

CHAPTER 6

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Officers, Officials, and Employees

A. THE SPEAKER

§ 1. Introductory

The Speaker of the House of Representatives is the central political leader in the House and one of the most powerful and influential institutional figures in the United States government.

This subchapter describes the nature of the office of the Speaker, outlines his jurisdiction and duties, and illustrates various limitations on the Speaker's powers.

Throughout the subchapter, appropriate cross references are given to other chapters wherein fuller treatment of the various substantive areas are found.

Certain precedents involving the Chairman of the Committee of the Whole have been included herein where they appear to be applicable, by way of analogy, to the Speaker.

§ 2. Definition and Nature of Office

Article I, section 2, of the U.S. Constitution provides that "the House of Representatives shall

choose their Speaker."⁽¹⁾ The Member elected by the House as Speaker is almost invariably the Member chosen in the caucus or conference of the majority party in the House.⁽²⁾

The term of office of the Speaker begins upon his election and taking of his oath of office. The term ends upon the expiration of the Congress to which the Member was elected Speaker, unless the Speaker has resigned, died, or been removed by the House.⁽³⁾

The Member chosen as the Speaker is the presiding officer of the House, charged with numerous duties and responsibilities by law and by House rules as will be exemplified in this subchapter;⁽⁴⁾

1. See Ch. 1, *supra*, for treatment of the election of the Speaker.
2. See Ch. 3, *supra*, for treatment of the party caucus or conference procedures to select a nominee for Speaker.
3. "A Speaker may be removed at the will of the House. . . ." Jefferson's *Manual, House Rules and Manual* §315 (1973). *Parliamentarian's Note*: The House has never removed a Speaker, however.
4. See §§ 3, 5-8, *infra*.

but he is not unlimited in the exercise of his various powers.⁽⁵⁾ In one sense, he represents the House as one body of Congress. For example, he signs all acts and joint resolutions for the House.⁽⁶⁾ In another sense he represents the House as a single entity acting separately from any Senate action. For example, he has a formal part in initiating contempt of House proceedings against recalcitrant witnesses.⁽⁷⁾ In still another sense he represents all of the individual Members of the House.⁽⁸⁾ The Member elected Speaker also represents the membership in such matters as accepting service of subpoena in his official capacity.⁽⁹⁾

The Speaker also serves as the official recipient of numerous reports made to Congress pursuant to law. For instance, he receives

reports concerning various matters from the President,⁽¹⁰⁾ and from various department heads and Cabinet Secretaries, including the Secretaries of the Treasury,⁽¹¹⁾ Agriculture,⁽¹²⁾ Defense,⁽¹³⁾ and Interior,⁽¹⁴⁾ as well as the Board of Governors of the Federal Reserve System.⁽¹⁵⁾ Pursuant to House rules⁽¹⁶⁾ the Speaker is provided a list of such reports to be made to the Congress⁽¹⁷⁾ and, although the reports may not under law be specifically required to be addressed to him, in practice all such reports are addressed to the Speaker for his reference to appropriate House committees, a function he may delegate to the House Parliamentarian.

The Member chosen as Speaker also serves in such capacities as an ex officio member of the Presidential Election Campaign Fund Advisory Board.⁽¹⁸⁾

5. See §4, *infra*.

6. Rule I clause 4, *House Rules and Manual* §§624 and 625 (1973). See Ch. 24, *infra*, for fuller treatment of the Speaker's role in the signing of bills, joint resolutions, etc.

7. See §3.41, *infra*.

8. See Ch. 29, *infra*, for fuller treatment of the Speaker's role in the House's consideration and debate of legislative measures.

9. See §3.39, *infra*. See Ch. 11, *infra*, for treatment of the Speaker's role with respect to service of subpoenas on the House, Members, and House officers and employees.

10. See 7 USC §1703; 22 USC §§1853, 2261, 2318, and 2753. See Ch. 35, *infra*, for treatment of communications to or from the executive branch.

11. See 6 USC §14 and 16 USC §1081.

12. See 7 USC §2155.

13. See 10 USC §2358 note.

14. See 16 USCA §469e.

15. See 12 USCA §247.

16. Rule III clause 2, *House Rules and Manual* §640 (1973).

17. See for example H. Doc. No. 93-21, 93d Cong. 1st Sess. (1973).

18. 26 USCA §9021.

The Speaker's compensation is fixed by law.⁽¹⁹⁾ Statutes provide the Speaker with an expense allowance,⁽²⁰⁾ a postage allowance,⁽¹⁾ a mileage allowance for travel to and from each regular session,⁽²⁾ a stationery allowance,⁽³⁾ telephone, telegraph, and radiotelegraph allowances,⁽⁴⁾ clerk-messengers,⁽⁵⁾ and additional compensation for personal services in his office.⁽⁶⁾

The amounts of allowances to the Speaker for clerk hire,⁽⁷⁾ postage stamps, stationery, telephone and telegraph, office space, and official office expenses in his home district and for similar items in his Washington office may from time to time be adjusted by the Committee on House Administration.

The Member chosen as Speaker retains his status as a Member, and thus, for example, may introduce legislation as a Member.⁽⁸⁾

19. See 2 USC § 31. See Ch. 7, *infra*, for treatment of Members' compensation and allowances.

20. See 2 USC § 31b.

1. See 2 USC §§ 42, 42c, and 42d.

2. See 2 USC §§ 43, 43b, and 43b-1.

3. See 2 USC § 46b.

4. See 2 USC §§ 46g and 46g-1.

5. See 2 USC § 74-2.

6. See 2 USC § 74-1.

7. See 2 USC § 57.

8. See § 2.2, *infra*. See Ch. 16, *infra*, for treatment of the introduction of bills, etc.

But he also attains a new status along with his additional duties. Most significantly, he enters into the line of succession to the Presidency. When, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a President nor a Vice President, the Speaker, upon his resignation as Speaker and as a Representative, becomes the acting President of the United States.⁽⁹⁾ Thus the Speaker is subject to being protected by the United States Secret Service.⁽¹⁰⁾

Former Speakers of the House have been provided clerk hire, administrative assistants,⁽¹¹⁾ the use of an automobile,⁽¹²⁾ and federal office space and related allowances and expenses for a prescribed time limit after retirement.⁽¹³⁾

Upon the death of a Speaker holding office, the flag of the United States is flown at half staff.⁽¹⁴⁾

Speaker as Representative of the Members

§ 2.1 House rules⁽¹⁵⁾ and practice dictate that Members

9. 3 USC § 19.

10. 18 USC § 3056.

11. See § 2.3, *infra*.

12. See § 2.4, *infra*.

13. See § 2.5, *infra*.

14. 36 USC § 175 note; Proc. No. 3044.

15. Rule XIV clause 1, House Rules and Manual § 749 (1973).

should address the Speaker in debate, and no other persons, inasmuch as the Speaker is said to represent all of the Members of the House for such purpose.

On Jan. 12, 1932,⁽¹⁶⁾ Speaker John N. Garner, of Texas, discussed the proper way for a Member to preface his remarks to the House.

THE SPEAKER: The Chair is in entire sympathy with the remarks made by the gentleman from Massachusetts [Mr. Luse]. It is supposed to be a slight upon the Chair, according to the expressions of former Speakers of the House, when Members address the Chairman of the Committee of the Whole or the Speaker and then address the Members on the floor en masse. The Speaker represents the House of Representatives in its organization, and by addressing the Chair gentlemen address the entire membership of the House.

Sponsorship of Bills

§ 2.2 Although traditionally the Speaker refrains from sponsoring public bills containing subject matter of a general import, he has on occasion introduced a public bill pertaining solely to a matter within his congressional district.

16. 75 CONG. REC. 1815, 72d Cong. 1st Sess.

On May 21, 1970,⁽¹⁷⁾ a public bill was introduced by Speaker John W. McCormack, of Massachusetts:

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows: . . .

By Mr. McCormack:

H.R. 17750. A bill to declare the tidewaters in the waterway of the Fort Point Channel lying between the northeasterly side of the Summer Street highway bridge and the easterly side of the Dorchester Avenue highway bridge in the city of Boston nonnavigable tidewaters, to the Committee on Interstate and Foreign Commerce. . . .

Former Speakers' Benefits

§ 2.3 Former Speakers have been provided clerk hire and administrative assistants through the contingent fund of the House.

On Jan. 12, 1959,⁽¹⁸⁾ a resolution was adopted regarding benefits for former Speakers of the House.

Resolved, That effective January 7, 1959, there shall be payable from the contingent fund of the House, until otherwise provided by law, for any Member of the House who has served as Speaker of the House, an additional \$5,000 basic per annum for clerk hire,

17. 116 CONG. REC. 16643, 91st Cong. 2d Sess.

18. 105 CONG. REC. 559, 86th Cong. 1st Sess.

and in addition an administrative assistant at the basic rate of \$8,880 per annum.

THE SPEAKER:⁽¹⁹⁾ Without objection, the resolution is agreed to.

There was no objection.

§ 2.4 Former Speakers have been provided the use of automobiles through the contingent fund of the House.

On Jan. 12, 1959,⁽²⁰⁾ a resolution was adopted regarding benefits for former Speakers of the House.

Resolved, That there shall be paid out of the contingent fund of the House, until otherwise provided by law, expenses necessary for the purchase, maintenance, operation, and driving of an automobile for the use of any Member of the House who has served as Speaker of the House.

THE SPEAKER⁽²¹⁾ Without objection, the resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

§ 2.5 Upon retirement, a former Speaker was provided with federal office space and related expenses and allowances.

On Dec. 22, 1970,⁽²²⁾ a resolution was called up providing that

19. Sam Rayburn (Tex.)

20. 105 CONG. REC. 559, 86th Cong. 1st Sess.

21. Sam Rayburn (Tex.).

22. 116 CONG. REC. 43313, 43314, 91st Cong. 2d Sess.

upon its enactment the Speaker of the 91st Congress, Mr. John W. McCormack, of Massachusetts, would upon his retirement be entitled to, among other things: (1) federal office space, (2) an office expense of \$100 per month, (3) frank mail privileges, (4) a local telephone allowance, (5) salaries for two secretaries, and (6) a stationery allowance without cash withdrawal, all to be financed from the contingent fund of the House. After some debate, the resolution was passed.

§ 3. Jurisdiction and Duties

The Speaker's jurisdiction and duties are found in numerous statutes and, of course, throughout the House rules.

Generally speaking, the Speaker's jurisdiction and duties relate to the House rules, the Members, and the dignity and prerogatives of the House.⁽¹⁾

At the beginning of a Congress, the Speaker normally administers the oath of office to the new Members.⁽²⁾ When a Speaker pro tem-

1. See § 3.1. *infra*.

2. See § 3.2, *infra*, and 2 USC § 25 (1973). See Ch. 1, *supra*, for treatment of the Speaker's role in the assembly of Congress.

pore is elected or designated and approved, the Speaker, if he is present, also administers the oath of office to the Speaker pro tempore.⁽³⁾ In addition, the Speaker has the power to administer oaths to witnesses.⁽⁴⁾

Under various House rules the Speaker presides over all regularly scheduled House business:

(1) He calls the Members to order at the beginning of each daily session.⁽⁵⁾ Under the constitutional provisions dealing with quorums⁽⁶⁾ the Speaker then proceeds unless objection is raised that a quorum is not present.⁽⁷⁾

(2) If a quorum is present, the Speaker, having examined the House Journal, may announce his approval of it. It is ordinarily not read unless such is insisted upon.⁽⁸⁾

3. See §3.3, *infra*.

4. 2 USC §191. See Ch. 15, *infra*, for treatment of the Speaker's role in House investigations and inquiries.

Parliamentarian's Note: This statutory power has rarely been used by Speakers in modern times.

5. Rule I clause 1, *House Rules and Manual* §621 (1973). See Ch. 20, *infra*, for the Speaker's role in the call of the House.

6. U.S. Const. art I, §5.

7. See Ch. 20, *infra*, for treatment of the Speaker's role in determining the presence of a quorum.

8. Rule I clause 1, *House Rules and Manual* §621 (1973). See Ch. 5,

(3) The next item of business under the rules—though infrequently applied—is the reference⁽⁹⁾ or correction of reference of bills, joint resolutions, etc., to appropriate committees.⁽¹⁰⁾ In this regard, the Speaker may defend his reference of measures should they be challenged.⁽¹¹⁾

(4) The Speaker next disposes of business on the Speaker's table. Such business includes Presidential messages, communications from department heads, and measures sent to the House by the Senate.⁽¹²⁾

(5) The Speaker then proceeds to unfinished business.⁽¹³⁾ Under the rules, then comes the morning hour for the consideration of bills called up by committees;⁽¹⁴⁾ how-

supra, for treatment of the Speaker's duties with regard to the House Journal.

9. See §3.5, *infra*. See also §4.3, *infra*. See Ch. 16, *infra*, for fuller treatment of the Speaker's role in the reference of bills, etc., to committees.

10. See §3.6, *infra*.

11. See §3.7, *infra*. See Ch. 29, *infra*, for fuller treatment of the Speaker's participation in debate.

12. Rule XXIV clauses 1 and 2, *House Rules and Manual* §878, et seq. (1973). See also §2, *supra*, for examples of reports cleared through the Speaker's office.

13. Rule XXIV clauses 1 and 3, *House Rules and Manual* §§878 and 885–888 (1973)

14. Rule XXIV clauses 1 and 4, *House Rules and Manual* §§889, 890 (1973).

ever, this procedure is not followed under present House practices, since the House proceeds to business under other provisions of the rules.

(6) Next under the House rules, the Speaker is required to allow up to one hour for the call of the committees under the regular order before a motion can be entertained to go into the Committee of the Whole House on the state of the Union.⁽¹⁵⁾ Again, this is largely an obsolete procedure, since by resolutions from the Committee on Rules the House normally prescribes a different order of business.

When a motion is made for the House to resolve itself into the Committee of the Whole, the Speaker appoints the Chairman of the Committee.⁽¹⁶⁾

(7) When the Committee of the Whole finally rises to report back to the House, the Speaker resumes the Chair and proceeds to the orders of the day.⁽¹⁷⁾

15. Rule XXIV clause 5, *House Rules and Manual* §§891, 892 (1973).

16. Rule XXIII clause 1, *House Rules and Manual* §861 (1973). See also §§6.1 and 6.2, *infra*. See Ch. 19, *infra*, for fuller treatment of the Speaker's role in relation to the Committee of the Whole.

17. Rule XXIV clause 1, *House Rules and Manual* §878 (1973). See also Jefferson's Manual, *House Rules and Manual* §384 (1973).

During a daily session if the Speaker desires to be absent from the Chair momentarily, he has the right under the House rules to designate a Speaker pro tempore.⁽¹⁸⁾ He may also designate a Speaker pro tempore for longer periods, or even invite the election of one, under certain circumstances.⁽¹⁹⁾ When the Speaker is criticized during debate, it is considered proper for him to designate a Speaker pro tempore to rule on whether the criticism is unparliamentary.⁽²⁰⁾

Many more or less routine functions of the Speaker are of course accomplished off of the floor of the House. Examples of these are:

(1) The Speaker certifies the salary and mileage accounts of Members as required by statute.⁽¹⁾

(2) The Speaker has the statutory duty to certify to the appropriate U.S. District Attorney the names of persons found to be in contempt of House committees for prosecution⁽²⁾ when the House has formally authorized such ac-

18. Rule I clause 7, *House Rules and Manual* §633 (1973).

19. See §§9 et seq., *infra*, for treatment of Speakers pro tempore.

20. See 3.11, *infra*.

1. 2 USCA §48. See Ch. 7, *infra*, for treatment of the compensation, allowances, perquisites, and emoluments of Members.

2. 2 USC §194.

tion.⁽³⁾ Likewise, he certifies names of persons who have purged themselves of the contempt charges to the U.S. District Attorneys after formal House authorization.⁽⁴⁾

(3) Whenever a vetoed measure is approved by two-thirds of both Houses of Congress, the Speaker sends the original measure to the General Services Administration for promulgation, if the House was the last body to act on the measure.⁽⁵⁾

The Speaker generally informs the House of actions taken pursuant to House authorization. For instance, the Speaker will inform the House when he has signed enrolled bills during an adjournment of the House,⁽⁶⁾ or when, acting in his official capacity as spokesman of the House, he has accepted a subpoena served on the House.⁽⁷⁾ It is also considered the Speaker's duty to inform the House when a Speaker pro tempore has acted for him during an adjournment.⁽⁸⁾

In certain unusual circumstances, the Speaker is considered to have the inherent power to act on the Members' be-

half without House authorization. For example, in emergency situations, the Speaker is considered to have the inherent power to declare the House in recess, subject to the call of the Chair.⁽⁹⁾

During the consideration of the various measures, the Speaker normally assumes the primary responsibility on the part of the House for enforcing the customary rules of comity between the two Houses of Congress.⁽¹⁰⁾

To facilitate the consideration of measures, the House rules provide the Speaker with three major functions: (1) recognizing Members who seek to address the House,⁽¹¹⁾ (2) construing and applying the House rules,⁽¹²⁾ and (3) putting the question to or stating a motion for the Members for their vote.⁽¹³⁾

The Speaker has held that in construing the rules he may look

3. See §3.40, *infra*.

4. See §3.43, *infra*.

5. 1 USC §106a.

6. See §3.9, *infra*.

7. See §3.39, *infra*.

8. See §3.10, *infra*.

9. See §3.44, *infra*. See Ch. 39, *infra*, for treatment of House recesses.

10. See 3.45, *infra*.

11. Rule XIV clause 1, *House Rules and Manual* §§749 et seq. (1973).

12. See Rule I clause 4, *House Rules and Manual* §§624, 627 (1973).

13. Rule I clause 5, *House Rules and Manual* §629 (1973). See also the forms of putting the question, *House Rules and Manual* §§960-965 (1973). See Ch. 29, *infra*, for fuller treatment of the Speaker's power of recognition.

to all pertinent facts concerning the matter to which the rules would be applied.⁽¹⁴⁾ In ruling on a matter brought to his attention by a point of order, the Speaker normally will wait until the matter is completely before him.⁽¹⁵⁾

In certain circumstances the presiding officer may make inquiries of a Member having the floor.⁽¹⁶⁾ But it is the more frequent case that the Speaker answers inquiries from the Members. For example, he answers questions regarding the applicability of the House rules to standing committees.⁽¹⁷⁾ However, he does not answer hypothetical inquiries or general questions relating to committee procedure.

The Speaker may decline to answer immediately a parliamentary inquiry⁽¹⁸⁾ or he may simply ask a Member to withhold his inquiry until the Speaker has sufficient time to ascertain certain facts.⁽¹⁹⁾

Duties Generally

§ 3.1 In general, as the elected presiding officer of the

14. See § 3.29, *infra*.

15. See § 3.30, *infra*.

16. See § 3.32, *infra*.

17. See § 3.33, *infra*.

18. See § 3.34, *infra*.

19. See § 3.35, *infra*.

House, the Speaker has duties relating to the House rules, to the Members, and to the dignity and prerogatives of the House.

On Jan. 10, 1962,⁽²⁰⁾ Speaker elect John W. McCormack, of Massachusetts, addressed the House from the Chair regarding his duties as Speaker of the House.

THE SPEAKER: Members of the House of Representatives . . . [in] the exercise and performance of the powers and duties of the Speaker, parliamentary or otherwise, I shall perform such duties impartially with fair treatment to all Members in interpreting and enforcing the rules, but above all protecting the rights of all Members without regard to party affiliation.

While as leader in this body of my party, I have my political responsibilities, in the performance of my duties as Speaker, my responsibility is to the House itself and to all of its Members.

As majority leader I always considered that one of my primary duties was to protect the rights, under the rules and also in accordance with the customs of the House, of the minority party. I shall follow that course as Speaker. . . .

I will continue to maintain the dignity of the House of Representatives, protecting its prerogatives and maintaining the right and privileges of its members.

Administering Oaths

§ 3.2 It is the normal practice for the Speaker to admin-

20. 108 CONG. REC. 6, 87th Cong. 2d Sess.

ister the oath of office to Members at the opening of a session of Congress.

On Jan. 3, 1945,⁽¹⁾ the following procedure regarding the swearing in of Members took place.

THE SPEAKER [Sam Rayburn, of Texas]: The Chair understands that two or three Members with certificates on file with the Clerk were not here when the other Members were sworn in, were unable to get here at the hour of meeting on account of late trains. At least two such Members are here now.

MR. [KARL E.] MUNDT [of South Dakota]: Mr. Speaker, I am one of those detained by late trains. I took the oath of office but I was not here in time to answer to the first roll call.

THE SPEAKER: The statement of the gentleman from South Dakota will stand.

The Members who have not taken the oath of office will present themselves in the well of the House and all others will clear the well of the House.

Mr. Gorski and Mr. Stefan appeared at the bar of the House and took the oath of office.

§ 3.3 If the Speaker is present when the House has elected a Speaker pro tempore, it is normally the Speaker who administers the oath of office to the Speaker pro tempore.

On Aug. 26, 1949,⁽²⁾ a resolution was introduced as follows:

1. 91 CONG. REC. 14, 79th Cong. 1st Sess.
2. 95 CONG. REC. 12344, 81st Cong. 1st Sess.

MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Speaker, I offer a resolution (H. Res. 351) and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That Hon. E.E. Cox, a Representative from the State of Georgia, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. E.E. Cox as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

THE SPEAKER [Sam Rayburn, of Texas]: The gentleman from Georgia [Mr. Cox] will present himself at the bar of the House and take the oath.

Mr. Cox appeared at the bar of the House and took the oath of office.

Meeting Time and Place

§ 3.4 When the House is to meet in a place other than the House Chamber, the Speaker normally is the one who informs the Members of the time and place of the meeting.

On July 1, 1949,⁽³⁾ Speaker Sam Rayburn, of Texas, made an announcement concerning the time and place of the meeting of the House.

THE SPEAKER: Pursuant to House Resolution 271, the House stands ad-

3. 95 CONG. REC. 8808, 81st Cong. 1st Sess.

journed to meet on Tuesday, July 5, 1949, at 12 o'clock noon, in the caucus room in the New House Office Building.⁽⁴⁾

Referring Measures to Committees

§ 3.5 The Speaker examines and refers to committees all bills and resolutions introduced by Members of the House.

On Jan. 10, 1967,⁽⁵⁾ Speaker John W. McCormack, of Massachusetts, indicated the procedure by which bills introduced on the opening day of a Congress are examined and referred to committees.

THE SPEAKER: The Chair would like to make a statement concerning the introduction and reference of bills today.

As Members are aware, they have the privilege today of introducing bills. Heretofore on the opening day of a new Congress several thousand bills have been introduced. It will be readily apparent to all Members that it may be a physical impossibility for the Speaker to examine each bill for reference today. The Chair will do his best to refer as many bills as possible, but he will ask the indulgence of Members if

4. *Parliamentarian's Note:* The House moved to the New House Office Building pending remodeling of the House Chamber in the Capitol caused by an insecure ceiling.
5. 113 CONG. REC. 34, 90th Cong. 1st Sess.

he is unable to refer all the bills that may be introduced. Those bills which are not referred and do not appear in the Record as of today will be included in the next day's Record and printed with a date as of today.⁽⁶⁾

§ 3.6 Having the authority to refer Presidential messages and bills to committees, a Speaker may change a reference to another committee if appropriate.

On Jan. 27, 1958,⁽⁷⁾ Speaker Sam Rayburn, of Texas, announced a change of reference of matters from one committee to another:

THE SPEAKER: After further examination of the President's message and the recommendations made therein, the Chair believes that the proper committee to which to refer the President's message is the Committee on Education and Labor instead of the Committee on Interstate and Foreign Commerce, because on the Science Foundation no new law is suggested, simply more appropriations. The other part of the President's message deals with education. Therefore the Chair is going to change the reference of the President's message and whatever bills are introduced on that subject, to the Committee on Education and Labor.

6. *Parliamentarian's Note:* On the opening day of the first session of the 90th Congress a total of 2,247 bills and resolutions were introduced.
7. 104 CONG. REC. 1112, 85th Cong. 2d Sess.

§ 3.7 Although the Speaker has the power to refer bills to proper committees in the first instance, such references may later be challenged and the Speaker may defend his decision.

On Mar. 2, 1966,⁽⁸⁾ Speaker John W. McCormack, of Massachusetts, took the floor in the Committee of the Whole to indicate his responsibility regarding the reference of public bills to proper committees.

MR. MCCORMACK: . . . Mr. Chairman, in view of the remarks by the gentleman from New Hampshire [Mr. Cleveland] about the reference of this bill, and overhearing them and confining myself to that aspect of his remarks, I simply want to advise the Members of the House that in my judgment as the Speaker, this bill was properly referred to the Committee on Public Works.

In the original bill, the bill calls for the participation in the 1967 exposition, jointly with the State of Alaska through economic development projects such as industrial, agricultural, educational, research, or commercial facilities, and so forth.

Mr. Chairman, I thoroughly respect the views of my friend, the gentleman from New Hampshire [Mr. Cleveland], but I cannot be on the floor and listen to one challenge the reference of a bill that I made. I realize that I might make mistakes occasionally, but I will

8. 112 CONG. REC. 4579, 4580, 89th Cong. 2d Sess.

always make the reference of a bill that the rules call for. In my clear judgment this bill was properly referred to the Committee on Public Works⁽⁹⁾

Informing the House of Actions Taken

§ 3.8 The Speaker informs the House when he has accepted a resignation and appointed a successor to a committee during an adjournment.

On Jan. 3, 1957,⁽¹⁰⁾ Speaker Sam Rayburn, of Texas, made the following announcement concerning a committee appointment:

THE SPEAKER: The Chair desires to announce that pursuant to the provisions of House Concurrent Resolution 244, 84th Congress, and the order of

9. *Parliamentarian's Note*: As introduced the bill in question was primarily an economic development measure. In this form, the bill was primarily within the jurisdiction of the Committee on Public Works. As reported, however, the primary emphasis of the bill was federal recognition of and participation in the centennial celebration of the Alaska purchase. In this form, the bill was similar to centennial bills that have been traditionally, under the precedents, referred to the Committee on the Judiciary.

Reference generally, see Ch. 16, *infra*.

10. 103 CONG. REC. 47, 85th Cong. 1st Sess.

the House of July 27, 1956, empowering him to accept resignations and to appoint commissions . . . he did, on September 8, 1956, appoint as a member of the joint committee to represent the Congress at the unveiling of the Commodore John Barry Memorial at Wexford, Ireland . . . the gentleman from Pennsylvania . . . to fill a vacancy caused by the resignation of the gentleman from New York.

§ 3.9 The Speaker informs the House when he has signed enrolled bills during an adjournment pursuant to authority granted him.

On July 26, 1948,⁽¹¹⁾ Speaker Joseph W. Martin, Jr., of Massachusetts, announced his signing of certain enrolled bills subsequent to adjournment.

The Speaker, pursuant to the provisions of House Concurrent Resolution 219, Eightieth Congress, announced his signature to enrolled bills and joint resolutions of the Senate as follows:

On June 22, 1948:

S. 418. An act to provide for water-pollution-control activities in the Public Health Service of the Federal Security Agency and in the Federal Works Agency, and for other purposes. . . .

And on June 23, 1948, enrolled bills of the Senate as follows:

S. 165. An act for the relief of Doris E. Snyder. . . .

On June 10, 1968,⁽¹²⁾ Speaker John W. McCormack, of Massa-

11. 94 CONG. REC. 9363, 80th Cong. 2d Sess.

12. 114 CONG. REC. 16381, 90th Cong. 2d Sess.

chusetts, made an announcement to the House:

THE SPEAKER: The Chair desires to announce that pursuant to the authority granted him on Thursday, June 6, 1968, he did on June 7, 1968, sign the following enrolled bills of the House:

H.R. 6087. An act to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and consideration of law enforcement and criminal justice systems at all levels of government, and for other purposes

§ 3.10 The Speaker informs the House when an elected Speaker pro tempore has signed enrolled bills during an adjournment of the House pursuant to authority granted.

On July 14, 1958,⁽¹³⁾ Speaker Sam Rayburn, of Texas, announced that during an adjournment the elected Speaker pro tempore had signed certain enrolled bills pursuant to authority granted.

Procedure When Speaker Criticized

§ 3.11 When the Speaker is the subject of criticism in debate and a point of order is raised against such criticism, it is customary for the Speaker to

13. 104 CONG. REC. 13695, 13696, 85th Cong. 2d Sess.

appoint a Speaker pro tempore to rule on whether the words spoken were parliamentary.

On Feb. 7, 1935,⁽¹⁴⁾ the following remarks were made:

MR. [THOMAS L. BLANTON [of Texas]: Mr. Chairman, a point of order.

Mr. Chairman, I ask that the words of the gentleman from Massachusetts [Mr. Tinkham] about former Speaker Rainey and Speaker Byrns be taken down. If he has no respect for the living, he ought to have some respect for the dead. I ask that his words be taken down. We will call the gentleman down on that now. . . .

The Chairman [William N. Rogers, of New Hampshire]: The Clerk will report the words objected to.

The Clerk read to the Committee the words objected to.

THE CHAIRMAN: The Committee will rise.

Accordingly the Committee rose; and the Speaker . . . resumed the chair.

THE SPEAKER [Joseph W. Byrns, of Tennessee]: The Clerk will report the words.

The Clerk read the words objected to.

THE SPEAKER: The Chair feels some delicacy in ruling on the language inasmuch as he is involved, and the Chair will ask the gentleman from New York [Mr. O'Connor] to take the chair.

Mr. O'Connor assumed the chair as Speaker pro tempore.

14. 79 CONG. REC. 1680, 1681, 74th Cong. 1st Sess.

Controlling the Record

§ 3.12 It has been held that the Speaker may direct the official House reporters of debates to refrain from inserting in the Congressional Record notations concerning applause and other demonstrations by Members in the House.

On Mar. 6, 1945,⁽¹⁵⁾ Speaker Sam Rayburn, of Texas, responded to a parliamentary inquiry concerning Congressional Record coverage of demonstrations in the House.

MR. [JOHN E.] RANKIN [of Mississippi]: . . . I propound another parliamentary inquiry at this time. Some time ago the Official Reporters of Debates ceased to take down the demonstrations that are made in the course of debate, the only parliamentary body in the world that prints a Record in which that has been done, that I have been able to find. I occasionally get the Record of the British House of Parliament. I read it and in these trying times there is applause, cheers, their cries of "hear, hear" laughter, and other demonstrations that are made. You get the Record of the United States Senate and, as a rule, they do not have probably so many there to applaud, but when there is applause or a demonstration, it is placed in the Record. Our demonstrations have been cut out of our Record

15. 91 CONG. REC. 1789, 79th Cong. 1st Sess.

and I think it is a serious mistake because now a man can make a speech and extend his remarks and you have no indication as to where his speech left off and where his extension of remarks begins. I know it has been contended by a few Members in the House that the extension of those demonstrations in the Record have been abused. But that was done very seldom, and where the Member did abuse that privilege by inserting laughter or applause he has been subjected to the most drastic criticism and ridicule and, as a rule, has never attempted it again. . . .

THE SPEAKER: The Chair does not intend to be facetious, but the Chair would like to give the House his reaction to the expressions "Hear! Hear!" and "Applause" in the Record. When I came here 32 years ago on Sunday last, a gentleman had been elected by a split in the Republican Party in a particular State, and he had come here with Democratic and Progressive votes. He made a speech in the House. Whether it went into the permanent Record I do not know, but I know it went into the temporary Record. It closed in this fashion: "Loud and prolonged applause among Democrats and Progressives, followed by much handshaking."

In times past there appeared in the Record the word "Applause" where a Member spoke. In another place there was "Loud applause." In another place there was "Loud and prolonged applause." In another place there was "Loud and prolonged applause, the Members rising." If I had made a speech and had received "applause," and some Member had followed me immediately and had received "loud and

prolonged applause, the Members rising," my opponent in the next primary might have called attention to how insignificant I was because I only received "applause" and the other Member had received "loud and prolonged applause, the Members rising."

The Chair has held that demonstrations in the House are not a part of the Record, and shall continue to hold that until the rules of the House are changed.

§ 3.13 Although it has been held that it is within the authority and normally the duty of the Speaker to order stricken from the notes of the official House reporters remarks made by Members not legitimately having the floor, it has also been held that it is within the Speaker's power to allow an exception in unusual circumstances.

On Apr. 19, 1937,⁽¹⁶⁾ Speaker William B. Bankhead, of Alabama, responded to a parliamentary inquiry concerning remarks of Members, not legitimately having the floor, being reflected in the *Congressional Record*.

MR. [EDWARD W.] CURLEY [of New York]: I rise to propound a parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

16. 81 CONG. REC.. 3588, 3589, 75th Cong. 1st Sess.

MR. CURLEY: Last Thursday, April 15, during the discussion of the antilynching bill, I submitted two questions to the gentleman from New York [Mr. Wadsworth]. Upon reading the Congressional Record the following day I found they were omitted. In the course of the extension of my own address on the following page in the Record that fact is mentioned in my own address; so that on a checkback it will be found that these two questions have been omitted, and we find that they were omitted inadvertently by the reporter. The reporter has informed me of the fact that that is the truth.

What I wish to know, Mr. Speaker, is whether or not I can have the permanent Record corrected so as to include the two questions and the offside remark that went with them. . . .

THE SPEAKER: Did the gentleman from New York address the Chair and ask whether or not the gentleman from New York [Mr. Wadsworth], then occupying the floor, would yield?

MR. CURLEY: I did, Mr. Speaker. I think the gentleman from New York [Mr. O'Connor] was presiding on both occasions.

THE SPEAKER: Did the gentleman from New York [Mr. Wadsworth] yield?

MR. CURLEY: The gentleman from New York [Mr. Wadsworth] did not yield, and so stated. But not long thereafter the gentleman from New York [Mr. Gavagan] asked the same questions, received the same reply, that the gentleman from New York [Mr. Wadsworth] did not yield; yet the questions and remarks of the gentleman from New York [Mr. Gavagan] are incorporated in the Congressional Record.

THE SPEAKER: This is a rather important inquiry that the gentleman from New York [Mr. Curley] has submitted. It has not been raised, so far as the Chair recalls, during the present session of Congress. In order that the rights of Members may be protected, and that the Members may know what the rules and precedents are with respect to this proposition, the Chair will read from section 3466, volume 8, of Cannon's Precedents of the House of Representatives. . . .

The Chair may say that in conformity with this precedent, and what the Chair conceives to be sound procedure, the rule should be reiterated that when a Member is occupying the floor and a Member after addressing the Chair and asking the Member then occupying the floor if he will yield for a question or for an interruption, and the gentleman then speaking declines to yield, it is not proper for a Member nevertheless to interject into the Record some remark which he desires to make.

Under the particular circumstances now raised by the gentleman from New York [Mr. Curley], and in view of the fact the question has not heretofore been presented at this session of the Congress, the Chair is of the opinion it may not be an injustice to instruct the reporter to incorporate in the permanent Record in this instance the statement made by the gentleman from New York [Mr. Curley].

The Chair may say, however, that hereafter in conformity with this rule and what he regards as sound practice, the Chair instructs the reporters of debates where a Member declines to yield and notwithstanding another Member seeking to interrupt him per-

sists in talking, that those remarks shall not be incorporated in the Record.

Putting Unanimous-Consent Requests

§ 3.14 Unanimous-consent requests are put to the House by the Speaker, and a Member's objection to such a request is ineffective if it fails to follow immediately upon the Speaker's statement of the request.

On Sept. 4, 1940,⁽¹⁷⁾ a unanimous-consent request was made as follows:

MR. [BEVERLY M.] VINCENT [of Kentucky]: Mr. Speaker, I ask unanimous consent to withdraw the last sentence of my statement.

MR. [HENRY C.] DWORSHAK [of Idaho]: I object, Mr. Speaker.

THE SPEAKER PRO TEMPORE [Jere Cooper, of Tennessee]: The gentleman from Kentucky asks unanimous Consent to withdraw the statement. Is there objection? The Chair hears none.

MR. [FREDERICK V.] BRADLEY [of Michigan]: I object, Mr. Speaker.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, a point of order and a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN: Mr. Speaker, a moment ago certain words were uttered by the gentleman on the floor of the

House which I demanded be taken down. No report was made of those words. I demand the regular order—the taking down of the words, the report of the words, and the reading by the Clerk.

THE SPEAKER PRO TEMPORE: Subsequently, unanimous consent was granted for the words to be withdrawn.

MR. HOFFMAN: Oh, no, Mr. Speaker; three Members were on their feet. I was one of them, and objecting to that.

THE SPEAKER PRO TEMPORE: That was the ruling of the Chair.

MR. HOFFMAN: I appeal from the ruling of the Chair then.

THE SPEAKER PRO TEMPORE: This is not a ruling, it is just an answer to a parliamentary inquiry.

Stating Motions for Votes

§ 3.15 The Speaker or Chairman of the Committee of the Whole states motions, and it has been held that it is his statement of the motion and not the motion as stated by a Member that is voted upon.

On Mar. 26, 1965,⁽¹⁸⁾ the following motion was made:

MR. [ADAM C.] POWELL [of New York]: Mr. Chairman, I move that all debate and all amendments to section 203 close in 5 minutes, with one-half of the time reserved to the chairman.

THE CHAIRMAN [Richard Bolling, of Missouri]: The chairman of the committee moves that all debate and all amendments—

17. 80 CONG. REC.. 11516, 11517, 76th Cong. 3d Sess.

18. 111 CONG. REC. 6101, 89th Cong. 1st Sess.

MR. [PORTER] HARDY [Jr., of Virginia]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. HARDY: He is moving that he is going to have half of the time. Is that a proper motion? I had understood it was not. I believe it can be done by unanimous consent.

THE CHAIRMAN: Will the chairman of the committee please restate his motion?

MR. HARDY: I understood the motion.

MR. POWELL: I withdraw the previous motion. I move all debate and all amendments on this title and this section close in 10 minutes.

MR. HARDY: Mr. Chairman, I ask that the original motion be read.

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, a point of order. I want to know whether or not it takes unanimous consent to withdraw the motion.

THE CHAIRMAN: The gentleman from New York asks unanimous consent to withdraw the motion.

MR. POWELL: That is right. I withdraw it. I ask unanimous consent to withdraw it.

MR. ASHBROOK: Mr. Chairman, I object.

THE CHAIRMAN: Does the gentleman from New York desire a vote on his original motion?

MR. HARDY: Mr. Chairman, will the Chair state the motion as originally made?

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, a parliamentary inquiry. At the time that the gentleman from New York made the motion his voice was inaudible. I strongly feel that the motion that he made should be reread and read loud.

THE CHAIRMAN: The Chair will attempt to state how he understood it. It may be in error.

MR. GERALD R. FORD: Mr. Chairman, I ask that the reporter read what the Chairman said so we can all hear it. It would be very helpful.

THE CHAIRMAN: The gentleman from Michigan, the distinguished minority leader, is putting the Chair in the same position he had him in a little while ago. This goes straight, head on, into all of the practices and procedures of the House to have the reporter re-report a motion.

MR. GERALD R. FORD: Mr. Chairman, I withdraw my request.

THE CHAIRMAN: The Chair will state the motion as the Chair understood it. The Chair will say frankly the Chair had a little difficulty hearing it, but my understanding of the motion was that the chairman of the committee moved that all debate and all amendments to section 203 be closed in 5 minutes.

MR. GERALD R. FORD: And time was reserved for the chairman.

THE CHAIRMAN: The Chair did not hear that.

MR. [CRAIG] HOSMER [of California]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HOSMER: In the event that the motion is carried, if put, would the motion carried be that which was actually made by the gentleman from New York, or according to the Record as reported, or would it be the motion as stated by the Chair?

THE CHAIRMAN: The motion will be as stated by the Chair, as was the case yesterday and is the case today.

The motion is that all debate on this section close in 5 minutes.

Power of Recognition

§ 3.16 Although the Speaker has discretion to recognize Members to have the floor, he is under no duty to announce in advance whom he might recognize in the future.

On Oct. 8, 1969,⁽¹⁹⁾ a parliamentary inquiry was addressed to Speaker John W. McCormack, of Massachusetts:

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DINGELL: If the previous question is voted down, would it then be in order to offer an amendment to raise the sum for water pollution control grants to the States in the sum of \$1 billion?

THE SPEAKER: The Chair will state that, if the previous question is voted down, it would be in order to offer an amendment. The Chair is not going to pass on the amount at the present time.

MR. DINGELL: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DINGELL: Would I be recognized for that purpose? It would be my intent so to do.

THE SPEAKER: The Chair is not going to give a preliminary opinion as to whom the Chair might recognize.

§ 3.17 The Speaker has on occasion announced in advance that he would deny recognition to a Member under certain circumstances.

On Oct. 18, 1943,⁽²⁰⁾ the following parliamentary situation developed under which Speaker Sam Rayburn, of Texas, indicated he would deny recognition to a Member under certain circumstances.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

THE SPEAKER: Is there objection?

There was no objection.

MR. MCCORMACK: Mr. Speaker, I do this for the information of my colleagues, because this morning they received a letter from the Speaker in respect to a meeting to be held Wednesday morning, and in that letter it was stated that the meeting would be held in the Caucus Room of the old House Office Building, at which meeting General Marshall and other generals would appear in an off-the-record manner. The old Caucus Room has been looked over, as well as the auditorium of the Library of Congress. It is felt that the auditorium of the Library of Congress is a much more desirable place to hold the meeting, and I rise to announce that, instead of holding the

19. 115 CONG. REC. 29220, 91st Cong. 1st Sess.

20. 89 CONG. REC. 8433, 78th Cong. 1st Sess.

meeting in the old Caucus Room, it will be held in the auditorium of the Library of Congress. . . .

MR. [JOHN E.] RANKIN [of Mississippi]: Now, if we are going to hold executive sessions of the House, there is only one place that we are authorized by law to hold them, and that is in this Hall.

MR. MCCORMACK: This is not an executive session of Congress.

MR. RANKIN: It is going to be a secret session, and it ought to be, and it ought to be held in the Hall of the House of Representatives.

MR. MCCORMACK: This is not an executive session of Congress.

MR. RANKIN: It is unnecessary for the Congress of the United States to be going off to some other building to hear these leaders report on the war when we have the Hall of the House of Representative built and equipped for that purpose.

Will not the gentleman modify his request to have that meeting here in this Hall?

THE SPEAKER: The Chair would not recognize the gentleman for that purpose and the gentleman would not make such a request.

§ 3.18 The Speaker's power over recognition includes the power to ask for what purpose a Member rises without such request implying that the Speaker recognizes the Member for the purpose for which he has arisen.

On Apr. 13, 1946,⁽¹⁾ two Members rose seeking recognition from Speaker Sam Rayburn, of Texas:

1. 92 CONG. REC. 3669, 79th Cong. 2d Sess.

MR. [DEWEY] SHORT [of Missouri]: Mr. Speaker.

MR. [EDWARD E.] COX [of Georgia]: Mr. Speaker.

THE SPEAKER: For what purpose does the gentleman from Missouri rise?

MR. SHORT: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: For what purpose does the gentleman from Georgia rise?

MR. COX: Mr. Speaker, it was my purpose to demand a reading of the engrossed copy of the bill.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. TARVER: Mr. Speaker, may a demand be made for the reading of the copy of the engrossed bill after the proceedings which have just taken place and after the Clerk has read the bill which was considered engrossed?

THE SPEAKER: The bill was ordered to be engrossed and read a third time. The gentleman from Georgia was on his feet at the time.

Does the gentleman from Georgia insist upon his demand that the engrossed copy of the bill be read?

MR. COX: Mr. Speaker, my making demand that the engrossed copy of the bill be read does not indicate my opposition to the bill.

MR. SHORT: Mr. Speaker, I am opposed to the bill.

MR. COX: I was compelled to make the demand and I did make it.

THE SPEAKER: The gentleman from Georgia [Mr. Cox] demands the reading of the engrossed copy of the bill. The Chair will state that with the number of amendments agreed to, it

would be impossible to have the engrossed copy of the bill this afternoon.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, if I understood the situation correctly, the gentleman from Missouri [Mr. Short] was recognized to offer a motion to recommit.

THE SPEAKER: The gentleman from Missouri [Mr. Short] was not recognized. The Chair asked the gentleman for what purpose he rose, and then recognized the gentleman from Georgia.

§ 3.19 The Speaker's power of recognition includes the power to deny recognition to a Member for the purpose of making a motion which the Speaker determines to be in conflict with previous action of the House.

On Oct. 8, 1968,⁽²⁾ Speaker John W. McCormack, of Massachusetts, heard a Member's motion before recognizing the Member to offer it.

MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from Ohio rise?

MR. TAFT: Mr. Speaker I have a privileged motion.

MR. [SIDNEY R.] YATES [of Illinois]: A point of order, Mr. Speaker. That is not in order until the reading of the Journal has been completed.

THE SPEAKER: Will the gentleman from Ohio state his privileged motion?

MR. TAFT: Mr. Speaker, my motion is on a point of personal privilege.

THE SPEAKER: Will the gentleman from Ohio state whether it is a point of personal privilege or a privileged motion?

MR. TAFT: It is a privileged motion, and a motion of personal privilege.

Under rule IX questions of personal privilege are privileged motions, ahead of the reading of the Journal.

THE SPEAKER: The Chair will advise the gentleman that a question of personal privilege should be made later after the Journal has been disposed of.

If the gentleman has a matter of privilege of the House, that is an entirely different situation.

MR. TAFT: I believe, Mr. Speaker, this involves not only personal privilege as an individual, but also as a Member of the House and also the privileges of all Members of the House.

THE SPEAKER: The Chair does not recognize the gentleman at this time on a matter of personal privilege.

But the Chair will, after the pending matter, the reading of the Journal has been disposed of, recognize the gentleman if the gentleman seeks recognition.

MR. TAFT: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. TAFT: Mr. Speaker, is it not true in rule IX relating to questions of privilege it is stated that such questions shall have precedence over all other questions except motions to adjourn?

THE SPEAKER: Will the gentleman state the question of privilege.

2. 114 CONG. REC. 30214-16, 90th Cong. 2d Sess.

MR. TAFT: Mr. Speaker, my motion is that I and all other Members in the Chamber who were here at the time of the last quorum call and answered "present" be permitted to leave the Chamber at their desire. . . .

THE SPEAKER: The Chair will state in response to the parliamentary inquiry that the action of the House has deprived—has caused the doors to be closed and has deprived temporarily the privilege that the gentleman refers to. That has been done by the action of the House.

MR. TAFT: Mr. Speaker, I was recognized to make a privileged motion and it was not a matter of a parliamentary inquiry. I have made that motion and I ask that the Chair rule on the motion.

THE SPEAKER: What is the motion?

MR. TAFT: I request that I be given time to discuss the motion as a matter of privilege.

THE SPEAKER: The gentleman will state his motion.

MR. TAFT: Mr. Speaker, my motion is that I and all other Members present on the floor who answered "present" at the time of the last quorum call shall be permitted to leave the House freely at their own desire.

THE SPEAKER: The Chair does not recognize the gentleman for the purpose of making such a motion because the Chair has already clearly indicated the House has already taken action and it is within the power of the House to take the action that it did. Therefore, the Chair does not recognize the gentleman to make such a motion.

Mr. Gerald R. Ford [of Michigan]: Mr. Speaker, it was my understanding that the gentleman from Ohio had

been recognized for the purpose of offering the motion.

THE SPEAKER: The gentleman from Michigan is well aware of the fact that the question of recognition rests with the Chair. The gentleman did not make a motion which was in order by reason of the action heretofore taken by the House.

§ 3.20 It has been held that the presiding officer has the power to give or deny recognition to a Member who seeks to offer a perfecting amendment which would take precedence over another amendment.

On Dec. 15, 1937,⁽³⁾ the Chairman of the Committee of the Whole, John W. McCormack, of Massachusetts, indicated the discretionary nature of his power to recognize Members in answer to the following parliamentary inquiries:

Mr. [Gerald J.] Boileau [of Wisconsin]: Mr. Chairman, reserving the right to object, and I do so to propound a parliamentary inquiry as to the order in which amendments are to be offered. The amendment offered by the gentlewoman from New Jersey is now pending. Would not perfecting amendments have priority of consideration over a substitute amendment?

