation of such funds on the basis of legislative findings concerning readiness was held germane, as each proposition addressed the relationship between 1996 funding levels for missile defense and readiness (Feb. 15, 1995, p. ——).

However, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane. Thus, to a bill to aid in the control of crime through research and training an amendment to accomplish that result through regulation of the sale of firearms was held not germane (Aug. 8, 1967, pp. 21846–50); to a bill providing relief to foreign countries through government agencies, an amendment providing for relief to be made through the International Red Cross was held not germane (Dec. 10, 1947, pp. 11242–44); and to a bill conserving energy by civil penalties on manufacturers of autos with low gas mileage, an amendment conserving energy by tax rebates to purchasers of high-mileage autos was held not germane (June 12, 1975, p. 18695). To a bill authorizing financial assistance to unemployed individuals for employment opportunities, an amendment providing instead for tax incentives to stimulate employment was held not germane as employing an unrelated method within the jurisdiction of a different committee of the House (Sept. 21, 1983, p. 25145); to a bill to promote technological advancement by fostering Federal research and development, and amendment exhorting to do so by changes in tax and antitrust laws was held not germane (July 16, 1991, p. ——); to a bill extending unemployment compensation benefits during a period of economic recession, an amendment to stimulate economic growth by tax incentives and regulatory reform was held not germane (Sept. 17, 1991, p. ——); to an amendment to achieve a national production goal for synthetic fuels for national defense needs by loans and grants and development of demonstration synthetic fuel plants, a substitute to require by regulation that any fuel sold in commerce require a certain percentage of synthetic fuels was held not germane, as broader in scope and an unrelated method (June 26, 1979, pp. 16663–74); to a proposition whose fundamental purpose was registration and public disclosure by, but not regulation of the activities of, lobbyists, amendments prohibiting lobbying in certain places, restricting monetary contributions by lobbyists, and providing civil penalties for violating rules of the House in relation to floor privileges, were held not germane (Sept. 28, 1976, pp. 33070–71), but to a similar bill, an amendment requiring disclosure of any lobbying communication made on the floor of the House or Senate or in adjoining rooms, but not regulating such conduct, was held germane (Apr. 26, 1978, pp. 11641–42); to a bill providing assistance to Vietnam war victims, amendments containing foreign policy declarations as to culpability in the Vietnam war were held not germane (Apr. 23, 1975, p. 11510); to a bill authorizing foreign military assistance programs, an amendment authorizing contributions to an international agency for nuclear missile inspections was held not germane (Mar. 3, 1976, p. 5226); and to a bill seeking to accomplish a purpose by one method (creation of an executive branch agency), an amendment accomplishing that result by a method not contemplated in the bill (creation of office within Legislative Branch as function of committee oversight) was ruled not germane (Nov. 5, 1975, p. 35041). A motion to recommit a joint resolution, proposing a constitutional amendment for

representation of the District of Columbia in Congress, with instructions that the Committee on the Judiciary consider a resolution retroceding populated portions of the District to Maryland, was held not germane (Speaker O'Neill, Mar. 2, 1978, p. 5272). To a bill to provide financial assistance to domestic agriculture through price support payments, an amendment to protect domestic agriculture by restricting imports in competition therewith was not germane as proposing an unrelated method of assistance within the jurisdiction of another committee (Oct. 14, 1981, p. 23899). It is not germane to change a direct appropriation of new budget authority from the general fund into a reappropriation (in effect a rescission) of funds previously appropriated for an entirely different purpose in a special reserve account (Feb. 28, 1985, p. 4146). To a proposition changing Congressional budget procedures to require consideration of balanced budgets, an amendment changing concurrent resolutions on the budget to joint resolutions, bringing executive enforcement mechanisms into play, was held not germane (July 18, 1990, p. ——).

§ 798c. Committee jurisdiction as test of germaneness.

An amendment when considered as a whole should be within the jurisdiction of the committee reporting the bill, although committee jurisdiction over the subject of an amendment and of the original bill is not the exclusive test of germaneness (Aug. 2, 1973, pp. 27673–75), and the Chair relates the amendment to the bill in its perfected form (Aug. 17, 1972, p. 28913). To a bill reported from the Committee on Agriculture providing price support programs for various agricultural commodities, an amendment repealing price control authority for all commodities under an act reported from the Committee on Banking and Currency is not germane (July 19, 1973, pp. 24950–51). To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that act and also affecting budget and appropriation procedures (matters within the jurisdiction of other House committees) was held not germane (Nov. 7, 1973, pp. 36240–41). To a bill relating to intelligence activities of the Executive Branch, an amendment effecting a change in the rules of the House by directing a committee to impose an oath of secrecy on its members and staff was held not germane (May 1, 1991, p. ——). To a bill reported by the Committee on Government Operations creating an executive agency to protect consumers, an amendment conferring on Congressional committees with oversight over consumer protection the authority to intervene in judicial or administrative proceedings (a rule-making provision within the jurisdiction of the Committee on Rules) was ruled not germane (Nov. 6, 1975, p. 35373). Similarly, to a bill reported from the Committee on Government Operations creating a new department, transferring the administration of existing laws to it and authorizing appropriations to carry out the Act subject to provisions in existing law, an amendment prohibiting the use of funds so authorized to carry out a designated funding program

transferred to the department is not necessarily germane, where the purpose of the authorization is to allow appropriations in general appropriation bills for the department to carry out its functions, but where changes in the laws to be administered by the department remain within the jurisdiction of other committees of the House (June 19, 1979, pp. 15570–71). To a bill reported by the Committee on Public Works authorizing funds for highway construction and mass transportation systems using motor vehicles, an amendment relating to urban mass transit (then within the jurisdiction of the Committee on Banking and Currency) and the railroad industry (within the jurisdiction of the Committee on Interstate and Foreign Commerce) was held not germane (Oct. 5, 1972, p. 34115). To a bill reported from the Committee on Science and Technology authorizing environmental research and development activities of an agency, an amendment expressing the sense of Congress with respect to that agency's regulatory and enforcement authority, within the jurisdiction of the Committee on Energy and Commerce, was held not germane (Feb. 9, 1984, p. 2423); to a bill authorizing environmental research and development activities of an agency for two years, an amendment adding permanent regulatory authority for that agency by amending a law not within the jurisdiction of the committee reporting the bill was held not germane (June 4, 1987, p. 14757); and to a bill addressing various research programs and authorities, an amendment addressing matters of fiscal and economic policy and regulation was held not germane (July 16, 1991, p. ——; Sept. 22, 1992, pp. —— and ——). To a bill reported from the Committee on Armed Services amending several laws within that committee's jurisdiction on military procurement and policy, an amendment to the Renegotiation Act, a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs and not solely related to military contracts was held not germane (June 26, 1985, pp. 17417–19), as was an amendment requiring reports on Soviet Union compliance with arms control commitments, a matter exclusively within the jurisdiction of the Committee on Foreign Affairs (Deschler-Brown Precedents, vol. 10, ch. 28, sec. 4.26). To a bill reported from the Committee on Energy and Commerce relating to mentally ill individuals, an amendment prohibiting the use of General Revenue Sharing funds (within the jurisdiction of the Committee on Government Operations) was held not germane (Jan. 30, 1986, p. 1053). To a bill reported from the Committee on Merchant Marine and Fisheries authorizing various activities of the Coast Guard, an amendment urging the Secretary of State in consultation with the Coast Guard to elicit cooperation from other nations concerning certain Coast Guard and military operations (a matter within the jurisdiction of the Committee on Foreign Affairs) was held not germane (July 8, 1987, p. 19013). To a bill reauthorizing programs administered by two agencies within one committee's jurisdiction, an amendment more general in scope affecting agencies within the jurisdiction of other committees is not germane (May 12, 1994, p. ——).