THE CHAIRMAN: The Chair has no knowledge of what amendments may

3. 82 CONG. REC. 1590, 75th Cong. 2d Sess.

be offered; but ordinarily a perfecting amendment has precedence over a motion to substitute insofar as voting is concerned. If the unanimous-consent request is granted, it is the understanding of the Chair that amendments will be offered section by section.

MR. BOILEAU: Nevertheless, it is the amendment offered by the gentleman from New Jersey that would be before the House.

THE CHAIRMAN: That is before the Committee now.

MR. BOILEAU: Would not perfecting amendments have priority over an amendment to substitute?

THE CHAIRMAN: So far as voting is concerned, yes.

MR. BOILEAU: I appreciate that fact, but may I propound a further parliamentary inquiry, whether or not a Member rising in his place and seeking recognition would not have a prior right to recognition for the purpose of offering a perfecting amendment to the amendment now pending?

THE CHAIRMAN: It does not necessarily follow that such Member would have a prior right. Recognition is in the discretion of the Chair.

MR. BOILEAU: I recognize it does not necessarily follow, but I am trying to have the matter clarified. Therefore I ask the Chair whether or not a Member who qualifies as offering a perfecting amendment does not have prior right of recognition in offering such amendment?

THE CHAIRMAN: The Chair has tried to be as helpful as he could, but the Chair does not feel he should estop himself of his own discretion in the matter of recognitions.

MR. BOILEAU: Does the Chair then rule that is within the discretion of the Chair rather than a right of the Member?

THE CHAIRMAN: In answer to the gentleman's inquiry, the Chair is of the opinion it is within the province of the Chair whom the Chair will recognize, having in mind the general rules of the House.

§ 3.21 Where there are two matters of equal preference brought before the House at the same time, it is within the Speaker's discretion to recognize whichever matter he chooses to be considered first.

On Sept. 22, 1966,⁽⁴⁾ an announcement was made concerning a change in the legislative program. A Member raised a parliamentary inquiry as a result of the change.

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

Under the rules of the House, as I understand them, this rule, House Resolution 1007, to bring up the so called House Un-American Activities Committee bill, is a privileged matter, and if it is not programed, then the gentleman handling the rule or any member of the Rules Committee, may call it up as a privileged matter. Is my understanding correct about that?

THE SPEAKER [John W. McCormack, of Massachusetts]: The gentleman's

4. 112 CONG. REC. 23691, 89th Cong. 2d Sess.

understanding is correct. Of course, the question of recognition is with the Chair, where there are two similar preferential matters, but the gentleman's understanding is correct that after 7 legislative days a member of the Rules Committee could call it up.

If it were a question of recognition, if the same preferential status existed at the same time, recognition rests with the Chair.

§ 3.22 It is within the Speaker's discretion to recognize a Member for a parliamentary inquiry regarding a resolution and, after such is stated and without answering the inquiry, recognize another Member for the purpose of withdrawing a pending resolution.

On Apr. 8, 1964,⁽⁵⁾ Speaker John W. McCormack, of Massachusetts, indicated the nature of the Speaker's power of recognition during the consideration of two measures before the House. The Committee of the Whole had risen and reported to the House matters pertaining to a bill (H.R. 10222). Upon demand by a Member the bill was ordered to be engrossed and read a third time. While preparation of the engrossed copy of the bill was taking place, a Member called up House Resolution 665 by direction of the Committee

5. 110 CONG. REC. 7303, 7304, 88th Cong. 2d Sess.

on Rules and asked for its immediate consideration. After certain remarks on House Resolution 665 were made, the Speaker declared a recess pending the receipt of the engrossed copy of H.R. 10222. The recess having expired, the House was called to order by the Speaker and the proceedings were as follows:

THE SPEAKER: The unfinished business is the reading of the engrossed copy of H.R. 10222.

The Clerk will read the engrossed copy.

MR. OLIVER P. BOLTON [of Ohio]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. OLIVER P. BOLTON: Mr. Speaker, when the recess was called, it was my understanding that we were engaged in the consideration of [H. Res. 665]. Is it not the rule of the House that we must finish the consideration of that measure before we take up any other measure which has been passed over for parliamentary and mechanical reasons?

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker—

THE SPEAKER: The gentleman from Missouri [Mr. Bolling].

MR. BOLLING: Mr. Speaker, under the rules I withdraw House Resolution 665.

MR. OLIVER P. BOLTON: Mr. Speaker, a parliamentary inquiry.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, that takes unanimous consent, and I object.

THE SPEAKER: The Chair will state that it does not take unanimous con-

sent to withdraw the resolution in the House.

MR. OLIVER P. BOLTON: Mr. Speaker, it is my understanding that the Speaker was addressing the Member now addressing the Chair and had not given an answer to my question. Therefore, the recognition of the Member from the other side, the gentleman from Missouri [Mr. Bolling] was out of order. Am I incorrect?

THE SPEAKER: The recognition of the gentleman from Missouri [Mr. Bolling] terminated the parliamentary inquiry.

MR. OLIVER P. BOLTON: In other words, the Speaker did not answer the parliamentary inquiry; is that correct?

THE SPEAKER: Since the resolution was withdrawn, the parliamentary inquiry was ended.

MR. OLIVER P. BOLTON: If the Speaker will respectfully permit, the gentleman from Ohio would suggest that the question had been asked before the resolution had been withdrawn.

THE SPEAKER: The Chair will state that the Chair has the power of recognition. Now that the resolution has been withdrawn, the unfinished business is the reading of the engrossed copy of H.R. 10222.

MR. OLIVER P. BOLTON: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. OLIVER P. BOLTON: The Speaker had recognized the gentleman from Ohio for a parliamentary inquiry. The parliamentary inquiry had been made. The parliamentary inquiry had not been answered and yet the Chair recognized the gentleman from Missouri.

THE SPEAKER: Which the Chair has the power to do.

The Clerk will read the engrossed copy of H.R. 10222

§ 3.23 The power of recognition vested in the presiding officer is not infringed upon if unanimous consent is requested and received to recognize a Member to speak at a certain time.

The Chairman of the Committee of the Whole, being also a Member, may invoke his right to object to a unanimous-consent request.

On Dec. 9, 1947,⁽⁶⁾ the Chairman of the Committee of the Whole, Earl C. Michener, of Michigan, responded to an inquiry concerning possible infringement on the power of recognition by unanimous consent being given a Member to speak:

THE CHAIRMAN: As the Chair understands the rule, the presiding officer in the Committee is in a dual capacity. First, he is selected to be the presiding officer during the consideration of the bill. But by accepting such appointment he does not lose his right to vote and object as any other Member. That is, his district is not deprived of its rights by virtue of the Chairman selection. That being true, the Chair not making any objection, I cannot see how the rights of the Chair are infringed upon if the Committee, by unanimous consent, wants to provide that a certain individual may speak at a certain

6. 93 CONG. REC. 11231, 80th Cong. 1st Sess.

hour during the Committee consideration. If the Chair is agreeable and all Members are agreeable.

Controlling Scope of Debate

§ 3.24 The scope of debate in the House is generally a matter of relevancy which the Speaker may determine when a point of order is raised.

On Dec. 10, 1963,⁽⁷⁾ Speaker John W. McCormack, of Massachusetts, discussed the scope of House debate during a ruling on a point of order related thereto.

MR. [BYRON G.] ROGERS of Colorado: The point of order is we are now considering the rule on the indigent defendant's bill. The gentleman from Kansas is talking about the civil rights bill, and is out of order.

THE SPEAKER: The Chair is prepared to rule.

The Chair takes a lenient attitude toward debate in the House. If the gentleman from Kansas feels that there is anything involved in this bill that might be connected with legislation concerning civil rights, the Chair feels that the gentleman, who is conversant with the rules, is proceeding and will proceed in order.

The gentleman from Kansas may proceed.

MR. [HAROLD R.] GROSS [of Iowa]: Mr. Speaker, will the gentleman yield?

MR. [WILLIAM H.] AVERY [of Kansas]: Yes, Mr. Speaker, I yield to the gentleman from Iowa.

7. 109 CONG. REC. 23968, 88th Cong. 1st Sess.

MR. GROSS: Mr. Speaker, I ask unanimous consent that the gentleman from Kansas have permission to speak out of order.

THE SPEAKER: Without objection, it is so ordered.

There was no objection.

Controlling Time for Debate

§ 3.25 The presiding officer supervises the timing of the proceedings by a clock in the House Chamber.

On Feb. 10, 1964,⁽⁸⁾ when a discrepancy existed in the times shown on the clocks in the House Chamber, the following question was asked of the Chairman of the Committee of the Whole, Eugene J. Keogh, of New York:

MR. [ROBERT H.] MICHEL [of Illinois]: By what clock are we operating this afternoon?

THE CHAIRMAN: The one the Chair is looking at.⁽⁹⁾

§ 3.26 It is within the authority of the Chairman of the Committee of the Whole to supervise the control of time for debate, and when he is not informed of a delegation of control of time the delegation is ineffective.

8. 110 CONG. REC. 2724, 88th Cong. 2d Sess.

9. *Parliamentarian's Note*: The clock the Chair was "looking at" was the clock on the north wall of the House Chamber.

On Jan. 31, 1964,⁽¹⁰⁾ during the course of the following debate the Chairman of the Committee of the Whole, Eugene J. Keogh, of New York, indicated the manner by which a delegation of control of time for debate is effective.

MR. [BASIL L.] WHITENER: [of North Carolina]: If the gentleman will get me more time, I will be glad to yield to the gentleman.

MR. [PETER W.] RODINO [Jr., of New Jersey]: I will give the gentleman 1 extra minute.

MR. WHITENER: I yield to the gentleman, but please do not take more than 1 minute.

THE CHAIRMAN: The Chair has to inform the gentleman from North Carolina that the gentleman from New Jersey does not have control of the time.

MR. WHITENER: Then, Mr. Chairman, I must respectfully decline to yield to the gentleman. . . .

MR. [BYRON G.] ROGERS of Colorado: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state the point of order.

MR. ROGERS of Colorado: Mr. Chairman, the gentleman from New Jersey is now in charge of the time in the absence of the chairman, the gentleman from New York [Mr. Celler].

THE CHAIRMAN: The Chair was not informed that the gentleman from New York is absent nor is the Chair informed that the gentleman from New Jersey is now in charge of the time.

The gentleman from North Carolina is recognized.

MR. WHITENER: I thank the chairman. . . .

THE CHAIRMAN: The time of the gentleman has expired.

MR. RODINO: Mr. Chairman, I yield myself 10 minutes, and I wish to state I am acting for the chairman of the Committee on the Judiciary who asked me to take charge of the time for him in his absence.

THE CHAIRMAN: The gentleman from New Jersey is recognized.

§ 3.27 It is within the authority of the Speaker and the House, and not the Chairman of the Committee of the Whole, to decide whether time for continued consideration of an unfinished bill will be given in the legislative program.

On Apr. 26, 1948,⁽¹¹⁾ the Chairman of the Committee of the Whole, Leslie C. Arends, of Illinois, responded to an inquiry about what time might be provided for a continuation of consideration of an unfinished bill.

MR. AUGUST H. ANDRESEN [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN (Mr. Arends): The gentleman will state it.

MR. AUGUST H. ANDRESEN: Mr. Chairman, I understand that the Committee will rise at 4 o'clock. It is also my understanding of the rules that

10. 110 CONG. REC. 1538, 88th Cong. 2d Sess.

11. 94 CONG. REC. 4873, 80th Cong. 2d Sess.

this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.

I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.

THE CHAIRMAN: The Chair may say that is a matter for the Speaker of the House and the House itself to determine. It is not something within the jurisdiction of the [Chairman of the Committee of the Whole] to decide.

§ 3.28 The Speaker has set policy with regard to the practice of one-minute speeches by Members.

On July 22, 1968,⁽¹²⁾ Speaker John W. McCormack, of Massachusetts, discussed the practice of permitting one-minute speeches from the floor of the House:

MR. [LESLIE C.] ARENDS [of Illinois]: . . . Would it be proper if Members were permitted to extend their remarks and make their 1-minute speeches at the end of the legislative day in order that we might just get started right away on the legislative program when we meet.

MR. MCCORMACK: I call the 1-minute period "dynamic democracy." I hesitate to take away the privilege of a Member as to speaking during that period and it has become a custom and a practice of the House. I think it is a very good thing to adhere to that custom and practice.

12. 114 CONG. REC. 22633, 22634, 90th Cong. 2d Sess.

It is only on rare occasions that Members have not been recognized for that purpose. How would the gentleman feel if he had a 1-minute speech to make and he had sent out his press release and then found out that the Speaker was not going to recognize him? Surely, I think, the gentleman would feel better if the Speaker did recognize him; would he not?

MR. ARENDS: According to a person's views—I think it would be the reverse.

MR. MCCORMACK: Does the gentleman mean at the end of the day?

MR. ARENDS: You said that this might be "dynamic democracy." I would rather it would be started when we have the time rather than be started at noon.

MR. MCCORMACK: It is an integral part of the procedure of the House and I like to adhere to it. Very seldom have I said to Members that I will accept only unanimous-consent requests for extensions of remarks. I hesitate to do it. I think every Member realizes that I am trying to protect their rights.

MR. [DURWARD G.] HALL [of Missouri]: I thank the gentleman for yielding.

I think the question is not that of eliminating the 1-minute speeches after the Members have their news releases out. But it is a question of not going back after the second or third rollcall and rerecognizing speeches. In this connection does "dynamic democracy" mean the same thing as benign but beneficial dictatorship—which does have merit?

MR. MCCORMACK: The gentleman from Missouri has raised a very interesting question. Many times I have said to myself, I am going to announce

that the 1-minute speeches will have to be at 12 o'clock and not thereafter. But I have not come to the making of that resolution because I just could not bring myself to it. It is somewhat late in this session to do it and when, of course, we Democrats control the House in the next Congress, and I hope I will be Speaker, then I might do it. I am not promising it, but I may do it. But there is something to what the gentleman from Missouri says.

MR. HALL: I would appreciate it if we had a little more "dynamic democracy" so that we could get to work on the legislative program.

MR. McCORMACK: I realize that any Member who wants to make a 1-minute speech ought to be here at 12 o'clock. But we are all human beings. None of us are perfect.

On June 17, 1970,⁽¹³⁾ Speaker McCormack made the following announcement:

THE SPEAKER: The Chair will recognize Members for unanimous-consent requests to extend remarks, and so forth, or for 1-minute speeches with yielding back of the time, and later in the day the Chair will recognize Members for 1-minute speeches if Members desire to present them. . . .

MR. [WILLIAM V.] ALEXANDER [Jr., of Arkansas]: Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks and to include extraneous matter.

THE SPEAKER: Is there objection to the request of the gentleman from Arkansas?

MR. [HAROLD R.] GROSS [OF IOWA]: Mr. Speaker, reserving the right to object—

THE SPEAKER: The gentleman from Arkansas asked unanimous consent to address the House for 1 minute.

MR. GROSS: I understand that, Mr. Speaker, and I reserved the right to object.

Mr. Speaker, when the session opened this morning the Speaker—very providently, I thought—in the interest of—getting on with the legislative business, precluded 1-minute speeches. However, I am not at all certain that it was done for the purpose of expediting the legislation, but rather to prevent 1-minute speeches on the resolution just passed.

THE SPEAKER: . . . As far as the Chair is concerned the custom of the 1-minute speech procedure is adhered to as much as possible because the Chair thinks it is a very healthy custom.

The Chair had the intent, after the disposition of the voting rights bill, to recognize Members for 1-minute speeches or further unanimous-consent requests if they so desired to do so.

Construing and Applying House Rules

§ 3.29 It has been held within the authority of the Speaker to look to all pertinent facts concerning a matter in order to construe House rules sought to be applied thereto.

On Aug. 13, 1937,⁽¹⁴⁾ Speaker William B. Bankhead, of Ala-

13. 116 CONG. REC. 20158, 20245, 91st Cong. 2d Sess.

14. 81 CONG. REC. 8842-45, 75th Cong. 1st Sess.

bama, described the circumstances that could be considered in construing a rule of the House.

MR. [JOHN H.] KERR [of North Carolina]: Mr. Speaker, I offer a privileged report in the election contest of Roy against Jenks.

The Clerk read the title of the resolution.

THE SPEAKER: Referred to the House Calendar and ordered printed.

MR. [CHARLES W.] TOBEY [of New Hampshire]: Mr. Speaker, I rise to make a point of order against the acceptance by the House of the report and resolution just offered by the chairman of Elections Committee No. 3.

Mr. Speaker, it is my contention that the making of this report constitutes a violation of section 47 of rule 11 of the rules of the House of Representatives, which reads as follows:

47. The several elections committees of the House shall make final report to the House in all contested election cases not later than 6 months from the first day of the first regular session of the Congress to which the contestee is elected except in a contest from the Territory of Alaska in which case the time shall not exceed 9 months.

The language of this rule is not permissive; it is mandatory, compelling. . . .

After lengthy debate Speaker Bankhead said:

THE SPEAKER: The Chair is prepared to rule on this point of order. . . .

. . . Of course, this is a rather serious proposition which has been sub-

mitted to the Chair, because it involves the right of the contestant or the contestee to have the issue presented to this House as to whether or not the contestant or the contestee is entitled to a seat on the floor. . . .

The Chair thinks it proper in the construction of this issue not only to take into consideration the verbiage of this rule but also a provision of the Constitution of the United States which has been cited in this argument. Section 5 of article I of the Constitution, in part, provides:

Each House shall be the judge of the elections, returns, and qualifications of its own Members.

The Chair is of opinion that although the terms of the rule are in the language read by the Chair and as argued by the gentleman from New Hampshire, yet, nevertheless, the Chair must look at all the facts in the case in order to reach a decision as to what was the fair intention of the House of Representatives in the adoption of this rule. . . .

The contestee and the contestant having each more than 6 months under the statutes to present their case, the Chair is of opinion that under all of the circumstances the fair and reasonable and just interpretation of this rule justifies him in overruling the point of order, and the Chair does overrule the point of order.⁽¹⁵⁾

15. *Parliamentarian's Note*: The first regular session of the 75th Congress began on Jan. 5, 1937. The point of order in this case was that the time period under the rule in question was six months, and therefore the committee did not have jurisdiction

Ruling on Resolutions**§ 3.30 The Speaker normally does not rule on whether a resolution is a privileged one until the reading of it is concluded.**

On July 9, 1935,⁽¹⁶⁾ a Member rose to present what he considered to be a privileged resolution.

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, I have a matter of correcting a false report that should require not more than a few minutes. For the purpose of getting it immediately before the House, I rise to a question of the privileges of the House and present a privileged resolution.

The Clerk read the resolution, as follows:

RESOLUTION

Whereas all over the United States the press has erroneously asserted that in a brusque, uncalled-for manner the Doorkeeper of the House of Representatives forced a mother and child to leave the House gallery because she was nursing her baby, and inferentially censuring the House of Representatives for not allowing a

on Aug. 13 to submit the report. The issue of the contested election was filed with the committee on July 21, 1937, and immediately referred to the Committee on Elections No. 3. Thus in construing the rule, the Speaker in effect held that the six months' time period in question was directory and not mandatory in nature.

16. 79 CONG. REC. 10905, 74th Cong. 1st Sess.

mother to nurse her baby in the House gallery. . . .

. . . Therefore be it

Resolved, That said report emanating from Washington and published generally in the United States was incorrect and without warrant.

MR. [JOHN E.] RANKIN [of Mississippi] (interrupting the reading of the resolution): Mr. Speaker, I make the point of order that enough of the resolution has been read to show that it is not privileged.

MR. BLANTON: It should be privileged when the House of Representatives has been charged with having shown disrespect and an inexcusable indignity to an American mother.

MR. RANKIN: Mr. Speaker, it does not reflect on the dignity of the proceedings of the House at all.

THE SPEAKER [Joseph W. Byrns, of Tennessee]: The Clerk will finish the reading of the resolution. The Chair cannot pass on the matter until the reading of the resolution has been concluded. . . .

§ 3.31 Although the Chairman of the Committee of the Whole does not ordinarily rule on the effect of an amendment, he has interpreted questioned language in order to rule on a point of order.

On Apr. 26, 1966,⁽¹⁷⁾ a point of order was raised concerning the effect of a proposed amendment.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a

17. 112 CONG. REC. 8968, 8969, 89th Cong. 2d Sess.

point of order against the amendment offered by the gentleman from Illinois on the ground that it is legislation on an appropriation bill. . . .

THE CHAIRMAN [Eugene J. Keogh, of New York]: The Chair is prepared to rule.

The gentleman from Illinois [Mr. Finley] has offered an amendment . . . to which amendment the gentleman from Mississippi has made a point of order on the ground that it is legislation on an appropriation act.

The language sought to be inserted by the amendment reads as follows:

No funds appropriated by the Act shall be used to formulate or administer a Federal crop insurance program for the current fiscal year that does not meet the administrative and operating expenses from premium income.

It might be said that the effect of any proposed amendment is truly not within the competence of the Chair. But a reading of this language indicates to this occupant of the chair that there is here sought an express limitation on the funds appropriated by the pending bill and the Chair, therefore, overrules the point of order.

Inquiries by Chair

§ 3.32 The Chairman of the Committee of the Whole may inquire of a Member offering an amendment the purpose of including therein a reference to existing law.

On Oct. 10, 1963,⁽¹⁸⁾ the Chairman of the Committee of the

18. 109 CONG. REC. 19260, 88th Cong. 1st Sess.

Whole, Richard Bolling, of Missouri, made the following inquiry of a Member:

THE CHAIRMAN: The Chair would like to ask the gentleman from Washington a question. What is the reason for the inclusion of language at the end of the amendment reading:

Except pursuant to an agreement hereafter made by the President by and with the advice and consent of the Senate as provided by section 205 of the National Aeronautics and Space Act of 1958.

The Chair, to make it clear why he is asking the question, has examined section 205 of that act. That says:

INTERNATIONAL COOPERATION

Sec. 205. The Administration, under the foreign policy guidance of the President, may engage in a program of international cooperation in work done pursuant to this Act and in the peaceful application of the results thereof, pursuant to agreements made by the President with the advice and consent of the Senate.

The problem the Chair is considering is why there is any need to include the language at the end of the amendment unless in some way it changes existing law?

MR. [THOMAS M.] PELLY [of Washington]: Mr. Chairman, I would say that it does not change existing law but simply follows it. But, in order to clarify this matter I ask unanimous consent to strike from the amendment the words from "except pursuant to an agreement" to the end.

THE CHAIRMAN: Is there objection to the request of the gentleman from Washington?

There was no objection.

Answering Inquiries

§ 3.33 The Speaker may answer parliamentary inquiries regarding the applicability of the rules of the House to standing committees.

On Feb. 15, 1949,⁽¹⁹⁾ parliamentary inquiries were made concerning the applicability of the House rules to the standing committees.

MR. [EARL] CHUDOFF [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER [Sam Rayburn, of Texas]: The gentleman will state it.

MR. CHUDOFF: Mr. Speaker, I should like to know whether the committees of this House operate under the same rules as the House.

THE SPEAKER: The rules of the House so provide.

MR. CHUDOFF: Mr. Speaker, I should like to know further whether this House has a right to appeal from a ruling of the Chair.

THE SPEAKER: Any Member has the right to appeal from the ruling of the Chair.

MR. CHUDOFF: I should like to know whether, under that ruling, members of the committee can appeal from the ruling of the chairman of the committee.

THE SPEAKER: They can.

MR. CHUDOFF: So that the chairman of a committee who had his ruling ap-

pealed from would have no right other than to allow that appeal to go before the entire committee; is that right, Mr. Speaker?

THE SPEAKER: The rules of the House provide that the rules of the House are made the rules of its standing committees so far as applicable. The Members of the House have a right to appeal from a decision of the Chair. That would also apply in a committee.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Suppose a question is raised here and a roll call is asked for, and one-fifth of the Members rise and ask for a roll call, and the Chair holds that a roll call is called for, no appeal from that ruling would be in order, would it?

THE SPEAKER: That would be in accordance with the rules of the House.

MR. RANKIN: Certainly. That is just what happened in the committee this morning. I demanded a roll call and asked for a showing of hands, and more than one-fifth voted for a roll call. One member tried to appeal from the decision, which, of course, was ridiculous. Then a few of them walked out, evidently to keep from going on record.

THE SPEAKER: The Chair was only answering the parliamentary inquiry. He does not know what happened in the committee.

§ 3.34 The Speaker may decline to immediately answer a parliamentary inquiry

19. 95 CONG. REC. 1212, 1213, 81st Cong. 1st Sess.

when the inquiry would better be taken under advisement.

On July 21, 1956,⁽²⁰⁾ a parliamentary inquiry was directed to Speaker Sam Rayburn, of Texas:

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. HOFFMAN [of Michigan]: Mr. Speaker, can a regular or select committee of the House authorize its chairman to file, subsequent to adjournment sine die, with the Clerk for printing as House documents reports which are approved by a majority of the members of the committee, if such reports do not purport to represent the views and conclusions of the entire membership?

THE SPEAKER: That is something the Chair would certainly have to take under advisement and it would take some time.

§ 3.35 The Speaker may request that a parliamentary inquiry be withheld under certain circumstances until the Speaker has had sufficient time to determine certain facts.

On July 8, 1957,⁽¹⁾ a parliamentary inquiry was addressed to Speaker Sam Rayburn, of Texas:

20. 102 CONG. REC. 13832, 84th Cong. 2d Sess.

1. 103 CONG. REC. 11012, 85th Cong. 1st Sess.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I desire to propound a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. SMITH of Virginia: Mr. Speaker, the bill, H.R. 6127, known as the civil rights bill, as it passed the House, contained an amendment, one amendment, which should have been printed on page 13 where it was adopted. By inadvertence an error was made in the Journal and in the printing of the bill, and the bill was printed so that the amendment appears at the bottom of page 8 of the bill instead of as a new section on page 13. It was so messaged to the other body in the erroneous form. In other words, the House sent to the other body a bill which is not in conformity with the action of the House. The bill was received by the other body and was read the first time and was then read the second time and it is now on the calendar of the other body. My parliamentary inquiry is whether it is not the proper procedure at this time to ask the other body to return the bill to the House for action to conform to what actually took place and to conform with the Record and the Journal of the House.

THE SPEAKER: The Chair would ask the gentleman from Virginia to withhold his inquiry for the purpose of enabling the Chair to look further into the matter.

MR. SMITH of Virginia: I thank the Speaker.

§ 3.36 The Speaker, and not the Chairman of the Committee of the Whole, is considered the proper person to

answer parliamentary inquiries regarding points of order which might be made against a conference report under consideration in the House.

On May 18, 1966,⁽²⁾ a parliamentary inquiry was addressed to the Chairman of the Committee of the Whole, Eugene J. Keogh, of New York:

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. JONAS: In case the bill agreed on in the conference should delete this amending language, and the bill which came back to the House contained the objectionable language, against which the point of order was lodged, could a point of order be made against the conference report to strike that language?

THE CHAIRMAN: The present occupant of the chair would not assume to undertake to suggest what would be done by the Speaker in that event.

MR. JONAS: That would be a matter for the Speaker to decide.

THE CHAIRMAN: The gentleman is correct.

§ 3.37 The Speaker, and not the Chairman of the Committee of the Whole, is considered the person having authority to answer par-

2. 112 CONG. REC. 10895, 89th Cong. 2d Sess.

liamentary inquiries regarding voting requirements in the House.

On June 13, 1946,⁽³⁾ a parliamentary inquiry was addressed to the Chairman of the Committee of the Whole, William M. Whittington, of Mississippi:

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE: Would it be possible to get a rule making in order a paragraph which had previously been stricken from the bill on a point of order, unless that rule was adopted by a two-thirds vote?

THE CHAIRMAN: The Chair may say to the gentleman that that inquiry is not one that can be answered in the Committee of the Whole. It is a matter that would have to be determined by the Speaker of the House.

§ 3.38 It is within the authority of the Speaker, and not the Chairman of the Committee of the Whole, to answer parliamentary questions concerning possible procedures whereby the House could authorize the Committee of the Whole to sit in executive session.

On May 9, 1950,⁽⁴⁾ a parliamentary inquiry was addressed to the

3. 92 CONG. REC. 6877, 79th Cong. 2d Sess.

4. 96 CONG. REC. 6746, 81st Cong. 2d Sess.

Chairman of the Committee of the Whole:

MR. [ERRETT P.] SCRIVNER [of Kansas]: Mr. Chairman . . . I would submit a parliamentary inquiry as to whether or not an executive session could be held and, if so, what procedure would be necessary to bring that to pass before we are asked to vote upon the \$350,000,000 additional.

THE CHAIRMAN [Mike Mansfield, of Montana]: The Chair will state to the gentleman from Kansas that the Committee of the Whole would have no control over that. That would be a matter for the House itself to decide.

MR. SCRIVNER: I understand that, of course, and raised the question for information of the Members. Since it is a matter for the House to determine, as a further parliamentary inquiry, what would be the method followed to take that action?

THE CHAIRMAN: The Chair will say to the gentleman from Kansas that a parliamentary inquiry of that sort should be addressed to the Speaker rather than the chairman.

Accepting subpoena

§ 3.39 The Speaker accepts service of a subpoena duces tecum in his official capacity as Speaker of the House.

On Feb. 11, 1965,⁽⁵⁾ Speaker John W. McCormack, of Massachusetts, made an announcement concerning a subpoena duces tecum from a U.S. District Court.

THE SPEAKER: The Chair desires to make a statement.

5. 111 CONG. REC. 2645, 89th Cong. 1st Sess.

The Chair, in his official capacity as Speaker of the House, has been served with a subpoena duces tecum, issued by the U.S. District Court for the District of Columbia, commanding him to appear in the said court to testify in the case of the United States of America against Russell Nixon, Dagmar Wilson, and Donna Allen on the 18th day of March 1965.

Under the precedents of the House, the Chair is unable to comply with this subpoena without the consent of the House, the privileges of the House being involved. The Chair therefore submits the matter for the consideration of this body. The Clerk will read a copy of the subpoena. . . .⁽⁶⁾

Certifying for Contempt

§ 3.40 The Speaker may be authorized by a formal House resolution to certify to a U.S. attorney the names of persons found to be in contempt of a House committee.

On Mar. 28, 1946,⁽⁷⁾ the following resolution was introduced in the House:

MR. [JOHN S.] WOOD [of Georgia]: Mr. Speaker, I offer a privileged resolution (H. Res. 573) and ask for its immediate consideration.

6. *Parliamentarian's Note*: In order to avoid the problems which might be associated with his being served in the Capitol Building, the Speaker agreed in advance to receive the deputy marshal in his hotel suite.

7. 92 CONG. REC. 2745, 79th Cong. 2d Sess.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the House Committee on Un-American Activities as to the willful and deliberate refusal of the following persons to produce before the said committee for its inspection the books, papers, and records of an unincorporated organization known as the Joint Anti-Fascist Refugee Committee, with offices at 192 Lexington Avenue, New York, N.Y., together with all the facts relating thereto, under seal of the House of Representatives, to the United States attorney for the District of Columbia to the end that the said persons named below may be proceeded against in the manner and form provided by law: . . .

[Names]

On Aug. 2, 1946,⁽⁸⁾ the following resolution was introduced in the House:

THE SPEAKER: [Sam Rayburn, of Texas]: The Clerk will read the resolution.

The Clerk read as follows:

Resolved, That the Speaker of the House of Representatives certify the foregoing report of the House Committee on Un-American Activities as to the willful and deliberate refusal of the following person to produce before the said committee for its inspection certain books, papers, and records which had been duly subpoenaed, and to testify under oath concerning all pertinent facts relating thereto; under seal of the House of Representatives to the United States attorney for the District of Columbia to the end that the said person

named below may be proceeded against in the manner and form provided by law; Richard Morford, 114 East Thirty-second Street, New York, N.Y.

§ 3.41 When the Speaker certifies to a U.S. District Attorney for prosecution (2 USC §194) the name of a person a House committee has found to be in contempt, it has been held that no further action of the House is required for the courts to begin proceedings.

On Nov. 14, 1944,⁽⁹⁾ Speaker Sam Rayburn, of Texas, made an announcement concerning his certification to the U.S. Attorney of the District of Columbia of statements of fact concerning the willful refusal of certain individuals to testify for a special committee of the House:

THE SPEAKER: The Chair desires to announce that during the past recess of the Congress the Special Committee to Investigate Campaign Expenditures authorized by House Resolution 551, Seventy-eighth Congress, reported to and filed with the Speaker statements of facts concerning the willful and deliberate refusal of Edward A. Rumely of the Committee for Constitutional Government and Joseph P. Kamp of the Constitutional Educational League, Inc., to testify and to produce the books, papers, records, and documents

8. 92 CONG. REC. 10748, 79th Cong. 2d Sess.

9. 90 CONG. REC. 8163, 78th Cong. 2d Sess.

of their respective organizations before the said Special Committee of the House, and the Speaker, pursuant to the mandatory provisions of Public Resolution No. 123, Seventy-fifth Congress, certified to the United States attorney, District of Columbia, the statement of facts concerning the said [persons]. . . .

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Mr. Speaker, what is necessary to dispose of the document which the Speaker has just read? Will it require a resolution by the House or will it be referred to some committee?

THE SPEAKER: That is not necessary under the statute. It is before the court now.

MR. RANKIN: I understand, but in order to call for court action it will be necessary, as I understand it, to have a resolution from the House.

THE SPEAKER: The Chair thinks not, under the law.

§ 3.42 Once authorized by the House, the Speaker certifies to U.S. District Attorneys for prosecution the names of persons that House committees have found to be in contempt.

On Aug. 24, 1960,⁽¹⁰⁾ Speaker San Rayburn, of Texas, made the following announcement:

THE SPEAKER: The Chair desires to announce that, pursuant to sundry res-

10. 106 CONG. REC. 17479, 86th Cong. 2d Sess.

olutions of the House, he has, today, made certifications to the U.S. attorney, District of Columbia, and to the U.S. attorney, Commonwealth of Puerto Rico, as follows:

To the U.S. attorney, District of Columbia:

House Resolution 606, the refusal of Austin J. Tobin to furnish certain documents to the Committee on the Judiciary. . . .

Ending Contempt Proceedings

§ 3.43 The Speaker must be formally authorized by the House to certify to a U.S. District Attorney the name of a person who has purged himself of contempt of a House committee for purposes of ending prosecution of the person.

On July 23, 1954,⁽¹¹⁾ the following resolution was introduced in the House:

MR. [HAROLD H.] VELDE [of Illinois]: Mr. Speaker, I offer a resolution (H. Res. 681) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Un-American Activities of the House of Representatives concerning the action of Francis X. T. Crowley in purging himself of contempt of the House of Representatives of the

11. 100 CONG. REC. 11650, 83d Cong. 2d Sess.

United States, together with all the facts in connection therewith, under seal of the House of Representatives, to the United States Attorney for the District of Columbia to the end that legal proceedings based upon the matter certified by the Speaker pursuant to H. Res. 541, 83d Congress, second session, against the said Francis X. T. Crowley may be withdrawn and dropped in the manner and form provided by law.

Emergency Recesses

§ 3.44 In cases of emergency, the Speaker has the inherent power to declare recesses of the House subject to the call of the Chair.

On Mar. 2, 1943,⁽¹²⁾ Speaker Sam Rayburn, of Texas, declared a recess of the House pursuant to his inherent powers in the case of an emergency.

THE SPEAKER: The time of the gentleman from Massachusetts has expired.

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Nichols: On page 1, line 4, after "on" and before "aviation", insert "civil and commercial."

Mr. [ALFRED L.] BULWINKLE [of North Carolina]: I rise in opposition to the amendment.

THE SPEAKER: The gentleman from North Carolina is recognized for 1 hour.

12. 89 CONG. REC. 1487, 78th Cong. 1st Sess.

MR BULWINKLE: Mr. Speaker—

RECESS

THE SPEAKER: Pursuant to the inherent power lodged in the Presiding Officer in case of emergency, the Chair declares this House in recess subject to the call of the Chair for the purpose of participating in a practice air-raid drill. The alarm has sounded. Members will leave the Chamber as rapidly as possible, and the galleries will be cleared.

Accordingly (at 2 o'clock and 18 minutes p.m.) the House stood in recess, subject to the call of the Speaker.

On Mar. 1, 1954,⁽¹³⁾ Speaker Joseph W. Martin, Jr., of Massachusetts, without authorization, declared the House in recess.

At approximately 2 o'clock and 30 minutes p.m. a demonstration and the discharge of firearms, from the southwest House Gallery, interrupted the counting of the vote; the Speaker, pursuant to the inherent power lodged in the Presiding Officer in the case of grave emergency, after ascertaining that certain Members had been wounded and to facilitate their care, at 2 o'clock and 32 minutes p.m. declared the House in recess, subject to the call of the Chair.

Enforcing Rules of Comity

§ 3.45 The Speaker, on the part of the House, has within his

13. 100 CONG. REC. 2434, 83d Cong. 2d Sess.

For a more detailed treatment of this precedent, see Ch. 4, supra.

authority the enforcement of the customary rules of comity between the House and the Senate.

On Jan. 17, 1955,⁽¹⁴⁾ Speaker Sam Rayburn, of Texas, announced his policy with the regard to the rule of comity between the two Houses.

THE SPEAKER: The Chair desires to make this statement at the beginning of this session with reference to something that has been maintained by every Speaker of the House since the present occupant of the Chair has been a Member of this body, and that is that the House of Representatives, regardless of what any other body or any other individual does, has maintained strictly those rules and regulations which protect and perpetuate the comity between the two Houses. And when any Member of this House rises to make remarks about what has happened in another body or about any individual in that body, the present occupant of the Chair will certainly see that the rules of the House and the rules of comity between the two Houses are enforced.

On Mar. 26, 1964,⁽¹⁵⁾ a Member made reference to a Senator in the course of debate:

MR. [LOUIS C.] WYMAN [of New Hampshire]: Mr. Speaker, I want to express myself as being in whole-heart-

14. 101 CONG. REC. 386, 84th Cong. 1st Sess.

15. 110 CONG. REC. 6361, 88th Cong. 2d Sess.

ed disagreement with the amazing, incredible, and dismaying remarks regarding American foreign policy of the chairman of the Senate Foreign Relations Committee made on the Senate floor yesterday. . . .

May the Lord help us should this sort of policy be in effect—

MR. [KENNETH] HECHLER [of West Virginia]: Mr. Speaker, a point of order.

THE SPEAKER: [John W. McCormack, of Massachusetts]: The gentleman will state it.

MR. HECHLER: Mr. Speaker, the gentleman's remarks are directed to a Member of the other body, which is a violation of the rules of the House.

THE SPEAKER: The Chair will say that under the rules no Member may refer to a Member of the other body, or to a speech another Member has made in that body.

The gentleman from New Hampshire will proceed in order.

MR. WYMAN: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. WYMAN: Mr. Speaker, I had no intention to violate the rules of the House. The speech is a matter of record. It was made by the chairman of the Foreign Relations Committee of the Senate, and I do not know how I could refer to it otherwise. The speech is in the Record, and it is before us at our seats.

May I inquire as to how I may now properly refer to the speech and disassociate myself from its views without referring to its author?

THE SPEAKER: The Chair has stated what the rules of the House are. The

Chair did not use the word "violate." The Chair did not go that far. The Chair simply says reference to a Member of the other body is not proper, and is not consistent with the rules of the House. The gentleman was recognized to proceed in order.

MR. WYMAN: Mr. Speaker, I will, of course, accord with the rule and I will therefore refer only to prominently publicized remarks appearing on the front pages of the Nation's newspapers of last night and this morning

§ 4. Limitations on the Speaker's Powers

As previously noted, the Speaker is not unlimited in the exercise of his various powers. The House rules and precedents serve not only as a guide for his actions but also as a constraint on them. In Jefferson's Manual, the author noted the importance of such constraints:

And whether these forms be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker. . . .⁽¹⁶⁾

Thus, the Speaker is constrained to follow formal procedures when they exist. For exam-

16. *House Rules and Manual* §285 (1973).

ple, the Speaker normally does not refer matters to the various House committees without first examining the measures⁽¹⁷⁾ and conferring with the House Parliamentarian.⁽¹⁸⁾

The Speaker is, of course, guided in his duties by the House rules and precedents. Thus, he normally does not comment on the advisability of one rule over another in a case where a previous rule is in conflict with a current rule,⁽¹⁹⁾ nor does he normally rule on a point of order in such a way as to overturn previous rulings, though he has the power to do so.⁽¹⁾

Though in certain circumstances it might seem helpful for the Speaker to interpret the Senate rules of procedure, he does not normally even attempt to do so.

Similarly, the Speaker does not rule on the effect of a resolution being considered by the House which deals with the House rules.⁽²⁾

17. See § 4.2, *infra*.

18. See § 4.3, *infra*. See Ch. 16, *infra*, for treatment of reference of bills to committees.

19. See § 4.4, *infra*. See Ch. 5, *supra*, for treatment of the House rules.

1. See § 4.5, *infra*. See Ch. 31, *infra*, for fuller treatment of the Speaker's rulings on points of order.

2. See § 4.8, *infra*.

Whether a Member may display exhibits during his remarks is a matter for the House and not the Speaker to decide.⁽³⁾

The Speaker's duty to rule on various points of order is limited in certain ways.⁽⁴⁾ It is considered improper for the Speaker to rule, for example: on the constitutionality of measures;⁽⁵⁾ on the effect of an amendment;⁽⁶⁾ on the merits of a measure;⁽⁷⁾ on the purpose of an amendment;⁽⁸⁾ on the sufficiency, insufficiency, or binding effect of a committee report;⁽⁹⁾ on the substantive effect of extraneous material in a committee report;⁽¹⁰⁾ on the possible ambiguity of language in a measure;⁽¹¹⁾ on the propriety of instructions that might subsequently accompany a motion to recommit a measure;⁽¹²⁾ on the pro-

3. See §4.10, *infra*. See Ch. 29, *infra*, for fuller treatment of the Speaker's role in consideration and debate of legislative measures, and as to the use of exhibits.
4. See Ch. 31, *infra*, for fuller treatment of the Speaker's role vis-a-vis points of order.
5. See §4.18, *infra*.
6. See §4.19, *infra*.
7. See §4.20, *infra*.
8. See §4.21, *infra*.
9. See §4.22, *infra*.
10. See §4.23, *infra*.
11. See §4.24, *infra*.
12. See §4.25, *infra*. See Ch. 28, *infra*, for treatment of the germaneness rule generally.

propriety of an announced speech topic in advance of its delivery;⁽¹³⁾ or on how the results of a vote should be construed.⁽¹⁴⁾

In many situations, the Speaker is entitled to perform certain actions only after the House has given him its formal authorization. Thus, for example, under normal circumstances, the Speaker must be authorized by the House prior to declaring a recess.⁽¹⁵⁾ This authorization may later be vacated by the House.⁽¹⁶⁾

The Speaker must also be authorized to sign enrolled bills and joint resolutions during House adjournments.⁽¹⁷⁾ The Speaker's signature may later be rescinded by House action.⁽¹⁸⁾

Congressional Record Policy

§ 4.1 Although the Speaker may have set policy regard-

13. See §4.26, *infra*.
14. See §§4.27, 4.28, *infra*.
15. See §4.34, *infra*. See also §3.44, *supra*, for Speaker's power to declare recesses in an emergency. See Ch. 39, *infra*, for fuller treatment of the Speaker's role in recessing the House.
16. See §4.35, *infra*.
17. See §§4.37, 4.38, *infra*. See Ch. 24, *infra*, for fuller treatment of the formal passage of bills.
18. See §§4.39, 4.40, *infra*.

ing matter to be included in the Congressional Record, it is a matter for the House to decide whether such a policy, not being a House rule, shall be followed.

On Mar. 6, 1945,⁽¹⁹⁾ Speaker Sam Rayburn, of Texas, discussed extension of remarks in the *Congressional Record* in response to a parliamentary inquiry:

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Mr. Speaker, on yesterday several Members made 1 minute speeches. Among them was the gentleman from Arkansas . . . the gentleman from Nevada . . . the gentleman from New York . . . and your humble servant.

Without consulting the gentleman from Nevada . . . or the gentleman from Arkansas . . . or me, somebody down the line inserted our speeches in the Appendix of the Record and left the speech made by the gentleman from New York . . . in the body of the Record where it should be.

As I understand the rules of the House, nobody in the Printing Office has any right to change this Record. One reason I am raising this question is this: The Speaker is familiar with the fact that a short time ago, I made a short address on the floor and when it was sent down to the Printing Office

it had a heading on it, and . . . one of the Official Reporters in the well of the House here called down there at midnight and had that heading changed.

It seems to me that we have come to the time, if Congress is going to control the Congressional Record, that we might as well find it out. I understand it has been the ruling of the Chair that where a Member makes a 1-minute speech, if he asks to insert extraneous matter that contains more than 300 words, the speech must be inserted in the Appendix of the Record. But where a Member makes his own speech and extends his own remarks, he has the right to have that speech appear in the Record at that point. . . .

THE SPEAKER: The Chair can reiterate what he has said many times.

When I became majority leader, I made the statement to the House, after consulting with the minority leader, who I think at that time was Mr. Snell, of New York, that if anyone asked to proceed for more than 1 minute before the legislative program of the day was completed we would object. Since then Members have not asked to proceed for more than a minute before the legislative program.

Then Members began speaking for a minute and putting into the Record a long speech, so that 10 or a dozen pages of the Record was taken up before the people who read the Record would get to the legislative program of the day, in which I would think they would be the most interested. So we adopted the policy—there is no rule about it—of asking that when Members speak for a minute, if their remarks are more than 300 words, which many times can be said in a minute,

19. 91 CONG. REC. 1788, 1789, 79th Cong. 1st Sess.

their remarks or any extension of their remarks go in the Appendix of the Record. The Chair has on numerous occasions spoken to those who control the Record and asked them to follow that policy.

MR. RANKIN: Mr. Speaker, I take issue of course with that policy, because these 1-minute speakers do not abuse the Record, as a rule. The only question that has been raised about any abuse of the Record in regard to these 1-minute speeches was with reference to a speech made on the 5th of February, I believe, wherein the 1-minute speaker used several pages.

THE SPEAKER: The Chair might state also that when there is no legislative program in the House for the day, such speeches may go in, and they will go in as 1-minute speeches.

MR. [DANIEL A.] REED of New York: Mr. Speaker, verifying the statement, which, of course, needs no verification, I remember going to the Speaker and asking if it would be proper to put the speech in the body of the Record, and the Speaker said that there was no legislative program for the day and there was no reason why a Member could not do it. I assume that was on the 5th of February.

THE SPEAKER: That is correct.

Mr. Rankin: Let me say to the gentleman from New York that on yesterday one of the Members made a speech that you will find in the Record almost or quite as long as the speech of the gentleman from Nevada . . . or the one of the gentleman from Arkansas . . . or the one that I made. It was placed in the body of the Record, and it was in excess of 300 words. I can go back through the Record here and find numerous occasions.

If we are going to adopt the policy that everybody who speaks in the well of the House and uses over 300 words must have his speech printed in the Appendix, it should apply to all of us.

. . . I think this should be a matter to be settled by the membership of the House. . . .

THE SPEAKER: The House has that within its entire control at any time it desires to act upon the question. . . .

Mr. Rankin: Let me ask the Speaker now, I want to know, because the Members of the House are all interested, if Members, when they make a 1-minute speech, use more than 300 words, it is to be printed in the Appendix of the Record and not in the body?

THE SPEAKER: That is correct.

MR. RANKIN: So the rule will be applied to all alike?

THE SPEAKER: The Chair tries to apply that rule.

Announcing Reference of Bill

§ 4.2 The Speaker may refuse to say, in advance of examination of a bill, to which committee the bill will be referred.

On Feb. 1, 1966,⁽¹⁾ parliamentary inquiries were addressed to Speaker John W. McCormack, of Massachusetts:

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

1. 112 CONG. REC. 1716, 89th Cong. 2d Sess.

MR. HALL: . . . [M]y parliamentary inquiry would involve two questions: First, would reference of the President's message to the Committee on Foreign Affairs of this House automatically involve reference of bills referred to therein to the same committee of this House?

THE SPEAKER: It would depend upon the nature of the bill. The answer as to one does not necessarily follow as to the other. On the other hand, the provisions of the bill and the Rules of the House would govern.

MR. HALL: I thank the Speaker.

The second portion of my parliamentary inquiry, Mr. Speaker, if I may continue, is this: In view of the fact that the military and economic authorization requests are to be contained, according to the President's message, in two separate bills—again, for the first time in some years—would the military authorization part thereof, when submitted, apparently by the administration, per this message, be referred to the Legislative Committee on Armed Services of this House, or would it go to the Committee on Foreign Affairs?

THE SPEAKER: The Chair is not prepared to answer that inquiry at the present time, because the answer to the second inquiry would relate back to the first inquiry made by the gentleman from Missouri, and the response of the Chair to that inquiry.

In the opinion of the Chair, the second question is related to the first question, that question being answered that it does not necessarily follow that specific legislation would be referred to the committee to which the message would be referred.

MR. HALL: I thank the Speaker.

THE SPEAKER: Therefore, the Chair does not feel able to pass upon the second inquiry until the Chair has had an opportunity to observe the provisions of the bill.

Bill Reference After Consultation

§ 4.3 The Speaker may withhold referral of a Senate bill on the Speaker's Table until he has studied the question, consulted with the Parliamentarian, and decided on the proper jurisdiction.

On June 6, 1949,⁽²⁾ Speaker Sam Rayburn, of Texas, indicated the nature of his duty to refer bills to committees.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. PATMAN: Mr. Speaker, may I ask the status of the bill S. 1008, which, I understand, was messaged over from the Senate on Friday last?

THE SPEAKER: The Chair understands it is on the Speaker's table.

MR. PATMAN: Will it be referred to the Committee on the Judiciary?

THE SPEAKER: The Chair does not know about that.

MR. PATMAN: What action will be necessary in order to get it referred to the committee?

THE SPEAKER: It is the duty and the privilege of the Chair to refer bills to

2. 95 CONG. REC. 7255, 81st Cong. 1st Sess.

whatever committee he desires, after consultation with the Parliamentarian, of course. The Chair will not recognize any motion in that regard at this time.

Speaker Guided by Rules and Precedents

§ 4.4 It has been considered not within the province of the Speaker to pass on the advisability of a more recent House rule which appears to conflict with previous ones.

On July 16, 1935,⁽³⁾ Speaker Joseph W. Byrns, of Tennessee, responded to a point of order.

THE SPEAKER: The Chair is ready to rule.

Last Friday the gentleman from Texas [Mr. Blanton] kindly indicated that it was his purpose to make the point of order he has raised today when the House began consideration of the so-called "omnibus private claims bill." The gentleman from Texas has served in the House for many years with distinction and is familiar with the rules of the House, and the Chair has given considerable thought to the point of order since the gentleman indicated on last Friday that it was his purpose again to raise it on this occasion.

The gentleman from Texas, in his argument today, has contended that this rule conflicts with a number of rules to which he has referred. Without passing upon the question of whether or not

there is a conflict, the Chair will state that if there is a conflict the rule last adopted would control. The Chair assumes that if this rule should be found to conflict with previous rules, that the House intended, at least by implication, to repeal that portion of the previous rule with which it is in conflict.

The Chair may state that in passing upon this point of order it is not the province of the Chair, nor has the Chair any such intention, to pass upon the question of whether or not this rule is advisable or whether a better one could have been adopted.

§ 4.5 Although it is within the authority of the Speaker to rule on a point of order in such a way as to overturn previous precedents of the House, the Speaker in most instances follows the precedents of the House when they are very clearly applicable to a given situation.

On June 24, 1958,⁽⁴⁾ a point of order was raised against the following remarks of a Member:

MR. [THOMAS B.] CURTIS of Missouri: . . . If this committee [the Subcommittee of the Interstate and Foreign Commerce Committee on Legislative Oversight] does not intend to do its job, but rather intends to continue this campaign on these collateral issues which I have alleged, in my judgment, amount to defamation, I think it should be called sharply to

3. 79 CONG. REC. 11264, 74th Cong. 1st Sess.

4. 104 CONG. REC. 12121, 12122, 85th Cong. 2d Sess.

task first by the full Committee on Interstate and Foreign Commerce, and if the full committee fails in this responsibility then the House should take action. . . . Not only is this subcommittee, in my judgment, not doing the job that needs to be done, it has brought the institution again, in my judgment, into disrepute by disregarding the rules of the House and permitting a committee of the House to be used as a forum in this fashion.

MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, I must object again and ask that those words be deleted.

MR. CURTIS of Missouri: I would like to ask the gentleman before he does, just what language is he objecting to?

MR. HARRIS: To the charge that this committee is violating the rules of the House.

MR. CURTIS of Missouri: Well, I certainly do charge that and I think it is proper to charge such a thing if I have presented the evidence. How else are we going to present the case to the House?

THE SPEAKER [Sam Rayburn, of Texas]: There is a long line of decisions holding that attention cannot be called on the floor of the House to proceedings in committees without action by the committee. The Chair has just been reading a decision by Mr. Speaker Gillett and the decision is very positive on that point.

MR. CURTIS of Missouri: Mr. Speaker, in addressing myself to that, may I say I am unaware of such a rule and I would argue, if I may, in all propriety, that that rule, if it does exist, should be changed because how else will the House ever go into the functioning and actions of its committees?

THE SPEAKER: That is not a question for the Chair to determine. That is a question for the House to change the rule.

MR. CURTIS of Missouri: Mr. Speaker, is it a rule or is it a ruling? If it is a ruling of the Chair, then it is appropriate for the Chair to consider it.

THE SPEAKER: The precedents of the House are what the Chair goes by in most instances. There are many precedents and this Chair finds that the precedents of the House usually make mighty good sense.

MR. CURTIS of Missouri: But the Chair can change a precedent. That is why I am trying to present this matter.

THE SPEAKER: If the Chair did not believe in the precedents of the House, then the Chair might be ready to do that, but this Chair is not disposed to overturn the precedents of the House which the Chair thinks are very clear.

Interpreting Senate Rules

§ 4.6 The Chairman of the Committee of the Whole may decline to interpret the rules or procedures of the Senate.

On June 6, 1961,⁽⁵⁾ a Member raised the following question:

MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Chairman, the language of the amendment now pending at the desk is the identical language that came into conference from the other body following action of the House, and my amendment in 1959 became incor-

5. 107 CONG. REC. 9627, 87th Cong. 1st Sess.

porated, I believe, in the conference report. Does that in any way change the legislative history of the amendment?

THE CHAIRMAN [Paul J. Kilday, of Texas]: The Chair may advise the gentleman that nothing is pending before the Chair, but by way of observation, the language the gentleman speaks of was apparently added by the other body. The present occupant of the Chair would not attempt to state or to interpret the rules or procedure of the other body.

Passing on Resolutions and Special Orders

§ 4.7 The Speaker may decline to answer hypothetical questions regarding special orders.⁽⁶⁾

§ 4.8 The Chair does not pass on the effect of a pending resolution amending the House rules.

On Apr. 25, 1967,⁽⁷⁾ a parliamentary inquiry concerning the effect of a resolution [H. Res. 42] amending the rules of the House was addressed to Speaker pro tempore Carl Albert, of Oklahoma:

MR. [DURWARD G.] HALL [of Missouri]: . . . [W]ill the distinguished

6. Special orders generally, see Ch. 21, *infra*.

7. 113 CONG. REC. 10710, 90th Cong. 1st Sess.

gentleman yield at this time for a parliamentary inquiry of the Chair, inasmuch as it is important that we try to envisage, in passing this legislation today, what effect it will have on the future rules of procedure in the House, and their application.

MR. [WILLIAM M.] COLMER [of Mississippi]: I yield to the gentleman from Missouri.

THE SPEAKER PRO TEMPORE: The Chair must advise the distinguished gentleman from Missouri that this is a matter for debate on a resolution pending and not a matter properly within the jurisdiction of the Chair on a parliamentary inquiry. It is up to the sponsor of the resolution to explain the terms of the resolution.

Quorum Request Not Dilatory

§ 4.9 Since the Constitution defines a quorum of the House and states that it shall be required for the conduct of business, a point of order that a quorum is not present is in order in the absence of a quorum, and the Chair does not hold such a point to be dilatory.

On Oct. 8, 1968,⁽⁸⁾ Speaker pro tempore Wilbur D. Mills, of Arkansas, heard a parliamentary inquiry concerning an alleged dilatory tactic.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

8. 114 CONG. REC. 30097, 90th Cong. 2d Sess.

MR. [JAMES C.] WRIGHT [Jr., of Texas]: I thank the Speaker for permitting me this additional parliamentary inquiry. . . .

On occasion the Chair has held that certain motions and points of order amounted to dilatory tactics, and that that was their obvious motivation, and on those occasions the Chair has summarily refused to recognize such obviously dilatory points of order and motions.

Mr. Speaker, my point of parliamentary inquiry is: would the Chair not feel that under the present situation, with repeated points of order being made that a quorum is not present, immediately followed by the absenting of themselves by certain Members who have come in to answer the quorum, to be a rather obvious dilatory tactic, and one which might obviously lend itself to the assumption on the part of the Chair that a quorum having been established and proven so frequently and repeatedly during the day, would be presumed to be present for the completion of business?

THE SPEAKER: PRO TEMPORE: (Mr. Mills): The Chair is ready to respond to the parliamentary inquiry posed by the gentleman from Texas.

It is the understanding of the Chair that no occupant of the Chair has ever in the history of the Congress held that a point of order that a quorum is not present is a dilatory tactic. The reasoning, obviously, is that the Constitution itself requires the presence on the floor of the House of a quorum at all times in the transaction of the business of the House of Representatives.⁽⁹⁾

9. *Parliamentarian's Note*: The precedents of the House which indicate

Permitting Exhibits

§ 4.10 It is for the House and not the Speaker to decide whether a Member may be allowed to display an exhibit in debate.

On June 2, 1937,⁽¹⁰⁾ a point of order was made concerning the display of an exhibit during debate in the House.

MR. [MAURY] MAVERICK [of Texas]: Mr. Speaker, I make the point of order that the gentleman has no right to display a liquor bottle in the House of Representatives.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, this is Government rum, presented to me by Secretary Ickes.

THE SPEAKER: [William B. Bankhead, of Alabama]: The gentleman will suspend. The gentleman from Texas makes the point of order that the gentleman from Pennsylvania has no right to exhibit the bottle without permission of the House. The point of order is well taken.

MR. [CHARLES W.] TOBEY [of New Hampshire]: Mr. Speaker, a parliamentary inquiry.

that the Chair has held a point of no quorum to be dilatory when it immediately follows a call of the House which discloses the presence of a quorum are not applicable to the situation where there is "intervening business" between the establishment of the quorum and the making of the point of no quorum. Generally, see Ch. 20, *infra*.

10. 81 CONG. REC. 6104, 6105, 75th Cong. 1st Sess.

THE SPEAKER: The gentleman will state it.

MR. TOBEY: The Speaker called the attention of the gentleman from Texas to the fact that the gentleman had a bottle of liquor.

How does the Speaker know it is liquor, sir?

THE SPEAKER: That is a question of which the House cannot take judicial notice. The point of order is well taken.

The Chair will submit it to the House, if the gentleman insists on displaying the exhibit.

MR. MAVERICK: I insist on the point of order, Mr. Speaker.

THE SPEAKER: As many as are in favor of granting the gentleman from Pennsylvania the right to exhibit the bottle which he now holds in his hand will say "aye" and those opposed will say "no."

The vote was taken and the Speaker announced that the ayes have it, and the permission is granted.

Answering Parliamentary Inquiries

§ 4.11 The Speaker normally declines to answer parliamentary inquiries that are improperly addressed to him.

On Apr. 11, 1935,⁽¹¹⁾ a parliamentary inquiry was addressed to Speaker Joseph W. Byrns, of Tennessee:

MR. [JOSEPH P.] MONAGHAN [of Montana]: Mr. Speaker

11. 79 CONG. REC. 5457, 5458, 74th Cong. 1st Sess.

THE SPEAKER: For what purpose does the gentleman from Montana rise?

MR. MONAGHAN: For the purpose of submitting a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MONAGHAN: Is not the statement that was made by the gentleman from Oregon [Mr. Mott] correct, that if this rule passes, then only one particular plan, the plan that we now have under discussion, may be passed upon by the Congress,

THE SPEAKER: The Chair is not in position to answer that parliamentary inquiry. That is a matter which will come up subsequently under the rules of the House. The Chair would not seek to anticipate what the Chairman of the Committee of the Whole may rule or what the Committee itself may do. The Chair feels very certain that the Chairman of the Committee will be governed, as all chairmen of committees are, by the rules and precedents of the House. Certainly the Chair would not anticipate his ruling; and in addition to this, the Chair cannot pass upon any particular amendment until it has been presented in all its phases.

§ 4.12 The Chair has declined to answer a parliamentary inquiry in the midst of a demand that certain words be taken down.

On Oct. 31, 1963,⁽¹²⁾ a Member made some remarks which became the subject of a request that they may be taken down.

THE SPEAKER: [John W. McCormack, of Massachusetts]: Under previous

12. 109 CONG. REC. 20742, 88th Cong. 1st Sess.

order of the House, the gentleman from Texas [Mr. Foreman] is recognized for 60 minutes.

MR. [EDGAR FRANKLIN] FOREMAN: Mr. Speaker, Mr. Bernard Baruch once said:

Every man has a right to his opinion but no man has a right to be wrong in his facts.

My purpose today is to set the facts straight to clarify and briefly discuss a seemingly very interesting and disturbing subject for some colleagues at least of a recent news article by a Washington news correspondent employed by the Scripps-Howard newspapers. . . . I was surprised to see the story written by their dedicated Washington correspondent, Mr. Seth Kantor, last week, because I was quoted as calling 20 of my colleagues in this body "pinkos." Apparently in his zeal to write a colorful and controversial front page story, at the time when congressional news was very meager, this enterprising correspondent decided to do some name calling for me.

"Pinkos" seems to be a very popular and controversial name, so he wrote a story, "Foreman Labels 20 Colleagues Pinkos." The fact of the matter is, to set the record straight, I have only referred to one Member of this body as a "pinko." On Friday, October 18, 1963—

MR [JOHN J.] ROONEY [of New York]: Mr. Speaker, I demand the gentleman's words be taken down.

THE SPEAKER: The gentleman will suspend. The demand has been made that the gentleman's words be taken down.

MR. [BRUCE R.] ALGER [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair cannot entertain that at this time.

§ 4.13 The Speaker does not entertain hypothetical questions.

On Sept. 14, 1944,⁽¹³⁾ a parliamentary inquiry was addressed to Speaker pro tempore Orville Zimmerman, of Missouri:

MR. [CLARK E.] HOFFMAN [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN: I gathered from statements which were made on the floor today that a statement going back as far as 1920 and containing information as to the amounts of money requested by the military establishments of the Government, as to the amounts that had been recommended by the executive department, and as to the amounts finally appropriated by Congress, had been sent to the Committee on Appropriations, but for some 2 years it had been in the safe over there, inaccessible to Members of the House. By what authority or what rule of Congress or what rule governing committees was that suppressed?

THE SPEAKER PRO TEMPORE (Mr. Zimmerman): The present occupant of the chair has no knowledge of any such facts, and therefore is not in a position to answer the gentleman's inquiry.

MR. HOFFMAN: Does the Chair mean he does not have any knowledge that that is true?

13. 90 CONG. REC. 7772, 78th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The Chair has no knowledge of that, except that somebody has said it is true, according to the gentleman's statement.

MR. HOFFMAN: Submitting that then as a hypothetical question.

THE SPEAKER PRO TEMPORE: The Chair does not entertain a hypothetical question. . . .

§ 4.14 The Speaker normally avoids answering parliamentary inquiries based upon hypothetical facts or future events which are not certain of happening.

On Mar. 1, 1967,⁽¹⁴⁾ a parliamentary inquiry was addressed to Speaker John W. McCormack, of Massachusetts:

MR. [JOE D.] WAGGONER [Jr., of Louisiana]: Mr. Speaker, in view of the fact that I am limited to one inquiry, that one inquiry will of necessity be rather long.

Am I correct in assuming that under the rules in debating House Resolution 278 that now, since the time has been extended an additional hour by unanimous consent over and beyond what the rules of the House provide for, that the gentleman from New York [Mr. Celler] will control the time for the 2 hours less that yielded to the gentleman from West Virginia and that this time will be used for no purpose except debate of House Resolution 278; that he will have the option of determining whether or not amendments or

substitutes can be offered; that at the conclusion of this two hours of debate on House Resolution 278 he will move the previous question, which, if voted down, will make amendments or substitutes to House Resolution 278 in order; at that time will the Speaker give preference, if the previous question is voted down, to the minority who oppose the resolution to control the ensuing hour, or will the Chair give preference to committee members who oppose the resolution regardless of which side of the aisle they sit on to offer amendments or substitutes to House Resolution 278; and if amendments or substitutes are offered then will there occur another vote on the previous question, if the preceding previous question is voted down, and what will be the order of priority in recognizing some Member of the House on either side of the aisle, either alternatively Democratic and Republican or alternatively Republican and Democratic in determining who will control each ensuing hour; and will we have the opportunity to vote on all previous questions no matter how many amendments are offered as long as preceding previous questions are voted down?

THE SPEAKER: In answering the several questions involved in the statement made or in the parliamentary inquiry made by the gentleman from Louisiana, the Chair will state that the Chair will follow the rules of the House of Representatives as it is the duty of the Chair to do, and the precedents. The question of the allocation of time is a matter for the chairman of the committee, one-half of the time being yielded to the gentleman from West Virginia [Mr. Moore]. Both the chairman and the ranking minority member

14. 113 CONG. REC. 4997, 90th Cong. 1st Sess.

of the select committee control the allocation of time. The question of recognition is one that the Chair will pass upon if that time should arise.

On the other questions of the gentleman from Louisiana the Chair will determine them as they arise in accordance with the rules of the House and the precedents.

§ 4.15 Although it is generally within the discretion of the Speaker to construe the applicability of a House rule to a given situation, where a rule explicitly calls for a decision by a House committee the Speaker does not normally answer a general parliamentary inquiry regarding a committee's actions or future actions respecting such a decision.

On Apr. 5, 1967,⁽¹⁵⁾ a parliamentary inquiry was addressed to Speaker John W. McCormack, of Massachusetts:

MR. [SIDNEY R.] YATES [of Illinois]. Mr. Speaker, a parliamentary inquiry:

THE SPEAKER: The gentleman will state it.

MR. YATES: Mr. Speaker, rule XI, 26(m) of the Rules of the House of Representatives states as follows:

If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—

(1) receive such evidence or testimony in executive session;

Mr. Speaker, my question is this: If the committee determines that the evidence it is about to receive may tend to defame, degrade or incriminate a witness, is it not compulsory under the Rules of the House for the committee to hold such hearings in executive session?

THE SPEAKER: The Chair will state that that is a matter which would be in the control of the committee for committee action.

MR. YATES: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. YATES: I must say that I do not understand the ruling. Is the Chair ruling that a committee can waive this rule? That it can refuse to recognize this rule?

THE SPEAKER: The Chair would not want to pass upon a general parliamentary inquiry, as distinguished from a particular one with facts, but the Chair is of the opinion that if the committee voted to make public the testimony taken in executive session, it is not in violation of the rule, and certainly that would be a committee matter.

§ 4.16 Although it is considered within the discretion of the Chair to respond to a parliamentary inquiry concerning an amendment, it is not considered proper for him to do so before the amendment is offered.

15. 113 CONG. REC. 8420, 90th Cong. 1st Sess.

On June 28, 1967,⁽¹⁶⁾ a parliamentary inquiry was addressed to the Chairman of the Committee of the Whole, John J. Flynt, Jr., of Georgia:

MR. [JOSEPH E.] KARTH [of Minnesota]: Mr. Chairman, if that figure cannot be further amended, and the gentleman chooses to pursue his amendment, and change the figure on page 2, would it then be a proper amendment?

THE CHAIRMAN: The Chair does not pass on that until an amendment described by the gentleman from Minnesota is offered.

The gentleman's parliamentary inquiry is premature. It cannot be made until such an amendment is offered.

§ 4.17 Whether a proposition will be subject to a roll call vote at a future time is a matter for the House, and not the Speaker, to decide.

On June 29, 1961,⁽¹⁷⁾ a Member introduced a resolution which became the subject of two parliamentary inquiries when he withdrew it.

MR. [SAMUEL W.] FRIEDEL [of Maryland]: Mr. Speaker, I withdraw the resolution.

MR. [HAROLD R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: [Sam Rayburn, of Texas]: The gentleman will state it.

16. 113 CONG. REC. 17754, 17755 90th Cong. 1st Sess.

17. 107 CONG. REC. 11799, 87th Cong. 1st Sess.

MR. GROSS: Is it not necessary to ask unanimous consent to withdraw the resolution?

THE SPEAKER: It is, but the Chair did not think anyone would object to that unanimous consent request.

MR. GROSS: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GROSS: Will this resolution be subject to a rollcall vote when it is called up again?

THE SPEAKER: That would be up to the House to decide.

When Rulings Would Be Improper

§ 4.18 The Chair does not rule on the constitutionality of measures.

On Oct. 7, 1966,⁽¹⁸⁾ the Chairman of the Committee of the Whole ruled on a point of order as follows:

THE CHAIRMAN (Mr. [Charles Melvin] Price [of Illinois]): The Chair is ready to rule.

The gentleman from Virginia [Mr. Smith] raises a point of order against the amendment as to the constitutionality and the germaneness of the amendment. The Chair holds that the amendment is germane because it provides a different condition in the matter of agreement to the compact.

As to the question of constitutionality, the Chair holds that the

18. 112 CONG. REC. 25677, 89th Cong. 2d Sess.

Chair does not pass upon a constitutional question and this is in keeping with the ruling made by the gentleman from Virginia [Mr. Smith] on March 11, 1958.

Therefore, the point of order is overruled.

§ 4.19 The Chair does not pass on the effect of an amendment. . . .

On June 23, 1960,⁽¹⁹⁾ Mr. Herman C. Anderson, of Minnesota, sought a determination from the Chair as to whether an amendment, if adopted, would “undo” the work of the previous day. Chairman Frank N. Ikard, of Texas, in the exchange below, declined to rule on the effect of the amendment:

MR. ANDERSON of Minnesota: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. ANDERSON of Minnesota: Is the gentleman’s amendment in order at this point after the substitute for the Quie amendment has been adopted?

THE CHAIRMAN: It is.

MR. ANNDERSON of Minnesota: And its effect would be to undo everything that we did yesterday?

THE CHAIRMAN: The Chair does not pass on the effect of amendments. . . .

§ 4.20 Although the Chair may rule on the germaneness of

19. 106 CONG. REC. 14062, 86th Cong. 2d Sess.

an amendment to a bill, he does not rule on the merits of the amendment or bill.

On May 19, 1948,⁽¹⁾ a point of order was raised against an amendment being considered by the Committee of the Whole:

MR. [KARL E.] MUNDT [of South Dakota]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the pending bill. . . .

THE CHAIRMAN [James W. Wadsworth, Jr., of New York]: . . . The Chair is ready to rule.

The Chair would remind the gentleman . . . that [the Chair’s] function is not to pass upon the merits of an amendment nor to pass upon the merits of the bill which the gentleman says has already passed the House. The Chair may personally find himself in complete agreement with the objective sought by the legislation. . . . but the legislation to which he refers, as the Chair understands, has to do with the immigration and naturalization laws of the United States. This bill pending before the Committee of the Whole does not approach that subject. . . . It comes from the Committee on Un-American Activities. That committee has no jurisdiction over legislation having to do with immigration and naturalization laws. Therefore, the Chair holds that the amendment is not germane.

§ 4.21 The Speaker does not rule on the purpose of a

1. 94 CONG. REC. 6140, 80th Cong. 2d Sess.

recommended committee amendment to a bill.

On Apr. 1, 1935,⁽²⁾ a point of order was raised against an amendment being considered by the House:

MR. [MALCOLM C.] TARVER [of Georgia] (interrupting the reading of the committee amendment): Mr. Speaker, I desire to make a point of order against the first committee amendment, which is to strike out all of section 1 after the enacting clause and insert certain language. The language which is proposed be inserted is identical with the language of section 1 now in the bill. The proposal of the committee amendment is simply to strike out existing language and then reinsert identical language.

THE SPEAKER: [Joseph W. Byrns, of Tennessee]: The Chair cannot pass on that. The Chair will say to the gentleman from Georgia that is a matter for the House to determine. The Chair cannot enter into the purpose of the committee in proposing the amendment, since that is not within the province of the Chair. The Chair will suggest to the gentleman from Georgia that the remedy that occurs to the Chair is for the House to vote down the committee amendment and pass the bill as originally introduced.

§ 4.22 The Chair does not rule on the sufficiency, insufficiency, legal effect, or binding nature of a committee report.

2. 79 CONG. REC. 4781, 4782 74th Cong. 1st Sess.

On Apr. 14, 1955,⁽³⁾ a question regarding a committee report was raised during debate in the Committee of the Whole:

MR. [ROBERT C.] WILSON of California: I have a question relative to the United States Information Agency as it affects the report of the committee. . . .

I am wondering if the fact that these limitations appear in the report make them actual limitations in law. [notice they are not mentioned in the bill itself, and I wonder if the committee regards them as binding on the agency, because there are many serious limitations, particularly in regard to exhibits, for example. I would just like to hear the opinion of the chairman.

MR. [JOHN J.] RODNEY [of New York]: I may say to the gentleman from California that it is expected that they will be the law; and that they are binding. The fact that they have not been inserted in the bill is not important. They represent the considered judgment of the committee and we expect the language of the report to be followed.

MR. WILSON of California: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN [Jere Cooper, of Tennessee]: The gentleman will state it.

MR. WILSON of California: Are limitations written in a committee report such as this, but not written into the wording of the legislation, binding?

THE CHAIRMAN: That is not a parliamentary inquiry. That is a matter to be settled by the members of the Committee of the Whole.

3. 101 CONG. REC. 4463, 4464, 84th Cong. 1st Sess.

MR. WILSON of California: I merely wanted it for my own understanding and information, for I am fairly new here. It seems to me rather unusual to consider matter written into a report of the same binding effect on an administrator as though written into the law itself.

THE CHAIRMAN: It is not the prerogative of the Chair to pass upon the sufficiency or insufficiency of a committee report.

§ 4.23 The Speaker does not rule on the substantive effect of extraneous material in a committee report on a bill.

On Dec. 3, 1963,⁽⁴⁾ a parliamentary inquiry was addressed to Speaker John W. McCormack, of Massachusetts, during the colloquy set out below after his ruling on a committee report:

THE SPEAKER: The Chair is prepared to rule. . . .

It is the opinion of the Chair that the report of the committee complies with the Ramseyer rule, the purpose of which is to give Members information in relation to any change in existing law.

If a report includes some other references to other laws which in a sense would be surplusage or unnecessary, it is the Chair's opinion that the committee was attempting to give to the Members of the House as full information as was possible. . . .

MR. [PAUL] FINDLEY [of Illinois]: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from Illinois rise?

MR. FINDLEY: To propound a parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. FINDLEY: I am not clear about the substantive effect of the ruling of the Chair at this time. Does it mean that section 105 of the 1949 act and section 330 of the 1938 act are repealed by this bill?

THE SPEAKER: The Chair did not pass on that. The Chair simply said that they were included in the report.

§ 4.24 The Chair does not rule on whether language contained in a measure is ambiguous.

On July 5, 1956,⁽⁵⁾ certain points of order were raised concerning a pending amendment:

MR. [ROSS] BASS of Tennessee: I make the point of order that the amendment is not germane to the bill.

THE CHAIRMAN [Francis E. Walter, of Pennsylvania]: It is certainly germane to the amendment offered by the gentleman from New York to substitute the word "decisions" for the word "provisions." The Chair so rules.

MR. BASS of Tennessee: Mr. Chairman, a further point of order.

THE CHAIRMAN: The gentleman will state it.

MR. BASS of Tennessee: I make the point of order that the word "provisions" is ambiguous and has no mean-

4. 109 CONG. REC. 23038, 88th Cong. 1st Sess.

5. 102 CONG. REC. 11875, 84TH CONG. 2D SESS.

ing whatever and would make the amendment not germane.

THE CHAIRMAN: The Chair does not rule on the question of ambiguity. It is a question of germaneness solely, and the Chair has ruled that the amendment is germane.

§ 4.25 The Speaker does not rule in advance as to whether a particular motion to recommit a measure with instructions might be in order.

On Dec. 19, 1963,⁽⁶⁾ a parliamentary inquiry was addressed to Speaker John W. McCormack, of Massachusetts, relative to a motion to recommit with instructions a conference report.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HALLECK: Mr. Speaker, in the event that the conference report is acted on first in the House, as we now understand it will be, would a motion to recommit with instructions be in order?

THE SPEAKER: A proper motion would be.

MR. HALLECK: Of course, it would have to be germane. If so, a motion to recommit to insist on the wheat amendment, I take it, would be in order.

THE SPEAKER: The Chair, of course, would pass upon any question at the appropriate time.

6. 109 CONG. REC. 25249, 88th Cong. 1st Sess.

MR. HALLECK: I thank the Chair.

§ 4.26 The Chair does not rule in advance whether an announced topic of speech is in order.

On Sept. 26 (legislative day, Sept. 25), 1961,⁽⁷⁾ a Member requested unanimous consent to address the House on a particular topic:

MR. [CLARK E.] HOFFMAN of Michigan: Mr. Speaker, I ask unanimous consent that at the conclusion of the regularly scheduled business of the House and all other special orders for today that I may be permitted to proceed for 5 minutes on the topic: "Is the Congress Mentally Ill?"

MR. [FRANK T.] BOW [of Ohio]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: [John W. McCormack, of Massachusetts]: The gentleman will state it.

MR. BOW: Is that a proper subject for debate on the floor of the House?

MR. HOFFMAN of Michigan: Mr. Speaker, I submit neither the Chair nor the gentleman from Ohio [Mr. Bow], can tell until they hear it.

THE SPEAKER PRO TEMPORE: The gentleman from Michigan [Mr. Hoffman] asked unanimous consent that after all other special orders he be permitted to address the House for 5 minutes. That is the gentleman's unanimous consent request?

MR. HOFFMAN of Michigan: Yes, Mr. Speaker.

7. 107 CONG. REC. 21466, 87th Cong. 1st Sess.

THE SPEAKER PRO TEMPORE: What the gentleman from Michigan [Mr. Hoffman] talks about is a matter for him to determine, and then a matter for the Members.

Is there objection to the request of the gentleman from Michigan?

There was no objection.

§ 4.27 The Chair does not construe the consequences of a “no” vote by the House on a proposed motion.

On Sept. 7, 1965,⁽⁸⁾ various parliamentary inquiries concerning certain motions were addressed to Speaker pro tempore Carl Albert, of Oklahoma, as follows:

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALL: Is a highly privileged motion according to the Constitution subject to a motion to table?

THE SPEAKER PRO TEMPORE: It is.

MR. [L. MENDEL] RIVERS of South Carolina: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. RIVERS of South Carolina: Those desiring to table the motion of the gentleman from Missouri will vote “aye” when their names are called.

THE SPEAKER PRO TEMPORE: The Chair is about to state the question. So many as are in favor of the motion by

the gentleman from South Carolina to table the motion of the gentleman from Missouri will when their names are called vote “aye” and those who are opposed will vote “no.”

MR. HALL: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALL: Mr. Speaker, would a “no” vote as just stated by the Chair be tantamount to overriding the Presidential veto of the military construction bill?

THE SPEAKER PRO TEMPORE: The Chair cannot make such construction on a motion.

§ 4.28 The Chair does not construe the result of a vote.

On Sept. 13, 1961,⁽⁹⁾ questions regarding a future vote were addressed to Speaker pro tempore John W. McCormack, of Massachusetts.

MR. [WILLIAM C.] CRAMER [of Florida]: Is it true, Mr. Speaker, that if this motion is voted upon favorably, there will be no opportunity on the part of the House whatsoever to consider the vote fraud amendment approved in a bill—

MR. [JOHN J.] ROONEY [of New York]: Mr. Speaker, I submit that is not a parliamentary inquiry.

MR. CRAMER: Which is now pending before the Committee on Rules?

THE SPEAKER PRO TEMPORE: The Chair has stated before that he has his own personal opinion. The Chair cannot construe the result of the vote.

8. 111 CONG. REC. 22958, 22959, 89th Cong. 1st Sess.

9. 107 CONG. REC. 19206, 87th Cong. 1st Sess.

Challenge of Conference Report

§ 4.29 The Speaker may not impeach the names of conferees who have signed a conference report on a bill when the report has been challenged as being invalid for an alleged failure of the conferees to meet.

On June 19, 1948,⁽¹⁰⁾ a point of order was raised regarding a conference report.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I make a point of order, and I ask the indulgence of the Speaker so that I may argue the point.

THE SPEAKER: [Joseph W. Martin, Jr., of Massachusetts]: The Chair will hear the gentleman.

MR. MARCANTONIO: Mr. Speaker, I make the point of order that the document which has just been presented is not the report of any conference. It is not the product of a full and free conference as required in Jefferson's Manual. I make my point of order based on the proposition that there has never been a valid conference—specifically, that there has never been a valid meeting on the part of the managers on the part of the House. . . .

THE SPEAKER: The Chair is ready to rule.

On page 770, volume 5, of Hinds' Precedents, section 6497 states:

A conference report is received if signed by a majority of the managers of each House.

10. 94 CONG. REC. 9268, 9269, 80th Cong. 2d Sess.

The Chair has examined the report and the papers and finds that it is signed by five of the managers on the part of the Senate and six of the seven managers on the part of the House.

The Chair has no knowledge, of course, how this report was reached, but the Chair cannot impeach the names of the managers on the part of the two Houses. Furthermore, the Senate having already received the report, and according to a message heretofore received by the House has officially adopted it, the Chair feels that under the circumstances the report is properly before the House for such action as the House may see fit to take. The Chair overrules the point of order.

When Recognition Required

§ 4.30 The Speaker is constrained to recognize on Calendar Wednesdays any Member properly proposing a motion to dispense with Calendar Wednesday business.

On June 5, 1946,⁽¹¹⁾ a motion was made to dispense with Calendar Wednesday business.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, that motion is not in order. To dispense with Calendar Wednesday requires the unanimous consent of the House. . . .

THE SPEAKER: [Sam Rayburn, of Texas]: The Chair will state that the following was held by Speaker Gillette, who has been quoted today, as follows:

11. 92 CONG. REC. 6357, 79th Cong. 2d Sess.

The Speaker is constrained to recognize on Wednesdays any Member proposing a motion to dispense with further proceedings in order on that day.

The motion is in order, but it takes a two-thirds vote to pass it.

§ 4.31 Although the Speaker has the discretion to choose between Members seeking recognition,⁽¹²⁾ he is obliged to recognize for a privileged motion when the proponent has the floor and no other motion of higher privilege is pending or offered.⁽¹³⁾

§ 4.32 Although the Speaker has discretion to recognize, or not, a Member under most circumstances, he may not refuse to recognize a Member having the floor for a motion to adjourn.

On Mar. 16, 1945,⁽¹⁴⁾ a motion to recommit a bill was made. Votes were taken and a quorum found not to be present. This led to a call for adjournment.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: [Sam Rayburn, of Texas]: The gentleman will state it.

12. Recognizing for debate, see Ch. 29, *infra*.

13. Motions generally, see Ch. 23, *infra*.

14. 91 CONG. REC. 2379, 2380, 79th Cong. 1st Sess.

MR. HOFFMAN: What is the regular order now?

THE SPEAKER: The regular order is to see if a quorum develops.

MR. HOFFMAN: Is it in order to adjourn?

THE SPEAKER: That motion is always in order in the House.

MR. HOFFMAN: If there is not a quorum, Mr. Speaker, I move we adjourn.

THE SPEAKER: Will the gentleman withhold that for a moment?

THE HOFFMAN: If the Chair is refusing recognition, I will.

THE SPEAKER: The Chair cannot do that.

The House then agreed to a motion, offered by Mr. John W. McCormack, of Massachusetts, to adjourn.

§ 4.33. Inasmuch as Members of the Senate may not address the House unless the House rules are changed by proper procedure, the Speaker has declined to recognize a Member for the purpose of asking unanimous consent for the consideration of a resolution to allow Senators to address the House.

On Oct. 11, 1943,⁽¹⁵⁾ Members discussed the desirability of inviting certain Senators to address the House.

MRS. [EDITH NOURSE] ROGERS of Massachusetts: Mr. Speaker, on Thurs-

15. 89 CONG. REC. 8197, 78th Cong. 1st Sess.

day last I, with several others, called attention to the importance of having the five Senators who have just returned from the far-flung battle fronts give the Members of the House their findings regarding conditions on the battle fronts. I understand there is some objection to having them appear in the House Chamber. I hope the gentleman from Mississippi and some of the other Members will join in asking them to appear in the Caucus Room. Then we can all have the benefit of their valuable information. It does not matter where we hear their testimony so long as we hear it.

MR. [JOHN E.] RANKIN [of Mississippi]: If the gentlewoman will yield, let me say that these are Members of the United States Senate. They have the privilege of the floor. We have a perfect right to invite them here to address the Members of the House in secret session. We want them to come here and give us the benefit of the information they have garnered in their trip to the various battle fronts of the world.

MRS. ROGERS of Massachusetts: Has the gentleman consulted the Speaker and leaders about it?

MR. RANKIN: I have, and I think that when the resolution is offered they will agree that this is the place to have them.

THE SPEAKER: [Sam Rayburn, of Texas]: The Chair thinks it is time for the Chair to make a statement, because this matter was discussed with the Chair by the gentlewoman from Massachusetts [Mrs. Rogers], last week, and the gentleman from Mississippi [Mr. Rankin], over the phone.

The Chair does not intend to recognize a Member to ask unanimous con-

sent for the present consideration of a resolution inviting Senators to address the House in open or executive session, because the Chair thinks that is tantamount to an amendment to the rules of the House and, therefore, is a matter for the House to determine. If resolutions like that are introduced, they will be sent to the proper committee.

Authority to Declare Recess

§ 4.34 The Speaker, under normal circumstances, must be authorized by the House to declare recesses.⁽¹⁶⁾

On Oct. 3, 1964,⁽¹⁷⁾ for example, unanimous consent was requested and received to authorize Speaker John W. McCormack, of Massachusetts, to declare recesses, subject to the call of the Chair, during the remainder of the day.

§ 4.35 Authority conferred upon the Speaker to declare recesses of the House may be vacated by unanimous consent.

On Sept. 8, 1969,⁽¹⁸⁾ unanimous consent was requested to vacate previous authorization for Speaker John W. McCormack, of Massa-

16. Compare §3.44, *supra*, as to the Speaker's inherent power to declare a recess in an emergency.

17. 110 CONG. REC. 23955, 88th Cong. 2d Sess.

18. 115 CONG. REC. 24653, 91st Cong 1st Sess.

chusetts, to declare recess on a certain day.

Mr. [Carl] Albert [of Oklahoma]: Mr. Speaker, I ask unanimous consent that the authority for the Speaker to declare a recess on September 10 be vacated.

THE SPEAKER: Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

MR. ALBERT: Mr. Speaker, I also ask unanimous consent that it may be in order for the Speaker to declare a recess at any time on September 16 for the purpose of receiving in joint meeting the Apollo 11 astronauts.

THE SPEAKER: Is there objection to the request of the gentleman from Oklahoma?

There was no objection.⁽¹⁹⁾

Authority to Sign Bills and Resolutions

§ 4.36 The Speaker must be formally authorized to sign a duplicate copy of an enrolled bill.

On May 27, 1938,⁽²⁰⁾ a unanimous-consent request was made as follows:

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I ask unanimous consent for

19. *Parliamentarian's Note*: The authorization to declare the recess was vacated due to the death of Senator Everett Dirksen.

20. 83 CONG. REC. 7637, 75th Cong. 3d Sess.

the present consideration of Senate Concurrent Resolution No. 37.

The Clerk read the concurrent resolution, as follows:

SENATE CONCURRENT RESOLUTION 37

Resolved by the Senate (the House of Representatives concurring), That the Speaker of the House of Representatives and the President of the Senate be, and they are hereby, authorized to sign a duplicate copy of the enrolled bill (S. 3532) entitled "An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Randolph, Mo.," and that the Secretary of the Senate be, and he is hereby, directed to transmit the same to the President of the United States.

THE SPEAKER [William B. Bankhead, of Alabama]: Is there objection to the request of the gentleman from Texas?

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, reserving the right to object, will the gentleman from Texas explain the purpose of this resolution?

MR. RAYBURN: Mr. Speaker, the situation is that before this bill got to the President for his signature it was misplaced or lost. This is a resolution to allow the President to sign a duplicate.

THE SPEAKER: Is there objection to the request of the gentleman from Texas?

There was no objection.

§ 4.37 The Speaker must be formally authorized by the House to sign enrolled bills and joint resolutions during a sine die adjournment of the Congress.

On Oct. 14, 1968,⁽¹⁾ a resolution was offered by Mr. Carl Albert, of Oklahoma, as follows:

MR. ALBERT: Mr. Speaker, I call up Senate Concurrent Resolution 82 and ask for its present consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 82

Resolved by the Senate (the House of Representatives concurring), That, notwithstanding the sine die adjournment of the two Houses, the Speaker of the House of Representatives and the President of the Senate, the President pro tempore, or the Acting President pro tempore be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The Senate concurrent resolution was concurred in.

§ 4.38 The Speaker is normally authorized by unanimous consent to sign enrolled bills and joint resolutions during any adjournment of the House.

On Aug. 10, 1961,⁽²⁾ a unanimous consent request was made as follows:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House during

1. 114 CONG. REC. 31313, 90th Cong. 2d Sess.
2. 107 CONG. REC. 15320, 87th Cong. 1st Sess.

the present session of the 87th Congress, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

MR. [HAROLD R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object, are we going to enter into some recesses or adjournments of the House?

MR. MCCORMACK: For example, such as adjourning from Friday to Monday.

MR. GROSS: That is all the gentleman has in mind?

MR. MCCORMACK: That is all. . . .

THE SPEAKER: [Sam Rayburn, of Texas]: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

§ 4.39 Although it is within the authority of the Speaker to sign enrolled bills, by concurrent resolution the Congress may rescind the Speaker's signature.

On July 1, 1947,⁽³⁾ a resolution was introduced as follows:

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate Concurrent Resolution 22.

. . .

The Clerk read the concurrent resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That

3. 93 CONG. REC. 8012, 80th Cong. 1st Sess.

the President of the United States be, and he is hereby, requested to return to the House of Representatives the enrolled bill (H.R. 493) to amend section 4 of the act entitled "An act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia," approved July 8, 1932 (sec. 22, 3204 D.C. Code, 1940 ed.): that if and when the said bill is returned by the President, the action of the Presiding Officer of the two Houses in signing the said bill be deemed to be rescinded; and that the House engrossed bill be returned to the Senate.

THE SPEAKER [Joseph W. Martin, Jr., of Massachusetts]: Is there objection to the request of the gentleman from Illinois?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

§ 4.40 Although it is within the authority of the Speaker to sign enrolled bills of the House, the House may agree to a Senate resolution requesting that the Speaker's signature be rescinded.

On July 30, 1942,⁽⁴⁾ Speaker pro tempore Alfred L. Bulwinkle, of North Carolina, laid before the House a Senate resolution:

Resolved, That the Secretary be directed to request the House of Representatives to rescind the action of the Speaker in signing the enrolled

4. 88 CONG. REC. 6713, 77th Cong. 2d Sess.

bill (H.R. 7297) entitled "An act authorizing the assignment of personnel from departments or agencies in the executive branch of the Government to certain investigating committees of the Senate and House of Representatives, and for other purposes," and that the House of Representatives be further requested to return the above-numbered engrossed bill to the Senate.

THE SPEAKER PRO TEMPORE: Without objection, it is so ordered.

There was no objection.

§ 5. Participation in Debate and Voting

The Speaker is entitled as a Member of the House to participate in debate.⁽⁵⁾ Accordingly, when the Speaker desires to be heard in debate on a matter he may speak from the floor, whether debate is in the House⁽⁶⁾ or in the Committee of the Whole.⁽⁷⁾ Occasionally the Speaker will speak in debate from the Chair.⁽⁸⁾

Under the House rules⁽⁹⁾ the Speaker may, but is not required, to vote on matters except where (1) his vote would be decisive, or

5. *House Rules and Manual* §751 (1973).

6. See §§ 5.1, 5.2, *infra*.

7. See § 5.3, *infra*.

8. See Ch. 29, *infra*, for fuller treatment of the Speaker's participation in debate.

9. Rule I clause 6, *House Rules and Manual* § 632 (1973).

(2) where the House is engaged in voting by ballot.⁽¹⁰⁾ Measures decided by a tie vote are lost.⁽¹¹⁾

The Speaker has voted, for example: in order to make a quorum of the House;⁽¹²⁾ on a yea and nay roll call vote;⁽¹³⁾ on a roll call vote to make a tie;⁽¹⁴⁾ and on a division vote to break a tie.⁽¹⁵⁾ The Speaker may vote on a teller vote to make a tie⁽¹⁶⁾ and in doing so he need not pass through the tellers to have his vote counted.⁽¹⁷⁾

Participating in Debate

§ 5.1 Normally, if the Speaker wishes to participate in House debate, he does so from the floor of the House.

On Mar. 31, 1958,⁽¹⁸⁾ Speaker Sam Rayburn, of Texas, partici-

10. *Parliamentarian's Note*: Voting by ballot in the House is rarely used and is not to be confused with voting by electronic device. See Rules I clause 5, §630 (electronic device), and XXXVIII §934 (ballot), *House Rules and Manual* (1973).

11. Sec Ch. 30, *infra*, for fuller treatment of the Speaker's participation in voting.

12. See §5.4, *infra*.

13. See §5.5, *infra*.

14. See §5.6, *infra*.

15. See §5.7, *infra*.

16. See §5.8, *infra*.

17. Sec 5.9, *infra*.

18. 104 CONG. REC. 5854, 5855, 85th Cong. 2d Sess.

pated in a debate on the floor of the House when a Member yielded to him. The Speaker commended the work of a particular subcommittee and congratulated the members thereof.

On Aug. 27, 1959,⁽⁹⁾ Speaker Rayburn participated in a debate in the House on the House floor. He took the occasion to express his views on the reconstruction of the east front of the Capitol.

§ 5.2 The Speaker may eulogize a deceased Member from the House floor.

On Jan. 16, 1962,⁽²⁰⁾ Speaker John W. McCormack, of Massachusetts, took the floor to eulogize a deceased Member, Louis Rabaut, of Michigan.

§ 5.3 If the Speaker desires to participate in debate in the Committee of the Whole, he does so from the floor.

On Aug. 31, 1960,⁽¹⁾ Speaker Sam Rayburn, of Texas, participated in debate in the Committee of the Whole from the floor. The debate concerned a bill [H.R. 13021] to provide financial assist-

19. 105 CONG. REC. 17237, 86th Cong. 1st Sess.

20. 106 CONG. REC. 285, 87th Cong. 2d Sess.

1. 106 CONG. REC. 18734, 18735, 86th Cong. 2d Sess.

ance to certain South American countries for reconstruction and development.

Participation in Voting

§ 5.4 The Speaker may vote in order to make a quorum of the House.

On Nov. 24, 1942,⁽²⁾ Speaker Sam Rayburn, of Texas, cast his vote to provide a quorum for purposes of voting on a motion to recommit.

THE SPEAKER: The question is on agreeing to the motion to recommit.

The question was taken and on a division, there were, ayes 15, noes 70.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, I object to the vote upon the ground that there is no quorum present.

THE SPEAKER: Evidently there is no quorum present. The Clerk will call the roll. The question is on agreeing to the motion to recommit.

The question was taken; and there were—yeas 31, nays 184, not voting,⁽³⁾ 214. . . .