Committee jurisdiction is not the sole test of germaneness where the proposition to which the amendment is offered is so comprehensive (overlapping several committees' jurisdictions) as to diminish the pertinency of that test and the amendment as offered does not demonstrably affect a law within another committee's jurisdiction (July 21, 1976, pp. 23167–68; Oct. 8, 1985, pp. 26548–51), or where the portion of the bill also contains language, related to the amendment, not within the jurisdiction of the committee reporting the bill (Apr. 2, 1976, p. 9254; Aug. 10, 1984, p. 23975), or where the bill has been amended to include matter within the jurisdiction of another committee, thus permitting further similar amendments to be germane (July 11, 1985, pp. 18601–02), or where if offered as a new final title the bill as a whole and as amended contains matters within another committee's jurisdiction (Sept. 19, 1986, p. 24769). To a bill reported from the Committee on Agriculture relating to the food stamp program, an amendment requiring the collection from certain recipients of the money value of food stamps received, by the Secretary of the Treasury after consultation with the Secretary of Agriculture, was held germane since the performance of new duties by the Secretary of the Treasury and by the Internal Revenue Service that do not affect the application of the Internal Revenue Code, is not a matter solely within the jurisdiction of the Committee on Ways and Means (July 27, 1977, pp. 25249–52).

But committee jurisdiction is a relevant test where the pending text is entirely within one committee's jurisdiction and where the amendment falls within another committee's purview (Jan. 29, 1976, p. 1582; July 25, 1979, pp. 20601–03; June 27, 1985, pp. 17417–19). Thus to a bill reported from the Committee on Armed Services authorizing military procurement and personnel strengths for one fiscal year, a proposition imposing permanent prohibitions and conditions on troop withdrawals from the Republic of Korea was held not germane since proposing permanent law to a one-year authorization and including statements of policy within the jurisdiction of the Committee on Foreign Affairs (May 24, 1978, pp. 15293–95); and to a bill reported from the Committee on Interior and Insular Affairs designating certain areas in a State as wilderness, an amendment providing unemployment benefits to workers displaced by the designation was held not germane (Mar. 21, 1983, p. 6347); to a bill reported from the Committee on Education and Labor dealing with education, an amendment regulating telephone communications (a matter within the jurisdiction of the Committee on Energy and Commerce) was held not germane (Apr. 19, 1988, p. 7355); to a bill reported from the Committee on Education and Labor authorizing a variety of civilian national service programs, an amendment establishing a contingent military service obligation (a matter within the selective service jurisdiction of the Committee on Armed Services) was held not germane (July 28, 1993, p. ——); and to a bill reported by the Committee on Banking, Finance and Urban Affairs dealing with housing and community development grant and credit programs, an amendment expressing the sense of Congress on tax policy (the deductibil-

ity of mortgage interest), a matter within the jurisdiction of the Committee on Ways and Means, was held not germane (Aug. 1, 1990, p. ——).

In a conference report on a House bill reported from the Committee on Public Works and Transportation, authorizing funds for local public works employment, a Senate amendment to mandate expenditure of already appropriated funds (as a purported disapproval of deferral of such funds under the Impoundment Control Act) and to set discount rates for reclamation and public works projects, subjects within the jurisdictions of the Committees on Appropriations and Interior and Insular Affairs, was held not germane (Speaker O'Neill, May 3, 1977, pp. 13242–43).

To a bill amending an existing law to grant to merchant mariners benefits "substantially equivalent to" those granted to veterans in a separate law in the jurisdiction of another committee, an amendment directly changing the separate law to extend its benefits to merchant mariners was held not germane (Sept. 9, 1992, p. ——); but where the pending bill incorporates by reference provisions of a law from another committee and conditions the bill's effectiveness upon actions taken pursuant to a section of that law, an amendment to alter that section of the law may be germane (Apr. 8, 1974, pp. 10108–10).

The test of the germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee (Aug. 2, 1973, p. 27673; June 1, 1976, pp. 16021–25). However, the House may by adopting a special rule allow a point of order that a section of a committee amendment in the nature of a substitute would not have been germane if offered separately to the bill as introduced (May 23 and 24, 1978, pp. 15094–96 and 15293–95; Aug. 11, 1978, p. 25705).

The fact that an amendment is offered in conjunction with a motion to recommit a bill with instructions does not affect the requirement that the subject matter of the amendment be germane and within the jurisdiction of the committee reporting the bill (Mar. 2, 1967, p. 5155). Thus, to a bill reported from the Committee on Foreign Affairs addressing U.S. claims against Iraq, a motion to recommit with instructions to prohibit the admission of former members of Iraq's armed forces to the United States as refugees (a matter within the jurisdiction of the Committee on the Judiciary) is not germane (Apr. 28, 1994, p. ——).

§ 798d. Various tests of germaneness are not exclusive.