THE SPEAKER: The Clerk will call my name.

The Clerk called the name of Mr. Rayburn and he answered “no.”

So the motion to recommit was rejected.

2. 88 CONG. REC. 9116, 9117, 77th Cong. 2d Sess.

3. *Parliamentarian's Note*: Six vacancies existed in the House at the time this vote was taken; and 215 Members were needed to make a quorum.

§ 5.5 The Speaker may vote on a yea and nay roll call vote.

On June 30, 1939,⁽⁴⁾ Speaker William B. Bankhead, of Alabama, voted as shown below on a yea and nay roll call vote involving a motion to recommit.

THE SPEAKER: The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. Fish) there were—ayes 179, noes 185.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 194, nays 196, answered “present” 1, not voting 40. . . .

THE SPEAKER: The Clerk will call my name.

The Clerk called the name of Mr. Bankhead, and he answered “nay.”

So the motion to recommit was rejected.

§ 5.6 The Speaker may vote on a roll call vote to make a tie.

On May 3, 1946,⁽⁵⁾ Speaker Sam Rayburn, of Texas, on a roll call voted to make a tie and thus reject the question being considered.

§ 5.7 The Speaker may vote on a division vote to break a tie vote of the House.

4. 84 CONG. REC. 8512, 8513, 76th Cong. 1st Sess.

5. 92 CONG. REC. 4434, 4435, 79th Cong. 2d Sess.

On July 15, 1937,⁽⁶⁾ Speaker William B. Bankhead, of Alabama, cast the deciding vote on a motion to recede and concur:

THE SPEAKER: The question is on the motion of the gentleman from Nevada that the House recede and concur [in a Senate amendment].

MR. [ABE] MURDOCK of Utah: Mr. Speaker, I demand a division of that question

THE SPEAKER: The gentleman is entitled to a division of the question. The question is whether the House shall recede from its disagreement to the Senate amendment. . . .

The question was taken; and on a division (demanded by Mr. Rich) there were—ayes 58, noes 58.

THE SPEAKER: The Chair votes “aye.”

§ 5.8 The Chair may vote on a teller vote to make a tie.

On Aug. 1, 1966,⁽⁷⁾ in the Committee of the Whole, an amendment was offered and a vote taken on it, as follows:

MR. [RICHARD H.] POFF [of Virginia]: Mr. Chairman, I offer an amendment.

THE CHAIRMAN [Richard Bolling, of Missouri]: The question is on the amendment offered by the gentleman from Virginia [Mr. Poff].

The question was taken; and on a division (demanded by Mr. Celler) there were—ayes 51, noes 44.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I demand tellers.

6. 81 CONG. REC. 7197, 7198, 75th Cong. 1st Sess.

7. 112 CONG. REC. 17760, 17761, 89th Cong. 2d Sess.

Tellers were ordered, and the Chairman appointed as tellers Mr. Poff and Mr. Celler.

The Committee again divided, and the tellers reported that there were—ayes 84, noes 83.

THE CHAIRMAN [Mr. Bolling]: The Chair votes “no.”

So the amendment was rejected.

§ 5.9 The Chair may count himself to make or break a tie on a teller vote without passing through the tellers.

On Sept. 21, 1965,⁽⁸⁾ a teller vote was demanded and taken on an amendment offered in the Committee of the Whole.

THE CHAIRMAN [Daniel D. Rostenkowski, of Illinois]: The question is on the amendment offered by the gentleman from Pennsylvania [Mr. Clark].

The question was taken, and the Chairman announced that the noes had it.

MR. [WILLIAM C.] CRAMER [of Florida]: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Clark and Mr. Blatnik.

The Committee divided.

THE CHAIRMAN: On this vote by tellers, the ayes are 100, noes 99.

The Chair votes in the negative.

So the amendment was rejected.

8. 111 CONG. REC. 24635, 89th Cong. 1st Sess.

§ 6. Power of Appointment; Legislative Authority

The Speaker derives his power of appointment from statutes, the House rules, and House resolutions. This section lists examples from each of these sources, and reviews various appointment practices under the House precedents.

Examples of appointments made under statutory provisions are as follows.

The Speaker appoints six members to the National Visitors Facilities Advisory Commission;⁽⁹⁾ three members to the Advisory Commission on Intergovernmental Relations;⁽¹⁰⁾ four members to the Presidential Joint Commission on the Coinage;⁽¹¹⁾ up to nine members to the North Atlantic Treaty Parliamentary Conference;⁽¹²⁾ 12 members to the 24-member group to represent the United States at the Mexico-United States Interparliamentary Group;⁽¹³⁾ one member to the National Historical Publications Commission;⁽¹⁴⁾ three members to the 17-member Board of Regents of the Smithso-

9. 40 USCA § 822.

10. 42 USCA § 4273.

11. 31 USCA § 301.

12. 22 USCA § 1928a.

13. 22 USCA § 276h.

14. 44 USCA § 2501.

nian Institution;⁽¹⁵⁾ six members to a 13-member board in the Office of Technology Assessment;⁽¹⁶⁾ five members to the 10-man Joint Committee on Congressional Operations;⁽¹⁷⁾ 10 members to the 20-member Joint Economic Committee;⁽¹⁸⁾ two of the nine members of the Commission on Executive, Legislative, and Judicial Salaries;⁽¹⁹⁾ and a committee to direct and control the operation of the House Recording Studio.⁽¹⁾

The Speaker appoints a Legislative Counsel for the House⁽²⁾ and approves the appointment by the Legislative Counsel of assistants and other employees.⁽³⁾

The Speaker must also approve the appointment of librarians for the library of the House of Representatives.⁽⁴⁾

The Speaker is a member of and appoints two Members to the House Office Building Commission.⁽⁵⁾

The Speaker may make temporary appointments to fill vacan-

15. 20 USCA §§ 42 and 43.

16. 2 USCA § 473.

17. 2 USCA § 411.

18. 15 USCA § 1024.

19. 2 USCA § 352.

1. 2 USCA § 123b.

2. 2 USCA § 282.

3. 2 USCA § 282a.

4. 2 USCA § 153.

5. 40 USCA § 175. See Ch. 4, *supra*, for treatment of the House Office Buildings.

cies in the offices of the Clerk, the Sergeant at Arms, the Doorkeeper, the Postmaster, and the Chaplain.⁽⁶⁾

The Speaker has in the past appointed four of the 12-man Commission on the Organization of the Government for the Conduct of Foreign Policy;⁽⁷⁾ two members to the nine-member National Fisheries Center and Aquarium Advisory Board;⁽⁸⁾ two members to a fourman advisory board to the National Commission on Fire Prevention and Control;⁽⁹⁾ three members to the nine-member National Commission on Consumer Finance;⁽¹⁰⁾ five members to a 15-member National Commission on Food Marketing;⁽¹¹⁾ and four members to the 15-member Commission on the Review of the National Policy Toward Gambling.⁽¹²⁾

Under House rules, the Speaker may appoint Speakers pro tempore,⁽¹³⁾ the Chairman of the Com-

mittee of the Whole,⁽¹⁴⁾ members to select and conference committees,⁽¹⁵⁾ tellers for vote counting,⁽¹⁶⁾ and the official reporters of the House.⁽¹⁷⁾

The manner by which the Speaker exercises his powers of appointment is governed by House customs and practices of long standing. Thus, whenever the House resolves itself into a Com-

seq., *infra*, for treatment of the Speaker pro tempore, including the Speaker's power to appoint one.

6. 2 USC §75a-1.
7. 22 USCA §2821. See Ch. 13, *infra*, for treatment of the powers and prerogatives of the House vis-a-vis foreign relations generally.
8. 16 USCA §1055.
9. 15 USCA §278f note.
10. 15 USCA §1601 note.
11. Pub. L. No. 89-20, May 15, 1965, 79 Stat. 111.
12. 18 USCA §1955 note.
13. Rule I clause 7, *House Rules and Manual* §633 (1973). See §§9 et

14. Rule XXIII clause 1, *House Rules and Manual* §861 (1973). See Ch. 19, *infra*, for treatment of the Speaker's relationship to the Committee of the Whole.
15. Rule X clause 2, *House Rules and Manual* §671a (1973). See Ch. 17, *infra*, for fuller treatment of the Speaker's power to appoint committees.
16. Rule I clause 5, *House Rules and Manual* §630 (1973) covers regular vote-counting by tellers. See Ch. 30, *infra*, for treatment of regular voting. For electoral college votes, see 3 USC §315 and U.S. Const. amend. XII.
17. Rule XXXIV clause 1, *House Rules and Manual* §923 (1973). See Ch. 5, *supra*, for fuller treatment of official reporters.

Parliamentarian's Note: Although the rule vests the power of appointment of official reporters in the Speaker, under statute, 2 USCA §84a, he normally exercises his power by approving their employment.

mittee of the Whole, the Speaker will appoint a Chairman of the Committee.⁽¹⁸⁾ If the designated Chairman is not present when the House resolves itself into the Committee, the Speaker may also appoint a Chairman pro tempore until the designated Chairman arrives.⁽¹⁹⁾

Although the House rules⁽²⁰⁾ provide that the Speaker may appoint members to select committees, the rules further provide that such appointments may be made to committees that the House may from time to time establish. Thus, the Speaker appoints members to such committees pursuant to authorization provided for by law or by action of the House. House authorization may be in the form of unanimous consent⁽¹⁾ or formal resolution.⁽²⁾

The Speaker may make appointments to select committees orally,⁽³⁾ and under certain circumstances, he may appoint the majority and minority members at different times.⁽⁴⁾ For certain committees, usually ceremonial ones,

the Speaker may appoint himself as a member of the committee.⁽⁵⁾

When a vacancy occurs on a select committee, the Speaker fills the vacancy pursuant to the original authorization to appoint the committee.⁽⁶⁾

The Speaker's appointment of conferees on the part of the House to conference committees is somewhat different from his appointment of select committees.⁽⁷⁾ For instance, the manner of appointment of conferees and the number of members appointed is usually within the discretion of the Speaker.⁽⁸⁾ But the Speaker must still be authorized to make appointments of conferees pursuant to House action.⁽⁹⁾ And although the Speaker fills vacancies in conference committees without seeking new authorizations from the House,⁽¹⁰⁾ for the Speaker to appoint additional conferees, additional House authorization must be given.⁽¹¹⁾

18. See §6.1, *infra*.

19. See §6.2, *infra*.

20. Rule X clause 2, *House Rules and Manual* §671a (1973).

1. See §6.3, *infra*.

2. See §§6.4, 6.6, *infra*.

3. See §6.9, *infra*.

4. See §§6.10, 6. 11, *infra*.

5. See §6.12, *infra*. See Ch. 36, *infra*, for treatment of the Speaker's role in various ceremonies.

6. See §6.13, *infra*.

7. See Ch. 33, *infra*, for fuller treatment of the Speaker's role vis-a-vis House-Senate conferences.

8. See §6.14, *infra*.

9. For example, see illustrations under §6.16, *infra*.

10. See §6.16, *infra*.

11. See §6.18, *infra*.

On occasion the House will authorize the designation of certain House employees subject to the approval of the Speaker.⁽²⁾

Appointing Chairmen

§ 6.1 The Speaker (and the Speaker pro tempore) appoints a Chairman when the House resolves itself into the Committee of the Whole.

On July 25, 1962,⁽¹³⁾ a motion was made for the House to resolve itself into the Committee of the Whole House on the state of the Union.

MR. [HERBERT] ZELENKO [of New York]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11677) to prohibit discrimination on account of sex in the payment of wages by certain employers engaged in commerce or in the production of goods for commerce and to provide for the restitution of wages lost by employees by reason of any such discrimination.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the

12. See §6.26, *infra*.

13. 108 CONG. REC. 14747, 87th Cong. 2d Sess.

bill H.R. 11677, Mrs. Edna F. Kelly, of New York, having been appointed to preside.

On Jan. 14, 1964,⁽¹⁴⁾ a motion was made for the House to resolve itself into the Committee of the Whole House on the state of the Union.

MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1153), to amend the Federal Airport Act to extend the time for making grants thereunder, and for other purposes.

THE SPEAKER PRO TEMPORE: [Carl Albert, of Oklahoma]: The question is on the motion offered by the gentleman from Arkansas.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 1153, Mrs. Leonor Kretzer Sullivan, of Missouri, having been appointed to preside.

§ 6.2 The Speaker (and the Speaker pro tempore) may appoint both a Chairman and a Chairman pro tempore of the Committee of the Whole.

On Oct. 18, 1967,⁽¹⁵⁾ Speaker pro tempore Carl Albert, of Okla-

14. 110 CONG. REC. 399, 88th Cong. 2d Sess.

15. 113 CONG. REC. 29277, 90th Cong. 1st Sess.

homa, made the following announcement:

THE SPEAKER PRO TEMPORE: The Chair designates the gentleman from Ohio [Mr. Vanik] as Chairman of the Committee of the Whole, and requests the gentleman from Illinois [Mr. Rostenkowski] to assume the chair temporarily.

Authority to Appoint

§ 6.3 Pursuant to authority granted him by the House, the Speaker may appoint committees, commissions, and boards authorized by law or by the House.

On Aug. 24, 1935,⁽¹⁶⁾ for example, a unanimous-consent request was made as follows:

MR. [EDWARD T.] TAYLOR of Colorado: Mr. Speaker, I ask unanimous consent that the Speaker may have until Wednesday next, August 28, 1935, to appoint committees and commissions that have been authorized by the House or by law.

THE SPEAKER [Joseph W. Byrns, of Tennessee]: Is there objection.

There was no objection.

Similarly, on Aug. 21, 1937,⁽¹⁷⁾ unanimous consent was requested and received to permit Speaker William B. Bankhead, of Alabama, to appoint commissions and

16. 79 CONG. REC. 14645, 74th Cong. 1st Sess.

17. 81 CONG. REC. 9640, 75th Cong. 1st Sess.

committees authorized by law or by the House, notwithstanding the adjournment of the first session of the 75th Congress.

Likewise, on Oct. 13, 1962,⁽¹⁸⁾ a unanimous-consent request was made as follows:

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the 2d session of the 87th Congress, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

THE SPEAKER [Sam Rayburn, of Texas]: Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Announcing Appointments

§ 6.4 When the House has authorized a Speaker to appoint committees, boards, or commissions, the Speaker informs the House of his exercise of the authority granted.

On July 26, 1948,⁽¹⁹⁾ Speaker Joseph W. Martin, Jr., of Massachusetts, announced his appointment of certain special committees.

The Speaker, pursuant to the authority conferred upon him by House

18. 108 CONG. REC. 23515, 87th Cong. 2d Sess.

19. 94 CONG. REC. 9362, 80th Cong. 2d Sess.

Resolution 691, Eightieth Congress, and the order of the House of June 19, 1948, empowering him to appoint commissions, boards, and committees authorized by law or by the House, did on June 29, 1948, appoint as members of the select committee to conduct a study and investigation of the organization, personnel, and activities of the Federal Communications Commission the following Members of the House: Hon. Forest A. Harness, Indiana, chairman; Hon. Leonard W. Hall, New York; Hon. Charles H. Elston, Ohio; Hon. J. Percy Priest, Tennessee; Hon. Oren Harris, Arkansas. . . .

On Jan. 3, 1956,⁽²⁰⁾ Speaker Sam Rayburn, of Texas, announced certain appointments he made, pursuant to authority granted, during an adjournment period.

THE SPEAKER: The Chair lays before the House the following announcement with respect to certain appointments made by the Speaker subsequent to adjournment which the Clerk will read.

The Clerk read as follows:

The Chair desires to announce that pursuant to the order of the House of August 2, 1955, empowering him to appoint commissions, boards, and committees authorized by law or by the House, he did, on September 1, 1955, pursuant to the provisions of Public Law 742, 83d Congress, appoint as members of the National Monument Commission the following members on the part of the House: Mr. Smith of Virginia, Mr. Aspinall of Colorado, Mr. Smith of Wisconsin, and Mr. Westland of Washington.⁽¹⁾

20. 102 CONG. REC. 5, 84th Cong. 2d Sess.

1. *Parliamentarian's Note*: When the Speaker makes appointments during

On Jan. 4, 1965,⁽²⁾ Speaker John W. McCormack, of Massachusetts, announced appointments he made pursuant to authority granted during a *sine die* adjournment.

THE SPEAKER:: The Chair desires to announce that pursuant to the order of the House of October 3, 1964, empowering him to accept resignations and to appoint commissions, boards, and committees authorized by law or by the House, he did, on November 18, 1964, pursuant to the provisions of section 3, Public Law 88-630, appoint as members of the Lewis and Clark Trail Commission the following Members on the part of the House: Mr. Morris, of New Mexico; Mr. Rivers, of Alaska; Mr. Berry, of South Dakota; Mr. Skubitz, of Kansas.

§ 6.5 When a former Speaker has made appointments pursuant to authority granted him during a *sine die* adjournment of the House, the new Speaker informs the House of such actions.

On Jan. 3, 1947,⁽³⁾ Speaker Joseph W. Martin, Jr., of Massachusetts, laid before the House a com-

a *sine die* adjournment pursuant to authority granted by the House, he informs the House of his action at its next convening.

2. 111 CONG. REC. 25, 89th Cong. 1st Sess.

3. 93 CONG. REC. 39, 80th Cong. 1st Sess.

munication from the previous Speaker, Sam Rayburn, of Texas, in which Mr. Rayburn indicated that, subsequent to a sine die adjournment of the House during the second session of the 79th Congress, and pursuant to authority granted him by the House, he had made certain appointments:

JANUARY 3, 1947.

THE SPEAKER,
House of Representatives, United States,
Washington, D.C.

DEAR MR. SPEAKER: I desire to inform the House of Representatives that subsequent to the sine die adjournment of the Seventy-ninth Congress and pursuant to the provisions of Public Law 711 and the order of the House of August 2, 1946, empowering the Speaker to appoint commissions and committees authorized by law or by the House, I did, as Speaker of the Seventy-ninth Congress, on September 6, 1946, appoint Hon. Michael J. Bradley as a member of the Philadelphia National Shrines Park Commission.

Respectfully,

SAM RAYBURN.

Select Committee Appointments

§ 6.6 The Speaker appoints Members to select committees established pursuant to formal House resolutions.

On Dec. 6, 1967,⁽⁴⁾ a resolution was introduced to authorize

4. 113 CONG. REC. 35143, 90th Cong. 1st Sess.

Speaker John W. McCormack, of Massachusetts, to appoint Members to a select committee.

MRS. [MARTHA W.] GRIFFITHS [of Michigan]: Mr. Speaker, on behalf of the distinguished gentlewoman from Washington [Mrs. May] and myself, I offer a resolution (H. Res. 1000) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1000

Resolved, (a) That there is hereby created a select committee to be composed of three Members of the House of Representatives to be appointed by the Speaker, one of whom shall be designated as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

(b) Effective upon the date of approval of this resolution, until otherwise ordered by the House, the management of the House Beauty Shop and all matters connected therewith shall be under the direction of the Select Committee herein created and shall be operated under such rules and regulations as such Committee may prescribe for the operation and the employment of necessary assistance for the conduct of said Beauty Shop by such business methods as may produce the best results consistent with economical and modern management.

Sec. 2. The Select Committee is hereby authorized to purchase, at a cost not to exceed \$15,000, the initial equipment and materials required for the operation of the House Beauty Shop, and the expense thereof shall be paid from the contingent fund of the House of Representatives.

THE SPEAKER: Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

MRS. GRIFFITHS: Mr. Speaker, the \$15,000 advanced to reestablish the House beauty shop will be in the course of the next year, barring unforeseen circumstances, be returned to the contingency fund, and it is my earnest hope that the next time you hear from the select committee, it will be for the pleasant task of returning money to the Treasury of the United States.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER: Pursuant to the provisions of House Resolution 1000, the Chair appoints as members of the Select Committee on the House Beauty Shop the following Members: Mrs. Griffiths, chairman; Mrs. Green of Oregon, and Mrs. May.

Discretion in Appointments

§ 6.7 The Speaker on occasion has insisted that he be permitted discretion in appointing Members to select committees.

On July 10, 1945,⁽⁵⁾ Speaker Sam Rayburn, of Texas, indicated his desires concerning the formulation of resolutions providing for the appointment of select committees by the Speaker.

MR. [FRITZ G.] LANHAM [of Texas]: Mr. Speaker, I ask unanimous consent

5. 91 CONG. REC. 7392-94, 79th Cong. 1st Sess.

for the immediate consideration of Senate Joint Resolution 31.

The Clerk read the title of the joint resolution.

THE SPEAKER: Is there objection to the request of the gentleman from Texas?

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, reserving the right to object, will the gentleman from Texas kindly explain the legislation?

MR. LANHAM: Mr. Speaker, this Senate joint resolution, which was passed unanimously by the Senate, provided for the treatment of the Legislative Chambers long delayed in giving proper quarters in which to meet. . . .

THE SPEAKER: The Chair desires to call attention to one amendment. The Chair is not going to raise the question at this time but will hereafter, and he thinks he might as well try to raise it with his beloved friend from Texas as anybody else, because there will not be any trouble with him about it.

The Chair calls attention to the amendment on page 2 of the bill running from line 17 to 24 and reading as follows:

Provided further, That the project, insofar as it affects the House wing of the Capitol, shall be carried forward by the Architect of the Capitol in accordance with plans to be approved by a committee of five Representatives to be appointed by the Speaker of the House of Representatives, upon recommendation of the chairman of the House Committee on Public Buildings and Grounds.

Hereafter the Chair is going to insist that if he is to appoint a committee and be responsible for it he be permitted to appoint whom he pleases. To

that end, of course, he would consult with the chairman of the Committee on Public Buildings and Grounds or whatever the committee of the House might be. . . .

The committee amendments were agreed to.

Appointment Restrictions

§ 6.8 Though it is customary to allow the Speaker discretion in appointing Members to select committees, authorizing resolutions normally include restrictions as to the total number of Members to be appointed and the party balance to be obtained.

On Mar. 5, 1958,⁽⁶⁾ a resolution was introduced as follows:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I offer a resolution and ask unanimous consent for its present consideration.

The Clerk read as follows:

HOUSE RESOLUTION 496

Resolved, That there is hereby created a Select Committee on Astronautics and Space Exploration to be composed of 13 Members of the House of Representatives to be appointed by the Speaker, 7 from the majority party and 6 from the minority party, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the manner in which the original appointment was made. . . .

6. 104 CONG. REC. 3443, 85th Cong. 2d Sess.

There was no objection.

The resolution was agreed to and a motion to reconsider was laid on the table.

Making Select Committee Appointments

§ 6.9 The Speaker may orally appoint Members to a select committee pursuant to authority granted him.

On Oct. 20, 1966,⁽⁷⁾ Speaker John W. McCormack, of Massachusetts, appointed Members to a select committee.

THE SPEAKER: Pursuant to the provisions of House Resolution 1013, 89th Congress, the Chair appoints as members of the Select Committee on Standards and Conduct the following Members of the House: Mr. Bennett, of Florida, chairman; Mr. Brooks, of Texas; Mr. Nix, of Pennsylvania; Mr. Carey, of New York; Mr. Cameron, of California; Mr. Ronan, of Illinois; Mr. Gross, of Iowa; Mr. Broyhill, of Virginia; Mr. Michel, of Illinois; Mrs. May, of Washington; Mr. Latta, of Ohio; and Mr. Stafford, of Vermont.

§ 6.10 Under certain circumstances, the Speaker may appoint the majority party members to a select committee without appointing the minority party members simultaneously.

7. 112 CONG. REC. 28112, 89th Cong. 2d Sess.

On Feb. 7, 1961,⁽⁸⁾ Speaker Sam Rayburn, of Texas, appointed the majority party members of a select committee.

THE SPEAKER: The Chair desires to make the following announcement.

Pursuant to the provisions of House Resolution 46, 87th Congress, the Chair appoints as members of the Select Committee To Conduct Studies and Investigations of the Problems of Small Business the following Members of the House:

Mr. Patman, Texas, chairman; Mr. Evins, Tennessee; Mr. Multer, New York; Mr. Yates, Illinois; Mr. Steed, Oklahoma; Mr. Roosevelt, California; Mr. Alford, Arkansas.⁽⁹⁾

§ 6.11 Under certain circumstances, the Speaker may appoint minority party members to a select committee pursuant to authority granted him without appointing the majority party members simultaneously.

On Feb. 17, 1961,⁽¹⁰⁾ Speaker Sam Rayburn, of Texas, appointed

8. 107 CONG. REC. 1820, 87th Cong. 1st Sess.

9. *Parliamentarian's Note*: The majority party members were appointed so that the committee could organize and the chairman could certify the employment of staff personnel. The Republican members did not hold a caucus to ratify the recommendations of their Committee on Committees until after the session of the House on Feb. 9, 1961.

10. 107 CONG. REC. 2271, 87th Cong. 1st Sess.

the minority party members to a select committee.

THE SPEAKER: Pursuant to the provisions of House Resolution 46, 87th Congress, the Chair appoints as additional members of the Select Committee To Conduct Studies and Investigations of the Problems of Small Business the following Members of the House:

Mr. McCulloch, Ohio; Mr. Moore, West Virginia; Mr. Avery, Kansas; Mr. Smith, California; Mr. Robison, New York; and Mr. Derwinski, Illinois.

§ 6.12 The Speaker may appoint himself to certain select committees, and has served on the Joint Select Committee on Preparations for Inaugural Ceremonies.

On Apr. 20, 1964,⁽¹¹⁾ a resolution was introduced concerning the creation of a joint committee.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I offer a Senate concurrent resolution and ask for its immediate consideration.

The Clerk read as follows:

S. CON. RES. 71

Resolved by the Senate (the House of Representatives concurring), That a joint committee consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inau-

11. 110 CONG. REC. 8375, 88th Cong. 2d Sess.

guration of the President-elect and Vice-President-elect of the United States on the 20th day of January 1965.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER: [John W. McCormack, of Massachusetts]: Pursuant to the provisions of Senate Concurrent Resolution 71, 88th Congress, the Chair appoints as Members of the Joint Committee . . . the following Members on the part of the House: Mr. McCormack, Mr. Albert, and Mr. Halleck.

Filling Vacancies

§ 6.13 When a vacancy occurs on a special committee, the Speaker, acting under the original authorization by the House, may appoint a Member to fill the vacancy.

On Jan. 3, 1939,⁽¹²⁾ Speaker William B. Bankhead, of Alabama, made the following announcement:

THE SPEAKER: On August 13, 1938, a vacancy was created on the Special Joint Committee to Investigate the Tennessee Valley Authority due to the resignation of Hon. William J. Driver. The Chair, pursuant to the authority conferred upon him by Public Resolution 83, Seventy-fifth Congress, and the order of the House of June 15, 1938, empowering him to appoint commissions and committees authorized by

12. 84 CONG. REC. 16, 17, 76th Cong. 1st Sess.

law or by the House, did on August 23, 1938, appoint Hon. Graham A. Barden as a member of the Special Joint Committee to Investigate the Tennessee Valley Authority to fill the vacancy, and notified the Clerk of the House of his action.

On Feb. 2, 1960,⁽¹³⁾ Speaker Sam Rayburn, of Texas, laid before the House a written announcement:

THE SPEAKER: The Chair lays before the House the following announcement, which the Clerk will read.

The Clerk read as follows:

Pursuant to the provisions of section 5, Public Law 115, 78th Congress, and House Resolution 165, 86th Congress, the Chair appoints as a member of the Committee on the Disposition of Executive Papers the gentleman from Iowa, Mr. Kyl, to fill the existing vacancy thereon.

Appointing Conferees

§ 6.14 The appointment of conferees on the part of the House is considered a matter within the discretion of the Speaker, although he customarily hears suggestions from the House leaders or from the chairman of the reporting committee.

On July 1, 1932,⁽¹⁴⁾ unanimous consent was requested for the ap-

13. 106 CONG. REC. 1822, 86th Cong. 2d Sess.

14. 75 CONG. REC. 14499, 14500, 72d Cong. 1st Sess.

pointment of conference committee managers on the part of the House.

MR. [SAMUEL] DICKSTEIN [of New York]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10600) to exempt from the quota husbands of American citizens, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

The Clerk read the title of the bill.

THE SPEAKER: [John N. Garner, of Texas]: Is there objection? (After a pause.) The Chair hears none, and appoints the following conferees: Messrs. Dickstein, Palmisano, Dies, Johnson of Washington, and Cable.

MR. [BERTRAND H.] SNELL [of New York]:⁽¹⁵⁾ Mr. Speaker, the gentleman from Ohio [Mr. Cable] is absent through illness. I ask that the Chair substitute for the gentleman from Ohio [Mr. Cable] the gentleman from Ohio [Mr. Jenkins], the next man on the committee.

MR. DICKSTEIN:⁽¹⁶⁾ Mr. Speaker, may I disagree with the selection of the conferee?

THE SPEAKER: No. If the gentleman is the ranking member, he should be appointed.

MR. DICKSTEIN: There are other Members ahead of the gentleman from Ohio.

THE SPEAKER: If the gentleman is the ranking member, then he ought to

15. *Parliamentarian's Note*: Mr. Snell was the Minority Leader.

16. *Parliamentarian's Note*: Mr. Dickstein was the chairman of the committee reporting the bill in question.

go on the conference. The Chair appoints the conferees and thinks the Republican side should have whom they want on the conference.

MR. DICKSTEIN: There are other gentlemen on the committee nearer the head of the table than the gentleman from Ohio.

THE SPEAKER: The gentleman from New York [Mr. Snell] has taken the responsibility of selecting the man on the committee whom he wants to represent the Republican organization, and that has been the custom. . . .

MR. DICKSTEIN: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DICKSTEIN: May I submit a new list of conferees?

THE SPEAKER: The gentleman has stated that the Chair appoints the gentleman recommended by the gentleman from New York, and this ought to be sufficient if the Chair takes the responsibility.

On July 17, 1935,⁽¹⁷⁾ Speaker Joseph W. Byrns, of Tennessee, discussed the practice of appointing conferees after the following unanimous-consent request was made and debated:

MR. [JOHN J.] MCSWAIN [of South Carolina]: Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H.R. 8632, the Tennessee Valley Authority bill, disagree to the Senate amendments and agree to the conference asked for.

THE SPEAKER: Is there objection to the request of the gentleman from South Carolina?

17. 79 CONG. REC. 11319, 74th Cong. 1st Sess.

MR. [MAURY] MAVERICK [of Texas]: Reserving the right to object, will the gentleman from South Carolina inform this House how many conferees there will be?

MR. MCSWAIN: I do not mind stating to the gentleman that I have recommended to the Speaker to appoint five.

MR. MAVERICK: Mr. Speaker, reserving the right to object, an agreement was made by certain Members of the Military Affairs Committee to have five conferees, with unfriendly people on this committee. As one of the friends of the T.V.A., I was not invited, and as far as I know Mr. Thomason, of Texas, and Mr. Wilcox, of Florida, and Mr. Hill of Alabama, also friends of the T.V.A., were not there. I think it is wrong. I think this is a bad precedent to put unfriendly men on the conference committee; it may hold things up, and it does not appear to me as fair—I will not be a party to any agreement unfriendly to the purposes of the great T.V.A. program.

MR. [WILLIAM D.] MCFARLANE [of Texas]: Mr. Speaker, I reserve the right to object, to ask this question: I would like to see the personnel of the conference committee appointed according to the way the majority of the House voted, and the personnel should be so appointed so that a majority of the committee will favor the majority position of the House. Take the first three members on the conference committee, based on their vote on this question, and on the different administration amendments in the different issues voted on in the House. How would their known position on this legislation stand up with the opinion of the majority of the House on the legislation?

MR. MCSWAIN: The three members on the majority side whom I have nominated to the Speaker voted for the bill and voted against the motion to recommit. As I have stated time and time again, I am for whatever the House does; and I state again that I am for the House bill.

THE SPEAKER: After all, the Chair appoints the conferees. The Chair is always willing to accept the suggestions made by the chairman of the committee which has charge of the bill, assuming that the members who are appointed will stand for the House measure because they represent the House in the conference.

MR. MAVERICK: One of the members of the conferees has been one of the three bitterest opponents on the committee of the bill the President wants, and that is the gentleman from Louisiana [Mr. Montet]. As I understand it, he is one of those to be appointed. Yes; Mr. Montet finally voted for the bill, but he has consistently fought the bill from the very beginning.

THE SPEAKER: The Chair would certainly not assume that the gentleman from Louisiana would accept a position as a conferee and not stand for what the House wants, because that is what the House conferees are expected to do, consistent with any proper compromises that are necessary in order to put the measure through. On the contrary the Chair has confidence in the gentleman in every sense of the word. That is a matter which should appeal to the conferees when they go into session, and, after all, when the matter is reported to the House, the House has its opportunity to express its approval or disapproval of the conference report.

Speaker as Conferee

§ 6.15 Although the manner of appointment of conferees on

the part of the House and their number is considered within the discretion of the Speaker, the Speaker normally does not appoint himself to a conference committee.

On June 24, 1932,⁽¹⁸⁾ Speaker John N. Garner, of Texas, suggested the appointment of himself to a conference committee. After some debate, and after a ruling by the Speaker concerning his discretion in the manner of appointments of conferees, he did not appoint himself to the committee.⁽¹⁹⁾

Appointing Successor Conferees

§ 6.16 Under more recent precedents, the Speaker appoints successor conferees to conference committees on the part of the House without the requirement of House approval.

On Mar. 22, 1950,⁽²⁰⁾ a letter of resignation was laid before the House as follows:

MARCH 22, 1950.

18. 75 CONG. REC. 13876-79, 72d Cong. 1st Sess.

19. See 8 Cannon's Precedents §3220, for further treatment of this instance.

20. 96 CONG. REC. 3803, 81st Cong. 2d Sess.

THE SPEAKER,
The House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: It is with regret that I announce my resignation as a House conferee to consider H.R. 1243, a bill to amend the Hatch Act. I am forced to resign because of ill health.

Sincerely yours,

MARY T. NORTON.

THE SPEAKER [Sam Rayburn, of Texas]: Without objection, the resignation is accepted.

There was no objection.

THE SPEAKER: The Chair appoints the gentlewoman from Connecticut [Mrs. Woodhouse] to fill the vacancy and the Clerk will notify the Senate of the change.

On Oct. 14, 1966,⁽¹⁾ the following unanimous-consent request was made:

MR. [ADAM C.] POWELL [of New York]: Mr. Speaker, I ask unanimous consent that the Republican conferees on the bill (H.R. 13161) to strengthen and improve programs of assistance for our elementary and secondary schools, be excused, and that the Speaker be empowered to appoint new Republican conferees.

THE SPEAKER [John W. McCormack, of Massachusetts]: Is there objection to the request of the gentleman from New York?

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, reserving the right to object, is the gentleman from New York going to submit the names of the additional conferees?

1. 112 CONG. REC. 26996, 89th Cong. 2d Sess.

THE SPEAKER: As the gentleman from Michigan knows, the Chair makes the appointment. The Chair always seeks the counsel and advice of the chairman, assuming that the chairman has in turn conferred with the members of his own committee on both sides. The Chair will state that he has four names. . . .

Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. Ayres, Quie, Goodell, and Bell, and the Senate will be so notified.

THE SPEAKER: Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. Ayres, Quie, Goodell, and Bell, and the Senate will be so notified.

On Nov. 17, 1967,⁽²⁾ the following unanimous-consent request was made:

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. Daniels] may be excused as a conferee on the bill S. 2388, and that the Speaker be authorized to appoint a Member to fill the vacancy.

THE SPEAKER [John W. McCormack, of Massachusetts]: Is there objection to the request of the gentleman from Kentucky?

There was no objection.

THE SPEAKER: The Chair appoints the gentleman from Michigan [Mr. O'Hara] to fill the vacancy.⁽³⁾

2. 113 CONG. REC. 32953, 90th Cong. 1st Sess.

3. *Parliamentarian's Note*: When the House excuses a conferee from fur-

§ 6.17 Unanimous consent was required where a House conferee sought to absent himself from a conference.

On May 16, 1930,⁽⁴⁾ the following unanimous-consent request was made.

MR. [GILBERT N.] HAUGEN [of Iowa]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 108) to suppress unfair and fraudulent practices in the marketing of perishable commodities in interstate and foreign commerce, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

THE SPEAKER [Nicholas Longworth, of Ohio]: The gentleman from Iowa asks unanimous consent. . . . Is there objection?

There was no objection.

The Chair appointed the following conferees: Mr. Haugen, Mr. Purnell, and Mr. Aswell.

MR. [JAMES B.] ASWELL [of Louisiana]: Mr. Speaker, I shall be absent next week, and I ask that the gentleman from Kentucky [Mr. Kincheloe] be appointed in my place.

THE SPEAKER: Without objection, the gentleman from Kentucky [Mr.

ther service, the Speaker may appoint a successor without specific authorization from the House. Hence Mr. Perkins need not have sought unanimous consent; it is when the Speaker appoints an additional conferee that he must have the authorization of the House.

4. 72 CONG. REC. 9076, 71st Cong. 2d Sess.

Kincheloe] will take the place of the gentleman from Louisiana on the conference.

There was no objection.

Appointing Additional Conferees

§ 6.18 In order for the Speaker to appoint an additional conferee to a conference committee on the part of the House, unanimous consent of the House must first be obtained.

On Oct. 9, 1967,⁽⁵⁾ a unanimous consent request was made relative to the naming of an additional conferee committee.

MR. [JOHN L.] McMILLAN [of South Carolina]: Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint an additional manager on the part of the House to serve on the conference on the bill (H.R. 8719) to increase the annual Federal payment to the District of Columbia and to provide a method for computing the annual borrowing authority for the general fund of the District of Columbia.

THE SPEAKER [John W. McCormack, of Massachusetts]: Is there objection to the request of the gentleman from South Carolina?

The Chair hears none, and appoints the following additional conferee: Mr. Fuqua.

The Clerk will notify the Senate.

5. 113 CONG. REC. 28161, 90th Cong. 1st Sess.

§ 6.19 The Speaker informs the House when, pursuant to authority granted him, he has appointed conferees on the part of the House during an adjournment of the House.

On Sept. 23, 1940,⁽⁶⁾ Speaker Sam Rayburn, of Texas, made the following announcement:

THE SPEAKER: Pursuant to authority granted on Thursday, September 19, 1940, the Chair did on Friday, September 20, 1940, appoint as managers on the part of the House to attend the conference on H.R. 10413, the excess-profits-tax bill, the following Members of the House: Mr. Doughton, Mr. Cullen, Mr. McCormack, Mr. Cooper, Mr. Treadway, Mr. Crowther, Mr. Knutson.

Conferees on Appropriations

§ 6.20 The Speaker may appoint different conferees on the part of the House to confer on separate chapters of an appropriations bill.

On July 27, 1955,⁽⁷⁾ the following unanimous-consent request was made:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I ask unanimous

6. 86 CONG. REC. 12460, 76th Cong. 3d Sess. The House had previously agreed to the conference on Sept. 19, 1940; see *id.* at p. 12360.

7. 101 CONG. REC. 11686, 84th Cong. 1st Sess.

consent to take from the Speaker's table the bill (H.R. 2728) making supplemental appropriations for the fiscal year ending June 30, 1956, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

THE SPEAKER [Sam Rayburn, of Texas]: Is there objection to the request of the gentleman from Missouri? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. Cannon and Taber; and on chapter I, Messrs. Whitten, Marshall, and H. Carl Andersen; on chapter II, Messrs. Preston, Thomas, and Bow; on chapter III, Messrs. Mahon, Sheppard, Sikes, Wigglesworth, Scrivner, and Ford; on chapter IV, Messrs. Passman, Gary, and Wigglesworth; on chapter V, Messrs. Andrews, Mahon, and Fenton; on chapter VI, Messrs. Thomas, Yates, and Phillips; on chapter VII, Messrs. Kirwan, Norrell, and Jensen; on chapter VIII, Messrs. Fogarty, Fernandez, and Hand; on chapter IX, Messrs. Rabaut, Kirwan, and Davis of Wisconsin; on chapter X, Messrs. Rooney, Preston, and Coudert; on chapter XI, Messrs. Gary, Passman, and Canfield; on chapters XII, XIII, XIV, and XV, Messrs. Rabaut, Norrell, and Horan.

Appointing Tellers

§ 6.21 The Chair appoints tellers where tellers are ordered in a Committee of the Whole.

On Sept. 21, 1965,⁽⁸⁾ the following motion was made:

8. 111 CONG. REC. 24635, 89th Cong. 1st Sess.

MR. [JOHN A.] BLATNIK [of Minnesota]: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN [Daniel D. Rostenkowski, of Illinois]: The question is on the motion of the gentleman from Minnesota.

MR. [WILLIAM C.] CRAMER [of Florida]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Blatnik and Mr. Cramer.

§ 6.22 The Chair may appoint new tellers after the initial ones are found to be in disagreement on a teller vote.

On July 19, 1946,⁽⁹⁾ a question was voted on as follows:

THE CHAIRMAN [John J. Delaney, of New York]: The question is on the committee amendment.

The question was taken; and on a division (demanded by Mr. Thomason) there were—ayes 63, noes 38.

MR. [R. EWING] THOMASON [of Texas]: Mr. Chairman, I demand tellers. Tellers were ordered, and the Chair appointed as tellers Mr. May and Mr. Short.

The committee divided; and the tellers were unable to agree on the count.

THE CHAIRMAN: Without objection, the Chair will direct that the vote by tellers be taken over.

There was no objection.

The Chair appointed as tellers Mr. Thomason and Mr. Short.

The Committee again divided, and the tellers reported that there were—ayes 102, noes 72.

9. 92 CONG. REC. 9466, 79th Cong. 2d Sess.

Appointing Electoral Vote Tellers

§ 6.23 The Speaker appoints tellers for the counting of Presidential and Vice Presidential electoral votes pursuant to a concurrent resolution of both Houses.

On Jan. 3, 1961,⁽¹⁰⁾ the following resolution was offered.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Speaker, I offer a resolution (S. Con. Res. 1) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Friday, the 6th day of January 1961, at 1 o'clock post meridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their presiding officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A", and said tellers, having then

read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with list of the votes, be entered on the Journals of the two House.

The concurrent resolution was agreed to.

THE SPEAKER: [Sam Rayburn, of Texas]: Pursuant to the provisions of Senate Concurrent Resolution 1, the Chair appoints as tellers on the part of the House to count the electoral votes on January 6, 1961, the gentlewoman from New York [Mrs. Kelly] and the gentlewoman from Ohio [Mrs. Bolton].

§ 6.24 The Speaker may appoint a new teller for the counting of electoral votes when a previously appointed one is not present.

On Jan. 6, 1949,⁽¹¹⁾ after the election in 1948 of Harry S. Truman as President, Speaker Sam Rayburn, of Texas, designated a teller for the counting of electoral votes.

THE SPEAKER: The gentleman from New York [Mr. Gamble] is unavoidably

10. 107 CONG. REC. 26, 27, 87th Cong. 1st Sess.

11. 95 CONG. REC. 89, 81st Cong. 1st Sess.

detained and is unable to serve as teller.

The Chair designates the gentleman from Pennsylvania [Mr. Graham] to act as teller in his stead.

Temporary Appointments

§ 6.25 Pursuant to law and House authorization, the Speaker may make temporary appointments to fill vacancies in the offices of the Clerk, the Sergeant at Arms, the Doorkeeper, the Postmaster, and the Chaplain of the House.

On July 28, 1953,⁽¹²⁾ the following unanimous-consent request was made:

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 6571) amending the Legislative Reorganization Act of 1946 to provide for the appointment of persons to exercise temporarily the duties of certain offices of the House of Representatives.

There being no objection, the Clerk read the bill, which authorized the Speaker to make appointments on a temporary basis to fill vacancies in the offices of the Clerk, the Sergeant at Arms the Doorkeeper, the Postmaster and the Chaplain of the House.

12. 99 CONG. REC. 10128, 83d Cong. 1st Sess.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.⁽¹³⁾

On Jan. 6, 1954,⁽¹⁴⁾ a letter of resignation of the Sergeant at Arms, dated Sept. 14, 1953, was laid before the House:

THE HONORABLE THE SPEAKER,
House of Representatives.

MY DEAR MR. SPEAKER: I submit herewith, effective at the close of business today, my resignation as Sergeant at Arms, House of Representatives, which additional duty I assumed pursuant to House Resolution 325, dated July 8, 1953, 83d Congress.

Respectfully yours,
LYLE O. SNADER,
*Clerk of the
House of Representatives.*

THE SPEAKER: [Joseph W. Martin, Jr., of Massachusetts]: The Chair announces that, pursuant to the provisions of section 208(a) of the Legislative Reorganization Act of 1946, he did on September 15, 1953, appoint William R. Bonsell, of the State of Pennsylvania, to act temporarily as Sergeant at Arms until the House chooses a person for that office.⁽¹⁵⁾

On Mar. 14, 1966,⁽¹⁶⁾ Speaker John W. McCormack, of Massa-

13. See also 2 USCA 75a-1.

14. 100 CONG. REC. 8, 83d Cong. 2d Sess.

15. *Parliamentarian's Note*: Mr. Snader, the Clerk of the House, had assumed the additional duties of the Sergeant at Arms following the death of the elected Sergeant at Arms, William F. Russell.

16. 112 CONG. REC. 5712, 89th Cong. 2d Sess.

chusetts, appointed an Acting Chaplain following the death of the elected Chaplain.

THE SPEAKER: Pursuant to the provisions of the Legislative Reorganization Act of 1946, as amended by Public Law 197, 83d Congress (67 Stat. 387; 2 U.S.C. 75-a-1-(a)), the Chair appoints Edward Gardiner Latch, D.D., L.H.D., of Washington, D.C., to act as and to exercise temporarily the duties of the Chaplain of the House of Representatives.⁽¹⁷⁾

Appointments Subject to Approval

§ 6.26 On occasion, the House authorizes the designation of certain House employees subject to the approval of the Speaker.

On Jan. 18, 1945,⁽¹⁸⁾ a resolution was offered which provided for the designation of an assistant to the Clerk subject to the approval of the Speaker.

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I offer a resolution (H. Res. 95) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

17. *Parliamentarian's Note*: This appointment was made to fill the vacancy caused by the death of the Chaplain, Reverend Bernard Braskamp.

18. 91 CONG. REC. 334, 79th Cong. 1st Sess.

Resolved, That there shall be paid out of the contingent fund of the House, until otherwise provided by law, compensation at the rate of \$3,600 per annum, payable monthly, for the services of an assistant reading clerk, who shall be designated by the Clerk of the House, subject to the approval of the Speaker: *Provided, however*, That the authorization and appropriation herein contained shall terminate whenever a vacancy occurs in a position of reading clerk.

The resolution was agreed to.

On Aug. 3, 1953,⁽¹⁹⁾ a resolution was introduced as follows:

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I offer a resolution (H. Res. 392) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That effective August 1, 1953, there shall be paid out of the contingent fund of the House, until otherwise provided by law, compensation at the basic rate of \$3,000 per annum for the employment of an assistant Journal Clerk-Indexer, who shall be designated by the minority leader subject to the approval of the Speaker.

The resolution was agreed to, and a motion to reconsider was laid on the table.

§ 7. Preserving Order on the House Floor

The Speaker's jurisdiction, duty, and power to preserve order on

19. 99 CONG. REC. 11133, 83d Cong. 1st Sess.

the House floor derives mainly from the House rules and House precedents. This section lists examples of both.

Under House rules, the Speaker preserves order on the House floor by maintaining the decorum of the proceedings,⁽²⁰⁾ by controlling the use of the House Chamber,⁽¹⁾ by presiding over the Members during debate,⁽²⁾ and by supervising the admission of persons to the House floor.⁽³⁾

Under House precedents, the Speaker preserves order on the House floor: by using his power of recognition to remedy situations wherein a Member attempts to interrupt another Member who has the floor;⁽⁴⁾ by controlling the

20. Rule I clause 2, *House Rules and Manual* §622 (1973). See Ch. 29, *infra*, for fuller treatment of the Speaker's role in maintaining order on the House floor.

1. Rules I clause 3, §623, and XXXI, §918, *House Rules and Manual* (1973). See Ch. 4, *supra*, for discussion of the use of the House Chamber.