The standards by which the germaneness of an amendment may be measured, as set forth in §§ 798a–c, *supra,* are not exclusive; an amendment and the matter to which offered may be related to some degree under the tests of subject matter, purpose, and jurisdiction, and still not be considered germane under the precedents. Thus, the following have been held not to be germane: To a proposition relating to the terms of Senators, an amendment changing the manner of their election (V, 5882); to a bill

relating to commerce between the States, an amendment relating to commerce within the several States (V, 5841); to a proposition to relieve destitute citizens of the United States in Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality (V, 5897); to a proposition for the appointment of a select committee to investigate a certain subject, an amendment proposing an inquiry of the Executive on that subject (V, 5891); to a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the Government (V, 5887); to a provision for the erection of a building for a mint, an amendment to change the coinage laws (V, 5884); to a resolution proposing expulsion, an amendment proposing censure (VI, 236); to a resolution authorizing the administration of the oath to a Member-elect, an amendment authorizing such oath administration but adding several conditions of punishment predicated on acts committed in a prior Congress (Jan. 3, 1969, pp. 23–25); to a general tariff bill, an amendment creating a tariff board (Chairman Garrett of Tennessee, May 6, 1913, p. 1234; also Speaker Clark, May 8, 1913, p. 1381); to a proposition to sell two battleships and build a new battleship with the proceeds, a proposition to devote the proceeds to building wagon roads (VIII, 2973).

§798e. One individual proposition not germane to another.

One individual proposition may not be amended by another individual proposition even though the two belong to the same class (VIII, 2951–2953, 2963–2966, 3047; Jan. 29, 1986, p. 684; Oct. 22, 1990, p. ——; Oct. 24, 1991, p. ——). Thus, the following are not germane: To a bill proposing the admission of one Territory into the Union, an amendment for admission of another Territory (V, 5529); to a bill amending a law in one particular, amending the law in another particular (VIII, 2949); to a proposition to appropriate or to authorize appropriations for only one year (and containing no provisions extending beyond that year), an amendment to extend the authorization or appropriation to another year (VIII, 2913; Nov. 13, 1980, pp. 29523–28; see also May 2, 1979, p. 9564; Oct. 12, 1979, pp. 28097–99); to a measure earmaking funds in an appropriation bill, an amendment authorizing the program for which the appropriation is made (Nov. 15, 1989, p. 29019); to a bill for the relief of one individual, an amendment proposing similar relief for another (V, 5826–5829); to a resolution providing a special order for one bill, an amendment to include another bill (V, 5834–5836); to a provision for extermination of the cotton-boll weevil, an amendment including the gypsy moth (V, 5832); to a provision for a clerk for one committee, an amendment for a clerk to another committee (V, 5833); to a Senate amendment dealing with use of its contingent fund for art restoration in that body, a proposed House amendment for use of the House contingent fund for a similar but broader purpose (May 24, 1990, p. 12203); to a bill prohibiting transportation of messages relative to dealing in cotton futures, an amendment adding wheat, corn, etc. (VIII, 3001); to a bill prohibiting cotton futures, an amendment prohibiting wheat futures (VIII, 3001); to a bill for the relief of certain aliens, an amendment

for the relief of other persons who are not aliens (May 14, 1975, p. 14360); to a bill providing relief for agricultural producers, an amendment extending such relief to commercial fishermen, another class within the jurisdiction of another committee (Apr. 24, 1978, pp. 11080–81); to a bill governing the political activities of federal civilian employees, an amendment to cover members of the uniformed services (June 7, 1977, pp. 17713–14); to a bill covering the civil service system for federal civilian employees, an amendment bringing other classes of employees (postal and District of Columbia employees) within the scope of the bill (Sept. 7, 1978, pp. 28437–39; Oct. 9, 1985, pp. 26951–54); to a portion of an appropriation bill containing funds for a certain purpose to be expended by one agency, an amendment containing funds for another agency for the same purpose (July 24, 1981, p. 17226); to an amendment exempting national defense budget authority from the reach of a proposed Presidential rescission authority, an amendment exempting social security (Feb. 2, 1995, p. ——); to a Senate amendment striking an earmarking from an appropriation bill, a House amendment reinserting part of the amount but adding other earmarking for unrelated programs (Nov. 15, 1989, p. 29019); to a Senate amendment relating to a feasibility study of a land transfer in one state, a House amendment requiring an environmental study of land in another state (Nov. 15, 1989, p. 29035); to a bill prohibiting certain uses of polygraphy in the private sector, an amendment applying the terms of the bill to the Congress (Nov. 4, 1987, p. 30870); to a bill to determine the equitability of federal pay practices under statutory systems applicable to agencies of the executive branch, an amendment to extend the scope of the determination to pay practices in the legislative branch (ruling sustained by Committee of Whole, Sept. 28, 1988, p. 26422); to a special appropriation bill providing funds and authority for agricultural credit programs but containing no transfers of funds, reappropriations, or rescissions, an amendment (contained in a motion to recommit) deriving funds for the bill by transfer of unobligated balances in the Energy Security Reserve and thus decreasing and transferring funds provided for a program unrelated to the subject matter or method of funding provided in the bill (Feb. 28, 1985, p. 4146); to a bill prohibiting importation of goods "made in whole or in part by convict, pauper, or detained labor, or made in whole or in part from materials that have been made in whole or in part in any manner manipulated by convict or prison labor," an amendment prohibiting importation of goods produced by child labor, a second discrete class (VIII, 2963); similarly, to an amendment authorizing grants to states for purchase of one class of equipment (photographic and fingerprint equipment) for law enforcement purposes, an amendment including assistance for the purchase of a different class of equipment (bulletproof vests) (Oct. 12, 1979, pp. 28121–24); to a bill repealing section 14(b) of the National Labor Relations Act and making conforming changes in two related sections of labor law—all pertaining solely to the so-called "right-to-work" issue—an amendment excluding from the applicability of certain labor-management agreements

members of religious groups (July 28, 1965, p. 18633); to a bill relating to the design of certain coin currency, an amendment specifying the metal content of other coin currency (Sept. 12, 1973, pp. 29376–77); to a proposition to accomplish a single purpose without amending a certain existing law, an amendment to accomplish another individual purpose by changing that existing law (Dec. 14, 1973, pp. 41723–25); to a bill regulating poll closing time in Presidential general elections, an amendment extending its provisions to Presidential primary elections (Jan. 29, 1986, p. 684); to a bill authorizing grants to private entities furnishing health care to underserved populations, an amendment authorizing grants to States to control a public health hazard was held not germane as relating to a different category of recipient (Mar. 5, 1986, p. 3604); and to a bill siting a certain type of repository for a specified kind of nuclear waste, an amendment prohibiting the construction at another site of another type of repository for another kind of nuclear waste (July 21, 1992, p. ——).

§ 798f. A general provision not germane to a specific subject.

A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject (V, 5843–5846; VIII, 2997, 2998; July 31, 1985, pp. 21832–34; see also Procedure, ch. 28, sec. 8). Thus the following are not germane: To a bill for the admission of one Territory into the Union, an amendment providing for the admission of several other Territories (V, 5837); to a bill relating to all corporations engaged in interstate commerce, an amendment relating to all corporations (V, 5842); to a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law other than those dealt with by the bill (V, 5806–5808); to a bill amending an existing law in one particular, an amendment amending other laws and more comprehensive in scope (Nov. 19, 1993, pp. ——, ——, ——); to an amendment addressing particular educational requirements imposed on educational agencies by the underlying bill, an amendment addressing any requirements imposed on educational agencies by the underlying bill (Mar. 21, 1994, p. ——); to a bill reauthorizing programs administered by the Economic Development Administration and the Appalachian Regional Commission, an amendment providing for the waiver of any Federal regulation that would interfere with economic development (May 12, 1994, p. ——); to a bill amending the war-time prohibition act in one particular, an amendment repealing that act (VIII, 2949); to a bill proscribing certain picketing in the District of Columbia, an amendment making the provisions thereof applicable throughout the United States (Aug. 22, 1966, p. 20113); to a bill dealing with enforcement of United Nations sanctions against one country in relation to a specific trade commodity, an amendment imposing United States sanctions against all countries for all commodities and communications (Mar. 14, 1977, pp. 7446–47); and to a bill authorizing funds for radio broadcasting to Cuba, an amendment broadening the bill to include broadcasting to all Dictatorships in the Caribbean Basin (Aug. 10, 1982, pp. 20256, 20257).

A bill dealing with an individual proposition but rendered general in its scope by amendment is then subject to further amendment by propositions of the same class (VIII, 3003). While a specific proposition covering a defined class may not be amended by a proposition more general in scope, the Chair may consider all pending provisions being read for amendment in determining the generality of the class covered by that proposition (Jan. 30, 1986, p. 1051).

To a bill limited in its applicability to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane (Sept. 27, 1967, p. 26957). Thus, to a bill establishing an office without regulatory authority in the Department of the Interior to manage biological information, an amendment addressing requirements of compensation for Constitutional takings by other regulatory agencies was held not germane (Oct. 26, 1993, p. ——); and to a bill amending an authority of an agency under an existing law, an amendment independently expressing the sense of Congress on regulatory agencies generally was held not germane (May 14, 1992, p. ——). To a proposition authorizing activities of certain government agencies for a temporary period, an amendment permanently changing existing law to cover a broader range of government activities is not germane (May 5, 1988, p. 9938), and to a bill proposing a temporary change in law, an amendment making permanent changes in that law is not germane (Nov. 19, 1991, p. ——). To a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment temporarily suspending other requirements of all other environmental protection laws was held not germane (Dec. 14, 1973, pp. 41751–52). To a joint resolution proposing an amendment to the Constitution prohibiting the U.S. or any state from denying persons 18 years of age or older the right to vote, an amendment requiring the U.S. and all states to treat persons 18 years and older as having reached the age of majority for all purposes under the law was ruled out as not germane (Mar. 23, 1971, p. 7567). To a bill authorizing Federal funding for qualifying State national service programs, an amendment conditioning a portion of such funding on the enactment of State laws immunizing volunteers in nonprofit or public programs, generally, from certain legal liabilities was held not germane (July 28, 1993, p. ——). To a bill to enable the Department of HEW to investigate and prosecute fraud and abuse in medicare and medicaid health programs, a committee amendment to prohibit any officer or employee from disclosing any identifiable medical record absent patient approval was held not germane (Sept. 23, 1977, pp. 30534–35). To an amendment to a budget resolution changing one functional category only, an amendment changing several other categories as well as that category, and covering an additional fiscal year, is not germane (May 2, 1979, pp. 9556–64). For an amendment striking from a bill one activity from those covered by the law being amended, a substitute striking out the entire subsection of the bill, thereby eliminating the applicability of existing law to a number of activities, is not germane (Sept. 23, 1982, pp. 24963–64).

To a bill relating to aircraft altitude over units of the national park system, an amendment relating to aircraft collision avoidance generally is not germane (Sept. 18, 1986, p. 24084). To a Senate amendment prohibiting the use of funds appropriated for a fiscal year for a specified purpose, a proposed House amendment prohibiting the use of funds appropriated for that or any prior fiscal year for an unrelated purpose is not germane (June 30, 1987, p. 18294). To a Senate amendment raising an employment ceiling for one year, a House amendment proposing also to address in permanent law a hiring preference system for such employees is not germane (Oct. 11, 1989, p. 24089). To a Senate amendment providing for a training vessel for one state maritime academy, a proposed House amendment relating to training vessels for all state maritime academies is not germane (June 30, 1987, p. 18296). To a bill amending an existing law to authorize a program, an amendment restricting authorizations under that or any other act is beyond the scope of the bill and not germane (Dec. 10, 1987, p. 34676). To a proposition waiving a requirement in existing law that an authorizing law be enacted prior to the obligation of certain funds, an amendment affirmatively enacting bills containing not only that authorization but also other policy matters is not germane as beyond the issue of funding availability (Sept. 28, 1988, p. 26108). To a proposition pertaining only to a certain appropriation account in a bill, an amendment relating not only to that account but also to funds in other acts is more general in scope and therefore not germane (Sept. 30, 1988, p. 27148). To an omnibus farm bill, with myriad programs to improve agricultural economy, an amendment to the Animal Welfare Act but not limited to agricultural pursuits was held not germane (Aug. 1, 1990, p. ——).

§ 798g. Specific subjects germane to general propositions of the class.

A general subject may be amended by specific propositions of the same class (VIII, 3002, 3009, 3012; see also Procedure, ch. 28, sec. 9). Thus, the following have been held to be germane: To a bill admitting several Territories into the Union, an amendment adding another Territory (V, 5838); to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities (V, 5840); to a resolution embodying two distinct phases of international relationship, an amendment embodying a third (V, 5839); and to an amendment prohibiting indirect assistance to several countries, an amendment to include additional countries within that prohibition (Aug. 3, 1978, p. 24244); to a portion of a bill providing two categories of economic assistance to foreign countries, an amendment adding a further specific category is germane (Apr. 9, 1979, pp. 7755–57). And where a bill seeks to accomplish a general purpose (support of arts and humanities) by diverse methods, an amendment that adds a specific method to accomplish that result (artist employment through National Endowment for Arts) may be germane (Apr. 26, 1976, p. 11101; see also June 12, 1979, p. 14460). But to a resolution authorizing a class of employees in the service of the House, an amendment providing for the employment of a specified individ-