2. Rule XIV clauses 1–8, §§749–764, *House Rules and Manual* (1973). See Ch. 29, *infra*, for fuller treatment of the Speaker's role in presiding over debate.

3. Rule XXXII clauses 1 and 2, *House Rules and Manual* §§919–921 (1973). See Ch. 4, *supra*, for treatment of admission to the House floor.

4. See §§7.1, 7.2, *infra*.

manner by which one Member addresses or refers to another;⁽⁵⁾ by disallowing or controlling certain references by Members to Senators or others; by controlling the movements of Members on the floor during debate;⁽⁶⁾ by controlling the distribution of materials on the House floor;⁽⁷⁾ and by enforcing the privileges of the House floor.⁽⁸⁾

Controlling interjected Remarks

§ 7.1 In preserving order on the House floor, the Speaker has the power of recognition and Members must seek the Speaker's recognition before interrupting another Member who has the floor.

On Feb. 17, 1936,⁽⁹⁾ a parliamentary inquiry was addressed to Speaker Joseph W. Byrns, of Tennessee, as follows:

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

5. See §§7.3 et seq., *infra*.

6. See §§7.13, 7.14, *infra*.

7. See §7.15, *infra*.

8. See Ch. 4, *supra*.

9. 80 CONG. REC. 2201, 74th Cong. 2d Sess.

MR. WOODRUM: Mr. Speaker, in the interest of orderly procedure, I should like to propound a parliamentary inquiry to the Speaker.

If I understand the rules of the House, they provide that in debate should a Member desire to address the House or the Speaker he must first secure recognition of the Speaker. If a Member has the floor and is addressing the House or the Speaker and another Member desires to interrogate him, interrupt, or interject remarks, he must first secure the permission of the Member who has the floor.

Mr. Speaker, I observe a custom growing up here of Members getting up and a number of them talking at once, with the Speaker pounding for order. It seems to me that they must not understand the rules, or else I do not understand them. I do not understand that under the rules a Member has a right to cut into another Member's speech, or interrupt the Member when he is trying to speak, or while the Speaker is trying to make a ruling or is addressing the House. I think the Speaker should rule on this matter.

THE SPEAKER: The gentleman is correct. The Chair has had occasion several times, according to his distinct recollection, to call this rule to the attention of the Members of the House. It is a violation of the rules of the House for a Member to interrupt another Member when he has the floor without first addressing the Chair and obtaining the consent of the Member having the floor before he interrupts.

§ 7.2 In preserving order on the House floor, the Chair may rule that statements

interjected into the speech of a Member without his permission may be stricken by the Member in his revision of remarks.

On Mar. 4, 1936,⁽¹⁰⁾ a debate took place which brought about a point of order, as follows:

MR. [CHARLES] KRAMER [of California]: Mr. Chairman, will the gentleman yield?

MR. [MAURY] MAVERICK [of Texas]: Yes.

MR. KRAMER: Will the gentleman explain what the cartoon said down below it? The gentleman said it was a fine picture of the President. I am surprised that the gentleman would stand on the floor here as a Democrat, as a supporter of this administration and take that attitude toward our President.

MR. MAVERICK: Do not talk nonsense, Mr. Kramer.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, will the gentleman yield there?

MR. MAVERICK: Yes; I yield.

MR. MARCANTONIO: As a matter of fact, the attitude of the gentleman and some other gentlemen who are advocating this legislation is one of competing with Mr. Hearst on the question of communism.

[Several gentlemen rose. Some confusion. Mr. Bankhead rose to a point of order.]

MR. [WILLIAM B.] BANKHEAD [of Alabama]: Mr. Chairman, I rise to a point

10. 80 CONG. REC. 3278, 74th Cong. 2d Sess.

of order. It is an absolute violation of the rules of the House governing debate to have remarks interjected without the consent of the gentleman who holds the floor. It certainly does not contribute anything to the dignity of the proceedings of the Committee or the clarification of issues, and I hope gentlemen will observe the rule.

MR. MARCANTONIO: But the gentleman from Texas had yielded to me.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Chairman, supplementing what the distinguished majority leader has said, there is a bad practice in this House of the stenographer taking down words which are said not under the rules of the House. The Chair should instruct the stenographer not to take down the words used by the gentleman from California in answer to my colleague from New York.

THE CHAIRMAN [William L. Nelson, of Missouri]: Under the rule the gentleman holding the floor has the privilege of striking from his remarks such words. [In pursuance of the above ruling Mr. Maverick eliminated certain matter not regarded as relevant to the proceedings.]

Controlling Manner of Address

§ 7.3 In preserving order on the House floor, a Speaker or a Chairman of the Committee of the Whole may instruct Members as to the manner by which they may properly address one another in debate.

On Oct. 24, 1945,⁽¹¹⁾ Speaker Sam Rayburn, of Texas, advised a

11. 91 CONG. REC. 10032, 10033, 79th Con. 1st Sess.

Member, Mr. John E. Rankin, of Mississippi, as to the manner in which a Member should address or make reference to another Member on the floor of the House:

MR. RANKIN: Mr. Speaker, we have just witnessed one of the most ridiculous performances that has taken place in this House since I have been in Congress. These unjustified attacks on the Committee on Un-American Activities, these smear attacks on the Daughters of the American Revolution by the Jewish gentleman from New York [Mr. Celler], have been shocking indeed, to say the least of it.

MR. [EMANUEL] CELLER: Mr. Speaker, I make the point of order that the gentleman is out of order when he refers to me as "the Jewish gentleman from New York." I ask that the words be taken down.

THE SPEAKER: If the gentleman will allow the Chair, there is one way to refer to a Member of the House of Representatives and that is, "the gentleman from" the State from which he comes. Any other appellation is a violation of the rules.

MR. RANKIN: Mr. Speaker, if he objects to being called a "Jewish gentleman" I withdraw it.

MR. CELLER: Mr. Speaker, I ask that the words be taken down.

MR. [VITO] MARCANTONIO [of New York]: I ask that those words be taken down.

MR. RANKIN: I am withdrawing the words. I have not the time to argue such matters.

MR. MARCANTONIO: I object to his withdrawing the words. I request that the words be taken down.

THE SPEAKER: The Chair has already stated the rule with reference to the language of the gentlemen from Mississippi. . . .

The gentleman from Mississippi [Mr. Rankin] will proceed in order. . . .

MR. RANKIN: Mr. Speaker, it is exceedingly strange that a man presuming to arrogate to himself the prerogative of speaking for a minority group will rise on this floor and denounce the Daughters of the American Revolution, in the manner the Member from New York [Mr. Celler] did and then raise a protest when he is even referred to as a gentleman of his race.

MR. CELLER: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. CELLER: The gentleman by inference and innuendo has simply repeated what he said at the inception of his remarks when he attempted to state that I was a Jewish gentleman. That is the second time he did it by indirection. I think the gentleman should be called to order and cautioned not to repeat that kind of language.

THE SPEAKER: The gentleman refers to the gentleman, if he referred to him at all, as the member of a minority race. The Chair does not think that is a violation of the rule.

MR. RANKIN: Mr. Speaker, a parliamentary inquiry. I wish to proceed in order. Does the Member from New York [Mr. Celler] object to being called a Jew or does he object to being called a gentleman? What is he kicking about?

MR. MARCANTONIO: Mr. Speaker, a point of order.

THE SPEAKER: The Chair desires to make a little statement.

The Chair trusts that points of order may be properly points of order hereafter, and that a Member before he makes a point of order secures the recognition of the Chair.

The gentleman from Mississippi will proceed in order, and the Chair trusts that the gentleman from Mississippi understands what the Chair means.

On Mar. 4, 1936,⁽¹²⁾ a Member remarked as follows:

MR. [ROBERT F.] RICH [of Pennsylvania]: . . .

Mr. Chairman, where are we going to head in at? When will we stop this extravagance? I want to say that we have talked about responsibility. Whose responsibility? Whose, Mr. Bankhead? Is it yours or is it the Members of this House?

MR. [WILLIAM B.] BANKHEAD [of Alabama]: Mr. Chairman, I rise to a point of order.

THE CHAIRMAN [William L. Nelson, of Missouri]: The gentleman will state it.

MR. BANKHEAD: Mr. Chairman, I am not sensitive about the matter, but I am a little meticulous about observance of the rules of the House, and it is a direct violation of the rules of the House for a Member to refer directly by name to any Member upon the floor, and I shall have to give the gentleman a little preliminary schooling on the rules of the House and I may add to it a little later on. The gentleman should say, "The gentleman from Alabama."

THE CHAIRMAN: The Chair confirms the statement of the gentleman from

12. 80 CONG. REC. 3286, 74th Cong. 2d Sess.

Alabama and sustains the point of order.

MR. [BYRON B.] HARLAN [of Ohio]: Mr. Chairman, as an additional point of order and with respect to the same point of order made by the gentleman from Alabama, following parliamentary practice and under the rules of the House, the gentleman should not, from the floor, even address the gentleman from Alabama directly, but should direct all of his remarks to the Chairman or the Speaker.

THE CHAIRMAN: The gentleman is correct.

Whom Members May Address

§ 7.4 The Chair, in preserving order on the floor of the House, may rule out of order a Member's address to anyone other than the Chair, including the press.

On Apr. 24, 1963,⁽¹³⁾ the colloquy below occurred between Mr. Thomas B. Curtis, of Missouri, and the Chairman of the Committee of the Whole, Eugene J. Keogh, of New York:

MR. CURTIS: Mr. Chairman, I want to say to my so-called liberal friends who voted the motion up which closed off debate on such a serious matter that you have clearly demonstrated your concern for the basic civil liberties.

I would say to the press that this is a good observation—

13. 109 CONG. REC. 6892, 88th Cong. 1st Sess.

MR. [ROSS] BASS [of Tennessee]: Mr. Chairman, I make the point of order that the gentleman is out of order in addressing the press gallery or any other gallery from the floor of the House.

MR. CURTIS: I am not addressing the press gallery. I am addressing—

THE CHAIRMAN: The gentleman from Missouri will suspend. The Chair advises the gentleman that the correct parliamentary procedure is for the gentleman to address the Chair and only the Chair. The gentleman will proceed in accordance with the rules.

§ 7.5 It is considered within the authority of the Speaker in preserving order on the floor of the House to interrupt a Member and rule out of order any reference to a person in the House gallery.

On June 4, 1963,⁽¹⁴⁾ during a Member's remarks, Speaker John W. McCormack, of Massachusetts, on his own initiative took action to prevent the reference to persons in the gallery of the House.

MR. [WILLIAM T.] CAHILL [of New Jersey]: Mr. Speaker, and my colleagues, as one of the sponsors of this legislation, I have patiently sat on this floor expecting that my friends from that side of the aisle would at least show the courtesy to the minority to be heard. It was my hope that it would not be necessary for me to make any observations at all in order to obtain

14. 109 CONG. REC. 10157, 10158, 88th Cong. 1st Sess.

the attention of my friends. Now, I would say that this is not my observation, but I thought the House might like to have the observation of a disinterested, objective observer who was sitting up in the gallery and who happens to be a visitor of mine—

THE SPEAKER: Reference to anybody in the gallery is not consistent with the rules of the House.

MR. CAHILL: I beg the Chair's pardon.

I would say then, may I quote to you the observation of a visitor who told me—

MR. [ROSS] BASS [of Tennessee]: Mr. Speaker, a point of order. Is the gentleman referring to a visitor in the Chamber, or in the gallery, or a visitor in Washington?

MR. CAHILL: No; I would say—

THE SPEAKER: The gentleman will suspend. The gentleman referred to a visitor and it is not the Chair's duty to penetrate his mind.

MR. BASS: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Does the gentleman from Minnesota yield to the gentleman from Tennessee to make a parliamentary inquiry?

MR. [CLARK] MACGREGOR [of Minnesota]: Mr. Speaker, I yield to the distinguished gentleman from Tennessee for the purpose of his parliamentary inquiry.

MR. BASS: Since it is the prerogative of the Members to inquire into the minds of the other Members, may I request of the Member to divulge if this speaker is in the gallery or on the floor?

THE SPEAKER: The Speaker rules that is not a parliamentary inquiry.

. . .

On July 27, 1954,⁽¹⁵⁾ in a similar situation involving Benjamin F. James, of Pennsylvania, Chairman of the Committee of the Whole, a Member attempted to refer to a visitor in the House gallery.

MR. [WALTER H.] JUDD [of Minnesota]: Mr. Chairman, will the gentleman yield?

MR. [CLARENCE] CANNON [of Missouri]: If the gentleman will permit me, I will finish my statement and then I will be delighted to yield.

MR. JUDD: My purpose is to call attention to the French nurse who is in the gallery.

MR. CANNON: I yield to the gentleman.

MR. JUDD: Mr. Chairman, I appreciate the gentleman's courtesy in permitting this short interlude. One of the things that always thrills everybody in the world is courage and devotion to duty, especially when under most trying and dangerous circumstances. I appreciate the opportunity to call attention to the presence in our gallery

THE CHAIRMAN: The gentleman from Minnesota will suspend. The Chair regrets extremely—

MR. JUDD: Mr. Chairman, I ask unanimous consent to proceed out of order.

THE CHAIRMAN: The gentleman may not proceed out of order for the purpose which he manifestly intends to use the time. The Chair regrets extremely that he must so hold under the rules of procedure of the House. We

15. 100 CONG. REC. 12253, 83d Cong. 2d Sess.

are all conscious of the great heroism of the person to whom the Chair knows that the gentleman wishes to allude, but it is a matter of extreme regret that because of the rules of the House, reference may not be made to anyone in the gallery.

MR. JUDD: I shall not say anything about the gallery. I shall say she is on the Hill today.

THE CHAIRMAN: The Chair greatly regrets that under the rules of procedure of the House, the gentleman must be denied the privilege of introducing anyone in the gallery which, I know, every Member of the House would greatly appreciate in this instance, if it were possible under the rules.

MR. JUDD: Mr. Chairman, I had no intention of introducing anyone in the gallery. Is it not possible to refer here to persons who are in our country?

THE CHAIRMAN: It is not possible to refer to any person in the gallery.

MR. JUDD: May I not call attention to a most distinguished visitor in our country today?

THE CHAIRMAN: The gentleman may refer to one who is in our country.

MR. JUDD: Well, then, I should like to refer to the distinguished heroine of Dien Bien Phu who we, in the United States, are happy these days to welcome to our shores and to our city, and to pay tribute to her, as a person whose heroism is acclaimed by all, and as a symbol of all women of the world who in times of great crisis and peril are faithful to their duty, particularly that of ministering to men wounded in the defense of freedom. We pay tribute to her wherever she may be in our country at the present moment.

Enforcing Floor Privileges

§ 7.6 The Speaker has within his authority the enforce-

ment of the privileges of the floor of the House, including times when there is held a joint session of Congress in the House Chamber.

On Jan. 7, 1964,⁽¹⁶⁾ Speaker John W. McCormack, of Massachusetts, made an announcement with respect to the privileges of the floor during a joint session of the Congress.

THE SPEAKER: The Chair desires to make an announcement. After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces on Wednesday, January 8, 1964, the date set for the joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open. No one will be allowed on the floor of the House who does not have the privileges of the floor of the House.

Controlling Reference to Senators

§ 7.7 In preserving order on the House floor, a Chairman of the Committee of the Whole may interrupt a Member to rule out of order any reference to a Member of the Senate.

¹⁶ 110 CONG. REC. 6, 88th Cong. 2d Sess.

On May 25, 1937,⁽¹⁷⁾ a Member spoke as follows in the Committee of the Whole:

MR. [ALFRED F.] BEITER [of New York]: . . .

Mr. Chairman, I have letters here from Members of the Senate saying they are in sympathy with this movement. If you will permit me, I will read a letter from Senator Murray, in which he says—

THE CHAIRMAN [John J. O'Connor, of New York]: The Chair, on its own responsibility, makes the point of order against the reading of a letter from a Member of another body.

§ 7.8 In preserving order on the House floor, a Speaker pro tempore enforces the rule that in debate a Member may not directly nor indirectly refer to a Senator or to a speech made by a Senator even though the speech was not made in the Senate Chamber.

On May 2, 1941,⁽¹⁸⁾ a point of order was raised:

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE [Fadjo Cravens, of Arkansas]: The gentleman will state it.

MR. KEEFE: Mr. Speaker, the gentleman in the address he has just

made has on repeated occasions made reference to Senator Wheeler of Montana. I am not making this point of order in defense of Senator Wheeler or anybody else but in an effort to preserve what I understand to be the rules of this House. I make the point of order that the gentleman is out of order and is proceeding in violation of the rules of the House when he refers either contemptuously or in a complimentary manner to a Member of another body. I believe the gentleman's remarks should be deleted in those aspects in which he has thus referred to the Senator from Montana in order that we may preserve the plain mandate of the rules of this House.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

The gentleman from Wisconsin will proceed in order.

MR. [THADDEUS F. B.] WASIELEWSKI [of Wisconsin]: Mr. Speaker, the speech I have prepared here has wholly to do with the talk given by Senator Wheeler. Is it permissible to merely make reference to him as the senior Senator from Montana?

THE SPEAKER PRO TEMPORE: Under the rules of the House, it is a violation of the rules to refer to a Senator of the United States in any such fashion. Under the rules of the House the gentleman should refrain from such remarks as those and proceed in order.

. . .

MR. WASIELEWSKI: Mr. Speaker, I ask unanimous consent at this time to revise and extend my remarks to conform with the House rules. I offer my profoundest regrets and apology if I have in any way violated the rules of the House. I did not realize that the

17. 81 CONG. REC. 5013, 75th Cong. 1st Sess.

18. 87 CONG. REC. 3536, 3537, 77th Cong. 1st Sess.

House rule also covered statements made by Members of Congress outside the Capitol halls.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, reserving the right to object, the gentleman asks to revise and extend his remarks in accordance with the rules of the House?

MR. WASIELEWSKI: That is right.

MR. MICHENER: And the gentleman will not include in his extension those things that violate the rules and to which objection has been made?

MR. WASIELEWSKI: That is right.

MR. [JOHN M.] VORYS of Ohio: Mr. Speaker, pursuing my parliamentary inquiry, and reserving the right to object, what I wanted to know is this—and whether it applies to this speech or not is not the point. Can an attack be made upon a Member of this House or a member of another body merely by referring to the person indirectly, so long as the Member is clearly identified and the matter consists of an attack upon something he has said or done?

THE SPEAKER PRO TEMPORE: Under the rules of the House the gentleman is not permitted to do indirectly what he cannot do directly. Consequently the point of order was sustained upon the theory that there had been an unintentional violation of the rules of the House. The gentleman now asks unanimous consent that he may be permitted to revise and extend his remarks. Is there objection?

There was no objection.

Controlling References to Members

§ 7.9 It is considered within the authority of the Chair in

preserving order on the floor of the House to rule out of order words spoken in debate referring to another Member in an unparliamentary manner.

On July 2, 1935,⁽¹⁹⁾ the debate below took place in the House, Speaker Joseph W. Byrns, of Tennessee, presiding:

MR. [MAURY] MAVERICK [of Texas]: I have not the parliamentary experience and ability to get up here and beat the parliamentary rules; but I do say I hope the House passes the resolution, and I do not believe a word the gentleman from Maine [Mr. Brewster] said. . . .

MR. [RALPH O.] BREWSTER: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from Maine rise?

MR. BREWSTER: I rise to ask whether it is possible for the gentleman from Texas to challenge my word on the floor of this House without having his words taken down. I rose immediately the words were uttered, and it seems to me nothing could transcend such a proposition. If that is not possible, it transcends my conception of parliamentary procedure.

THE SPEAKER: To what words does the gentleman object?

MR. BREWSTER: He said, as I understood him, that he did not believe a word I had uttered.

THE SPEAKER: The Chair would state to the gentleman that the Chair does

19. 79 CONG. REC. 10670, 10671, 74th Cong. 1st Sess.

not think that implies that the gentleman uttered an untruth. That was the opinion of the gentleman from Texas, but not necessarily the opinion of anyone else, and the Chair does not understand that there is any question of privilege involved in the remarks uttered.

MR. BREWSTER: May I ask that the words be taken down?

THE SPEAKER: The gentleman could have done that—

MR. [WILLIAM D.] MCFARLANE [of Texas]: Mr. Speaker, a point of order.

THE SPEAKER: The Chair is trying to rule on a point of order now, if the gentleman will permit the Chair to do so.

MR. MCFARLANE: I wanted to make my point of order before the Chair rules.

THE SPEAKER: The gentleman from Texas made the statement, but that does not necessarily imply that the gentleman from Maine intentionally made a misstatement on his own part. He simply said he did not believe it, but this did not necessarily imply that the gentleman from Maine intentionally made a misstatement. What the gentleman from Texas said may be construed as meaning that the gentleman from Maine was merely mistaken in his conclusions, and that the gentleman did not deliberately make a false statement. So the Chair fails to see where any question of privilege is involved in the statement. Of course, if the gentleman wishes to make his own statement about it, he can do so with the permission of the House.

On Mar. 16, 1939,⁽²⁰⁾ debate took place in the Committee of the Whole as follows:

20. 84 CONG. REC. 2871, 76th Cong. 1st Sess.

MR. [LEE G.] GEYER of California: . . . I see in the balcony some young people, some school people, who have come here to watch their Representatives in session. I am anxious that they get a proper idea concerning this great body.

I have heard the gentleman from Wisconsin, the man who made Milwaukee famous, stand upon this floor a good many times. He is an estimable gentleman. I like him very much when he is not in the well of this House. I have seen him come out with a hand that only he possesses, a hand like a ham, and grasp this [microphone] until it groaned from mad torture. I have seen him come on the floor and stamp up and down like a wild man.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I demand that the gentleman's words be taken down.

THE CHAIRMAN [Frank H. Buck, of California]: The gentleman from New York demands that the words of the gentleman be taken down. The gentleman from California will take his seat.

The gentleman from New York will indicate to the Clerk the words objected to.

MR. TABER: "Stamping like a wild man" and "a hand like a ham."

MR. [JOHN C.] SCHAFER of Wisconsin: Mr. Chairman, as far as I am concerned, I am not objecting to the words. I will handle him at a later date.

MR. TABER: I believe the integrity of the rules of the House should be preserved.

THE CHAIRMAN: The Clerk will report the words taken down at the request of the gentleman from New York.

The Clerk read as follows:

I have seen him come on the floor and stamp up and down like a wild man.

MR. TABER: Mr. Chairman, there were some other words about "a hand like a ham."

THE CHAIRMAN: The Clerk will report the additional words. . . . The Committee will rise.

Accordingly the Committee rose; and the Speaker . . . resumed the chair . . .

THE SPEAKER [William B. Bankhead, of Alabama]: The Clerk will report the words objected to in the Committee of the Whole House on the state of the Union. . . .

The rule governing situations of this character provides as follows:

OF DECORUM AND DEBATE

When any Member desires to speak or deliver any matter to the House he shall rise and respectfully address himself to "Mr. Speaker," and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality.

The words objected to and which have been taken down and read from the Clerk's desk very patently violate the rule, because the words alleged do involve matters of personal reference and personality.

On Dec. 20, 1943,⁽¹⁾ debate took place as follows in the House, Speaker pro tempore John W.

1. 89 CONG. REC. 10922, 10923, 78th Cong. 1st Sess.

McCormack, of Massachusetts, presiding:

MR. [ADOPH J.] SABATH [of Illinois]: Mr. Speaker, the original bill in the last Congress was introduced by the gentleman from West Virginia [Mr. Ramsey] and finally approved by the secretaries of the various States who sent a delegation down here. It was opposed then by the gentleman from Mississippi [Mr. Rankin]; nevertheless, the vast majority of the Members voted for it. The present bill that the gentleman from Mississippi charges was written by someone, he does not know whom, was introduced by me. . . .

I said that I did not care whether it was my bill, his bill, or any bill [when I appeared before the committee]; but that it should be a bill that will give them the right to vote and not a bill that will deprive them of that great privilege as the gentleman from Mississippi is trying to do.

MR. [JOHN E.] RANKIN: Mr. Speaker, I demand that those words be taken down. I make the point of order that his statement is false and slanderous. I demand that those words be taken down.

MR. SABATH: I demand that those words be taken down. . . .

THE SPEAKER PRO TEMPORE: The Chair has instructed that the words demanded to be taken down be read, and when they are ready the Clerk will report them.

The Clerk read as follows:

Mr. Sabath: I said I did not care whether it was my bill, his bill, or any bill, but a bill that will give them the right to vote and not a bill that will deprive them of that great privilege as the gentleman from Mississippi is trying to do.

MR. RANKIN: Mr. Speaker, I make the point of order that those words violate the rules of the House, and, so far as my denouncing them as false is concerned, I am clearly within the rules of the House, as has been demonstrated here and pointed out time and time again.

When any Member rises on the floor and makes a false statement, any other Member has the right to say that that statement is false; and when that statement is slanderous, any gentleman is within the rules of the House when he says so.

MR. SABATH: Mr. Speaker, I do not think it is necessary for me to answer the gentleman from Mississippi.

MR. [RALPH E.] CHURCH [of Illinois]: Mr. Speaker, the regular order.

MR. SABATH: His own statement shows he is wrong.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. There are several ways of averting a ruling on this matter, but the Chair is prepared to rule, neither gentleman having asked unanimous consent that the remarks be withdrawn. . . .

The Chair feels that the question is very close to the line, but does transgress the rules when the gentleman from Illinois used the words "deprive them" in that those words tend to impugn the motives of the gentleman from Mississippi. . . .

So far as the remarks made by the gentleman from Mississippi are concerned, the Chair has no difficulty in ruling that those words clearly transgress the rules of the House, and the Chair so rules on both statements made, taken down, and reported by the Clerk.

On Jan. 31, 1946,⁽²⁾ debate took place as follows:

MR. [EMANUEL] CELLER [of New York]: I wish, if I may be permitted, to answer my own question. The Case bill does return to those very dark and murky days; and, to quote the Bible, "as a dog returneth to his vomit, so a fool returneth to his folly."

MR. [CLARK E.] HOFFMAN [of Michigan]: Now, wait a minute. Mr. Chairman, I object to those words. I ask that those words be taken down as unparliamentary language.

MR. CELLER: But I quoted the Bible.

THE CHAIRMAN [Frank L. Chelf, of Kentucky]: What words does the gentleman object to?

MR. HOFFMAN: Where he said we would be like a dog returning to his vomit if we defeated this bill.

MR. CELLER: I said the Case bill. That is a quotation from the Bible.

MR. HOFFMAN: The gentleman can quote more Scripture to his purpose than anyone else.

THE CHAIRMAN: The Chair rules this all out of order. The Clerk will take down the words objected to.

MR. CELLER: Mr. Chairman, I demand that the words of the gentleman from Michigan be taken down. He said I quoted Scripture to my own purpose, like the devil.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I rise to a point of order. When a demand is made to take down a Member's words, that Member has no right to the floor until the matter has been settled.

2. 92 CONG. REC. 675, 676, 79th Cong. 2d Sess.

THE CHAIRMAN: All gentlemen will take their seats. . . .

The Committee will rise.

Accordingly, the committee rose; and The Speaker . . . resumed the chair.

THE SPEAKER [Sam Rayburn, of Texas]: The Clerk will report the words objected to. . . .

The Chair does not know all that happened before the language objected to was used, but the name of no Member is mentioned. In the words taken down the gentleman was giving his opinion of a measure before the House. The Chair would be compelled to hold that the language is not unparliamentary.

Controlling References to Non-members

§ 7.10 In preserving order in the House, the Chair determines whether words taken down, as reported by the Committee of the Whole, are out of order before further business is undertaken.

On Jan. 18, 1930,⁽³⁾ during a debate on the enforcement of legislation regulating the sale of alcoholic beverages, the following remarks were made:

MR. [WILLIAM I.] SIROVICH [of New York]: I personally believe in the rigid enforcement of the prohibition law. I want every wet and dry to respect it in this country; but does not the gentleman believe that when a coast

guard finds a man violating the prohibition law and the man flees, or he shoots at him, he should shoot two or three times above him and beside him and around him to show that the Government is sincere, and then, if he does not stop, to enforce the law as it should be enforced? . . .

MR. [CARROLL L.] BEEDY [of Maine]: I know that no warning gun, if the gentleman is referring to the Black Duck incident, was fired before the gun was fired which resulted in the loss of life. . . .

MR. [FIORELLO H.] LAGUARDIA [of New York]: The gentleman knows that that is just the difficulty. The moment the Government officer does act that way he is removed from the state court and brought before one of our own commissioners and then discharged. That is the difficulty.

MR. [CHARLES H.] SLOAN [of Nebraska]: That is a distinct charge against the judicial system of this country, which is not valid.

MR. [ADOLPH J.] SABATH [of New York]: It is true. Instead of being prosecuted, he is being defended by the district attorneys in each and every instance.

MR. SLOAN: I challenge the gentleman's general charge against the integrity of the courts of the United States.

MR. BEEDY: Mr. Chairman, I rise to a point of order.

THE CHAIRMAN [Bertrand H. Snell, of New York]: The gentleman will state it.

MR. BEEDY: I ask that the remarks of the gentleman from Illinois be taken down. . . .

THE CHAIRMAN: The Clerk will read the words taken down.

3. 72 CONG. REC. 1905-07, 71st Cong. 2d Sess.

The Clerk read as follows:

MR. SABATH: It is true. Instead of being prosecuted he is being defended by district attorneys. . . .

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Tilson] . . . resumed the Chair. . . .

MR. [WILLIAM B.] BANKHEAD [of Alabama]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE [John Q. Tilson, of Connecticut]: The gentleman will state it.

MR. BANKHEAD: As I understand the rule, when the procedure has gone as far as it has in this instance, under the rule it is the primary duty of the Speaker, before any further procedure can be taken, to determine whether or not the words so reported are in themselves out of order.

THE SPEAKER PRO TEMPORE: The Chair is ready to rule.

MR. BEEDY: Mr. Speaker, they are not all the words I asked to be taken down.

THE SPEAKER PRO TEMPORE: The Chair can only rule on the words reported to the House by the Chairman of the Committee of the Whole House.

The present occupant of the Chair can see nothing objectionable, from a parliamentary standpoint, in the remarks reported.

The Committee will resume its session.

§ 7.11 It is considered within the authority of the Speaker in preserving order on the House floor to rule on whether words spoken in reference to persons other than

present Members are unparliamentary.

On Nov. 15, 1945,⁽⁴⁾ debate took place in the House as follows:

MR. [ANDREW J.] BIEMILLER [of Wisconsin]: Mr. Speaker, it is now more than 6 months since VE-day and more than 3 months after VJ-day. Six months ago, we expected when this happy event arrived we would see an immediate rush to peacetime activities, giving jobs to former war workers and soldiers, making things we all need. . . .

Yet, some of our people are so misinformed they cry Communist at every measure with the slightest touch of liberalism, at every person who has had a new idea since 1860. In so doing, they bring more opprobrium on themselves than on the cause or the individuals they attack. The gentleman from Mississippi, for instance, is well known for his ability to see a Communist in every woodpile. Only the other day it was reported in the Pathfinder magazine for October 31 that he stated at a committee hearing that he regarded Abraham Lincoln as a Communist.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a point of order. I called the Pathfinder up and they apologized and said that the man who wrote that took my statement and reversed it. When the leader of the Communist Party, William Z. Foster, talked about Lincoln as being a Communist, I said, "As a Southern Democrat, I resent your branding Abraham Lincoln as a Communist." Now, please

4. 91 CONG. REC. 10735, 10736, 79th Cong. 1st Sess.

do not get your information from those Communists about me but stay by the record while you are discussing me on this floor.

MR. BIEMILLER: Mr. Speaker, I am delighted to have the record show there is at least one liberal in the past century that Mr. Rankin does not consider as a Communist.

MR. RANKIN: Mr. Speaker, I demand that those words be taken down. . . .

THE SPEAKER: [Sam Rayburn, of Texas]: The Clerk will report the words the gentleman from Mississippi has demanded be taken down. . . .

MR. RANKIN: Mr. Speaker, I would like to be heard on the point of order.

THE SPEAKER: This is not a point of order. These are words taken down on the demand of the gentleman from Mississippi.

The Chair does not find anything in the language that is contrary to the rules of the House or is unparliamentary.

MR. RANKIN: Mr. Speaker, the point of order is this: That, taken in the light of his previous statements, where he falsely accused me of making a statement with reference to Abraham Lincoln that was exactly opposite from what I did say, his utterance was a violation of the rules of the House.

THE SPEAKER: Even if the gentleman had given his opinion that Mr. Lincoln was a Communist, that would not have been a violation of the rules of the House.

Controlling Reading of Papers

§ 7.12 In preserving order on the House floor, the Speaker puts the question to the

House when objection is heard to a unanimous-consent request to allow a Member to read papers on the floor.

On Oct. 24, 1945,⁽⁵⁾ a Member attempted to read some papers to the house:

MR. [HUGH] DE LACY [of Washington]: Mr. Speaker, the gentleman from New York has made a very able statement of some of the general issues involved in this discussion today. I would like to discuss some aspects of the freedom of the air.

When the House Committee on Un-American Activities requested the scripts of certain American radio commentators—

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a point of order.

THE SPEAKER: [Sam Rayburn, of Texas]: The gentleman will state it.

MR. RANKIN: A Member who has the floor has to get unanimous consent to read. Now they can all read that stuff in the papers tomorrow. I read it this morning. I make the point of order that he has no right to get up here and read that stuff and take up the time of the Congress without unanimous consent.

THE SPEAKER: If anybody objects to the reading, the question can be put to the House and the House can decide.

MR. RANKIN: I object to its reading. It has all been distributed and everybody is familiar with it.

THE SPEAKER: The question is, Shall the gentleman from Washington be permitted to read the statement?

5. 91 CONG. REC. 10031, 79th Cong. 1st Sess.

The question was taken; and the Speaker announced that the ayes had it.

THE SPEAKER: The gentleman from Washington may proceed.

Controlling Members' Floor Movements

§ 7.13 In preserving order on the House floor, the Chair may rule a Member out of order when he stands by or walks about another Member who has the floor in debate.

On Mar. 5, 1936,⁽⁶⁾ debate took place in the Committee of the Whole as follows:

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Chairman, I rise in opposition to the amendment. If our friend from Washington [Mr. Zioncheck] had looked up the data on this bill and the hearings he would not have offered the amendment or made his speech. In the first place, instead of being \$60,000 for lights, he will find it is only \$25,000, and page 37 of the estimates shows that.

Mr. Zioncheck rose.

MR. BLANTON: I do not want to be interrupted.

MR. [MARION A.] ZIONCHECK [of Washington]: I am not asking the gentleman to yield.

MR. BLANTON: I do not want to be interrupted, and I ask the Chair to rule whether or not the gentleman from Washington is in order.

MR. ZIONCHECK: I am not asking the gentleman to yield. I am just standing here doing nothing. Has the gentleman got a complex?

MR. BLANTON: Will the Chair rule whether or not the gentleman is in order.

THE CHAIRMAN [William L. Nelson, of Missouri]: He is not in order.

MR. ZIONCHECK: Mr. Chairman, a point of order.

THE CHAIRMAN: Will the gentleman kindly take his seat?

MR. ZIONCHECK: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. ZIONCHECK: I was doing nothing; he brings this up; and I think the Chair cannot rule on something which does not exist.

THE CHAIRMAN: The Chair rules that the gentleman from Washington must be in his seat when the other gentleman has the floor.

MR. ZIONCHECK: In other words, I am supposed to sit down?

THE CHAIRMAN: Yes.

§ 7.14 In preserving order on the House floor, the Chair may rule that a Member is out of order if, when propounding a question to a Member speaking from the well of the House, he does so from the well rather than from the House seats.

On Mar. 7, 1957,⁽⁷⁾ debate took place in the Committee of the Whole as follows:

6. 80 CONG. REC. 3376, 74th Cong. 2d Sess.

7. 103 CONG. REC. 3268, 85th Cong. 1st Sess.

MR. AUGUST H. ANDRESEN [of Minnesota]: I do not want to yield for a speech.

MR. [GEORGE H.] CHRISTOPHER [of Missouri]: I did not come down to heckle the gentleman.

MR. AUGUST H. ANDRESEN: I will yield for a question, but I refuse to yield for a speech.

MR. CHRISTOPHER: I would like to ask a question.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, a point of order.

THE CHAIRMAN [Brooks Hays, of Arkansas]: The gentleman will state it.

MR. HOFFMAN: I ask that the well be cleared.

THE CHAIRMAN: The gentlemen from Michigan makes a point of order that the well should be cleared. The gentleman will step back to the seats to ask his question.

MR. CHRISTOPHER: I want to ask a question about the 51 million acre base.

MR. HOFFMAN: Mr. Chairman, I insist on my point of order.

THE CHAIRMAN: The gentleman from Missouri will suspend. We want to comply strictly with the rules. The gentleman will stand back out of the well, please while the question is propounded.

Controlling Distribution of Materials

§ 7.15 The Speaker, in preserving order on the House floor, may stop the distribution to Members of copies of House bills with a Member's memoranda attached thereto.

On Aug. 16, 1935,⁽⁸⁾ a parliamentary inquiry was addressed to Speaker Joseph W. Byrns, of Tennessee:

MR. [CLAUDE A.] FULLER [of Arkansas]: Mr. Speaker, I rise to a parliamentary inquiry. I just sent a page for the bill under consideration, H.R. 9100, and received the copy which I have in my hand. At the top of the bill, pasted onto it is a pink slip, and on that pink slip in typewriting are the words:

Bituminous-coal as amended and reprinted—controversial phases largely eliminated. Two-thirds of tonnage output operators favor bill, and more than 95 percent of labor.

My inquiry is to know whether it is proper for anybody to paste such a thing as that on a document of the House and whether it is proper for it to be circulated in the House. This is the first time in my experience that I have ever seen any advertisement on an official document or bill pending in the House. I rise for the purpose of ascertaining how it came there and whether or not it is proper to be on this bill.

THE SPEAKER: The Chair has no information on the subject. Where did the gentleman get his copy of the bill?

MR. FULLER: From a page. I send this copy to the desk so that the Speaker may examine it.

MR. [J. BUELL] SNYDER [of Pennsylvania]: I can tell the gentleman how that came there.

THE SPEAKER: The gentleman may state.

8. 79 CONG. REC. 13433, 74th Cong. 1st Sess.

MR. SNYDER: Mr. Speaker, I had so many of these bills sent to my office, and with my secretarial help we wrote those words on that pink slip and pasted the slip on the bill. That is how that happens to be there. I sent copies of these bills with the slip on them to those interested and sent some of them to the desk back here, to be handed out upon request. It is altogether fitting and proper that I should do so.

THE SPEAKER: The Chair knows of no rule or authority for inserting a statement like that to which the gentleman has called attention on a bill, and the Chair instructs the pages of the House not to distribute any more bills carrying this sort of inscription to Members on the floor of the House.

Controlling Use of the Hall

§ 7.16 It is considered within the authority of the Speaker to rule that Members may not use the Chamber of the House to entertain groups of people.

On Feb. 14, 1955,⁽⁹⁾ Speaker Sam Rayburn, of Texas, made the following statement:

THE SPEAKER: The Chair desires to make a statement on the use of the Hall of the House of Representatives.

A great many Members have asked the Parliamentarian and the present occupant of the chair about the use of

9. 101 CONG. REC. 1512, 84th Cong. 1st Sess.

the Hall of the House of Representatives. At any time in the future when any Member desires to entertain a group except Members of the House of Representatives it will be held that the caucus room is open for that purpose, but not the Hall of the House of Representatives.⁽¹⁰⁾

§ 8. Preserving Order in the House Galleries

The Speaker's jurisdiction, duties, and powers to preserve order in the House galleries are derived from the House rules and precedents. This section gives examples of both.⁽¹¹⁾

Under House rules the Speaker has control of the order and decorum of the House galleries,⁽¹²⁾ the allocation of space in and the issuance of passes to the galleries,⁽¹³⁾ and the regulation of the press galleries.⁽¹⁴⁾

The Speaker has ordered an offending visitor out of the House

10. As to the Hall of the House, see Ch. 4, *supra*.
11. See Ch. 4, *supra*, for fuller treatment of the Speaker's control of the House galleries.
12. Rule I clause 2, *House Rules and Manual* § 622 (1973).
13. Rule XXXIII, *House Rules and Manual* § 922 (1973).
14. Rule XXIV clauses 2 and 3, *House Rules and Manual* §§ 930 and 930a (1973).

galleries⁽¹⁵⁾ and has had all of the galleries cleared.⁽¹⁶⁾ The Speaker has prescribed the manner of obtaining admission to the galleries⁽¹⁷⁾ and has admonished visitors about improper demonstrations.⁽¹⁸⁾

The Speaker has also directed the press gallery to report to him, after an infraction of regulations, what remedial measures it would take to prevent future infractions.⁽¹⁹⁾

Controlling Admission to Gallery

§ 8.1 It is considered within the authority of the Speaker to regulate the manner by which guests may be permitted to enter the House gallery.

On Feb. 23, 1942,⁽²⁰⁾ Speaker Sam Rayburn, of Texas, spoke concerning his responsibility for the protection of the Members of the House:

THE SPEAKER: One of the responsibilities of the Speakership is the pro-

15. See § 8.4, *infra*.

16. See §§ 8.2, 8.5, *infra*.

17. See § 8.1, *infra*.

18. See § 8.3, *infra*.

19. See § 8.6, *infra*.

20. 88 CONG. REC. 1524, 77th Cong. 2d Sess.

tection of the Members and the places in which they work. This responsibility, of course, is a little more anxious one right now than in ordinary times, and anything that is done or any regulation that is issued is issued after the best and most competent advice the Speaker is able to get.

Some time ago cards were issued and no one was allowed to come into the gallery without one. These cards have been outstanding for some time, and I am sorry to say they have been widely distributed, many of them mailed to distant points in the country. The Chair and those who advise him have decided that it is best to revoke all outstanding cards of admission to the galleries. New cards have been printed and will be distributed to the Members today and tomorrow, as the cards to the gallery outstanding will not be honored after Wednesday morning. . . .

Another thing that those who advise me think is highly advisable is that the people entering any of the galleries, except the Members' gallery, submit themselves to search. This is thought wise and judicious by men who will be in the Capitol and who will be competent for the work.

I hope this may not seem too irksome to some of our people who may come to Washington. I am willing to take this responsibility for the reason that if a mishap occurs around the Capitol somebody has got to take the responsibility, and I am willing to share my part of it. So I hope the cards that will be issued in lieu of those outstanding may be handed in Washington to visitors and constituents of yours and not be mailed around the country.

§ 8.2 It is considered within the authority of the Speaker not to permit visitors in the House galleries under certain circumstances.

On May 10, 1972,⁽¹⁾ Speaker Carl Albert, of Oklahoma, made the following announcement:

THE SPEAKER: The Chair desires to make a statement.

The Chair has received intelligence from the police force and other responsible authorities that there will be disturbances in the gallery today. On the basis of this information and their recommendation the Chair has ordered that the galleries be closed to the public for the time being.

Controlling Visitor Behavior

§ 8.3 It is considered within the authority of the Chair to admonish visitors concerning the proper behavior in the House galleries.

On July 31, 1969,⁽²⁾ a point of order was raised concerning the behavior of visitors in the House gallery.

MR. [JOHN E.] MOSS [Jr., of California]: Mr. Chairman, I make the point of order that the galleries are not in order and that the applause is in violation of the rules of the House and must stop.

THE CHAIRMAN [Chet Holifield of California]: The point of order is well taken.

1. 118 CONG. REC. 4331, 92d Cong. 2d Sess.
2. 115 CONG. REC. 21634, 91st Cong. 1st Sess.

The Chair will state that visitors in the gallery are guests of the House of Representatives. Under the rules and practices of the House of Representatives, visitors in the gallery are not permitted to make undue noise or to applaud or to in any way show their pleasure or displeasure as to the actions of the Members of the House.

§ 8.4 The Speaker may order the removal of a person who is taking pictures of the House from the gallery without permission of the House.

On Feb. 22, 1950,⁽³⁾ Speaker Sam Rayburn, of Texas, made the following statement:

THE SPEAKER: The Chair understands there is a camera in the gallery. Whoever has that camera will remove the camera or remove themselves and the camera immediately. That is a violation of the rules of the House.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

In that case, is it not the rule to clear the gallery?

THE SPEAKER: Not necessarily.

MR. RANKIN: To clear them of those who are violating the law.

THE SPEAKER: The Chair has just made that suggestion.⁽⁴⁾

§ 8.5 It is considered within the authority of the Speaker

3. 96 CONG. REC. 2152, 81st Cong. 2d Sess.
4. *Parliamentarian's Note*: In this instance the Doorkeeper of the House confiscated the film.

to clear the House galleries in the case of disorderly conduct.⁽⁵⁾

On Jan. 18, 1972,⁽⁶⁾ the following point of order was raised:

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I demand that the gallery be cleared.

THE SPEAKER: [Carl Albert, of Oklahoma]: The Chair will not tolerate demonstrations of approval or disapproval in the galleries.

MR. HALL: Mr. Speaker, I make a point of order that our guests and those in the galleries are not in order. I request that the gallery be cleared.

THE SPEAKER: The gentleman's point is well taken. The gallery will be cleared

Controlling Press Galleries

§ 8.6 It is considered within the authority of the Speaker, in preserving order in the House galleries, to direct each of the press galleries to report to him about what remedial actions will be taken to prevent infractions of the House rules regarding the

5. See Rule I clause 2, *House Rules and Manual* §622 (1973).

6. 118 CONG. REC. 92d Con. 2d Sess.

taking of photographs of the House in session.

On Jan. 6, 1969,⁽⁷⁾ Speaker John W. McCormack, of Massachusetts, addressed the press galleries:

THE SPEAKER: The Chair is troubled over the flagrant violation by some of the news media of the restrictions on the taking of pictures during the organization of the House on last Friday.

All segments of the news media were thoroughly familiar with the rules that taking any pictures—still, moving, TV, or tape—are prohibited except during the period when the [flood] lights are turned on.

Some members of the news media who were granted the privilege of attending the opening session of the 91st Congress and permitted to bring their cameras into the galleries ignored the restrictions in complete violation of the agreement upon which they were admitted.

The Chair is calling this matter to the attention of the news media galleries and will expect a report from each on the action taken by them with respect to the violations of the regulations as well as to what provisions they are making to prevent such violations in the future.

7. 115 CONG. REC. 145, 91st Cong. 1st Sess.

B. SPEAKER PRO TEMPORE

§ 9. Introductory

This subchapter deals with the “Speaker pro tempore,”⁽⁸⁾ the meaning of the phrase and the general nature of the office,⁽⁹⁾ the oath and term of office,⁽¹⁰⁾ and the procedures involved in appointing him to office.⁽¹¹⁾

Throughout, emphasis is placed on the status of the office of Speaker pro tempore and on those duties, powers, and functions assumed by a Speaker pro tempore from a Speaker that are peculiar to the office of Speaker pro tempore. The responsibilities and functions undertaken by a Speaker pro tempore merely as the occupant of the Chair, and which are not peculiar to his office, are found more thoroughly described elsewhere in this work.

Examples of responsibilities and functions that are within the scope of authority of a Speaker pro tempore, but which are not peculiar to the office, are: announcing a Presidential veto;⁽¹²⁾

8. For previous treatment of the Speaker pro tempore see 6 Cannon's Precedents §§263–282; 2 Hinds' Precedents §§1377–1418; and references thereunder.

9. See § 10, *infra*.

10. See § 11, *infra*.

11. See §§ 12–14 *infra*.

12. 112 CONG. REC. 22411, 89th Cong. 2d Sess., Sept. 13, 1966.

announcing requests from the Senate;⁽¹³⁾ deciding protocol for joint sessions;⁽¹⁴⁾ answering parliamentary inquiries of various kinds;⁽¹⁵⁾ proceeding to unfinished business;⁽¹⁶⁾ putting the question in various situations;⁽¹⁷⁾ quorum counting;⁽¹⁸⁾ and ruling on points of order.⁽¹⁹⁾

13. 107 CONG. REC. 21453, 87th Cong. 1st Sess., Sept. 26 [legislative day, Sept. 25], 1961; 107 CONG. REC. 20822, 87th Cong. 1st Sess., Sept. 22, 1961; 107 CONG. REC. 19253, 87th Cong. 1st Sess., Sept. 13, 1961.