ual was held not to be germane (V, 5848–5849). To a proposition relating in many diverse respects to the political rights of the people of the District of Columbia, an amendment conferring upon that electorate the additional right of electing a nonvoting Delegate to the Senate was held germane (Oct. 10, 1973, pp. 33656–57). To a bill bringing two new categories within the coverage of existing law, an amendment to include a third category of the same class was held germane (Nov. 27, 1967, p. 33769). To a bill containing definitions of several of the terms used therein, an amendment modifying one of the definitions and adding another may be germane (Sept. 26, 1967, p. 26878). To a bill authorizing a broad program of research and development, an amendment directing specific emphasis in the administration of the program is germane (Dec. 19, 1973, p. 42607). To a bill providing for investigation of relationships between environmental pollution and cancer, an amendment to investigate the impact of personal health habits, as cigarette smoking, on that relationship was held germane (Sept. 15, 1976, pp. 30496–98). To a supplemental appropriation bill containing funds for several departments and agencies, an amendment in the form of a new chapter providing funds for capital outlays for subway construction in the District of Columbia was held germane (May 11, 1971, p. 14437). To a proposal authorizing military procurement, including purchase of food supplies, an amendment authorizing establishment that fiscal year of a military preparedness grain reserve was held germane as a more specific authorization (July 20, 1982, pp. 17073, 17074, 17092, 17093). To a Senate amendment providing for prepayment of loans by those within a certain class of borrowers who meet a specified criterion, a proposed House amendment eliminating the criterion to broaden the applicability of the Senate amendment to additional borrowers within the same class was held germane (June 30, 1987, p. 18308). To an amendment addressing a range of criminal prohibitions, an amendment addressing another criminal prohibition within that range was held germane (Oct. 17, 1991, p. ——).

§ 799. Amendments to bills amending existing law.

To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was ruled not to be germane (V, 5808; VIII, 2707, 2708); thus a bill amending several sections of one title of the United States Code does not necessarily bring the entire title under consideration so as to permit an amendment to any portion thereof (Oct. 11, 1967, p. 28649), and where a bill amends existing law in one narrrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not germane (Aug. 16, 1967, p. 22768; VIII, 2709, 2839, 3013, 3031; May 12, 1976, p. 13532). To a bill narrowly amending an anti-discrimination provision in the Education Amendments of 1972 only to clarify the definition of a discriminating entity subject to the statutory penalties (denial of federal funding), amendments re-defining a class of discrimination (sex), expanding the definition of persons who are the subject of discrimination (to include the unborn), and deeming a new entity (Congress) to be a recipi-

ent of federal assistance (a class not necessarily covered by the class covered by the bill), were ruled not to be germane (June 26, 1984, pp. 18847, 18857, and 18861). But to the same bill, an amendment merely defining a word used in the bill was held germane (June 26, 1984, p. 18865). Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends on its relationship to the subject of the bill and not to the entire law being amended (Oct. 28, 1975, p. 34031). But a bill amending several sections of an existing law may be sufficiently broad to permit amendments that are germane to other sections of that law not mentioned in the bill (Feb. 19, 1975, p. 3596; Sept. 14, 1978, pp. 29487–88). To a bill continuing and re-enacting an existing law amendments germane to the existing act sought to be continued have been held germane to the pending bill (VIII, 2940, 2941, 2950, 3028; Oct. 31, 1963, p. 20728; June 1, 1976, pp. 16045–46); but where a bill merely extends an official's authority under existing law, an amendment permanently amending that law has been held not in order (Sept. 29, 1969, pp. 27341–43). Thus where a bill authorized appropriations to an agency for one year but did not amend the organic law by extending the existence of that agency, an amendment extending the life of another entity mentioned in the organic law was held not germane (May 20, 1976, pp. 14912–13). An amendment making permanent changes in the law relating to organization of an agency is not germane to a title of a bill only authorizing appropriations for such agency for one fiscal year (Nov. 29, 1979, p. 34090); to a general appropriation bill providing funds for one fiscal year, an amendment changing a permanent appropriation in existing law and changing Congressional procedures for consideration of that general appropriation bill in future years is more general in scope and in part within the jurisdiction of the Committee on Rules and therefore is not germane (June 29, 1987, p. 18083); and to a temporary authorization bill prescribing the use of an agency's funds for two years but not amending permanent law, an amendment permanently changing the organic law governing that agency's operations is not germane (Dec. 2, 1982, pp. 28537–38, concerning Sept. 28, 1982, p. 25465). However, to a bill authorizing appropriations for a department for one fiscal year, where the effect of the department's activities pursuant to that authorization may extend beyond such year, an amendment directing a specific use of those funds to perform an activity that may not be completed within the fiscal year was nevertheless germane, since limited to funds in the bill (Oct. 18, 1979, pp. 28763–64). Similarly, to a one-year authorization bill containing diverse limitations and directions to the agency in question during such year, an amendment further directing the agency to obtain information from the private sector, and to make such information public during such year, was held germane (Oct. 18, 1979, pp. 28815–17). While an amendment making a permanent change in existing law has been held not germane to a bill proposing a temporary change in that law, where it is apparent that the fundamental purpose of the amendment is to have only temporary effect

and to accomplish the same result as the bill it may be germane. Thus to a bill providing a temporary extension of existing authority, an amendment achieving the same purpose by providing a nominally permanent authority was held germane where both the bill and the amendment were based on reported economic projections under which either would achieve the same, necessarily temporary result by method of direct or indirect amendment to the same existing law (May 13, 1987, p. 12344). However, to a proposal continuing the availability of appropriated funds and also imposing diverse legislative conditions upon the availability of appropriations, an amendment directly and permanently changing existing law as to the eligibility of recipients of funds was held to be nongermane (Dec. 10, 1981, pp. 30536–38). To a bill extending an existing law in modified form, an amendment proposing further modification of that law may be germane (Apr. 23, 1969, p. 10067; Feb. 19, 1975, p. 3596). But to a bill amending a law in one particular, an amendment repealing the law is not germane (Jan. 14, 1964, p. 423). To a bill amending a general law in several particulars, an amendment providing for the repeal of the whole law was held germane (V, 5824), but the bill amending the law must so vitally affect the whole law as to bring the entire act under consideration before the Chair will hold an amendment repealing the law or amending any section of the law germane to the bill (VIII, 2944; Apr. 2, 1924, p. 5437). Where a bill repeals a provision of law, an amendment modifying that provision rather than repealing it may be germane (Oct. 30, 1969, p. 32466); but the modification must relate to the provision of law being repealed (July 28, 1965, p. 18636). Generally to a bill amending one existing law, an amendment changing the provisions of another law or prohibiting assistance under any other law is not germane (May 11, 1976, p. 13419; Aug. 12, 1992, p. ——). To a bill amending the Bretton Woods Act in relation to the International Monetary Fund, an amendment prohibiting the alienation of gold to the IMF or to any other international organization or its agents was held not germane (July 27, 1976, pp. 24040–41). However, to a bill comprehensively amending several laws within the same class, an amendment further amending one of those laws on a subject within that class is germane (May 12, 1976, p. 13530); and to a bill authorizing funding for the intelligence community for one fiscal year and making diverse changes in permanent laws relating thereto, an amendment changing another permanent law to address accountability for intelligence activites was held germane (Oct. 17, 1990, p. ——). To a title of a bill dealing with a number of unrelated authorities of the Secretary of Agriculture, an amendment amending another act within the jurisdiction of the Committee on Agriculture to require the adoption of a minimum standard for the contents of ice cream was held germane since restricted to the authority of the Secretary of Agriculture (July 22, 1977, pp. 24558–70). But to a section of a bill amending a section of the National Labor Relations Act dealing with procedural rules governing labor elections and organizations, an amendment changing the same section of law to require promulgation

of rules defining certain conduct as an unfair labor practice was held not germane, where neither the pending section nor the bill itself addressed the subject of unfair labor practices dealt with in another section of the law (Oct. 5, 1977, pp. 32507–08). To a bill narrowly amending one subsection of existing law dealing with one specific criminal activity, an amendment postponing the effective date of the entire section, affecting other criminal provisions and classes of persons as well as the one amended by the bill, or an amendment to another subsection of the law dealing with a related but separate prohibition was held not germane (May 16, 1979, pp. 11470–72), but to an amendment adding sundry punitive sections to the Federal criminal code, an amendment creating an exception to the prohibition of another such section was held germane (Oct. 17, 1991, p. ——).

§800. Amendments imposing conditions, qualifications, and limitations.

Restrictions, qualifications, and limitations sought to be added by way of amendment must be germane to the provisions of the bill. Thus, to a bill authorizing the funding of a variety of programs that satisfy several stated requirements, in order to accomplish a general purpose, an amendment conditioning the availability of those funds upon implementation by their recipients of another program related to that general purpose is germane (June 18, 1973, pp. 20100–01); an amendment delaying operation of a proposed enactment pending an ascertainment of a fact is germane when the fact to be ascertained relates solely to the subject matter of the bill (VIII, 3029; Dec. 15, 1982, pp. 30957–61); to a bill authorizing funds for military procurement and construction, an amendment declaring that none of the funds be used to carry out military operations in North Vietnam was held germane (Mar. 2, 1967, p. 5143). To a bill authorizing the insurance of vessels, an amendment denying such insurance to vessels charging exorbitant rates is germane (VIII, 3023), and to a bill authorizing changes in railroad rates, an amendment is germane which provides that such changes shall not include increases in rates (VIII, 3022). To a bill authorizing humanitarian and evacuation assistance to war refugees, an amendment making such authorization contingent on a report to Congress on costs of a portion of the evacuation program (but not requiring implementation of any new program) is germane (Apr. 23, 1975, p. 11529), and to a bill authorizing an agency to undertake certain activities, an amendment allowing Congress to disapprove regulations issued pursuant thereto is a germane restriction if the disapproval mechanism does not amend the rules or procedures of the House (May 4, 1976, p. 12348). An amendment proposing changes in the rules of the House by providing a privileged procedure for expedited review of an agency's regulations is not germane to a proposition not containing such changes (Aug. 13, 1982, pp. 20969, 20975–78); to a bill directing the furnishing of certain intelligence information to the House but not amending any House procedure, an amendment imposing relevant conditions of security on the handling of such information in committee for the period covered

by the bill may be germane, so long as not amending a rule of the House (June 11, 1991, p. ——). To a title of a bill limiting in several respects an official's authority to construe legal authorities transferred to him in the bill, an amendment further restricting his authority to construe under any circumstances certain other laws to be administered by him was held germane as an additional, although more restrictive, curtailment of existing authorities transferred by the bill (June 11, 1979, pp. 14226–38).

But it is not in order to amend a bill to delay the effectiveness of the legislation pending an unrelated contingency (VIII, 3035, 3037), such as the enactment of state legislation (June 29, 1967, p. 17921; July 28, 1993, p. ——). Thus an amendment delaying the bill's effectiveness or availability of authorizations pending unrelated determinations involving agencies and committee jurisdictions not within the purview of the bill is not germane (Feb. 7, 1973, pp. 3708–09; July 8 and 9, 1981, p. 15010 and p. 15218), and to a bill authorizing military assistance to Israel and funds for a U.N. Emergency Force in the Middle East, an amendment postponing the availability of funds to Israel until the President certifies the existence of a designated level of domestic energy supplies is not germane (Dec. 11, 1973, p. 40837). An amendment conditioning the availability of funds to certain recipients based upon their compliance with Federal law not otherwise applicable to them and within the jurisdiction of other House committees may be ruled out as not germane (conditioning defense funds for procurement contracts with foreign contractors on their compliance with domestic law regarding discrimination) (June 16, 1983, p. 16060). An amendment delaying the availability of an appropriation pending the enactment of certain revenue legislation into law is an unrelated contingency and is not germane (Oct. 25, 1979, pp. 29639–40). An amendment conditioning the use of funds on the conduct of Congressional hearings addressing an unrelated subject is not germane (July 22, 1994, p. ——). However, an amendment to an authorization bill that conditions the expenditure of funds covered by the bill by restricting their availability during months in which there is an increase in the public debt may be germane as long as the amendment does not directly affect other provisions of law or impose contingencies predicated upon other unrelated actions of Congress (Sept. 25, 1979, pp. 26150–52); an amendment proposing a conditional restriction on the availability of funds to carry out an activity, that merely requires observation of similar activities of another country, which similar conduct already constitutes the policy basis for the funding of that governmental activity, may be germane as a related contingency (May 16, 1984, p. 12510); and an amendment restricting the payment of Federal funds in a bill to States that enact certain laws relating to the activities being funded may be germane (July 28, 1993, p. ——). Likewise, an amendment that conditions the obligation or expenditure of funds authorized in the bill by adopting as a measure of their availability the expenditure during the fiscal year of a comparable percentage of funds authorized by other acts is germane as long as the amendment does not directly affect the use of other

funds (July 26, 1973, p. 26210). Similarly, to a bill authorizing certain housing programs, an amendment restricting the amounts of direct spending in the bill to the levels set in the concurrent resolution on the budget was held germane as merely a measure of availability of funds in the bill and not a provision directly affecting the Congressional budget process (June 11, 1987, p. 15540).