14. 91 CONG. REC. 1594, 1595, 79th Cong. 1st Sess., Feb. 28, 1945.

15. 114 CONG. REC. 18330, 18331, 90th Cong. 2d Sess., June 24, 1968; 107 CONG. REC. 21466, 87th Cong. 1st Sess., Sept. 26 [legislative day, Sept. 25], 1961; 107 CONG. REC. 20533, 20534, 87th Cong. 1st Sess., Sept. 21, 1961; 90 CONG. REC. 3128, 78th Cong. 2d Sess., Mar. 27, 1944.

16. 107 CONG. REC. 20533, 20534, 87th Cong. 1st Sess., Sept. 21, 1961; 104 CONG. REC. 13882, 85th Cong. 2d Sess., July 10, 1958.

17. 115 CONG. REC. 20153, 91st Cong. 1st Sess., July 21, 1969; 109 CONG. REC. 12120, 88th Cong. 1st Sess., July 2, 1963; 107 CONG. REC. 20537, 87th Cong. 1st Sess., Sept. 21, 1961.

18. 106 CONG. REC. 11830, 86th Cong. 2d Sess., June 3, 1960.

19. 104 CONG. REC. 13882, 85th Cong. 2d Sess., July 10, 1958. See also 107 CONG. REC. 18242, 18243, 87th Cong. 1st Sess., Sept. 6, 1961; 94

§ 10. Definition and Nature of Office

The “Speaker pro tempore”⁽¹⁾ is the title of the office (1) of the Member designated as such by the Speaker,⁽²⁾ or (2) of the Member designated by the Speaker and approved by the House, or (3) of the person elected by the House to act as and to assume certain of the duties, powers, and functions of the Speaker during the Speaker’s absence.⁽³⁾

The Speaker pro tempore should also be distinguished from the Chairman or Chairman pro tempore of the Committee of the Whole. See Ch. 19, *infra*.

CONG. REC. 5065, 80th Cong. 2d Sess., Apr. 29, 1948.

1. “Pro tempore” is a Latin phrase meaning “for the moment” or “for a time.”

Parliamentarian’s Note: The Speaker pro tempore is more usually referred to in conversation as the “Speaker pro tem,” which is acceptable in conversation, though not the official title. “Pro tem” has the same meaning as “pro tempore.”

2. Or, on occasions, by a Speaker pro tempore. See §§ 12.3, 12.4, *infra*.
3. Even though the Clerk sometimes assumes some of the duties, powers, and functions of the Speaker when the Speaker is not yet elected or is absent, he is not considered a Speaker pro tempore. See § 18, *infra*, for treatment of the office of Clerk.

The primary rule involving the Speaker pro tempore is Rule I clause 7, *House Rules and Manual* § 633 (1973). It states: “He [the Speaker] shall have the right to name any Member to perform the duties of the Chair, but such substitution shall not extend beyond three legislative days: *Provided*, however, That in the case of his [the Speaker’s] illness, he may make such appointment for a period not exceeding ten days, with the approval of the House at the time the same is made; and in his [the Speaker’s] absence and omission to make such appointment, the House shall proceed to elect a Speaker pro tempore to act during his absence.”

The Speaker pro tempore is usually a Member who is a leader in the majority party.⁽⁴⁾ A minority party member is designated Speaker pro tempore only on rare ceremonial occasions.⁽⁵⁾

Speakers pro tempore are distinguishable by whether they are designated, designated and approved, or elected. The kinds of duties, powers, and functions assumed by a Speaker pro tempore depend, more often than not, on the type of Speaker pro tempore involved.⁽⁶⁾

4. Party Organization generally, see Ch. 3, *supra*.

5. See § 12.7, *infra*.

6. See §§ 12.8–12.16 (designated), 13.1, 13.2 (designated and approved), and 14.8–14.16 (elected), *infra*.

It should be noted, however, that there are also situations, usually noncontroversial ones, in which actions undertaken by a Speaker pro tempore are not dependent on the type of Speaker pro tempore involved. Examples of these actions are: calling the House to order in the absence of the Speaker;⁽⁷⁾ announcing matters involving actions of the Speaker;⁽⁸⁾ and designating another Speaker pro tempore.⁽⁹⁾

§ 11. Oath of Office; Term of Office

The Members' oath of office⁽¹⁰⁾ is administered to an elected

7. See § 12.15 (designated); and the illustration under § 14.12 (elected), *infra*.
8. See illustrations under § 12.2 (designated), *infra*; and 109 CONG. REC. 25591, 88th Cong. 1st Sess., Dec. 27, 1963; and 108 CONG. REC. 12705, 87th Cong. 2d Sess., July 5, 1962 (elected).
9. See illustrations under §§ 14.1 (designated); 12.3 (elected), *infra*.
10. The oath prescribed by statute, 5 USC § 3331, is as follows: "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reserva-

tion or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

Speaker pro tempore,⁽¹¹⁾ and, under recent precedent,⁽¹²⁾ to a designated and approved Speaker pro tempore, but not to a designated Speaker pro tempore.⁽¹³⁾

The oath of office as Speaker pro tempore is administered by the Speaker if he is present⁽¹⁴⁾ or by a Member chosen by the elected,⁽¹⁵⁾ or designated and ap-

tion or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

11. See § 11.1, *infra*.

Parliamentarian's Note: The additional oath is the same one administered to Members, since the formal language of it is applicable to any office to which a Member is about to enter. See 5 USC § 3331.

12. See §§ 11.2, 11.3, *infra*.

13. For previous treatment of the oath of office of the Speaker pro tempore see 1 Hinds' Precedents § 229, 2 Hinds' Precedents §§ 1386, 1394; 6 Cannon's Precedents §§ 274, 280.

Parliamentarian's Note: For reasons of efficiency a designated Speaker pro tempore is not administered the oath of office as Speaker pro tempore, even though upon his designation he also assumes a new office. The elected and the designated and approved Speakers pro tempore are administered the oath because they assume not only a new office but also new duties, e.g., the signing, in the place of the Speaker, of enrolled bills and joint resolutions.

14. See § 11.4, *infra*.

15. See § 11.5, *infra*.

proved,⁽¹⁶⁾ Speaker pro tempore when the Speaker is absent.

The term of office of a Speaker pro tempore can be for various time periods under various circumstances. For example, the substitution may be: momentary,⁽¹⁷⁾ for the day,⁽¹⁸⁾ for a future specified day,⁽¹⁹⁾ for two continuous days,⁽²⁰⁾ for two separate days,⁽¹⁾ for three legislative days,⁽²⁾ for the balance of a week,⁽³⁾ for more than three days with approval of the House,⁽⁴⁾ or during the absence of the Speaker.⁽⁵⁾

The term of office does not begin until the chosen Member has accepted the office.⁽⁶⁾ The term of office ordinarily ends when the Speaker resumes the Chair.⁽⁷⁾

16. See §11.6, *infra*.

17. See §11.7, *infra*.

18. See §11.8, *infra*.

19. See §11.9, *infra*.

20. See §11.10, *infra*.

1. See §11.11, *infra*.

2. See §11.12, *infra*, and Rule I clause 7, *House Rules and Manual* §633 (1973).

3. See §11.13, *infra*.

4. See §11.14, *infra*; Rule I clause 7, *House Rules and Manual* §633 (1973).

5. See §11.15, *infra*; Rule I clause 7, *House Rules and Manual* §633 (1973).

6. See §11.16, *infra*.

7. See §11.14, *infra*.

Oath of Office

§ 11.1 Besides his oath as a Member, an elected Speaker pro tempore is also administered an oath of office as Speaker pro tempore.

On Nov. 18, 1963,⁽⁸⁾ Speaker John W. McCormack, of Massachusetts, designated Representative Carl Albert, of Oklahoma, Speaker pro tempore while the Speaker journeyed to Boston upon the death of his brother. A resolution was introduced to elect Mr. Albert Speaker pro tempore during the absence of the Speaker. The resolution was agreed to and Mr. Albert took the oath of office as Speaker pro tempore.

§ 11.2 Besides his oath as a Member, a designated Speaker pro tempore who is approved by the House is administered the oath of office as Speaker pro tempore, according to recent precedent.

On Feb. 24, 1949,⁽⁹⁾ a resolution was introduced indicating the approval of the House of the designation of Representative John W. McCormack, of Massachusetts, as Speaker pro tempore. Upon

8. 109 CONG. REC. 22015, 88th Cong. 1st Sess.

9. 95 CONG. REC. 1489, 81st Cong. 1st Sess.

agreement to the resolution, Representative McCormack was administered the oath of office as Speaker pro tempore.

§ 11.3 A designated Speaker pro tempore who is approved by the House has not always been administered the oath of office as Speaker pro tempore.

On Apr. 7, 1930,⁽¹⁰⁾ Speaker Nicholas Longworth, of Ohio, designated a Speaker pro tempore and the House approved the designation. No additional oath of office was administered, according to the *Congressional Record*.

Administration of Oath by Speaker

§ 11.4 An elected Speaker pro tempore is administered his oath of office by the Speaker when the Speaker is present.

On Aug. 15, 1941,⁽¹¹⁾ Speaker Sam Rayburn, of Texas, invited the election of a Speaker pro tempore and subsequently administered him the oath of office.

On Mar. 22, 1949,⁽¹²⁾ Speaker Rayburn stated that it was nec-

essary for him to be absent for a few days on important business. A resolution was introduced to elect Representative John W. McCormack, of Massachusetts, Speaker pro tempore. Upon passage of the resolution, the Speaker administered the oath to Mr. McCormack as Speaker pro tempore.⁽¹³⁾

Administration of Oath by Member

§ 11.5 An elected Speaker pro tempore designates a Member to administer the oath to him in the absence of the Speaker.

On Apr. 2, 1940⁽¹⁴⁾ Speaker William B. Bankhead, of Alabama, invited an election of a Speaker pro tempore. On the day next following the election of Representative Sam Rayburn, of Texas, as Speaker pro tempore, in the absence of the Speaker, Mr. Rayburn asked Representative John W. McCormack, of Massachusetts, to administer to him the oath of office:

THE SPEAKER PRO TEMPORE: . . .
The present occupant of the chair re-

10. 72 CONG. REC. 6661, 71st Cong. 2d Sess.

11. 87 CONG. REC. 7194, 7195, 77th Cong. 1st Sess.

12. 95 CONG. REC. 2968, 81st Cong. 1st Sess.

13. *Parliamentarian's Note*: The *Congressional Record* does not explicitly refer to the Speaker's administering the oath, but such did in fact take place.

14. 86 CONG. REC. 3925, 76th Cong. 3d Sess.

quests the gentleman from Massachusetts [Mr. McCormack] to administer the oath of office as Speaker pro tempore.

Mr. McCormack appeared at the well of the House and administered the oath. . . .

On Jan. 10, 1966,⁽¹⁵⁾ Speaker John W. McCormack, of Massachusetts, designated Representative Carl Albert, of Oklahoma, Speaker pro tempore while the Speaker journeyed to Boston upon the death of his brother. A resolution was introduced to elect Mr. Albert Speaker pro tempore during the absence of the Speaker. The resolution was agreed to and Mr. Albert asked the Dean of the House, Representative Emanuel Celler, of New York, to administer the oath of office.⁽¹⁶⁾

§ 11.6 A designated Speaker pro tempore who is approved by the House and who is administered the oath of office as Speaker pro tempore may designate the Member to administer him the oath of office.

On Feb. 24, 1949,⁽¹⁷⁾ a resolution was introduced indicating the

15. 112 CONG. REC. 5, 6, 89th Cong. 2d Sess.

16. *Parliamentarian's Note*: The *Congressional Record* does not explicitly refer to Mr. Albert's designation of Mr. Celler to administer the oath, but such did in fact take place.

17. 95 CONG. REC. 1489, 81st Cong. 1st Sess.

approval of the House of the designation of Hon. John W. McCormack, of Massachusetts, as Speaker pro tempore. Once approved the Speaker pro tempore designated a Member to administer him the oath of office.

Terms of Office

§ 11.7 A term of office of a Speaker pro tempore may be only momentary.

On Apr. 15, 1958,⁽¹⁸⁾ designated Speaker pro tempore John W. McCormack, of Massachusetts, himself designated Representative Carl Albert, of Oklahoma, as Speaker pro tempore during the election of Mr. McCormack as Speaker pro tempore during the absence of Speaker Sam Rayburn, of Texas.

On Nov. 18, 1963,⁽¹⁹⁾ designated Speaker pro tempore Albert, who

18. 104 CONG. REC. 6436, 85th Cong. 2d Sess.

19. 109 CONG. REC. 22015, 88th Cong. 1st Sess.

Parliamentarian's Note: On Nov. 17, 1963, Speaker McCormack's brother died in Boston. On Nov. 18 Speaker McCormack in writing designated the Honorable Carl Albert to act as Speaker pro tempore for the day. The Speaker remained in Boston until Nov. 21. Although the *Congressional Record* does not explicitly refer to it, the momentary designation of Hale Boggs (La.) as Speaker

was about to be elected as Speaker pro tempore, himself designated another Speaker pro tempore during the election.

On Jan. 10, 1966,⁽²⁰⁾ Speaker John W. McCormack, of Massachusetts, designated Representative Carl Albert, of Oklahoma, as Speaker pro tempore for the day in writing.⁽²¹⁾ During Mr. Albert's election as Speaker pro tempore, he designated another Speaker pro tempore to preside over the House momentarily during the election:

THE SPEAKER PRO TEMPORE: The Chair requests the gentleman from Louisiana [Mr. Boggs] to assume the chair.

Mr. Boggs assumed the chair as Speaker pro tempore.

THE SPEAKER PRO TEMPORE (Mr. [Hale] Boggs): The Chair recognizes the gentleman from New York [Mr. Keogh].

MR. [EUGENE J.] KEOGH: Mr. Speaker, on account of the unavoidable ab-

pro tempore during the election of Mr. Albert as Speaker pro tempore during the absence of the Speaker did in fact take place. Immediately upon the laying on the table of a motion to reconsider the resolution electing Mr. Albert, Mr. Boggs left the Chair and Mr. Albert resumed it.

20. 112 CONG. REC. 5, 6, 89th Cong. 2d Sess.

21. *Parliamentarian's Note*: Since the duration of the Speaker's absence was uncertain it was considered essential to elect a Speaker pro tempore.

sence of the Speaker due to the death of his beloved brother, and at his request, I offer a resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 627

Resolved, That Hon. Carl Albert, a Representative from the State of Oklahoma, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of the Honorable Carl Albert as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. Albert assumed the chair as Speaker pro tempore and Mr. Celler administered the oath of office.

On Sept. 27 (legislative day, Sept. 25), 1961,⁽¹⁾ the Speaker pro tempore John W. McCormack, of Massachusetts, momentarily designated Representative Carl Albert, of Oklahoma, as Speaker pro tempore during the comments of Mr. McCormack on the accomplishments of the session.

§ 11.8 A term of office of a Speaker pro tempore may be for the day.

On Nov. 25, 1963,⁽²⁾ Speaker John W. McCormack, of Massa-

1. 107 CONG. REC. 21545, 87th Cong. 1st Sess.

2. 109 CONG. REC. 22694, 88th Cong. 1st Sess.

chusetts, designated a Speaker pro tempore for the day.

The Speaker pro tempore laid before the House the following communication from the Speaker:

THE SPEAKER'S ROOM,
November 25, 1963.

I hereby designate the Honorable Jim Wright to act as Speaker pro tempore today.

JOHN W. McCORMACK,
Speaker.

§ 11.9 A Speaker pro tempore may be designated for one specific day in the future.

On Jan. 19, 1965,⁽³⁾ Speaker John W. McCormack, of Massachusetts, designated Representative Emanuel Celler, of New York, to act as Speaker pro tempore when the House convened on Jan. 20, 1965, preceding the inaugural ceremonies:

THE SPEAKER: The Chair designates the Honorable Emanuel Celler, of New York, to act as Speaker pro tempore tomorrow, January 20, 1965.

§ 11.10 The term of office of a Speaker pro tempore may be for a specified and continuous two day period.

On May 7, 1956,⁽⁴⁾ a Speaker pro tempore was designated by

3. 111 CONG. REC. 946, 89th Cong. 1st Sess.

4. 102 CONG. REC. 7588, 84th Cong. 2d Sess.

Speaker Sam Rayburn, of Texas, for a specific two-day period.

The Speaker pro tempore laid before the House the following communication from The Speaker:

MAY 7, 1956.

I hereby designate the Honorable John W. McCormack to act as Speaker pro tempore on May 7 and 8, 1956.

SAM RAYBURN,
Speaker.

§ 11.11 The term of office of a Speaker pro tempore may be for two separate days in the future.

On Oct. 29, 1942,⁽⁵⁾ Speaker Sam Rayburn, of Texas, designated a Speaker pro tempore to serve as Speaker on two specified days during intermittent adjournment of the House.

MR. [JERE] COOPER [of Tennessee]: Mr. Speaker, I ask unanimous consent that when the House adjourns today it stand adjourned until Monday next, that when the House adjourns on Monday next it stand adjourned until Thursday, November 5, and that when the House adjourns on Thursday, November 5, it stand adjourned until the following Monday, November 9.

THE SPEAKER: Without objection, it is so ordered.

There was no objection. . . .

THE SPEAKER: The Chair designates the gentleman from Tennessee [Mr. Cooper] to act as Speaker pro tempore

5. 88 CONG. REC. 8688-90, 77th Cong. 2d Sess.

on Monday, November 2, and Thursday, November 5.

§ 11.12 The term of office of a Speaker pro tempore may be for three legislative days.

On Mar. 11, 1940,⁽⁶⁾ Speaker William B. Bankhead, of Alabama, designated a Speaker pro tempore for a period of three legislative days in the event of the Speaker's absence:

THE SPEAKER: In the event of the absence of The Speaker for the next 3 legislative days, the Chair designates the gentleman from Texas [Mr. Rayburn] as the Speaker pro tempore.

§ 11.13 The term of office of a Speaker pro tempore may be for the balance of a week.

On Thursday, Apr. 29, 1948,⁽⁷⁾ Speaker Joseph W. Martin, Jr., of Massachusetts, made the following announcement:

THE SPEAKER: The Chair wishes to state that he appoints as Speaker pro tempore for the balance of the week the Honorable Charles A. Halleck, of Indiana.

§ 11.14 The term of office of a Speaker pro tempore may be for more than three days, where the House gives its approval.

6. 86 CONG. REC. 2665, 76th Cong. 3d Sess.

7. 94 CONG. REC. 5036, 80th Cong. 2d Sess.

On Apr. 7, 1930,⁽⁸⁾ Speaker Nicholas Longworth, of Ohio, made the following announcement:

The Chair designates the gentleman from Connecticut [Mr. Tilson] to act as Speaker pro tempore for 3 days, and the Chair asks unanimous consent that thereafter, until the return of the Chair, which will in all probability be on Monday, the gentleman from Connecticut may be permitted to continue in that office. Is there objection?

There was no objection.

§ 11.15 A term of office of a Speaker pro tempore may be for the duration of the absence of The Speaker.

On Apr. 15, 1958,⁽⁹⁾ a resolution was offered electing Representative John W. McCormack of Massachusetts, Speaker pro tempore during the absence of Speaker Sam Rayburn, of Texas.

§ 11.16 The Speaker, after designating a Member as Speaker pro tempore, may withdraw the name of that Member before his term begins and designate another in his place.

On Apr. 2, 1947,⁽¹⁰⁾ Speaker Joseph W. Martin, Jr., of Massachu-

8. 72 CONG. REC. 6661, 71st Cong. 2d Sess. See also § 12.1, *infra*.

9. 104 CONG. REC. 6436, 85th Cong. 2d Sess.

10. 93 CONG. REC. 3075, 80th Cong. 1st Sess.

setts, made the following announcement:

THE SPEAKER: The Chair wishes to announce that the gentleman from Michigan [Mr. Michener], whom he has just designated as Speaker pro tempore on Thursday and Monday next, has illness in his family which may preclude him from accepting the appointment; therefore, the Chair withdraws the designation and designates the gentleman from Indiana [Mr. Halleck] to act as Speaker pro tempore on Thursday and Monday next.

§ 12. Designation of Speaker Pro Tempore

The appointment of a Speaker pro tempore by simple designation—that is, without formal House approval—is permitted for periods that do not extend beyond three legislative days.⁽¹¹⁾ The Speaker⁽¹²⁾ (or Speaker pro tempore)⁽¹³⁾ may orally designate a Member as Speaker pro tempore

11. Rule I clause 7, House Rules and Manual § 633 (1973).

12. See § 12.1, *infra*.

13. See § 12.3, *infra*.

Parliamentarian's Note: Simple designation of a Speaker pro tempore is the Speaker's right under Rule I clause 7 of the House Rules and Manual. From the custom and the practice of the House, it is presumed that a Speaker pro tempore assumes this right upon entering the office.

either in open House⁽¹⁴⁾ or informally and off the record. The designation must be in formal writing when the Speaker⁽¹⁵⁾ (or Speaker pro tempore)⁽¹⁶⁾ cannot be present at the beginning of a day's session.

The Speaker may, likewise, withdraw a designation of someone as Speaker pro tempore.⁽¹⁷⁾

The designated Speaker pro tempore is characteristically a "stand-in" Speaker. He must ordinarily seek the consent of the House before carrying out the more sensitive activities that a Speaker would handle without the House's consent and as a matter of course.⁽¹⁸⁾

Examples of the functions assumed by a designated Speaker pro tempore from the Speaker include: administering the oath of office to a Member-elect with the consent of the House;⁽¹⁹⁾ appointing conferees with the unanimous consent of the House;⁽²⁰⁾ spreading upon the Journal a veto message from the President with the consent of the House;⁽¹⁾ referring

14. See illustrations under §§ 12.1, 12.3, *infra*.

15. See § 12.2, *infra*.

16. See § 12.4, *infra*.

17. See § 12.6, *infra*.

18. See §§ 12.8-12.14, *infra*.

19. See § 12.8, *infra*.

20. See §§ 12.9, 12.10, *infra*.

1. See § 12.11, *infra*.

Presidential messages to committees with the unanimous consent of the House;⁽²⁾ appointing Members to attend funerals by direction of the Speaker and with the unanimous consent of the House;⁽³⁾ and calling the House to order in the absence of the Speaker.⁽⁴⁾

Normally, but not always, it is the designated Speaker pro tempore who is elected Speaker pro tempore during the absence of the Speaker when certain functions require that the Speaker pro tempore be elected, and not simply designated.⁽⁵⁾

Oral Designation by Speaker

§ 12.1 A Speaker may orally designate a Speaker pro tempore.

On Apr. 7, 1930,⁽⁶⁾ Speaker Nicholas Longworth, of Ohio, made the following announcement:

THE SPEAKER: The Chair desires to prefer a request for unanimous consent. The Chair has in mind this afternoon to go to southern climes, frankly,

2. See §§ 12.12, 12.13, *infra*.

3. See § 12.14, *infra*.

4. See §§ 12.15, 12.16, *infra*.

5. See § 12.17, *infra*.

6. 72 CONG. REC. 6661, 71st Cong. 2d Sess.

for the purpose of rest and recreation for a few days. . . .

The Chair designates the gentleman from Connecticut [Mr. Tilson] to act as Speaker pro tempore for 3 days, and the Chair asks unanimous consent that thereafter, until the return of the Chair, which will in all probability be on Monday, the gentleman from Connecticut may be permitted to continue in that office. Is there objection?

There was no objection.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, I offer a resolution and ask its immediate consideration.

THE SPEAKER: The gentleman from New York [Mr. Snell] offers a resolution, which the Clerk will report.

The Clerk read as follows:

Resolved, That the designation of Hon. John Q. Tilson, a Representative from the State of Connecticut, as Speaker pro tempore be approved by the House and that the President and the Senate be notified thereof.

THE SPEAKER: The question is on agreeing to the resolution.

The resolution was unanimously agreed to.

On Mar. 11, 1940,⁽⁷⁾ Speaker William B. Bankhead, of Alabama, made the following announcement:

THE SPEAKER: In the event of the absence of The Speaker for the next 3 legislative days, the Chair designates the gentleman from Texas [Mr. Rayburn] as the Speaker pro tempore.

On Apr. 29, 1948,⁽⁸⁾ Speaker Joseph W. Martin, Jr., of Massachu-

7. 86 CONG. REC. 2665, 76th Cong. 3d Sess.

8. 94 CONG. REC. 5036, 80th Cong. 2d Sess.

setts, made the following announcement:

THE SPEAKER: The Chair wishes to state that he appoints as Speaker pro tempore for the balance of the week the Honorable Charles A. Halleck, of Indiana

On Sept. 14, 1962,⁽⁹⁾ Speaker John W. McCormack, of Massachusetts, made the following announcement:

THE SPEAKER: The Chair will be absent on Monday and Tuesday of next week and designates as Speaker pro tempore on Monday and Tuesday the gentleman from Oklahoma, Mr. Albert.

Written Designation by Speaker

§ 12.2 A Speaker who is absent at the beginning of a day's session may designate a Speaker pro tempore in formal writing.

On June 1, 1961,⁽¹⁰⁾ the proceedings below took place in the House:

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore, Mr. McCormack.

THE SPEAKER PRO TEMPORE: The Clerk will read the following communication [from Speaker Rayburn].

The Clerk read as follows:

9. 108 CONG. REC. 19516, 87th Cong. 2d Sess.
10. 107 CONG. REC. 9330, 87th Cong. 1st Sess.

I hereby designate the Honorable John W. McCormack to act as Speaker pro tempore today.

SAM RAYBURN,
Speaker.

On July 5, 1962,⁽¹¹⁾ the following action took place in the House:

THE SPEAKER PRO TEMPORE: (Mr. Albert) laid before the House the following communication from [Speaker McCormack], which was read:

I hereby designate the Honorable Carl Albert to act as Speaker pro tempore today.

JOHN W. MCCORMACK,
Speaker.

On Dec. 27, 1963,⁽¹²⁾ Speaker John W. McCormack, of Massachusetts, was absent at the beginning of the session and designated in writing Carl Albert, of Oklahoma, to be Speaker pro tempore for the day:

The House met at 12 o'clock noon and was called to order by The Speaker pro tempore (Mr. Albert).

THE SPEAKER PRO TEMPORE (Mr. Albert): The Clerk will read the following communication.

The Clerk read as follows:

THE SPEAKER'S ROOMS

I hereby designate the Honorable Carl Albert to act as Speaker pro tempore today.

JOHN W. MCCORMACK,
Speaker.

11. 108 CONG. REC. 12703, 87th Cong. 2d Sess.
12. 109 CONG. REC. 25591, 88th Cong. 1st Sess.

Oral Designation by Speaker Pro Tempore

§ 12.3 A Speaker pro tempore may orally designate another Speaker pro tempore.

On Sept. 27 (legislative day, Sept. 25), 1961,⁽¹³⁾ elected Speaker pro tempore John W. McCormack, of Massachusetts, orally designated Representative Carl Albert, of Oklahoma, as Speaker pro tempore during Mr. McCormack's comments on the first session of the 87th Congress.

Written Designation by a Speaker Pro Tempore

§ 12.4 If a Speaker pro tempore is to be absent at the beginning of a day's session, he may exercise his right to designate another Speaker pro tempore, but only in writing.

On June 20, 1932,⁽¹⁴⁾ the elected Speaker pro tempore Henry T. Rainey, of Illinois, designated in writing a Speaker pro tempore for the day.

The House was called to order at 12 o'clock noon by the Clerk of the House of Representatives.

The Clerk read the following communication from the Speaker pro tempore [Mr. Rainey].

13. 107 CONG. REC. 21545, 87th Cong. 1st Sess.

14. 75 CONG. REC. 13502, 72d Cong. 1st Sess.

THE SPEAKER'S ROOMS,
House of Representatives of the United States, Washington, D.C.

I hereby designate Hon. William B. Bankhead to act as Speaker pro tempore today.

HENRY T. RAINEY,
Speaker pro tempore.

Mr. Bankhead took the Chair as Speaker pro tempore.⁽¹⁵⁾

On Dec. 26, 1940,⁽¹⁶⁾ elected Speaker pro tempore William P. Cole, Jr., of Maryland, designated in writing another Speaker pro tempore to serve for the day.

The House met at 12 o'clock noon, and was called to order by The Speaker pro tempore, Mr. Ramspeck.

The Clerk read the following communication from The Speaker pro tempore, Mr. Cole of Maryland:

THE SPEAKER'S ROOM,
The House of Representatives, United States, Washington, D.C.

I hereby designate Hon. Robert Ramspeck to act as Speaker pro tempore today.

15. *Parliamentarian's Note*: On June 13, 1932, upon being advised by the doctor that The Speaker would not be able to attend for several days, Mr. Crisp (Ga.) offered a resolution electing Mr. Rainey as Speaker pro tempore. Mr. Crisp administered the oath to Mr. Rainey as Speaker pro tempore. Mr. Rainey under the terms of the resolution electing him served as Speaker pro tempore until June 21 when The Speaker returned to his duties. On June 18, however, Mr. Rainey, finding it necessary to be absent on June 20, designated Mr. Bankhead (Ala.) as Speaker pro tempore.

16. 86 CONG. REC. 14000, 76th Cong. 3d Sess.

WILLIAM P. COLE, JR.,
Speaker pro tempore.

Reasons for Designation

§ 12.5 A Speaker may designate a Speaker pro tempore for various reasons, including illness.

On Aug. 31, 1961,⁽¹⁷⁾ Speaker Sam Rayburn, of Texas, designated in writing Representative Carl Albert, of Oklahoma, to act as Speaker pro tempore for the day. Mr. Rayburn was leaving to go to his home because he was ill.⁽¹⁸⁾

Withdrawal of Designation

§ 12.6 The designation of a Speaker pro tempore may be withdrawn.

On Apr. 2, 1947,⁽¹⁹⁾ Speaker Joseph W. Martin, Jr., of Massachusetts, made the following announcement:

THE SPEAKER: The Chair wishes to announce that the gentleman from

17. 107 CONG. REC. 17765, 17766, 87th Cong. 1st Sess.

18. *Parliamentarian's Note:* Speaker Rayburn last presided over the House on Aug. 30, 1961. On Nov. 16, 1961, he died in Bonham, Tex.

For other examples of the reasons for designating a Speaker pro tempore, see §§ 12.1, supra, and 12.7, infra.

19. 93 CONG. REC. 3075, 80th Cong. 1st Sess.

Michigan [Mr. Michener], whom he has just designated as Speaker pro tempore on Thursday and Monday next, has illness in his family which may preclude him from accepting the appointment; therefore, the Chair withdraws that designation and designates the gentleman from Indiana [Mr. Halleck] to act as Speaker pro tempore on Thursday and Monday next.

Designation of Minority Party Member

§ 12.7 On rare ceremonial occasions, a Speaker may designate a member of the minority party as Speaker pro tempore.

On Jan. 31, 1951,⁽¹⁾ Speaker Sam Rayburn, of Texas, was praised for his record of service as Speaker of the House. At that time, he requested a member of the minority party, Mr. Joseph W. Martin, Jr., of Massachusetts, to take the Chair:

THE SPEAKER: The Chair will ask the gentleman from Massachusetts [Mr. Martin] to kindly take the chair at this time.

Mr. Martin assumed the Chair.

Duties, Powers, and Functions

§ 12.8 A designated Speaker pro tempore, in the absence of The Speaker, may admin-

1. 97 CONG. REC. 778, 82d Cong. 1st Sess.

ister to a Member-elect his oath of office.

On Mar. 11, 1940,⁽²⁾ Speaker William B. Bankhead, of Alabama, orally designated Representative Sam Rayburn, of Texas, as Speaker pro tempore in the event of his absence for the ensuing three legislative days. On Mar. 12, 1940,⁽³⁾ in the absence of The Speaker, Speaker pro tempore Rayburn administered to a Member-elect his oath of office by unanimous consent of the House:

THE SPEAKER PRO TEMPORE: The present occupant of the chair will administer the oath of office to the Member-elect if there is no objection.

There being no objection [the Member-elect] appeared at the bar of the House and took the oath of office.

§ 12.9 A designated Speaker pro tempore is authorized to appoint conferees only with the unanimous consent of the House.

On May 28, 1959,⁽⁴⁾ Speaker pro tempore John W. McCormack, of Massachusetts, with the unanimous consent of the House appointed conferees. The proceedings were as follows:

MR. [BRENT] SPENCE [of Kentucky]: Mr. Speaker, I ask unanimous consent

2. 86 CONG. REC. 2665, 76th Cong. 3d Sess.
3. 86 CONG. REC. 2724, 76th Cong. 3d Sess.
4. 105 CONG. REC. 9334, 86th Cong. 1st Sess.

to take from the Speaker's desk the bill (S. 1094) to amend the Bretton Woods Agreements Act, with House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Kentucky?

There was no objection.

THE SPEAKER PRO TEMPORE: Without objection, the Chair appoints the following conferees: Messrs. Spence, Brown of Georgia, Patman, Rains, Kilburn, Widnall, and Hiestand.

There was no objection.

On Oct. 9, 1969,⁽⁵⁾ the designated Speaker pro tempore appointed conferees with the unanimous consent of the House. The proceedings were as follows:

MR. [ROBERT E.] JONES of Alabama: Mr. Speaker, I ask unanimous consent to take from The Speaker's table the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

THE SPEAKER PRO TEMPORE [Richard Bolling, of Missouri]: Is there objection to the request of the gentleman from Alabama? The Chair hears none, and, without objection, appoints the following conferees: Messrs. Blatnik, Jones of Alabama, Wright, Fallon, Cramer, Harsha, and Grover.

There was no objection.

5. 115 CONG. REC. 29346, 91st Cong. 1st Sess.

On July 8, 1970,⁽⁶⁾ The Speaker pro tempore, Hale Boggs, of Louisiana, appointed conferees by unanimous consent of the House.

MR. [JOSEPH L.] EVINS of Tennessee: Mr. Speaker, I ask unanimous consent to take from The Speaker's table the bill (H.R. 17548) . . . with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate. . . .

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Tennessee? The Chair hears none, and, without objection, appoints the following conferees: Messrs. Evins of Tennessee, Boland, Shipley, Giaimo, Marsh, Pryor of Arkansas, Mahon, Jonas, Talcott, McDade, Del Clawson, and Bow.

There was no objection.

On Oct. 8, 1970,⁽⁷⁾ Speaker pro tempore Charles M. Price, of Illinois, appointed conferees with the unanimous consent of the House.

MR. [PAUL G.] ROGERS of Florida: Mr. Speaker, I ask unanimous consent to take from The Speaker's table the bill (H.R. 18583) to amend the Public Health Service Act . . . with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Florida? The Chair hears none, and, without objection, appoints

6. 116 CONG. REC. 23141, 91st Cong. 2d Sess.

7. 116 CONG. REC. 35866, 35867, 91st Cong. 2d Sess.

the following conferees: Messrs. Staggers, Jarman, Rogers of Florida, Satterfield, Springer, Nelsen, and Carter.

There was no objection.

§ 12.10 A designated Speaker pro tempore is authorized to appoint additional conferees on a bill only with unanimous consent of the House.

On Apr. 29, 1948,⁽⁸⁾ unanimous consent was requested to authorize the designated Speaker pro tempore, Charles A. Halleck, of Indiana, to appoint additional conferees on a bill. Without objection the designated Speaker pro tempore appointed additional conferees.

MR. [PAUL W.] SHAFER [of Michigan]: Mr. Speaker, I ask unanimous consent that The Speaker pro tempore be authorized to appoint two additional conferees on the bill (S. 1641) to establish the Women's Army Corps in the regular Army, to authorize the enlistment and appointment of women in the regular Army and Marine Corps and the Naval and Marine Corps Reserve, and for other purposes.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Michigan? [After a pause.] The Chair hears none, and, without objection, appoints the gentleman from New York [Mr. Andrews] and the gentleman from Texas [Mr. Johnson].

There was no objection.

8. 94 CONG. REC. 5066, 80th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The Clerk will notify the Senate thereof.

§ 12.11 A designated Speaker pro tempore may order spread upon the Journal the veto message of a President.

On Sept. 13, 1966,⁽⁹⁾ Speaker pro tempore Hale Boggs, of Louisiana, ordered a veto message of the President spread upon the Journal with the unanimous consent of the House.

The Speaker pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

. . . In returning this measure, I do so in the hope that the Congress will adopt the insurance proposals I submitted earlier. Such a measure would be fiscally responsible. It would be consistent with the wage-price guide posts. I would be proud to sign it.

LYNDON B. JOHNSON,
The White House,
September 12, 1966.

THE SPEAKER PRO TEMPORE: Without objection, the objections of the President will be spread at large upon the Journal.

There was no objection.

§ 12.12 A designated Speaker pro tempore refers a Presidential message to committee only with unanimous consent of the House.

9. 112 CONG. REC. 22411, 89th Cong. 2d Sess.

On Aug. 31, 1967,⁽¹⁰⁾ Speaker pro tempore Carl Albert, of Oklahoma, referred a Presidential message to committee with unanimous consent of the House:

The Speaker pro tempore (Mr. Albert) laid before the House the following message from the President of the United States, which was read, as follows:

To the Congress of the United States:

I am pleased to transmit the annual report of the Office of Alien Property, Department of Justice, for the fiscal Year ended June 30, 1966, in accordance with section 6 of the Trading With the Enemy Act.

LYNDON B. JOHNSON,
The White House,
August 31, 1967.

THE SPEAKER PRO TEMPORE (Mr. Albert): Without objection, the message, together with the accompanying papers, is referred to the Committee on Interstate and Foreign Commerce.

There was no objection.

§ 12.13 A designated Speaker pro tempore refers a Presidential message to committee and orders it printed (sometimes with illustrations) only with the unanimous consent of the House.

On Sept. 8, 1966,⁽¹¹⁾ Speaker pro tempore Hale Boggs, of Louisiana, laid before the House a

10. 113 CONG. REC. 24843, 24844, 90th Cong 1st Sess.

11. 112 CONG. REC. 22049-52, 89th Cong. 2d Sess.

message from the President and, without objection, referred the message to a committee and ordered it printed.

On Apr. 21, 1970,⁽¹²⁾ Speaker pro tempore Robert O. Tiernan, of Rhode Island, referred a Presidential message to committee and ordered it printed with the unanimous consent of the House.

On Jan. 24, 1966,⁽¹³⁾ Speaker John W. McCormack, of Massachusetts, laid before the House a message from the President. Speaker McCormack having left the Chair during the reading of the message from the President, the designated Speaker pro tempore referred the message to committee and ordered it printed, with illustrations.

§ 12.14 A designated Speaker pro tempore appoints Members to attend a funeral following the directions of the Speaker and with the unanimous consent of the House.

On Nov. 25, 1963,⁽¹⁴⁾ designated Speaker pro tempore James C. Wright, Jr., of Texas, appointed a committee of 100 Members of the

12. 116 CONG. REC. 12581, 91st Cong. 2d Sess.

13. 112 CONG. REC. 909-17, 89th Cong. 2d Sess.

14. 109 CONG. REC. 22695, 22696, 88th Cong. 1st Sess.

House to attend the funeral of President John F. Kennedy, following the directions of the Speaker and with the unanimous consent of the House.

§ 12.15 A designated Speaker pro tempore calls the House to order in the absence of the Speaker.

On June 1, 1961,⁽¹⁵⁾ Representative John W. McCormack, of Massachusetts, having been designated in writing as Speaker pro tempore by Speaker Sam Rayburn, of Texas, called the House to order in the absence of the Speaker.

§ 12.16 A designated Speaker pro tempore calls the House to order at the beginning of a session of Congress in the absence of the Speaker.

On Jan. 10, 1966,⁽¹⁶⁾ Speaker John W. McCormack, of Massachusetts, being absent because of the death of his brother,⁽¹⁷⁾ designated Speaker pro tempore Carl

15. 107 CONG. REC. 9330, 87th Cong. 1st Sess.

16. 112 CONG. REC. 5, 89th Cong. 2d Sess.

17. *Parliamentarian's Note:* Speaker John W. McCormack was not in Washington for the convening of the second session of the 89th Congress because of the death of his brother, Donald J. McCormack.

Albert, of Oklahoma, called the House to order at the beginning of the session of the Congress, and laid before the House the following communication from the Speaker:

THE SPEAKER'S ROOMS,
U.S. House of Representatives,
Washington, D.C.

I hereby designate the Honorable Carl Albert to act as Speaker pro tempore today.

JOHN W. McCORMACK,
Speaker.

Time for Election of Designee

§ 12.17 A designated Speaker pro tempore is elected by the House as Speaker pro tempore during the absence of the Speaker when the need arises for the performance of certain functions.

On Aug. 31, 1961,⁽¹⁸⁾ the following actions took place in the House:

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. [Carl] Albert [of Oklahoma]).

THE SPEAKER PRO TEMPORE: The Chair lays before the House a communication which the Clerk will read.

The Clerk read as follows:

18. 107 CONG. REC. 17765, 17766, 87th Cong. 1st Sess.

AUGUST 31, 1961.

THE SPEAKER'S ROOMS,
House of Representatives,
Washington, D.C.

I hereby designate Hon. Carl Albert to act as Speaker pro tempore today.

SAM RAYBURN,
Speaker.

* * * * *

MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Speaker, I send to the Speaker's table a resolution (H. Res. 445) and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 445

Resolved, That Hon. John W. McCormack, a Representative from the State of Massachusetts, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. John W. McCormack as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Hon. John W. McCormack assumed the Chair and the oath of office was administered to him by Mr. Walter.⁽¹⁹⁾

19. *Parliamentarian's Note:* Speaker Sam Rayburn last presided over the House on Wednesday, Aug. 30, 1961, during a call of Calendar Wednesday business. Because of illness, he departed for his home in Bonham, Tex., on the morning of Aug. 31. Speaker Rayburn died there on Nov. 16, 1961.

On Nov. 18, 1963,⁽¹⁾ Speaker John W. McCormack, of Massachusetts, in writing designated Carl Albert, of Oklahoma, to act as Speaker pro tempore for the day.⁽²⁾ After laying the designation before the House, Mr. Albert designated another Speaker pro tempore to serve during his election as Speaker pro tempore in the absence of the Speaker.⁽³⁾

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore, Mr. Albert.

The Speaker pro tempore laid before the House the following communication from [Speaker McCormack]:

THE SPEAKER'S ROOM

I hereby designate the Honorable Carl Albert to act as Speaker pro tempore today.

JOHN T. MCCORMACK,
Speaker.

* * * * *

Mr. [Hale] Boggs [of Louisiana] assumed the chair.

MR. [CARL] VINSON [of Georgia]: Mr. Speaker, I send to the desk a privi-

1. 109 CONG. REC. 22015, 88th Cong. 1st Sess.
2. *Parliamentarian's Note:* Speaker McCormack's brother, Edward, died in Boston on Sunday, Nov. 17. The Speaker remained in Boston until Nov. 21.
3. *Parliamentarian's Note:* Although the Congressional Record does not explicitly refer to Mr. Albert's designation of a second Speaker pro tempore, such in fact did take place.

leged resolution and ask for its immediate consideration.

The Clerk read the resolution [H. Res. 567] as follows:

Resolved, That Honorable Carl Albert, a Representative from the State of Oklahoma, be, and he is hereby elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Honorable Carl Albert as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

The motion to reconsider was laid on the table.

Mr. Albert resumed the chair.

MR. ALBERT: The Chair requests the gentleman from Georgia, dean of the House, to administer the oath. Mr. Albert took the oath of office as Speaker pro tempore administered by Mr. Vinson.

On Jan. 10, 1966,⁽⁴⁾ Speaker John W. McCormack, of Massachusetts, was absent because of the death of his brother. Speaker McCormack designated in writing a Speaker pro tempore for the day. The designated Speaker pro tempore was elected Speaker pro tempore during the absence of the Speaker.⁽⁵⁾

4. 112 CONG. REC. 5, 6, 89th Cong. 2d Sess.
5. *Parliamentarian's Note:* Since the duration of The Speaker's absence was uncertain and since there were new Members present to be sworn, the House chose to elect a Speaker pro tempore.

. . . [T]he Members of Congress met in their hall, and at 12 o'clock were called to order by the Speaker pro tempore Hon. Carl Albert, a Representative from the State of Oklahoma.

The Speaker pro tempore (Mr. Albert) laid before the House the following communication:

THE SPEAKER'S ROOMS,
U.S. House of Representatives,
Washington, D.C.

I hereby designate the Honorable Carl Albert to act as Speaker pro tempore today.

JOHN W. McCORMACK,
Speaker.

* * * * *

THE SPEAKER PRO TEMPORE: The Chair requests the gentleman from Louisiana [Mr. Boggs] to assume the Chair.

Mr. Boggs assumed the Chair as Speaker pro tempore.

THE SPEAKER PRO TEMPORE: (Mr. Hale Boggs): The Chair recognizes the gentleman from New York [Mr. Keogh].

MR. [EUGENE J.] KEOGH: Mr. Speaker, on account of the unavoidable absence of The Speaker due to the death of his beloved brother, and at his request, I offer a resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 627

Resolved, That Hon. Carl Albert, a Representative from the State of Oklahoma, be, and he is hereby, elected Speaker pro tempore during the absence of The Speaker.

Resolved, That the President and the Senate be notified by the Clerk

of the election of the Honorable Carl Albert as Speaker pro tempore during the absence of The Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. Albert assumed the Chair as Speaker pro tempore and Mr. Celler administered the oath of office.

§ 13.—House Approval

The House rules provide:

[The Speaker] shall have the right to name any Member to perform the duties of the Chair, but such substitution shall not extend beyond three legislative days: *Provided*, however, That in case of his illness, he may make such appointment for a period not exceeding ten days, with the approval of the House at the time the same is made. . . .⁽⁶⁾

The approval of the House has been obtained by The Speaker pursuant to a unanimous-consent request where The Speaker, though not ill, wished to appoint a Speaker pro tempore who could serve beyond three legislative days⁽⁷⁾ and to allow a designated Speaker pro tempore to sign enrolled bills during the period of his designation.⁽⁸⁾

Because of this procedure's infrequent use in modern times it

6. Rule I clause 7 of the *House Rules and Manual* § 633 (1973).

7. See § 13.1, *infra*.

8. See § 13.2, *infra*.

appears that a Speaker will more often invite the election of a Speaker pro tempore when the necessity arises, thus enabling him to sign enrolled bills and joint resolutions and vesting in him the fuller powers of an elected officer.⁽⁹⁾

The President and Senate are notified when a designated Speaker pro tempore has been given the approval of the House.⁽¹⁰⁾

House Approval of Designated Speaker Pro Tempore

§ 13.1 On rare occasions a Speaker, though not ill, will designate a Speaker pro tempore and the House will approve the designation so that the designated Speaker pro tempore may serve beyond three legislative days.

On Apr. 7, 1930,⁽¹¹⁾ Speaker Nicholas Longworth, of Ohio, designated a Speaker pro tempore to serve for a three-day period and "thereafter" until his return from a brief vacation.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, I offer a resolution and ask its immediate consideration.

9. See § 14, *infra*.

10. See §§ 13.1, 13.2, *infra*.

11. 72 CONG. REC. 6661, 71st Cong. 2d Sess. See also 12.1, *supra*.

The Speaker: The gentleman from New York [Mr. Snell] offers a resolution, which the Clerk will report.

The Clerk read as follows:

Resolved, That the designation of Hon. John Q. Tilson, a Representative from the State of Connecticut, as Speaker pro tempore be approved by the House and that the President and the Senate be notified thereof.

THE SPEAKER: The question is on agreeing to the resolution.

The resolution was unanimously agreed to.

§ 13.2 A designated Speaker pro tempore must be formally approved by the House in order to sign enrolled bills during the period of time of his designation.

On Feb. 24, 1949,⁽¹²⁾ the designated Speaker pro tempore John W. McCormack, of Massachusetts, received the approval of the House in order that he might sign enrolled bills.