To a bill requiring that a certain percentage of autos sold in the U.S. be manufactured domestically, and imposing an import restriction for autos on persons violating that requirement, an amendment waiving those restrictions with respect to a foreign nation where the President has issued a proclamation that that nation is not imposing unfair import restrictions on any U.S. product was held to be a non-germane and unrelated contingency, dealing with overall trade issues rather than domestic content requirement for autos sold in the U.S. (Nov. 2, 1983, p. 30776). But an amendment to the same bill prohibiting its implementation if resulting in U.S. violation to resolve conflicts under those agreements, was held germane since the bill already comprehensively addressed those subject matters by "disclaiming" any purpose to amend international agreements or to confer court jurisdiction relative thereto, and by conferring court jurisdiction over adjudication of penalties assessed under the bill (Nov. 2, 1983, p. 30546).

To a bill regulating immigration, an amendment providing that the operation of the act should not conflict with an agreement with Japan is not germane (VIII, 3050), to a bill proposing relief for women and children in Germany, an amendment delaying the effectiveness of such relief until a soldier's compensation act shall have been enacted is not germane (VIII, 3035), and to a bill authorizing radio broadcasting to Cuba, an amendment prohibiting the use of those funds until Congress has considered a Constitutional Amendment mandating a balanced budget is not germane (Aug. 10, 1982, p. 20250). To a proposition conditioning the availability of funds upon the enactment of an authorizing statute for the enforcing agency, a substitute conditioning the availability of some of those funds upon a prohibition of certain imports into the U.S. is not germane, a contingency unrelated to that to which offered (Nov. 7, 1985, pp. 30984–85). It is not germane to condition assistance to a particular class of recipient covered by the bill upon an unrelated contingency such as action or inaction by another class of recipient or agent not covered by the bill (Mar. 5, 1986, p. 3613). However, while a bill relating to benefits based on indemnification of liability arising out of an activity does not ordinarily admit as germane amendments relating to regulation of that activity, an amendment conditioning benefits upon agreement by its recipient to be governed by certain safety regulations may be germane if related to the activity giving rise to the liability (July 29, 1987, p. 21448).

While it may be in order on a general appropriation bill to delay the availability of certain funds therein if the contingency does not impose new duties on executive officials, the contingency must be related to the

funds being withheld and cannot affect other funds in the bill not related to that factual situation; thus to a general appropriation bill containing funds not only for a former President but also for other departments and agencies, an amendment delaying the availability of all funds in the bill until the former President had made restitution of a designated amount of money was held not germane (Oct. 2, 1974, pp. 33620–21). But an amendment postponing the effective date of a title of a bill to a date certain is germane (July 25, 1973, p. 25828), as is an amendment to an authorization bill that conditions the obligation of funds therein by adopting as a measure of their availability the expenditure during that fiscal year of a comparable percentage of funds authorized by other Acts, if the amendment does not directly affect the use of other funds (July 26, 1973, p. 26210); and an amendment that conditions the availability of funds covered by a bill by adopting as a measure of their availability the monthly increases in the public debt may be germane so long as the amendment does not directly affect other provisions of law or impose unrelated contingencies (Sept. 25, 1979, pp. 26150–52). To a provision to become effective immediately, an amendment deferring the time at which it shall become effective, without involving affirmative legislation, was held germane (VIII, 3030). To a bill authorizing defense assistance to a foreign nation, an amendment delaying the availability of that assistance until that nation's former ambassador testified before a House committee, which had been directed by the House to investigate gifts by that nation's representatives to influence Members and employees, was held germane as a contingency that sought to compel the furnishing of information related to efforts to induce defense assistance to that nation (Aug. 2, 1978, pp. 23932–33).

Where a proposition confers broad discretionary power on an executive official, an amendment is germane which directs that official to take certain actions in the exercise of the authority. Thus to an amendment in the nature of a substitute authorizing the Federal Energy Administrator to restrict exports of certain energy resources, an amendment directing that official to prohibit the exportation of petroleum products for use in Indochina military operations was held germane (Dec. 14, 1973, p. 41753). But it is not in order by way of amendment to a bill authorizing funds for military assistance to certain foreign countries, to make the availability of those funds contingent upon efforts by those countries to control narcotic traffic to the U.S., and to authorize the President to offer the assistance of federal agencies for that purpose, where the subjects of narcotics and the accessibility of federal agencies are not contained in the bill (June 17, 1971, pp. 20589–90).

Where a provision delegates certain authority, an amendment proposing to limit such authority is germane (VIII, 3022); to a provision conferring presidential authority to establish priorities among users of petroleum products and requiring priority to education and transportation users, an amendment restricting such regulatory authority by requiring that petroleum products allocated for public school transportation be used only be-

tween the student's home and the closest school was held germane (Dec. 13, 1973, pp. 41267–69). Similarly, a bill providing for the deportation of aliens may be amended to exempt a portion of such aliens from deportation (VIII, 3029), a bill providing aid to shipping may be amended to limit such aid to ships equipped with saving devices (VIII, 3027), a bill prohibiting the issuance of injunctions by the courts in labor disputes may be amended to except all labor disputes affecting public utilities (VIII, 3024), and to a proposition denying benefits to recipients failing to meet a certain qualification, a substitute denying the same benefits to some recipients but excepting others is germane (July 28, 1982, pp. 18355–58, 18361). To a bill extending the authorities of one government agency, including requirements for consultation with several other agencies, an amendment requiring that agency to perform a function based upon an analysis furnished by yet another agency was held germane as an additional limitation on the authority of the agency being extended which did not separately mandate the performance of an unrelated function by another entity (July 27, 1978, pp. 23107–08). To a proposition authorizing a program to be undertaken, a substitute providing for a study to determine the feasibility of undertaking the same type of program may be germane as a more limited approach involving the same agency (June 26, 1985, pp. 17453, 17458, and 17460) (in effect overruling VIII, 2989).