MR. [MIKE] MANSFIELD [of Montana]: Mr. Speaker, I offer a privileged resolution (H. Res. 116) and ask for its immediate consideration

The Clerk read the resolution, as follows:

Resolved, That the designation of Hon. John W. McCormack, a Representative from the State of Massachusetts, as Speaker pro tempore be approved by the House, and that the President of the United States and the Senate be notified thereof.

12. 95 CONG. REC. 1489, 81st Cong. 1st Sess.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Speaker, will the gentleman yield?

MR. MANSFIELD: I yield to the gentleman from South Dakota.

MR. CASE of South Dakota: As I understand, this is the customary resolution to meet a situation, so that bills may be duly enrolled and presented for signature?

MR. MANSFIELD: The gentleman is correct.

THE SPEAKER PRO TEMPORE: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER PRO TEMPORE: The Chair requests the gentleman from Montana [Mr. Mansfield] to administer the oath of office to the Chair.

Mr. Mansfield administered the oath of office as Speaker pro tempore to Mr. McCormack.

§ 14. Election of Speaker Pro Tempore

A House rule⁽¹³⁾ provides for the election of a Speaker pro tempore when The Speaker is absent and has omitted designating a Speaker pro tempore.

This rule has been rarely invoked. Ordinarily, The Speaker will invite the election of a Speaker pro tempore before leaving⁽¹⁴⁾

13. Rule I clause 7, *House Rules and Manual* § 633 (1973).

14. See §§ 14.3–14.5, *infra*.

or the House will elect a Speaker pro tempore after The Speaker has already designated one.⁽¹⁵⁾

A Speaker pro tempore is elected by formal resolution and the President and Senate are notified of his election.⁽¹⁶⁾

When a previously designated Speaker pro tempore is the Member who is to be elected Speaker pro tempore, he momentarily designates another Speaker pro tempore during the election process.⁽¹⁷⁾

An elected Speaker pro tempore is more than a “stand-in” Speaker. Indicative of this is the requirement that he swear a new oath upon his entering the office of Speaker pro tempore.⁽¹⁸⁾

Moreover, an elected Speaker pro tempore assumes a much greater scope of authority from The Speaker than a designated Speaker pro tempore. Being elected, he does not have to have the

15. See § 14. 6, *infra*.

Parliamentarian's Note: As the illustrations under § 14.6 indicate, normally the Member designated Speaker pro tempore by the Speaker is the person the House elects. However, the House has the inherent power, and has exercised it, to elect a person other than the Member so designated. See § 14.7, *infra*.

16. See §§ 14.1, 14.2, *infra*, respectively.

17. See §§ 14.6, 14.7, *infra*.

18. See § 11, *supra*.

unanimous consent of the House, as does the designated Speaker pro tempore, to carry out many of the more sensitive, but normal, duties that The Speaker would handle if present.⁽¹⁹⁾ He must, however, be authorized by the House to perform certain duties even though he has been elected by the House, and not simply designated by The Speaker.⁽²⁰⁾

Examples of the kinds of duties, powers, and functions assumed by an elected Speaker pro tempore from The Speaker include: administering the oath of office to new Members;⁽¹⁾ appointing conferees;⁽²⁾ appointing committees to wait on the President and to inform him that the session's work is completed;⁽³⁾ or that a quorum of both Houses is ready to receive his state of the Union message;⁽⁴⁾ signing enrolled bills and joint resolutions during the adjournment of the House;⁽⁵⁾ declaring recesses during a session;⁽⁶⁾ and

19. See §§ 14.8–14.12, *infra*.

20. See §§ 14.13–14.16, *infra*. See also § 4, *supra*, wherein it is indicated that the Speaker also must be authorized to sign enrolled bills and joint resolutions during the adjournment of the House.

1. See § 14.8, *infra*.
2. See §§ 14.9, 14.10, *infra*.
3. See § 14.11, *infra*.
4. See § 14.13, *infra*.
5. See § 14.14, *infra*.
6. See §§ 14.15, 14.16, *infra*.

presiding at a joint session of the Congress.⁽⁷⁾

Election by Resolution

§ 14.1 A Speaker pro tempore is elected by formal resolution.

On Apr. 15, 1958,⁽⁸⁾ Speaker pro tempore John W. McCormack, of Massachusetts, was elected by formal resolution to the office of Speaker pro tempore.

THE SPEAKER PRO TEMPORE: The Chair requests the gentleman from Oklahoma [Mr. (Carl) Albert] to assume the Chair.

Mr. Albert assumed the chair.

MR. [CHARLES M.] PRICE [of Illinois]: Mr. Speaker, I offer a resolution which I send to the Clerk's desk.

The Clerk read as follows:

HOUSE RESOLUTION 527

Resolved, etc., That Hon. John W. McCormack, a Representative from the State of Massachusetts, be, and he is hereby, elected Speaker pro tempore during the absence of The Speaker.

Resolved. That the President and the Senate be notified by the Clerk of the election of Hon. John W. McCormack as Speaker pro tempore during the absence of The Speaker.

THE SPEAKER PRO TEMPORE [Mr. Albert]: The question is on the resolution.

7. See § 14.12, *infra*.

8. 104 CONG. REC. 6436, 85th Cong. 2d Sess.

The resolution was agreed to and a motion to reconsider was laid on the table.

Notification of President and Senate

§ 14.2 The President and the Senate are notified by the Clerk of the election of a Speaker pro tempore.

On Apr. 15, 1958,⁽⁹⁾ House Resolution 527 was offered to elect the Speaker pro tempore John W. McCormack, of Massachusetts, as Speaker pro tempore during the absence of the Speaker:

MR. [CHARLES M.] PRICE [of Illinois]: Mr. Speaker, I offer a resolution. . . .

Resolved, That Hon. John W. McCormack, a Representative from the State of Massachusetts, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of the Hon. John W. McCormack as Speaker pro tempore during the absence of the Speaker.

The resolution was adopted.

Election by Invitation of Speaker

§ 14.3 A Speaker who is ill may, under House practice, invite the election of a Speaker pro tempore to

9. 104 CONG. REC. 6436, 85th Cong. 2d Sess.

serve during the absence of the Speaker.

On Apr. 2, 1940,⁽¹⁰⁾ Speaker William B. Bankhead, of Alabama, having contracted a case of influenza, invited the election of a Speaker pro tempore.

THE SPEAKER: The Chair desires to make a brief personal statement to the House.

I dislike very much to do so, but, unfortunately, a few weeks ago I contracted a very severe case of influenza which seems to be holding on to me with great tenacity. My physician has advised me to take a little rest, and I am sure the Members of the House will be pleased to accord me this privilege.

Mr. [John W.] McCormack [of Massachusetts]: Mr. Speaker, I offer a resolution and ask for its immediate consideration.

The Clerk read as follows:

HOUSE RESOLUTION 451

Resolved, That Hon. Sam Rayburn, a Representative from the State of Texas, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. Sam Rayburn as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to, and a motion to reconsider was laid on the table.

§ 14.4 A Speaker who is not ill and who has not designated

10. 86 CONG. REC. 3846, 76th Cong. 3d Sess.

a Speaker pro tempore may invite the election of a Speaker pro tempore.

On Mar. 24, 1944,⁽¹¹⁾ Speaker Sam Rayburn, of Texas, invited the election of a Speaker pro tempore.

THE SPEAKER: The Chair desires to make a statement.

The Chair hopes by next Thursday a concurrent resolution will be passed recessing the Congress over until the 11th or 12th of April. It will be impossible for the present occupant of the chair to be in Washington next week, and therefore he has asked the gentleman from Georgia [Mr. (Robert C. W.) Ramspeck] to offer a resolution.

MR. RAMSPECK: Mr. Speaker, I offer the following resolution (H. Res. 483) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That Hon. John W. McCormack, a Representative from the State of Massachusetts, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. John W. McCormack as Speaker pro tempore during the absence of the Speaker. The resolution was agreed to.

§ 14.5 A Speaker pro tempore may be elected for reasons other than the illness of the Speaker.

11. 90 CONG. REC. 3114, 78th Cong. 2d Sess.

On May 21, 1937,⁽¹²⁾ Speaker William B. Bankhead, of Alabama, desiring to deliver a commencement address at the University of Alabama, invited the election of a Speaker pro tempore during that period of time when he would be absent.

THE SPEAKER: The Chair would like to make a brief statement.

I have accepted an invitation to deliver the commencement address at the University of Alabama, my alma mater, on Monday next. While I am that far away, very candidly, I will state to you gentlemen that I should like the privilege of remaining at my home for just a few days. Under the rules of the House I could appoint a Speaker pro tempore for three days, but under the circumstances, by the indulgence of the House, I have requested the gentleman from Texas, the majority leader [Sam Rayburn], to introduce a resolution touching on the question.

MR. RAYBURN: Mr. Speaker, I send to the Clerk's desk a resolution at the request of the Speaker.

The Clerk read as follows:

HOUSE RESOLUTION 218

Resolved, That Hon. Lindsay C. Warren, a Representative from the State of North Carolina, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. Lindsay C.

12. 81 CONG. REC. 4898, 75th Cong. 1st Sess.

Warren as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to, and a motion to reconsider was laid on the table.

On July 1, 1939,⁽¹³⁾ Speaker William B. Bankhead, of Alabama, invited the election of a Speaker pro tempore while he took a period of recreation and rest.

THE SPEAKER: The Speaker desires the indulgence of the House to make a personal statement.

It is realized that we have been in continuous session now for six months and it has been a rather arduous, strenuous session of the House. Under our system of government, The Speaker of the House cannot make visits of recreation or take a rest, except by the indulgence of the membership. I must confess I am a little bit tired. Next week will not be a tremendously heavy week, so far as our legislative program is concerned, and I have therefore requested the gentleman from North Carolina [Mr. (Robert L.) Doughton] to introduce a resolution which will give me a short leave of absence.

MR. DOUGHTON: Mr. Speaker, I submit a resolution and ask for its immediate consideration.

The Clerk read the resolution as follows:

HOUSE RESOLUTION 240

Resolved, That Hon. Sam Rayburn, a Representative from the State of Texas, be, and he is hereby, elected

13. 84 CONG. REC. 8520, 8521, 76th Cong. 1st Sess.

Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. Sam Rayburn as Speaker pro tempore during the absence of The Speaker.

The resolution was agreed to.

On Aug. 15, 1941,⁽¹⁴⁾ Speaker Sam Rayburn, of Texas, invited the election of a Speaker pro tempore when he desired to leave for a short vacation beyond 10 days.

THE SPEAKER: The Chair desires at this time to make a short statement. As you all know, for something like three years, and especially the last 19½ months, the Chair has been very closely tied to Washington. Although I have enjoyed hugely being here with you ladies and gentlemen, I do have the very great desire of for a few days sniffing a different atmosphere.

I am homesick. I want to go home tomorrow. To all of you who go home—and I hope you do—I trust you will find things fine at home and that you will come back with a renewed vigor, imbued again with the sentiment of your constituents. . . .

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Speaker, in offering the following resolution for the election of a Speaker pro tempore and asking for its immediate consideration I know I state the sentiments of all the Members when I say that I hope that you have a most enjoyable rest in your white house and in future White Houses.

The Clerk read the resolution (H. Res. 298), as follows:

14. 87 CONG. REC. 7194, 7195, 77th Cong. 1st Sess.

Resolved, That Hon. Clifton A. Woodrum, a Representative from the State of Virginia, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. Clifton A. Woodrum as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

THE SPEAKER: The gentleman from Virginia [Mr. Woodrum] will present himself at the bar of the House for the purpose of taking the oath.

Mr. Woodrum of Virginia took the oath of office as Speaker pro tempore.

On June 9, 1949,⁽¹⁵⁾ Speaker Sam Rayburn, of Texas, invited the election of a Speaker pro tempore when he desired to be away for two days and where the signing of enrolled bills would be necessary.

THE SPEAKER: It will not be possible for The Speaker to be here on Monday or Tuesday of next week. For that reason, the Chair recognizes the gentleman from Tennessee [Mr. (Albert A.) Gore].

MR. GORE: Mr. Speaker, I offer a resolution (H. Res. 243) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That Hon. John W. McCormack, a Representative from the State of Massachusetts, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

15. 95 CONG. REC. 7509, 81st Cong. 1st Sess.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. John W. McCormack as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER: This action is taken for two reasons: First, The Speaker will not be here Monday and Tuesday, and the immediate necessity is that there might be some enrolled bills that must be signed.

Mr. McCormack appeared at the bar of the House and took the oath of office.

Member Elected

§ 14.6 When the need arises for an elected Speaker pro tempore, the designated Speaker pro tempore normally, but not always, is the person elected.

On Mar. 15, 1966,⁽¹⁶⁾ Speaker John W. McCormack, of Massachusetts, having designated Representative Carl Albert, of Oklahoma, as Speaker pro tempore, a resolution was introduced to elect Mr. Albert as Speaker pro tempore during the absence of the Speaker.

MR. [EUGENE J.] KEOGH [of New York]: Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

16. 112 Cong. Rec. 5823, 5824, 89th Cong. 2d Sess.

The Clerk read the resolution as follows:

H. RES. 779

Resolved, That Hon. Carl Albert, a Representative from the State of Oklahoma, be, and he is hereby, elected Speaker pro tempore during the absence of The Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of the Honorable Carl Albert as Speaker pro tempore during the absence of The Speaker.

MR. KEOGH: Mr. Speaker, I want to mention that this resolution is being offered at the request of the distinguished Speaker of the House of Representatives.

THE SPEAKER PRO TEMPORE: (Mr. [Wilbur D.] Mills [of Arkansas]):⁽¹⁷⁾ The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. Albert assumed the Chair and the oath of office was administered to him by Mr. [Emanuel] Celler, a Representative from the State of New York.⁽¹⁸⁾

17. *Parliamentarian's Note*: Mr. Mills was designated as Speaker pro tempore during the election of the Speaker pro tempore Carl Albert.

18. *Parliamentarian's Note*: Speaker McCormack left for Boston at 4:30 p.m. on Mar. 15, 1966, to address a joint session of the Massachusetts General Court (the legislature) on Mar. 16 and participated in St. Patrick's Day festivities on the 17th. Mr. Albert was elected as Speaker pro tempore so that he could sign the Tax Adjustment Act of 1966 (H.R.

§ 14.7 On rare occasions a Member other than the one designated Speaker pro tempore by The Speaker is elected Speaker pro tempore by the House.

On Aug. 31, 1961,⁽¹⁹⁾ the House was called to order by Speaker pro tempore Carl Albert, of Oklahoma, who laid before the House a letter from Speaker Sam Rayburn, of Texas. The proceedings were as follows:

THE SPEAKER PRO TEMPORE: The Chair lays before the House a communication [from Speaker Rayburn] which the Clerk will read.

The Clerk read as follows:

THE SPEAKER'S ROOMS,
U.S. House of Representatives,
Washington, D.C.

I hereby designate the Hon. Carl Albert to act as Speaker pro tempore today.

SAM RAYBURN,
Speaker.

* * * * *

MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Speaker, I send to the Speaker's table a resolution (H. Res. 445) and ask for its immediate consideration.

The resolution called for the election of Representative John W. McCormack, of Massachusetts,

12752), which the President wanted to sign later that day.

19. 107 CONG. REC. 17765, 17766, 87th Cong. 1st Sess.

as Speaker pro tempore during the absence of the Speaker. The resolution was agreed to.

Mr. McCormack assumed the Chair and the oath of office was administered to him.⁽²⁰⁾

Duties, Powers, Functions

§ 14.8 In the absence of the Speaker, an elected Speaker pro tempore administers the oath of office to new Members, without the requirement of unanimous consent of the House.

On Jan. 10, 1966,⁽¹⁾ elected Speaker pro tempore Carl Albert, of Oklahoma, administered the oath of office to new Members without the requirement of unanimous consent of the House.⁽²⁾

§ 14.9 An elected Speaker pro tempore appoints conferees

20. *Parliamentarian's Note:* Speaker Rayburn last presided over the House on Wednesday, Aug. 30, 1961, during a call of Calendar Wednesday business. Because of illness, he departed for his home in Bonham, Tex., on the morning of Aug. 31. Speaker Rayburn died there on Nov. 16, 1961.

1. 112 CONG. REC. 6, 89th Cong. 2d Sess.
2. *Parliamentarian's Note:* The Congressional Record does not explicitly refer to the administration of the oath of office to the new Members by the elected Speaker pro tempore, but such in fact did take place.

without the requirement of the unanimous consent of the House.

On Sept. 20, 1961,⁽³⁾ elected Speaker pro tempore John W. McCormack, of Massachusetts, appointed conferees for the House without requesting the unanimous consent of the House to make such appointments.

MR. [JOHN L.] McMILLAN [of South Carolina]: Mr. Speaker, I ask unanimous consent that the gentleman from Mississippi [Mr. Abernethy] be excused as a conferee on the bill H.R. 5968, and that another Member be designated as a conferee in his place.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from South Carolina?

There was no objection.

THE SPEAKER PRO TEMPORE: The Chair appoints to the committee of conference the gentleman from Alabama [Mr. Huddleston] vice the gentleman from Mississippi [Mr. Abernethy].

The Clerk will notify the Senate of the appointment by the Speaker pro tempore.

§ 14.10 An elected Speaker pro tempore appoints successor conferees without the requirement of unanimous consent of the House.

On Sept. 5, 1961,⁽⁴⁾ elected Speaker pro tempore John W.

3. 107 CONG. REC.. 20491, 87th Cong. 1st Sess.
4. 107 CONG. REC. 18183, 87th Cong. 1st Sess.

McCormack, of Massachusetts, appointed a successor conferee to replace a Member who was resigning as a conferee. He laid before the House the Member's letter of resignation, saying:

The Chair appoints the gentleman from Michigan, Mr. Meader, as a manager on the part of the House at the conference on S. 1653, vice the gentleman from New York, Mr. Miller, who has been excused; and the Clerk will notify the Senate thereof.

§ 14.11 An elected Speaker pro tempore appoints a committee to wait on the President and inform him that the House has completed the business of the session and is ready to adjourn.

On Sept. 27 (legislative day, Sept. 25), 1961,⁽⁵⁾ the House agreed on a resolution enabling elected Speaker pro tempore John W. McCormack, of Massachusetts, to appoint a committee to wait on the President to notify him that the two Houses had completed the business of the session and were ready to adjourn unless the President had some other communication to make to the Congress. After the House had agreed to a resolution for the appointment of the committee, the Speaker pro tempore declared:

The Chair appoints the gentleman from Oklahoma [Mr. Albert] and the

gentleman from Illinois [Mr. Arends] to wait on the President.

§ 14.12 An elected Speaker pro tempore presides at a joint session of Congress to hear an address by the President.

On June 10, 1952,⁽⁶⁾ elected Speaker pro tempore John W. McCormack, of Massachusetts, presided at the joint session of the Congress to hear an address by President Harry S. Truman on the crisis in the steel industry.

The recess having expired, the House was called to order by the Speaker pro tempore at 12 o'clock and 24 minutes p.m. . . .

The Speaker pro tempore presided.

. . . [T]he Vice President took the chair at the right of the Speaker pro tempore. . . .

THE SPEAKER PRO TEMPORE: On the part of the House the Chair appoints as members of the committee to escort the President of the United States into the Chamber, the gentleman from Tennessee, Mr. Priest; the gentleman from North Carolina, Mr. Doughton; and the gentleman from Massachusetts, Mr. Martin.

THE VICE PRESIDENT [Alben W. Barkley, of Kentucky]: On the part of the Senate, the Chair appoints as members of the committee of escort the Senator from Arizona, Mr. McFarland; the Senator from New Hampshire, Mr. Bridges; and the Senator from South Carolina, Mr. Maybank. . . .

5. 107 CONG. REC. 21518, 21528, 87th Cong. 1st Sess.

6. 98 CONG. REC. 6928-30, 82d Cong. 2d Sess.

At 12:30 o'clock p.m. the Doorkeeper announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives and stood at the Clerk's desk. [Applause, the Members rising.]

THE SPEAKER PRO TEMPORE: Members of the Congress, I have the distinguished honor of presenting to you the President of the United States.

THE PRESIDENT: Mr. President, Mr. Speaker, Members of the Congress, I should like to report to the Congress on certain events that have happened in connection with the current dispute in the steel industry since I last communicated with Congress on that subject. . . .

At 12 o'clock; and 50 minutes p.m., the President, accompanied by the committee of escort, retired from the Hall of the House of Representatives. . . .

THE SPEAKER PRO TEMPORE: The Chair declares the joint session of the two Houses now dissolved.

Thereupon (at 12 o'clock and 52 minutes p.m.) the joint session of the two Houses was dissolved.

Actions Requiring Authorization

§ 14.13 Even though the Speaker pro tempore is elected, he must be authorized by resolution to appoint a committee to notify the President that a quorum of each House has assembled and is

ready to receive his state of the Union message.

On Jan. 10, 1966,⁽⁷⁾ elected Speaker pro tempore Carl Albert, of Oklahoma, pursuant to a resolution authorizing him to do so, appointed a committee to notify the President that a quorum of each House had assembled and that the Congress was ready to receive any communication that he may be pleased to make.

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, I offer a preferential resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 628

Resolved, That a committee of three members be appointed by the Speaker pro tempore on the part of the House of Representatives to join with the committee on the part of the Senate, to notify the President of the United States that a quorum of each House is assembled, and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER PRO TEMPORE: The Chair appoints as members of the committee on the part of the House to join with the committee on the part of the Senate to notify the President of the United States that a quorum of each

7. 112 CONG. REC. 6, 89th Cong. 2d Sess.

House is assembled and that the Congress is ready to receive any communication he may be pleased to make, the gentleman from Louisiana [Mr. Boggs], the gentleman from New York [Mr. Celler], and the gentleman from Michigan [Mr. Gerald R. Ford].

§ 14.14 Even though the Speaker pro tempore is elected, he must be authorized to sign enrolled bills and joint resolutions during an adjournment of the House.

On July 7, 1958,⁽⁸⁾ Speaker Sam Rayburn, of Texas, designated John W. McCormack, of Massachusetts, Speaker pro tempore in writing. That same day Speaker pro tempore McCormack was elected Speaker pro tempore during the absence of the Speaker.

On July 10, 1958,⁽⁹⁾ unanimous consent was requested that notwithstanding the adjournment of the House Speaker pro tempore McCormack be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until Monday next, the clerk be authorized to receive messages

8. 104 CONG. REC. 13061, 85th Cong. 2d Sess.

9. 104 CONG. REC. 13418, 85th Cong. 2d Sess.

from the Senate and that the Speaker pro tempore be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

On Sept. 21, 1961,⁽¹⁰⁾ unanimous consent was requested that notwithstanding the adjournment of the House, elected Speaker pro tempore John W. McCormack, of Massachusetts, be authorized to sign enrolled bills and joint resolutions during the adjournment.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until tomorrow, the Speaker pro tempore [Mr. McCormack] be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

§ 14.15 Even though a Speaker pro tempore is elected, in the absence of the Speaker he must be authorized to declare recesses during a session.

On Aug. 31, 1961, the Honorable John W. McCormack, of Mas-

10. 107 CONG. REC. 20572, 87th Cong. 1st Sess.

sachusetts, was elected as Speaker pro tempore in the absence of Speaker Sam Rayburn, of Texas, because of illness.

On Sept. 16, 1961,⁽¹¹⁾ a unanimous-consent request was offered by Representative Carl Albert, of Oklahoma, enabling Speaker pro tempore McCormack to declare recesses subject to the call of the Chair during the rest of the session.

MR. ALBERT: And if the gentleman will yield for the purpose, I would like also to ask unanimous consent that any time during the remainder of this session it may be in order for the Speaker pro tempore to declare recesses subject to the call of the Chair.

. . .

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, reserving the right to object, may I say in connection with this request that this matter has been called to my attention. It is standard procedure as we come up to the end of a session. I sincerely hope it is not objected to, because its adoption will very materially expedite the business of the House of Representatives to the objective of sine die adjournment.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Oklahoma?

11. 107 CONG. REC. 19800, 87th Cong. 1st Sess.

There was no objection

§ 14.16 An elected Speaker pro tempore who is authorized to declare recesses at any time during the remainder of a session may declare a recess despite an objection to a unanimous-consent request that the House adjourn.

On Sept. 23 (legislative day, Sept. 22), 1961,⁽¹²⁾ unanimous consent was requested to adjourn to meet at an hour other than that prescribed as the daily hour of meeting. When objection was heard, elected Speaker pro tempore John W. McCormack, of Massachusetts, declared a recess.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 o'clock a.m. tomorrow.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Oklahoma?

MR. [H. CARL] ANDERSEN of Minnesota: I object. . . .

THE SPEAKER PRO TEMPORE: The House will stand in recess until 10 o'clock tomorrow morning.

12. 107 CONG. REC. 20854, 20867, 87th Cong. 1st Sess.

C. HOUSE OFFICERS

§ 15. Qualifications

This division⁽¹³⁾ discusses the officers of the House (other than the Speaker and Speaker pro tempore)—the Clerk, Sergeant at Arms, Doorkeeper, Postmaster⁽¹⁴⁾ and Chaplain; it discusses their election,⁽¹⁵⁾ compensation,⁽¹⁶⁾ duties,⁽¹⁷⁾ and the problem of vacancies and the selection of successors.⁽¹⁸⁾

Every officer of the Congress is authorized to determine the qualifications of all individuals before appointing them to subordinate positions and to discipline any employee under his supervision.⁽¹⁹⁾ And any officer who violates the statutory prohibitions

13. Generally see 1 Hinds' Precedents Ch. 6 and 6 Cannon's Precedents Ch. 153, for precedents prior to 1936 which relate to House officers.

14. The Postmaster, whose duties are outlined in Rule VI of the *House Rules and Manual* § 654 (1973), is an officer of the House. See 1 Hinds' Precedents §§ 269–271 and 6 Cannon's Precedents § 34.

15. See § 16, *infra*.

16. See § 17, *infra*.

17. See §§ 18–21, *infra*.

18. See § 22, *infra*.

See also Ch. 37, *infra*, relating to resignations, and Ch. 38, *infra*, relating to deaths of officers.

19. 2 USCA § 60–1(a).

against assigning employees to positions for which they were not appointed,⁽²⁰⁾ against dividing salaries,⁽¹⁾ or against subletting duties of employees⁽²⁾ may be removed from office.⁽³⁾

The House rules provide that no person who is an agent for the prosecution of any claim against the government, or who is interested in such claim other than as an original claimant, may serve as an officer or continue as an employee of the House.⁽⁴⁾

§ 16. Election

Although the Constitution⁽⁵⁾ provides that, “The House . . . shall choose their Speaker and other officers . . .”, it neither names the officers nor sets forth their method of selection. This gap has been filled by Rule II of the *House Rules and Manual* which provides that the Clerk, Sergeant at Arms, Doorkeeper, Postmaster, and Chaplain shall be elected “by viva voce vote” at the commence-

20. 2 USC § 85.

1. 2 USC § 86.

2. 2 USC § 87.

3. 2 USCA § 90.

4. Rule XLI, *House Rules and Manual* § 937 (1973).

5. U.S. Const. art. I, § 2.

ment of each Congress.⁽⁶⁾ Despite this language, officers are usually chosen by resolution.⁽⁷⁾

At the commencement of a Congress, each party's caucus selects one nominee for each office.⁽⁸⁾ The majority submits its slate of nominees and the minority usually submits a substitute resolution containing its slate.⁽⁹⁾ The House then votes on these resolutions. Because of this practice, officers are actually chosen by party caucuses.

Procedure at Commencement of Congress

§ 16.1 The House elects its officers by resolution.

At the commencement of the 92d Congress, the chairman of the majority party caucus offered a resolution containing names of persons selected by it to serve as House officers:⁽¹⁰⁾

6. See 1 Hinds' Precedents § 187 for origin of the provision dealing with viva voce vote.
7. See §§ 16.1 et seq.
8. See Ch. 3, supra, for a discussion of the nomination of House officers in the party caucus.
9. See for example, § 16.1, infra, for an instance in which resolutions were offered. But see 111 CONG. REC. 20, 89th Cong. 1st Sess., Jan. 4, 1965, in which the minority did not offer a substitute resolution.
10. 117 CONG. REC. 13, 92d Cong. 1st Sess., Jan. 21, 1971.

MR. [OLIN E.] TEAGUE of Texas [Chairman of the Democratic Caucus]: Mr. Speaker, I offer a resolution (H. Res. 1) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1

Resolved, That W. Pat Jennings, of the Commonwealth of Virginia, be, and he is hereby, chosen Clerk of the House of Representatives;

That Zeake W. Johnson, Jr., of the State of Tennessee, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives;

That William M. Miller, of the State of Mississippi, be, and he is hereby, chosen Doorkeeper of the House of Representatives;

That H. H. Morris, of the Commonwealth of Kentucky, be, and he is hereby, chosen Postmaster of the House of Representatives;

That Reverend Edward O. Latch D.D., of the District of Columbia, be, and he is hereby, chosen Chaplain of the House of Representatives.

Following introduction of this resolution, the chairman of the minority party caucus,⁽¹¹⁾ offered a substitute amendment containing the names of persons selected by the minority caucus to serve as officers:

MR. [JOHN B.] ANDERSON of Illinois [Chairman of the Republican Conference]: Mr. Speaker, I offer a substitute amendment. . . .

The Clerk read the substitute amendment, as follows:

11. Compare 111 CONG. REC. 20, 89th Cong. 1st Sess., Jan. 4, 1965, for an instance in which the minority did not offer a substitute amendment.

Amendment offered by Mr. Anderson of Illinois as a substitute for the remainder of House Resolution 1:

Resolved, That Joe Bartlett, of the State of Ohio, be, and he is hereby, chosen Clerk of the House of Representatives;

"That Robert T. Hartmann, of the State of Maryland, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives;

"That William R. Bonsell, of the Commonwealth of Pennsylvania, be, and he is hereby, chosen Doorkeeper of the House of Representatives;

"That Tommy Lee Winebrenner, of the State of Indiana, be, and he is hereby, chosen Postmaster of the House of Representatives."

After the substitute amendment was offered, the Speaker called for votes first on the amendment and then on the majority resolution:

THE SPEAKER [John W. McCormack, of Massachusetts]: The question is on the substitute amendment.

The substitute amendment was rejected.

THE SPEAKER: The question is on the resolution offered by the gentleman from Texas (Mr. Teague).

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER: Will the officers elected present themselves at the bar of the House and take the oath of office?

The officers-elect presented themselves at the bar of the House and took the oath of office.

§ 16.2 Where the minority does not contest the majority's nominee for Chaplain, it may request a separate vote for that office.

Under the normal procedure for electing House officers, the chairman of the majority caucus offers a resolution which contains the names of the party's nominees for officers. The chairman of the minority caucus offers a substitute resolution containing the names of his party's nominees. However, when the minority does not contest the majority's nominee for a particular office, the chairman of the minority caucus may ask for a division of the House so that Members may have a separate vote on the uncontested office.

For example, on Jan. 10, 1967,⁽¹²⁾ and Jan. 3, 1969,⁽¹³⁾ members of the minority, Mr. Leslie C. Arends, of Illinois, and Mr. John B. Anderson, of Illinois, respectively, requested a division on the resolution so that a separate and unanimous vote could be held for the office of the Chaplain because the minority caucus, the Republican Conference, did not offer a candidate for that office. Thus, Mr. Anderson made the following statement.⁽¹⁴⁾

MR. ANDERSON of Illinois [Chairman of the Republican Conference]: Mr.

12. 113 CONG. REC. 27, 90th Cong. 1st Sess.

13. 115 CONG. REC. 35, 91st Cong. 1st Sess.

14. 115 CONG. REC. 34, 91st Cong. 1st Sess., Jan. 3, 1969.

Speaker, I have a substitute to offer to the resolution [majority resolution for the election of officers], but before offering the substitute I request that there be a division on the question on the resolution so that we may have a separate vote on the office of Chaplain.

THE SPEAKER [John W. McCormack, of Massachusetts]: The gentleman from Illinois demands a division in relation to the election of the Chaplain.

The question is on agreeing to that portion of the resolution providing for the election of the Chaplain [which was agreed to]. . . .

Sergeant at Arms

§ 16.3 The Clerk has been elected to serve concurrently as Sergeant at Arms, following the death of the incumbent.

On July 8, 1953,⁽¹⁵⁾ following the death that day of the Sergeant at Arms, William F. Russell, a Member, Charles A. Halleck, of Indiana, offered and the House agreed to the following resolution (H. Res. 323):

Resolved, That Lyle O. Snader, of the State of Illinois, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives to serve in that capacity until another person is chosen by the House of Representatives to be and duly qualifies as Sergeant at Arms: *Provided*, That the said Lyle O. Snader shall serve as Sergeant at Arms notwithstanding his concurrent incum-

15. 99 CONG. REC. 8242, 83d Cong. 1st Sess.

bency as Clerk of the House of Representatives, but for his additional duties as Sergeant at Arms he shall receive no compensation additional to that he receives as Clerk of the House of Representatives.

On the same date, the House⁽¹⁶⁾ and Senate⁽¹⁷⁾ passed the following joint resolution (H.J. Res. 292):⁽¹⁸⁾

Resolved. That Lyle O. Snader, of the State of Illinois, be, and he is hereby, authorized, notwithstanding the provisions of any other law, to serve concurrently as Clerk and Sergeant at Arms of the House of Representatives until another person is chosen by the House of Representatives to be and duly qualifies as Sergeant at Arms; and while the said Lyle O. Snader is so serving the compensation received by him as Clerk of the House of Representatives shall be in full discharge for any services rendered by him to the House of Representatives during such period of concurrent services.

The joint resolution was offered in the House by Mr. Halleck, the Majority Leader.

§ 16.4 A temporary appointee to the office of Sergeant at Arms has been elected Sergeant at Arms.

16. *Id.*

17. 99 CONG. REC. 8203, 83d Cong. 1st Sess.

18. *Parliamentarian's Note*: This joint resolution was enacted to remove doubt about the necessity to pay dual compensation, a practice prohibited by statute (5 USC § 58). See also § 17.3, *infra*.

On Jan. 11, 1954,⁽¹⁹⁾ the House agreed to the following resolution:

Resolved, That William R. Bonsell of the State of Pennsylvania, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives.

Mr. Bonsell had served as acting Sergeant at Arms since appointment by the Speaker, pursuant to 2 USCA 75a-1(a), on Sept. 15, 1953.⁽²⁰⁾

§ 16.5 A Sergeant at Arms was elected following the resignation of the incumbent.

On Sept. 25, 1972,⁽¹⁾ the Sergeant at Arms, Zeake W. Johnson, Jr., of Tennessee, having tendered his resignation, Mr. Olin E. Teague of Texas, offered and the House agreed to the following resolution (H. Res. 1134):

Resolved, That Kenneth R. Harding of the Commonwealth of Virginia be, and he is hereby chosen Sergeant at Arms of the House of Representatives, effective on October 1, 1972.

Mr. Harding, the Sergeant at Arms-elect, presented himself at the bar of the House and took the oath of office.⁽²⁾

19. 100 CONG. REC. 134, 83d Cong. 2d Sess.

20. See §22.2, *infra*, for discussion of appointment of Mr. Bonsell as acting Sergeant at Arms.

1. 118 CONG. REC. 31999, 32000, 92d Cong. 2d Sess.

2. See §22.3, *infra*, for discussion of circumstances preceding the election of Mr. Harding.

Doorkeeper

§ 16.6 A Doorkeeper was elected following the death of the incumbent.

On Feb. 5, 1943,⁽³⁾ the House agreed to the following resolution:

Resolved, That Ralph R. Roberts, of the State of Indiana, be, and he is hereby, chosen Doorkeeper of the House of Representatives.

The incumbent Doorkeeper, Joseph J. Sinnott, had died on Jan. 27, 1943.⁽⁴⁾

Chaplain

§ 16.7 A Chaplain who resigned because of illness was elected Chaplain emeritus.

On Jan. 30, 1950,⁽⁵⁾ Mr. John W. McCormack, of Massachusetts, offered and the House agreed to the following House resolution (H. Res. 453):

Resolved, That immediately following his resignation as Chaplain of the House of Representatives, James Shera Montgomery be, and he is hereby, appointed Chaplain emeritus of the House of Representatives, with salary at the basic rate of \$2,350 per annum, payable monthly, to be paid out of the contingent fund

3. 89 CONG. REC. 634, 78th Cong. 1st Sess.

4. See 89 CONG. REC. 421, 78th Cong. 1st Sess., Jan. 28, 1943, for announcement of Doorkeeper's death.

5. 96 CONG. REC. 1095, 81st Cong. 2d Sess.

of the House until otherwise provided by law.⁽⁶⁾

§ 16.8 A Chaplain was elected following resignation of the incumbent.

On Jan. 30, 1950,⁽⁷⁾ Mr. Francis E. Walter, of Pennsylvania, offered and the House agreed to the following House resolution (H. Res. 454):

Resolved, That Rev. Bernard Braskamp, of the District of Columbia, be, and he is hereby, chosen Chaplain of the House of Representatives.

Rev. Braskamp succeeded Rev. Montgomery.

§ 16.9 A temporary appointee as Chaplain during one Congress was elected Chaplain at the commencement of the next Congress.

On Jan. 10, 1967,⁽⁸⁾ at the commencement of the 90th Congress,

6. After the House agreed to the above resolution, the Speaker laid before the House a letter of resignation from Rev. Montgomery which indicated that the reason for his action was illness. The resignation was accepted without objection.

See also 6 Cannon's Precedents §31, for letter of resignation of Rev. Henry N. Couden as Chaplain and House resolution electing him Chaplain emeritus. Rev. Montgomery succeeded Rev. Couden.

7. 96 CONG. REC. 1097, 81st Cong. 2d Sess.
8. 113 CONG. REC. 27, 90th Cong. 1st Sess.

Rev. Edward Gardiner Latch, D.D., L.H.D., who had served as acting Chaplain since his appointment on Mar. 14, 1966,⁽⁹⁾ was elected Chaplain of the House in an uncontested vote.

§ 17. Oath; Compensation

Rule II of the *House Rules and Manual* provides that each person who is elected to the office of Clerk,⁽¹⁰⁾ Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain, ". . . shall take an oath to support the Constitution of the United States, and for the true and faithful discharge of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House . . ." ⁽¹¹⁾

The officers of the House take the following oath:

I, AB, do solemnly swear (or affirm) that I will support and defend the Con-

9. See §22.4, *infra*, for appointment of Rev. Latch.
10. Administration of the oath to the Clerk by the Speaker is required by statute, 2 USC §25. Although the Speaker is not required to administer the oath to any other officer, he does so in practice (see 1 Hinds' Precedents §81).
11. See 1 Hinds' Precedents §187, indicating that the requirement that the officers be sworn to keep the secrets of the House is obsolete.

stitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God. (5 USCA §3331.)

The compensation of House officers is determined by statute, and adjustments thereto are sometimes effected by resolution. Statutes establish the compensation for the Clerk,⁽¹²⁾ Sergeant at Arms,⁽¹³⁾ Doorkeeper,⁽¹⁴⁾ Postmaster,⁽¹⁾ and Chaplain.⁽²⁾

The House by resolution has established,⁽³⁾ increased,⁽⁴⁾ and ad-

12. See 2 USCA §60e-13, which provides that compensation of the Clerk of the House of Representatives shall equal that of the Secretary of the Senate and Sergeant at Arms of the Senate.

13. See 2 USCA §60e-13, which provides that compensation of the Sergeant at Arms of the House shall equal that of the Secretary of the Senate and Sergeant at Arms of the Senate.

2 USCA §77 provides that the Sergeant at Arms shall receive no compensation in addition to the salary prescribed by law.

14. See 2 USCA §76-1, which provides that the compensation of the House Doorkeeper shall equal that of the Clerk and Sergeant at Arms of the House.

1. 2 USCA §84-1.

2. 2 USCA §84-2.

3. See §17.4, *infra*.

4. See §17.5, *infra*.

justed the amount of an officer's compensation;⁽⁵⁾ and it has by the same method suspended statutory salaries and replaced them with an administrative schedule.⁽⁶⁾ Resolutions have also been passed to prevent payment of dual compensation to one person who held two offices concurrently.⁽⁷⁾

Oath

§ 17.1 An officer elected to hold an additional office concurrently takes a separate oath for the additional office.

When he was chosen to serve concurrently as Sergeant at Arms on July 8, 1953,⁽⁸⁾ Lyle O. Snader, of Illinois, appeared at the bar of the House to take the oath as Sergeant at Arms notwithstanding the fact that he had taken an oath when he was elected Clerk.

§ 17.2 A person elected as a permanent officer appears at

5. See §17.6, *infra*.

6. See §17.7, *infra*.

7. See §17.3, *infra*, for joint resolution and §16.3, *supra*, for simple resolution disallowing dual compensation to the clerk during the period he served concurrently as Sergeant at Arms.

8. 99 CONG. REC. 8242, 83d Cong. 1st Sess.

See §16.3, *supra*, for a discussion of election of the clerk as Sergeant at Arms.

the bar of the House to take the oath administered by the Speaker.⁽⁹⁾

Parliamentarian's Note: As a general rule, a person designated by the Speaker to act as a temporary officer pursuant to 2 USCA § 75a-1 does not appear at the bar of the House to take the oath but subscribes to it in writing when he accepts the appointment.⁽¹⁰⁾

Compensation

§ 17.3 The House and Senate by joint resolution have prevented payment of dual compensation to a person who held two offices.

On July 8, 1953, the House⁽¹¹⁾ and Senate⁽¹²⁾ passed the following joint resolution (H.J. Res. 292:⁽¹³⁾

9. See for example 96 CONG. REC. 1311, 81st Cong. 2d Sess., Feb. 1, 1950, administration of oath to Rev. Bernard Braskamp after election as Chaplain of the House.
10. But see § 22.3, *infra*, for a discussion of appointment of Zeake W. Johnson, Jr., as temporary Sergeant at Arms following his resignation as Sergeant at Arms. On that occasion, Mr. Johnson appeared at the bar of the House to take the oath as acting Sergeant at Arms from Speaker Carl Albert (Okla.).
11. 99 CONG. REC. 8242, 83d Cong. 1st Sess.
12. *Id.* at p. 8203.
13. Pub. L. No. 83-106, 83d Congress, approved July 9, 1953, 67 Stat. 141.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Lyle O. Snader, of the State of Illinois, be, and he is hereby, authorized, notwithstanding the provisions of any other law, to serve concurrently as Clerk and Sergeant-at-Arms of the House of Representatives until another person is chosen by the House of Representatives to be and duly qualifies as Sergeant-at-Arms; and while the said Lyle O. Snader is so serving the compensation received by him as Clerk of the House of Representatives shall be in full discharge for any services rendered by him to the House of Representatives during such period of concurrent service.

Parliamentarian's Note: Because a statute (5 USCA § 58) prohibited anyone from receiving dual compensation from the government, the joint resolution was enacted to remove all doubt of the necessity to pay dual compensation, which if paid or required to be paid, might have made it illegal for one person to occupy two offices. A House resolution was also passed on this occasion.⁽¹⁴⁾

§ 17.4 The House has established a base rate of compensation for an officer to be paid as long as the office is held by the present incumbent.

14. See § 16.3, *supra*, for a discussion of the clerk's election as Sergeant at Arms and the House resolution offered on this occasion.

On Feb. 2, 1961,⁽¹⁵⁾ a Member, John W. McCormack, of Massachusetts, offered and the House agreed to the following resolution (H. Res. 138):

Resolved, That effective February 1, 1961, the basic compensation of the Deputy Sergeant at Arms (charge of pairs), Office of the Sergeant at Arms, shall be at the rate of \$7,000 per annum so long as held by the present incumbent. The additional amounts necessary to carry out this resolution shall be paid out of the contingent fund until otherwise provided by law.

§ 17.5 The House has provided additional compensation for an officer to be paid as long as the office is held by the present incumbent.

On July 31, 1953,⁽¹⁶⁾ a Member, Karl M. LeCompte, of Iowa, offered and the House agreed to the following resolution (H. Res. 355):

Resolved, That effective August 1, 1953, there shall be paid out of the contingent fund of the House until otherwise provided by law additional compensation at the gross rate of \$1,254 per annum to the Chaplain of the House of Representatives so long as the position is held by the present incumbent.

§ 17.6 The House by simple resolution has adjusted a salary established by statute.

15. 107 CONG. REC. 1682, 87th Cong. 1st Sess.

16. 99 CONG. REC. 10671, 83d Cong. 1st Sess.

On Mar. 31, 1965,⁽¹⁷⁾ a Member, Carl Albert, of Oklahoma, offered and the House agreed to the following resolution (H. Res. 313):

Resolved, That, effective April 1, 1965, the compensation of the Chaplain of the House of Representatives shall be at a gross per annum rate which is equal to the gross per annum rate of compensation of the Chaplain of the Senate. The additional sums necessary to carry out this resolution shall be paid out of the contingent fund of the House until otherwise provided by law.

Parliamentarian's Note: This resolution was intended to remove the inequity in the Federal Employee's Salary Act of 1964 which increased the salary of the House Chaplain from \$10,000 to \$12,500 (2 USCA § 84-2) while at the same time raising the salary of the Chaplain of the Senate to \$15,000 (2 USCA § 61d).

§ 17.7 The House by simple resolution has suspended fixed salaries for certain officers and substituted an administrative compensation schedule.

On Oct. 4, 1972,⁽¹⁸⁾ a Member, Wayne L. Hays, of Ohio, on behalf of the Committee on House Administration, offered and the

17. 111 CONG. REC. 6412, 89th Cong. 1st Sess.

18. 118 CONG. REC. 33744, 92d Cong. 2d Sess.

House passed the following resolution (H. Res. 890):

Resolved, That, (a) until otherwise provided by law, the per annum gross rate of compensation of the Clerk, the Doorkeeper, the Sergeant at Arms, and the Chief of Staff of the Joint Committee on Internal Revenue Taxation of the House of Representatives, shall be equal to the annual rate of basic pay fixed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) Until otherwise provided by law, such amounts as may be necessary to carry out subsection (a) of this resolution shall be paid out of the contingent fund of the House of Representatives.

(c) This resolution shall become effective on the effective date of the first adjustment, following the effective date of this resolution, in the annual rate of basic pay of offices and positions under the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

In offering the resolution, the Chairman of the Committee on House Administration, Mr. Hays, explained:

. . . [T]he intent of the resolution is that if and when there is another adjustment in salaries of Members of Congress that the officers mentioned herein will be placed in a lower grade level so that there will be a wider gap between the salary of the Doorkeeper and that of a Member of Congress. At the present time the salary of a Member of Congress, as the gentleman from Missouri well knows, is \$42,500. The Doorkeeper's salary is \$40,000. There has been a lot of criticism and comment. This does not do anything to him and the others now. It does not do

anything to him and others until and unless there is an increase in the income of Members, and then it puts them at a lower level.

For example, if a Member of Congress say—and I am picking a figure out of the air—went up to \$47,500, the Office of Doorkeeper would go up to something like \$42,000 instead of \$45,000.

The provisions of this resolution relating to compensation of the Clerk, Sergeant at Arms, and Doorkeeper were enacted as Public Law No. 92-607, Oct. 31, 1972, 86 Stat. 1509.

§ 18. Duties of the Clerk

The duties of the Clerk are prescribed by statute and by the rules of the House.⁽¹⁹⁾ The Clerk's responsibilities include (1) preparing for and presiding at the commencement of Congress and after the death of a Speaker;⁽²⁰⁾ (2) assisting the House in legislative and nonlegislative business;⁽¹⁾ (3) receiving and submit-

19. See Rule III, House Rules and Manual §§637-647 (1973) for general duties of the Clerk.

20. See Rule III clause 1, *House Rules and Manual* §§637, 638 (1973); 2 USC §26.

1. See, for example, Rule III clause 3, House Rules and Manual §§641-646 (1973), 2 USC §109, and §§18.3-18.8, *infra*.

ting documents;⁽²⁾ (4) assisting individual Members;⁽³⁾ and (5) paying the officers and employees of the House.⁽⁴⁾

Prior to the commencement of the first session of each Congress, the Clerk prepares the roll of Representatives-elect.⁽⁵⁾ At the first session of each Congress,⁽⁶⁾ he calls Members to order, calls the roll of Members by states in alphabetical order, and pending the election of a Speaker or Speaker pro tempore, preserves order and decides all questions of order subject to appeal by any Member.