An amendment seeking to restrict the use of funds must be limited to the subject matter and scope of the provisions sought to be amended; to a bill authorizing funds for foreign assistance, an amendment placing restrictions on funds authorized or appropriated in prior years is not germane (Aug. 24, 1967, p. 24002), and to an amendment changing a dollar amount in a bill, a substitute therefor not only changing the figure but also restricting the use of any funds in furtherance of a certain activity is not germane (June 7, 1972, p. 19920). To a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of funds to a subcategory of the same recipients is germane (Sept. 25, 1979, pp. 26135–43), and to a bill authorizing appropriations for an agency, an amendment to prohibit the use of such funds for any purpose to which the funds may otherwise be applied is germane (Nov. 5, 1981, p. 26716). To a provision authorizing funds for a fiscal year, an amendment restricting the availability of funds appropriated pursuant thereto for a specified purpose until enactment of a subsequent law authorizing that purpose is germane (July 21, 1983, p. 20198). To an amendment precluding the availability of an authorization for part of a fiscal year and then permitting availability for the remainder of the year based upon a contingency, an amendment constituting a prohibition on the availability of the same funds for the entire fiscal year is a germane alternative (May 16, 1984, p. 12567). A legislative amendment to an appropriation bill must not only retrench expenditures under clause 2 of rule XXI but must also be germane to the provisions to which offered. A limitation must apply solely to the money of the appropriation under consideration (VII, 1596,

1600), and may not be made applicable to a trust fund provided (IV, 4017) or to money appropriated in other acts (IV, 3927; VII, 1495, 1597–1599). Thus to a general appropriation bill providing funds for the Department of Agriculture and including specific allocation of funds for pest control, an amendment was germane that prohibited the use of funds for use of presticides prohibited by state or local law (May 26, 1969, p. 13753). But to a provision prohibiting aid to a certain country unless certain conditions were met, an amendment prohibiting aid to another country until that nation took certain acts, and referring to funds provided in other acts, was not germane (Nov. 17, 1967, p. 32968). To a proposal to restrict availability of agency funds for a year and amending the organic law as it relates to the internal functions thereof, an amendment further restricting funding but also applying "with respect to the use of funds in the bill" provisions of criminal and other laws not applicable thereo was held not germane (Oct. 26, 1989, p. 26269). See also Procedure, ch. 28, sec. 22–27.

§801. Dilatory motions pending motions to suspend rules.

8. Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn; but after the result thereon is announced he shall not entertain any other motion till the vote is taken on suspension.

This clause of the rule was adopted in 1868 (V, 5743), and amended in 1911 (VIII, 2823). A motion for a recess (V, 5748–5751) and for a call of the House when there was no doubt of the presence of a quorum (V, 5747) were held to be dilatory motions within the meaning of the rule. But where a motion to suspend the rules has been made and, after one motion to adjourn has been acted on, a quorum has failed, another motion to adjourn has been admitted (V, 5744–5746).

§802. Privileged motion for consideration of revenue and appropriation bills.

9. At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.

As early as 1835 the necessity of giving the appropriation bills precedence became apparent, and in 1837 a rule was adopted that established the principle that continues in the present rule (IV, 3072).

Although clause 4(a) of rule XI was amended by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), to eliminate the authority of the Committee on Ways and Means to report as privileged bills raising revenue (see § 726, *supra*), this clause was not changed, but the privileged nature of the motion under this clause with respect to revenue bills was derived from and was dependent upon the former privilege conferred upon the Committee on Ways and Means under clause 4(a) of rule XI to report revenue measures to the House at any time (IV, 3076). When both types of reports were privileged under that rule prior to the 94th Congress, motions to consider revenue bills and appropriation bills were of equal privilege (IV, 3075, 3076). The motion may designate the particular appropriation bill to be considered (IV, 3074). The motion is privileged at any time after the approval of the Journal (subject to relevant report and hearing availability requirements), but only if offered at the direction of the committee (July 23, 1993, p. ——). The motion is in order on District Mondays (VI, 716–718; VII, 876, 1123); and takes precedence of the motion to go into Committee of the Whole House to consider the Private Calendar (IV, 3082–3085; VI, 719, 720). Before the adoption of clause 4 of rule XIII it could be made on a "suspension day" as on other days (IV, 3080). On Wednesdays the privilege of the motion is limited by clause 7 of rule XXIV. It may not be amended (VI, 52, 723), debated (VI, 716), laid on the table, or indefinitely postponed (VI, 726), and the previous question may not be demanded on it (IV, 3077–3079). Although highly privileged, it may not take precedence of a motion to reconsider (IV, 3087), or a motion to change the reference of a bill (VII, 2124). The motion is less highly privileged than the motion to discharge a committee from further consideration of a bill under clause 3 of rule XXVII (VII, 1011, 1016), and on consent days the call of the former Consent Calendar (abolished in the 104th Congress) took precedence (VII, 986).

§803. Dilatory motions.

10. No dilatory motion shall be entertained by the Speaker.

This clause was adopted in 1890 (V, 5706) to make permanent a principle already enunciated in a ruling of the Speaker, who had declared that the "object of a parliamentary body is action, not stoppage of action" (V, 5713).

The Speaker has declined to entertain debate or appeal on a question as to the dilatoriness of a motion, as to do so would be to nullify the rule (V, 5731); but has recognized that the authority conferred by the rule should not be exercised until the object of the dilatory motion "becomes apparent to the House" (V, 5713–5714). Usually, but not always, the Speaker awaits a point of order from the floor before acting (V, 5715–5722). The rule has been applied to the motions to adjourn (V, 5721, 5731–5733; VIII, 2796, 2813), to reconsider (V, 5735; VIII, 2797, 2815, 2822), to fix the time of five-minute debate in Committee of the Whole (V, 5734; VIII, 2817), and to lay on the table (VIII, 2816); and to the question of consider-

ation (V, 5731–5733). The point of "no quorum" has also been ruled out (V, 5724–5730; VIII, 2801, 2808), and clause 6 of rule XV, as adopted in the 93d Congress and as amended in the 95th Congress prevents the making of a point of no quorum under certain circumstances. A demand for tellers has been held dilatory (V, 5735, 5736; VIII, 2436, 2818–2821); but the constitutional right of the Member to demand the yeas and nays may not be overruled (V, 5737; VIII, 3107). (For ruling by Speaker Gillett construing dilatory motions, see VIII, 2804.) See also § 729a, *supra*, for discussion of dilatory motions pending consideration of Rules Committee report, and § 874, *infra*, for rule prohibiting offering of dilatory amendments printed in Record.

RULE XVII.

PREVIOUS QUESTION.

§ 804. The previous question.

1. There shall be a motion for the previous question, which, being ordered by a majority of Members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

The House adopted a rule for the previous question in 1789, but it was not turned into an instrument for closing debate until 1811. The history of the motion for the previous question is discussed in V, 5443, 5446; VIII, 2661. In 1880, the previous question rule was amended to apply to single motions or a series of motions as well as to amendments, and the motion