The Clerk also announces receipt of credentials, recognizes nominations for Speaker, appoints tellers for the roll call vote for Speaker, announces the vote, and appoints a committee to escort the Speaker-elect to the Chair.⁽⁷⁾

2. See §23.8, *infra*, for a discussion of the procedure when the Clerk receives a subpoena.
3. See, for example, Rule III clause 2, *House Rules and Manual* §640 (1973) and 2 USC §26; see also §18.9, *infra*.
4. See for example Rule III clause 3, *House Rules and Manual* §646 (1973) and 2 USC §§60d and 60e; see also §18.10, *infra*.
5. 2 USC §26. See, generally, Chs. 1 and 2, *supra*.
6. Rule III clause 1, *House Rules and Manual* §§637–639 (1973).
7. See §§18.1, 18.2, *infra*, relating to announcing credentials. Generally, see Ch. 1, *supra*.

To assist the House in its consideration of bills and resolutions, the Clerk,⁽⁸⁾ notes all questions of order and decisions thereon and places them in the Journal, which he prints and distributes at the close of each session, and certifies to the passage of all bills and resolutions. He allows no papers out of his custody⁽⁹⁾ except by order of the House;⁽¹⁰⁾ reports disorderly words of a Member who has been called to order;⁽¹¹⁾ reads bills;⁽¹²⁾ makes corrections during engrossment of a bill when authorized by the House;⁽¹³⁾ reads names alphabetically;⁽¹⁴⁾ and presents enrolled bills to the Speaker for signature and transmits them to the Senate.⁽¹⁵⁾

The Clerk announces pairs after votes;⁽¹⁶⁾ places bills on the Con-

8. Rule III clause 3, *House Rules and Manual* §§641, 643 (1973).
9. See Jefferson's Manual, *House Rules and Manual* §352 (1973).
10. Rule XXXVII, *House Rules and Manual* §933 (1973).
11. Jefferson's Manual, *House Rules and Manual* §368, and Rule XIV clause 5, §761 (1973).
12. Jefferson's Manual, *House Rules and Manual* §428 (1973).
13. Jefferson's Manual, *House Rules and Manual* §479 (1973).
14. Jefferson's Manual, §504, and Rule XV clause 1, *House Rules and Manual* §765 (1973).
15. Jefferson's Manual, *House Rules and Manual* §575 (1973).
16. Rule VIII clause 2, *House Rules and Manual* §660 (1973).

sent Calendar;⁽¹⁷⁾ reads motions;⁽¹⁸⁾ receives all petitions, memorials, and private bills;⁽¹⁹⁾ transmits copies of amendments offered in the Committee of the Whole to the majority and minority tables and cloakrooms;⁽²⁰⁾ retains custody of discharge petitions and provides a place where Members may sign them;⁽¹⁾ and supervises the preparation of the Daily Record which includes legislative programs and committee meetings for each day.⁽²⁾

The Clerk assists the House by performing duties not directly related to consideration of bills and resolutions. For example, he makes or approves all agreements relative to furnishing any matter or thing, or for the performance of any labor for the House;⁽³⁾ attests

17. Rule XIII clauses 2 and 4, respectively, *House Rules and Manual* §§ 743, 746 (1973).

18. Rule XVI clause 2, *House Rules and Manual* § 776 (1973).

19. Rule XXII clause 1, *House Rules and Manual* § 849 (1973).

20. Rule XXIII clause 5, *House Rules and Manual* § 870 (1973).

1. Rule XXVII clause 4, *House Rules and Manual* § 908 (1973).

2. 44 USC § 905.

3. Rule III clause 3, *House Rules and Manual* § 644 (1973).

The Clerk must purchase American goods in preference to foreign goods of similar quality (2 USC § 109) and is prohibited from using

and affixes the seal of the House to all writs, warrants, and subpoenas issued by order of the House;⁽⁴⁾ retains in his office library two copies of all books and documents deposited there;⁽⁵⁾ designates an official in his office to serve as Clerk during his temporary absence;⁽⁶⁾ receives reports of personnel and accounting of funds from committees;⁽⁷⁾ receives all documents referred to and evidence taken by committees after the final adjournment of Congress;⁽⁸⁾ obtains all noncurrent records of the House and each

House funds for expenses of the House barbershops (2 USC § 96).

The Clerk, not the Assistant Postmaster, was held to be responsible for making contracts following the death of the Postmaster (5 Hinds' Precedents § 7235).

4. Rule III clause 3, *House Rules and Manual* § 642 (1973).

5. Rule III clause 3, *House Rules and Manual* § 641 (1973).

6. Rule III clause 4, *House Rules and Manual* § 647 (1973). See 6 Cannon's Precedents § 26 for form of this designation; see also § 18.17, *infra*, for a resolution authorizing the Clerk to designate a subordinate to perform his duties.

7. Rule XI clause 30, *House Rules and Manual* § 738 (1973).

8. Rule XXXVI clause 1, *House Rules and Manual* § 932 (1973). See § 18.16, *infra*, for form of Clerk's report of committee reports received during an adjournment.

committee and transfers them to the General Services Administration for preservation subject to House order;⁽⁹⁾ sends to each state Governor a certificate informing him of the number of Representatives to which his state is entitled following each decennial census;⁽¹⁰⁾ arranges with the Board of Education of the District of Columbia for the education of congressional and Supreme Court pages;⁽¹¹⁾ operates the House recording studio;⁽¹²⁾ and obtains stationery.⁽¹³⁾

The Clerk is required both to submit and receive certain documents. For example, he submits to the House at the commencement of each Congress detailed statements disclosing names of clerks employed in his office and expenditures from the contingent fund.⁽¹⁴⁾ He also reports amounts received and expended by his office,⁽¹⁵⁾ as well as receipts and ex-

9. Rule XXXVI clause 2, House Rules and Manual § 932 (1973) and 44 USC § 2114.

10. 2 USC § 2a.

11. 2 USC § 88a.

12. 2 USC § 123c.

13. 2 USC § 100; 44 USC § 734. See also 5 Hinds' Precedents § 7322.

14. 2 USC § 102.

See § 18.12, *infra*, which states that responsibility for printing this report has been assumed by the Committee on House Administration.

15. 2 USC §§ 103, 113.

penditures of funds available for disbursement.⁽¹⁶⁾ He also submits accounts to the General Accounting Office monthly⁽¹⁷⁾ and quarterly.⁽¹⁸⁾

The Clerk receives records and other documents in connection with campaigns for the House,⁽¹⁹⁾ lobbying,⁽²⁰⁾ contested elections,⁽¹⁾ and contractual actions for national defense from each department and agency.⁽²⁾

16. The Clerk is authorized to require from his subordinate disbursing officers precise and analytical statements and receipts for all funds expended by them (2 USC § 103). 2 USC § 104a.

17. 31 USC § 496.

18. 31 USC § 497. 31 USC § 72 (paragraph 8) provides that the General Accounting Office shall receive the accounts of the House of Representatives and certify balances arising thereon to the Clerk.

19. See 2 USC §§ 431 et seq., which require the Clerk to receive reports from political committees and candidates and prescribes information to be disclosed by them.

20. See 2 USC §§ 261 et seq., which require the Clerk to receive registration information from lobbyists and statements of accounts from persons receiving contributions.

1. See 2 USC §§ 381 et seq., which require the Clerk to receive notice of contested elections and all documents and depositions relating to such contests.

2. 50 USC § 1434(b).

The Clerk performs many duties for the House membership. For example, he furnishes a list of reports required to be made to Congress.⁽³⁾ He procures postage,⁽⁴⁾ approves vouchers for payment of home district office expenses,⁽⁵⁾ furnishes electrical and mechanical office equipment,⁽⁶⁾ and reimburses Members a fixed amount for long distance telephone calls.⁽⁷⁾

The Clerk pays the officers and employees of the House,⁽⁸⁾ as well as clerks designated by the membership.⁽⁹⁾

3. Rule III clause 2, *House Rules and Manual* § 640 (1973).
4. 2 USC § 42.
5. 2 USC §§ 22, 56.
6. 2 USC § 112e.
7. 2 USC § 46g-1.
8. 2 USC §§ 60d and 60e. See also Rule III clause 3, *House Rules and Manual* § 646 (1973).
9. 2 USC § 92.

The Clerk makes a monthly certificate stating whether persons listed as employees were actually present (2 USC § 89) and is authorized to withhold from compensation any amount which an employee owes to the House (2 USC § 89a).

Congress enacted two statutes dealing with continuity of disbursement. One, codified as 2 USC § 75a, authorizes the disbursing clerk to continue the accounts, make payments, and sign checks in the name of the former Clerk for a period not extending beyond the quarter during

Duties Prior to Election of a Speaker

§ 18.1 The Clerk, after receiving a certificate of election filed in due form, has placed the name of the Member so named on the roll notwithstanding the fact that the secretary of state of the Member-elect's state was restrained by court order from certifying the election of a Representative from that district.

On Jan. 3, 1949,⁽¹⁰⁾ the Clerk, Ralph R. Roberts, made the following announcement to the House:

STATEMENT REGARDING CERTAIN CREDENTIALS

THE CLERK: A certificate of election is on file in the Clerk's office, showing the election of John C. Davies as a Representative-elect to the Eighty-first Congress from the Thirty-fifth Congressional District of the State of New York.

Several communications have been received from the executive deputy sec-

which a new Clerk is elected and qualified. The other, codified as 2 USC § 49, authorizes the Clerk to sign certificates for monthly compensation during the recess between the first and second sessions. the Speaker signs these certificates (2 USC § 48) when the House holds sessions.

10. 95 CONG. REC. 8, 81st Cong. 1st Sess.

retary of state for the State of New York informing the Clerk that a case is pending before the supreme court, Albany County, N. Y., and that the said secretary of state is restrained from certifying the election of a Representative from this congressional district. However, in view of the fact that a certificate of election in due form has been filed with the Clerk by John C. Davies, the Clerk has therefore placed his name on the roll. . . .

The Clerk made this announcement after the quorum call and before the election of the Speaker.⁽¹¹⁾

§ 18.2 Following the death of a Speaker during a Congress, the Clerk presides until a new Speaker is elected and appoints a committee to escort the Speaker-elect to the Chair.⁽¹²⁾

On Thursday, June 4, 1936,⁽¹³⁾ the Clerk, South Trimble, called the House to order and made the following announcement:

THE CLERK: Gentlemen of the House of Representatives, it becomes my sad

11. See § 18.19, *infra*, for the form of the Clerk's announcement of receipt of a certificate of election.
12. See Ch. 1, *supra*, for a discussion of the Clerk's duty to preside until a Speaker is elected at the commencement of each Congress.
13. 80 CONG. REC. 9016, 9017, 74th Cong. 2d Sess.

and painful duty to announce to the House the sudden death of your beloved Speaker, the Honorable Joseph W. Byrns, a Representative from the State of Tennessee.

Speaker Byrns presided over the House on yesterday, presumably in his accustomed good health, but shortly after his arrival at his apartment he was stricken and soon thereafter passed away. In his death this House has suffered the loss of an able, fair, and impartial presiding officer; the country a legislator of long experience, a statesman of courage and marked ability; and his State of Tennessee a noteworthy citizen.

The duty of selecting one to preside over the deliberations of the House now rests upon you.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Clerk, in view of the unfortunate circumstances in which we find ourselves, and with no disrespect to our beloved Speaker who has left us, it becomes necessary, in order that the House may function and the machinery of government may not stop, that the House proceed to the election of a Speaker.

I present the following resolution and move its adoption.

The Clerk read as follows:

HOUSE RESOLUTION 543

Resolved, That Hon. William B. Bankhead, a Representative from the State of Alabama, be, and he is hereby, elected Speaker of the House of Representatives.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. William B. Bankhead as Speaker of the House of Representatives.

THE CLERK: The question is on agreeing to the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE CLERK: The Clerk appoints the gentleman from New York [Mr. O'Connor], the gentleman from New York [Mr. Snell], and the gentleman from Colorado [Mr. Taylor] to escort the gentleman from Alabama [Mr. Bankhead] to the chair.

The committee escorted Mr. Bankhead into the Chamber, and he assumed the chair. The oath of office was administered to the Speaker-elect by Mr. Sabath.⁽¹⁴⁾

On Monday, Sept. 16, 1940,⁽¹⁵⁾ the Clerk, South Trimble, called the House to order and made the following announcement:

THE CLERK: Members of the House of Representatives, it becomes my sad and painful duty, as Clerk of the House of Representatives, to inform you officially that your beloved Speaker [William B. Bankhead, of Alabama]

14. *Parliamentarian's Note*: Joseph W. Byrns (Tenn.) was the first Speaker to die while Congress was in session. Speaker Michael C. Kerr (Ind.) died on Aug. 19, 1876, between sessions. Following the death of Speaker Kerr, the Clerk, George M. Adams, called the House to order at the commencement of the second session on Dec. 4, 1876 (see 5 CONG. REC. 2-6, 44th Cong. 2d Sess., and 1 Cannon's Precedents § 214). Speaker Henry T. Rainey (Ill.) died on Aug. 19, 1934, after the second session of the 73d Congress had adjourned.
15. 86 CONG. REC. 12231, 76th Cong. 3d Sess.

passed away yesterday morning at the Naval Hospital in this city.

America has lost one of her greatest statesmen and patriots, the House of Representatives a most able and eloquent Speaker, and the State of Alabama a noble and courageous son.

In accordance with the rules and practices of the House of Representatives, it now becomes the duty of this House to elect a Speaker. What is the pleasure of this House?

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Clerk, in view of the unfortunate circumstances in which the House finds itself, and with a feeling of very profound respect for the memory of our beloved Speaker who has left us, it becomes necessary, in order that the House may continue to function and the machinery of Government may go on, that the House proceed to the election of a Speaker.

I therefore offer the following resolution, and move its adoption.

The Clerk read as follows:

HOUSE RESOLUTION 602

Resolved, That Hon. Sam Rayburn, a Representative from the State of Texas, be, and he is hereby, elected Speaker of the House of Representatives.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. Sam Rayburn as Speaker of the House of Representatives.

The resolution was agreed to.

THE CLERK: The Clerk appoints the gentleman from Massachusetts [Mr. McCormack], the gentleman from Massachusetts [Mr. Martin], and the gentleman from North Carolina [Mr. Doughton] to escort the gentleman from Texas [Mr. Rayburn] to the chair.

The committee escorted Mr. Rayburn into the Chamber, and he assumed the chair.

The oath of office was administered to the Speaker-elect by Mr. Sabath.

MR. [ROBERT L.] DOUGHTON: Ladies and gentlemen of the House, I present the newly elected Speaker of the House of Representatives, a worthy successor to our late beloved Speaker the Honorable William B. Bankhead, the gentleman from Texas [Mr. Rayburn].

THE SPEAKER: The Chaplain will offer prayer.

On Jan. 10, 1962,⁽¹⁶⁾ the Clerk, Ralph R. Roberts, called the House to order and made the following announcement:

Members of the House of Representatives, the time has arrived for the meeting of the 2d session of the 87th Congress. Since the last session of Congress the great and beloved Speaker of the House [Sam Rayburn, of Texas] has departed this life.

The Clerk of the House, in conformity with the rules, has called the House to order for the purpose of electing a Speaker. The roll will be called to ascertain whether a quorum is present.

The Clerk will call the roll. . . .

Following a quorum call, the Clerk proceeded to the election of the Speaker.

ELECTION OF SPEAKER

THE CLERK: Nominations for Speaker of the House of Representatives are now in order.

16. 108 CONG. REC. 5, 87th Cong. 2d Sess.

The Clerk recognizes the gentleman from Pennsylvania [Mr. Francis Eugene Walter].

MR. WALTER: Mr. Clerk, as chairman of the Democratic caucus I am directed by the unanimous vote of that caucus to present for election to the office of Speaker of the House of Representatives the name of the Honorable John W. McCormack, a Representative from the State of Massachusetts.

THE CLERK: The gentleman from Iowa [Mr. Hoeven] is recognized.

MR. [CHARLES B.] HOEVEN: Mr. Clerk, by authority, by direction, and by unanimous vote of the Republican conference, I nominate for Speaker of the House of Representatives the Honorable Charles A. Halleck, a Representative from the State of Indiana.

THE CLERK: The Honorable John W. McCormack of Massachusetts and the Honorable Charles A. Halleck of Indiana have been nominated for Speaker.

Are there further nominations? [After a pause.] If there are no further nominations, the Clerk will appoint the following Members to act as tellers: the gentleman from Texas [Mr. Burleson]; the gentlewoman from Missouri [Mrs. Sullivan]; the gentleman from Ohio [Mr. Schenck]; and the gentlewoman from Tennessee [Mrs. Reece].

The tellers will please take their places at the desk in front of the Speaker's rostrum.

The roll will now be called, and Members responding to their names will indicate by surname the candidate of their choice.

The Clerk will call the roll. . . .

THE CLERK: The tellers agree in their tally. The total number of votes

cast was 414, of which the Honorable John W. McCormack received 248, and the Honorable Charles A. Halleck received 166. Two voted "present." Therefore, the Honorable John W. McCormack of Massachusetts is the duly elected Speaker of the House of Representatives for the 87th Congress.

The Clerk appoints the following Members to escort the Speaker-elect to the Chair: The gentleman from Indiana [Mr. Halleck] and the gentleman from Oklahoma [Mr. Albert].

(The Doorkeeper announced the Speaker-elect of the House of Representatives, who was escorted to the Chair by the committee of escort.⁽¹⁷⁾)

Reports to the House

§ 18.3 The Clerk reported to the House delivery of a message to the Supreme Court.

On Mar. 14, 1930,⁽¹⁸⁾ the Clerk read the following letter:

The Speaker of the House of Representatives.

SIR: I have the honor to inform you that pursuant to the direction of

17. *Parliamentarian's Note:* Speaker Rayburn presided over the House for the last time on Aug. 30, 1961. On Aug. 31, 1961, John W. McCormack by resolution was elected Speaker pro tempore "during the absence of the Speaker."

The first session of the 87th Congress adjourned *sine die* on Sept. 27, 1961. Speaker Rayburn died on Nov. 16, 1961, in Bonham, Tex.

18. 72 CONG. REC. 5330, 71st Cong. 2d Sess.

the House I did this day deliver to the Supreme Court of the United States, in session, copies of the resolutions adopted by the House of Representatives on March 10, 1930, expressing the sorrow of the House because of the death of William Howard Taft, former Chief Justice, and of Edward Terry Sanford, late associate justice of the Supreme Court.

Mr. Chief Justice Hughes, on behalf of the court expressed appreciation of the action of the House of Representatives and directed that the resolutions be spread upon the court's records.

Respectfully,

WILLIAM TYLER PAGE,
*Clerk of the
House of Representatives.*

§ 18.4 The Clerk has reported to the House receipt of a message from a former President.

On June 16, 1969,⁽¹⁹⁾ the Speaker, John W. McCormack, of Massachusetts, laid before the House the following letter from the Clerk:

JUNE 11, 1969.

The Honorable the SPEAKER,
U.S. House of Representatives.

DEAR SIR: I have the honor to transmit herewith a letter of thanks to the Members of the House of Representatives from the Honorable Harry S. Truman, for the resolution of the Congress of the United States of America extending best wishes on the occasion of Mr. Truman's 85th birthday.

With kindest regards, I am,

19. 115 CONG. REC. 15822, 91st Cong. 1st Sess.

Sincerely,
 W. PAT JENNINGS,
Clerk,
U.S. House of Representatives.

Roll Call Duties

§ 18.5 Prior to implementation of electronic voting, the Clerk called the roll at the direction of the Chair when the Committee of the Whole lacked a quorum.

On May 3, 1933,⁽²⁰⁾ the Clerk called the roll after receiving a direction from the Chair, Samuel Davis McReynolds, of Tennessee. Chairman McReynolds had overruled a point of order that the roll call was not in order in the Committee of the Whole. The Committee did not have a quorum and rejected a motion to rise. The Chair ordered the roll call pursuant to Rule XXIII clause 2, of the *House Rules and Manual*.⁽¹⁾

20. 77 CONG. REC. 2834, 73d Cong. 1st Sess.

1. Under the electronic voting system adopted in January 1973, the Chairman ordinarily directs the Members to record their presence by electronic device when the Committee of the Whole lacks a quorum, thereby obviating the need for the Clerk to call the roll. See Rule XXIII clause 2, *House Rules and Manual* §863 (1973). Generally, see Ch. 30, *infra*, noting that the Clerk still calls the roll under certain circumstances.

Renumbering of Bill Sections

§ 18.6 During a meeting of the House, but not the Committee of the Whole, the Clerk may be authorized to renumber sections of a bill following an amendment made in the Committee.

On Apr. 29, 1969,⁽²⁾ a Member, Hastings Keith, of Massachusetts, made a parliamentary inquiry regarding the Clerk's authority to renumber sections of a bill:

MR. KEITH: Mr. Chairman, I, of course, have no objection to this amendment but I do have a parliamentary inquiry.

THE CHAIRMAN [Jacob H. Gilbert, of New York]: The gentleman will state the parliamentary inquiry.

MR. KEITH: Mr. Chairman, if the amendment is adopted and I hope and trust it will be; would that not require the renumbering of the lines in which the earlier amendments have been incorporated into the existing legislation?

THE CHAIRMAN: The gentleman may request that the Clerk be authorized to renumber accordingly.

MR. KEITH: I would so request.

THE CHAIRMAN: The gentleman may make the request that the Clerk be authorized to renumber the sections accordingly after the Committee rises and we are in the House.⁽³⁾

2. 115 CONG. REC. 10753, 91st Cong. 1st Sess.

3. See Jefferson's Manual, *House Rules and Manual* §479 (1973) for authority to amend section numbers pursuant to resolution.

Duties Related to the Seal of the House

§ 18.7 The Clerk has been authorized to purchase a new seal for the House.

On Dec. 18, 1963,⁽⁴⁾ a Member, Samuel N. Friedel, of Maryland, offered and the House passed the following resolution (H. Res. 560):

Resolved, That the Clerk of the House of Representatives shall procure a new seal and press for the use of the House of Representatives, which shall possess fifty stars, emblematic of the fifty States of the Union, and shall depict the Capitol as it currently appears.

Resolved, That upon approval of the new seal by the Committee on House Administration, the chairman shall notify the Speaker and it shall then become the official great seal of the House of Representatives.

Resolved, That the Clerk shall furnish an impression of the new official great seal of the House of Representatives to the Administrator of General Services.

Resolved, That the necessary expenses for procuring the new seal shall be paid out of the contingent fund of the House on vouchers signed by the Clerk and approved by the Committee on House Administration.

The resolution was agreed to and the motion to reconsider was laid on the table.

4. 109 CONG. REC. 24912, 88th Cong. 1st Sess.

Keeping Custody of House Records

§ 18.8 At the direction of the House, the Clerk may make available certain records.

On June 16, 1953,⁽⁵⁾ by direction of the committee on House Administration, a Member, Karl M. LeCompte, of Iowa, offered and the House agreed to the following resolution (H. Res. 288):

Resolved, That the Clerk of the House is authorized to permit the Administrator of General Services to make available for use—

(1) any records of the House of Representatives, transferred to the National Archives, which have been in existence for not less than 50 years, except when he determines that the use of such records would be detrimental to the public interest; and

(2) any records of the House of Representatives, transferred to the National Archives, which have previously been made public.

Sec. 2. Such permission may continue so long as it is consistent with the rights and privileges of the House of Representatives.

On Oct. 2, 1964,⁽⁶⁾ a Member, Omar T. Burluson, of Texas, offered and the House passed the following House resolution (H. Res. 902):

Resolved, That upon assurances of proper protection, preservation, and re-

5. 99 CONG. REC. 6641, 83d Cong. 1st Sess.

6. 110 CONG. REC. 23785, 88th Cong. 2d Sess.

turn, the Clerk of the House of Representatives is directed to make available to the Administrator of General Services the records of the House of Representatives relating to the First Federal Congress for reproduction and publication in accordance with the historical objectives of Public Law 88-383.⁽⁷⁾

On July 23, 1947,⁽⁸⁾ a Member, Justin Leroy Johnson, of California, offered and the House passed the following resolution (H. Res. 325):

Resolved, That the Clerk of the House of Representatives be, and he is hereby, authorized to transmit to the California State Library at Sacramento, Calif., photostatic copies of the memorial and attendant papers in the files of the House relating to the bill H.R. 3818 of the Forty-fourth Congress entitled "An act for the relief of John A. Sutter," the cost of such photostatic copies to be paid by the California State Library.

Parliamentarian's Note: The papers referred to in this precedent were stored in the National Archives.

Identification Cards

§ 18.9 The House by resolution has authorized the Clerk to

7. Pub. L. No. 88-383 (see 44 USCA §2504 note) authorized a historical compilation of records of the First Congress.
8. 93 CONG. REC. 9885, 80th Cong. 1st Sess.

furnish identification cards for House and Members' employees.

On July 1, 1965,⁽⁹⁾ a Member, Wayne L. Hays, of Ohio, by direction of the Committee on House Administration, introduced and the House passed the following resolution (H. Res. 261):

Resolved . . .

That, upon the request of the Speaker, a Member, elected officer of the House of Representatives, or the chairman of any committee of the House, the Clerk of the House of Representatives shall furnish cards of identification to such employees under their jurisdiction as they may designate. Each such card shall be signed by the Speaker, Member, officer, or committee chairman concerned, and shall not be valid for a longer period than the duration of one session of a Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Payroll Duties

§ 18.10 The House by resolution has authorized the Clerk to transfer funds from balances available to him in several accounts under his administrative control to meet employee payrolls pending enactment of an appropriation bill carrying funds for that purpose.

9. 111 CONG. REC. 15501, 15502, 89th Cong. 1st Sess.

On May 28, 1969,⁽¹⁰⁾ Mr. Samuel N. Friedel, of Maryland, by direction of the Committee on House Administration offered and the House agreed to the following resolution (H. Res. 425):

Resolved, That the Clerk of the House and Sergeant at Arms be and is hereby directed to pay such sum as may be necessary, from the balance available of the 1968 appropriation and the various funds of the 1969 appropriation, where balances may be available, for the House of Representatives to meet the May and June payroll of Members, officers of the House, and employees of the House. Moneys expended from these funds and/or appropriations by the Sergeant at Arms and the Clerk will be repaid to the funds and/or appropriations from the Sergeant at Arms and Clerk's supplemental appropriation upon its approval.⁽¹¹⁾

Computer Services

§ 18.11 The Clerk's responsibility for computer operations has been assumed by the Committee on House Administration.

On Nov. 9, 1971,⁽¹²⁾ the Committee on House Administration

10. 115 CONG. REC. 14165-67, 91st Cong. 1st Sess.

11. *Parliamentarian's Note*: This resolution was passed to provide payroll funds because the Committee on House Administration had been advised that funds previously appropriated were exhausted.

12. 117 CONG. REC. 40015-17, 92d Cong. 1st Sess.

assumed responsibility for the computer operations of the House. By direction of this committee, Mr. Frank J. Thompson, Jr., of New Jersey, offered and the House agreed to the following resolution (H. Res 601):

Resolved, That during the Ninety second Congress, the Committee on House Administration is authorized to incur such expenses (not in excess of \$1,500,000) as the committee considers advisable to provide for maintenance and improvement of ongoing computer services for the House of Representatives and for the investigation of additional computer services for the House of Representatives, including expenditures for the employment of technical, clerical, and other assistants, for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), and for the procurement of equipment by contract or otherwise. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, and signed by the chairman thereof. Not to exceed \$1,000,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be avail-

able for expenditures in connection with the study or investigation of any subject matter which is being investigated for the same purpose by any other committee of the House.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Parliamentarian's Note: Prior to passage of the above resolution, the Data Processing Office of the Clerk had responsibility for computer operations.

Contingent Fund Reports

§ 18.12 The Clerk's responsibility for printing the Clerk's report dealing with the contingent fund has been assumed by the Committee on House Administration.

On Sept. 23, 1961,⁽¹³⁾ the Committee on House Administration assumed responsibility for printing the report of the Clerk of the House, dealing with the contingent fund, pursuant to 2 USCA §102. By direction of the Committee on House Administration, Mr. Omar T. Burlison, of Texas, offered and the House agreed to the following resolution (H. Res. 476):

Resolved, That, until otherwise provided by law, the Committee on House

13. 107 CONG. REC. 20946, 87th Cong. 1st Sess.

Administration shall have exclusive responsibility for prescribing the form of, and having printed, the portion of the report of the Clerk of the House under section 60 of the Revised Statutes (2 USC 102) dealing with the contingent fund of the House.

Parliamentarian's Note: Prior to adoption of this resolution, the Clerk printed the report of the Clerk of the House.

Receipt of Messages and Reports

§ 18.13 The Clerk is sometimes authorized by resolution to receive messages during adjournments.

On June 22, 1940,⁽¹⁴⁾ for example, Mr. Sam Rayburn, of Texas, offered and the House agreed to the following resolution (H. Res. 545)

Resolved, That notwithstanding the recess or the adjournment of the House until July 1, 1940, the Clerk of the House is hereby authorized to receive messages from the Senate and the Speaker be, and he is hereby, authorized to sign any enrolled bills or joint resolutions duly passed by the two

14. 86 CONG. REC. 9085, 76th Cong. 3d Sess.

See also 108 CONG. REC. 577, 87th Cong. 2d Sess., Jan. 22, 1962; 108 CONG. REC. 9524, 87th Cong. 2d Sess., May 31, 1962; 110 CONG. REC. 16248, 16249, 88th Cong. 2d Sess., July 20, 1964, for similar instances.

Houses and which have been examined by the Committee on Enrolled Bills and found truly enrolled.

The resolution was agreed to.

§ 18.14 The Clerk reports receipt during adjournment of a message from the President to the Speaker who lays it before the House.

When the clerk during an adjournment receives a message from the President⁽¹⁵⁾ he transmits the message with a covering letter to the Speaker who lays both communications before the House.

For example on Feb. 20, 1969,⁽¹⁶⁾ the Speaker, John W. McCormack, of Massachusetts, laid before the House the following communication from the Clerk:

The Honorable the SPEAKER,
U.S. House of Representatives.

DEAR SIR: I have the honor to transmit herewith a sealed envelope addressed to the Speaker of the House of Representatives, said to contain a message from the President wherein he transmits a special study regarding the administration of the Headstart program. This envelope was received in the Office of the Clerk at 3:55 p.m. on Wednesday, February 19, 1969.

Sincerely,

PAT JENNINGS,
Clerk.

15. See § 18.4, supra, for procedure when receiving a message from a former President.

16. 115 CONG. REC 4088, 91st Cong. 1st Sess.

§ 18.15 The Clerk reports receipt of a message from the Senate to the Speaker who lays the matter before the House.

When the Clerk during an adjournment receives a message from the Senate, he transmits it with a covering letter to the Speaker who lays both communications before the House.⁽¹⁷⁾ For example, on June 28, 1965,⁽¹⁸⁾ the Speaker, John W. McCormack, of Massachusetts, laid before the House the following communication:

JUNE 25, 1965.

The Honorable the SPEAKER,
House of Representatives.

SIR: Pursuant to authority granted on June 24, 1965, the Clerk received from the Secretary of the Senate today, the following message:

That the Senate passed H.J. Res. 541, entitled "Joint resolution to extend the Area Redevelopment Act for a period of 2 months."

Respectfully yours,

RALPH R. ROBERTS,
Clerk,

U.S. House of Representatives.

§ 18.16 The Clerk reports receipt of committee reports received during adjournment

17. See for example, 103 CONG. REC. 13161, 85th Cong. 2d Sess., July 7, 1958; and 103 CONG. REC. 13675, 85th Cong. 2d Sess., July 14, 1958, for similar instances.

18. 111 CONG. REC. 14845, 89th Cong. 1st Sess.

to the Speaker who lays the communication before the House.

On Jan. 10, 1947,⁽¹⁹⁾ the Speaker, Joseph W. Martin, Jr., of Massachusetts, laid before the House the following communication:

JANUARY 8, 1947.

The Honorable the SPEAKER
House of Representatives.

SIR: During the interim between the adjournment of the second session of the Seventy-ninth Congress and the convening of the Eightieth Congress, the following reports were received and printed by the Clerk of the House:

House Report No. 2729, Seventy-ninth Congress: Reconversion experience and current economic problems. Submitted by Mr. Colmer, from the Special Committee on Postwar Economic Policy and Planning, pursuant to House Resolution 60. Filed December 12, 1946. . . .

House Report No. 2730, Seventy-ninth Congress: Operation of national sales programs of surplus property by War Assets Administration. Submitted by Mr. Slaughter, from the Select Committee To Investigate Disposition of Surplus Property, pursuant to House Resolution 385. Filed September 30, 1946....

Very truly yours,

JOHN ANDREWS,
*Clerk of the
House of Representatives*

Designation of Subordinate

§ 18.17 The Clerk has been authorized by resolution to designate a subordinate temporarily to perform his duties.

19. 93 CONG. REC. 236, 237, 80th Cong. 1st Sess.

For example, on July 26, 1947,⁽²⁰⁾ the following occurred:

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I offer a resolution (H. Res. 351) and ask for its immediate consideration. .

Resolved, That in order that the duties of his office may be discharged in case of his absence or disability or in case his office should become vacant, the Clerk of the House of Representatives on or before July 26, 1947, shall designate a subordinate in his office to perform the duties thereof in any such contingencies until the commencement of the second session of the Eightieth Congress. Such designee when acting under this authorization, shall subscribe himself as Acting Clerk of the House of Representatives.

The Clerk of the House shall promptly communicate to the Speaker the name of the employee designated hereunder for the information of the House.

The resolution was agreed to.

A motion to reconsider was laid on the table.

§ 18.18 The Clerk designates a subordinate to perform his duties temporarily and informs the Speaker who lays the communication before the House.

20. 93 CONG. REC. 10518, 80th Cong. 1st Sess.

See for example, 92 CONG. REC. 10781, 79th Cong. 2d Sess., Aug. 2, 1946; and 94 CONG. REC. 9348, 80th Cong. 2d Sess., June 19, 1948, for other resolutions.

On July 26, 1947,⁽¹⁾ the Speaker, Joseph W. Martin, Jr., of Massachusetts, laid before the House the following communication⁽²⁾ which was read by the Clerk:

JULY 26, 1947.

The Honorable the SPEAKER,
House of Representatives.

SIR: Pursuant to the provisions of House Resolution 351 adopted by the

1. 93 CONG. REC. 10518, 80th Cong 1st Sess., July 26, 1947. See also Ch. 1 § 5, *supra*, form for designation of an acting Clerk to preside until election of a Speaker and Rule III clause 4, House Rules and Manual § 647 (1973), which authorizes the Clerk to designate an official in his office to sign all papers and perform other acts, except such as are provided by statute, that may be required under the rules and practice of the House to be done by the Clerk.

Clerks have designated authority to subordinates for temporary periods both with and without authorizing resolutions passed prior to the designations. Compare 92 CONG. REC. 10768, 10781, 79th Cong. 2d Sess., Aug. 2, 1946; 93 CONG. REC. 10518, 80th Cong. 1st Sess., July 26, 1947; and 93 CONG. REC. 9348, 80th Cong. 2d Sess., June 19, 1948, instances where resolutions authorized designations, with, for example, 109 CONG. REC. 10025, 88th Cong. 2d Sess., May 5, 1964; 111 CONG. REC. 2759, 89th Cong. 1st Sess., Feb. 16, 1965; and 114 CONG. REC. 30617, 90th Cong. 2d Sess., Oct. 10, 1968, instances where no resolutions preceded the designations.

2. See also 6 Cannon's Precedents § 26, for another form of designation.

House today, I have designated Mr. Harry Newlin Megill, an official in my office, to discharge the duties contemplated by said resolution.

Respectfully yours,

JOHN ANDREWS,

*Clerk of the
House of Representatives.*

Receipt of Election Certificate

§ 18.19 The Clerk reports receipt of an election certificate for a vacant seat to the Speaker who lays the communication before the House.

On Feb. 23, 1966,⁽³⁾ the Speaker, John W. McCormack, of Massachusetts, laid before the House the following communication:

FEBRUARY 22, 1966.

The Honorable the SPEAKER,
House of Representatives.

SIR: A certificate in due form of law showing the election of Theodore R. Kupferman as a Representative-elect to the 89th Congress from the 17th Congressional District of the State of New York, to fill the vacancy caused by the resignation of John V. Lindsay, is on file in this office.

Respectfully yours,

RALPH R. ROBERTS,

*Clerk,
U.S. House of Representatives.*

3. 112 CONG. REC. 3667, 89th Cong. 2d Sess.

§ 19. Duties of the Sergeant at Arms

This section describes and discusses the duties of the Sergeant at Arms.⁽⁴⁾

The general duties of the Sergeant at Arms are prescribed by the House rules (Rule IV clause 1) and by statute. Under these provisions, the Sergeant at Arms maintains order, including execution of arrest warrants for persons cited for contempt of the House or a committee, and keeps accounts for the pay mileage and pays Members, Delegates, and the Resident Commissioner from Puerto Rico. The symbol of his office is a mace, which is borne by him while enforcing order on tire floor.⁽⁵⁾

Other rules and statutes impose specific duties to maintain order.

4. See other chapters for discussions of those functions and duties of the Sergeant at Arms relating to House facilities and Capitol grounds (Ch. 4, *supra*), subpoenas served on him (Ch. 11, *infra*), contempt proceedings (Ch. 13, *infra*), investigations and inquiries (Ch. 15, *infra*), and calls of the House (Ch. 20, *infra*).
5. Rule IV clause 2, *House Rules and Manual* § 650 (1973); 2 USCA § 79.

Collateral reference: Johnson, Zeake W., Jr., *The Mace of the House of Representatives of the United States*, 7th ed., Government Printing Office. Washington, D.C. (1969).

As the officer charged with enforcing the authority of the House, the Sergeant at Arms, under the rules, strictly enforces the prohibition against Members walking across or out of the Hall of the House while the Speaker addresses the House,⁽⁶⁾ appoints officers to send for and arrest absent Members when so ordered by the Speaker after a call of the House by 15 Members including the Speaker,⁽⁷⁾ and brings absent Members before the House.⁽⁸⁾

6. Rule XIV clause 7, *House Rules and Manual* § 763 (1973).
7. Rule XV clause 2, *House Rules and Manual* § 768 (1973).
8. Rule XV clause 4, *House Rules and Manual* § 773 (1973).

During a call of the House, the Sergeant at Arms is required to arrest absent Members wherever they may be found (4 Hinds' Precedents § 3017), detains those who are present, and brings in absentees (4 Hinds' Precedents §§ 3045–3048). Pursuant to a proper motion, he reports progress in securing a quorum (6 Cannon's Precedents § 770).

By order of the House, after a Member's complaint of unlawful arrest, the Sergeant at Arms on one occasion investigated and amended the return of his warrant (4 Hinds' Precedents § 3021). See also 6 Cannon's Precedents § 686, form of resolution for the arrest of Members absent without leave; and 4 Hinds' Precedents § 3043, form of warrant and discussion of authority to issue warrants.

It should also be noted that the Speaker, under Rule I clauses 2 and 3 (requiring the Speaker to preserve order and have general control of the Hall, corridors, and passages of the House), may impose certain additional duties on the Sergeant at Arms. For example, at the direction of the Speaker, the Sergeant at Arms has enforced order with the mace,⁽⁹⁾ cleared the galleries,⁽¹⁰⁾ and, on one occasion, arrested a spectator and confined him briefly.⁽¹¹⁾

The Sergeant at Arms has been granted statutory authority to preserve order outside the Hall of the House. He is one of those who sits on the Capitol Police Board, which directs the activities of the Capitol Police.⁽¹²⁾ With the Sergeant at Arms of the Senate, he develops regulations to preserve the peace and to secure the Capitol from defacement; and he may arrest and detain any person violating these regulations until such

9. See Cannon's Precedents § 258.

10. 2 Hinds' Precedents § 1352.

11. 2 Hinds' Precedents § 1605.

12. 40 USCA § 212a. In this capacity the Sergeant at Arms controls the regulation of vehicular traffic (40 USCA § 2121 ; selects officers (40 USCA § 206 and 206a); pays salaries (40 USCA § 207); selects uniforms (40 USCA § 210); and approves suspensions made by the captain (40 USCA § 208).

person can be brought before the proper authorities for trial.⁽¹³⁾

Several statutes deal with the duty of the Sergeant at Arms to keep the accounts and pay Members.⁽¹⁴⁾ Continuity of disbursement is ensured by statute. For example, to prevent an interruption in disbursement after a Congress adjourns, the Sergeant at Arms remains in office until his successor is chosen.⁽¹⁵⁾ In case of the disability of the Sergeant at Arms, the Treasurer of the United States disburses the pay of Members, Delegates, and the Resident Commissioner from Puerto Rico.⁽¹⁶⁾ The Sergeant at Arms is authorized to purchase insurance to protect the funds of his office. The premiums are paid out of the contingent fund of the House until otherwise provided by law.⁽¹⁷⁾ He may not receive additional com-

13. 40 USCA § 193.

14. Pay and mileage to be paid to Members (2 USC §§ 78, 80); statement of sums disbursed (2 USC § 84); adjustment of accounts during a fixed fiscal year (2 USC § 81). See also 2 USC § 39, which provides for deduction of salary for absence from House; 2 USC § 40a, which provides for deduction from salary for delinquent indebtedness; and 2 USC § 80a, which provides for disbursement of gratuity appropriations.

15. 2 USC 83.

16. 31 USC § 148.

17. 2 USC § 81c. See also § 19.4, *infra*.

pensation for performing his duties.⁽¹⁸⁾

The Sergeant at Arms, at the commencement of each regular session, submits to the House a written statement of sums drawn and disbursed and periodically reports accounts to the General Accounting Office,⁽¹⁹⁾ which receives and examines his accounts and certifies to him balances arising thereon according to the character of the account.⁽²⁰⁾ And he conducts on the-spot audits of the appropriated and trust funds of his office not less frequently than once each six months.⁽¹⁾ Amounts necessary to adjust for incorrect payments resulting from errors not caused by bad faith or lack of due care in the trust fund account of the Sergeant at Arms may be paid out of the contingent fund of the House on vouchers authorized and approved by the Committee on House Administration.⁽²⁾

In addition to his major duties of preserving order and keeping

18. 2 USC § 77.

19. 31 USC §§ 496, 497.

20. 31 USC § 72. See § 19.3, *infra*, for discussion of *Romney v United States*, 167 F2d 521 (D.C. Cir. 1948), cert. denied 334 U.S. 847 (1948), which held that 31 USC § 72, 496, and 497, apply to the Sergeant at Arms.

1. 2 USC § 81a.

2. 2 USC § 81b.

accounts of pay and mileage, the Sergeant at Arms has several other duties imposed by rules, statutes, and precedents. He has a duty, in the absence of the Clerk, (1) to preside until a Speaker is elected,⁽³⁾ (2) to prepare the roll of Members-elect prior to the commencement of a Congress,⁽⁴⁾ and (3) to send a certificate of the number of Representatives to which each state is entitled to the Governors following each decennial census.⁽⁵⁾ The Sergeant at Arms secures suitable office space in home districts of Members,⁽⁶⁾ ensures that a monument is erected whenever a deceased Member is interred in the Congressional Cemetery,⁽⁷⁾ and, with the Architect of the Capitol and the Sergeant at Arms of the Senate, serves on the Capitol Guide Board which oversees the Capitol Guide Service.⁽⁸⁾

3. As a "duty imposed by law or custom relative to the organization of the House", presiding before the election of a Speaker is a statutory responsibility imposed by 2 USC § 26.

See also § 20.8, *infra*, in which the Doorkeeper presided because the Clerk had died and the Sergeant at Arms was absent.

4. 2 USC § 26.

5. 2 USC § 2a(b).

6. 2 USC § 122.

7. 2 USC § 51.

8. 40 USC § 851.

Keeping Accounts of Pay and Mileage

§ 19.1 The House by resolution has authorized the Sergeant at Arms to transfer funds from balances available to him in several accounts under his administrative control to meet Members' payrolls pending enactment of an appropriations bill carrying funds for that purpose.

On May 28, 1969,⁽⁹⁾ a Member, Samuel N. Friedel, of Maryland, by direction of the Committee on House Administration, offered and the House agreed to the following resolution (H. Res. 425):

Resolved, That the Clerk of the House and Sergeant at Arms be and is hereby directed to pay such sum as may be necessary, from the balance available of the 1968 appropriation and the various funds of the 1969 appropriation, where balances may be available, for the House of Representatives to meet the May and June payroll of Members, officers of the House, and employees of the House. Moneys expended from these funds and/or appropriations by the Sergeant at Arms and the Clerk will be repaid to the funds and/or appropriations from the Sergeant at Arms and Clerk's supplemental appropriation upon its approval.⁽¹⁰⁾

9. 115 CONG. REC. 14165-67, 91st Cong. 1st Sess.

10. *Parliamentarian's Note*: This resolution was passed to provide payroll

§ 19.2 The House by resolution may authorize the payment to the Sergeant at Arms of an amount to cover additional mileage for Members for attendance at a meeting of the Congress at a date earlier than that to which it adjourned.

On Aug. 7, 1948,⁽¹¹⁾ a Member, Ralph A. Gamble, of New York, offered the following resolution (H. Res. 715):

Resolved, That the Clerk of the House of Representatives is authorized and directed to pay to the Sergeant at Arms of the House of Representatives not to exceed \$171,000 out of funds appropriated under the head "Contingent expenses of the House," fiscal year 1949, for additional mileage of Members of the House of Representatives, Delegates from Territories, and the Resident Commissioner from Puerto Rico, at the rate authorized by law. . . .

THE SPEAKER [Joseph W. Martin, Jr., of Massachusetts]: . . . The question is on suspending the rules and passing the resolution.

Two-thirds having voted in favor thereof, the rules were suspended and the resolution was passed.

§ 19.3 The Sergeant at Arms must periodically report ac-

funds because the Committee on House Administration had been advised that funds previously appropriated were exhausted.

11. 94 CONG. REC. 10247, 80th Cong. 2d Sess.

counts to the General Accounting Office.

The alleged embezzlement of funds by a Sergeant at Arms led to a judicial review of the applicability of statutes which require accounts to be reported to the General Accounting Office.⁽¹²⁾ Applying statutes dealing with duties of the Sergeant at Arms to keep accounts for the pay and mileage of Members⁽¹³⁾ and draw requisitions for the compensation and mileage of Members,⁽¹⁴⁾ as well as other statutes,⁽¹⁵⁾ the Court of Appeals for the District of Columbia Circuit affirmed the conviction of the former Sergeant at Arms, Kenneth Romney, for presenting to the General Accounting Office certain false statements of accounts and concealing a shortage by trick, scheme, and device (18 USC § 80).⁽¹⁶⁾

12. See *Romney v United States*, 167 F2d 521 (D.C. Cir. 1948); cert. den. 334 U.S. 847 (1948).

13. 2 USC § 78.

14. 2 USC § 80.

15. These statutes provide for: submitting to the House a statement of disbursements (2 USC § 84); inquiring into compliance with certain statutory provisions by the Committee on [House Administration (2 USC § 91); examining accounts by (2 USC § 72) and submitting accounts to (31 USC § 496, 497) the General Accounting Office.

16. See *Romney v United States*, 167 F2d 521, at 522, 528 (D.C. Cir. 1948); cert. den. 334 U.S. 847 (1948).

In reaching this decision, the court held that a statute requiring the General Accounting Office to receive and examine all accounts⁽¹⁷⁾ applies to the House and that statutes requiring disbursing officers to submit accounts to the General Accounting Office monthly⁽¹⁸⁾ or more frequently⁽¹⁹⁾ apply to the Sergeant at Arms.⁽²⁰⁾ Mr. Romney's contention, based on statutes⁽¹⁾ and rules,⁽²⁾ that these reporting duties do not apply to the House because that body acts as its own auditor, was rejected.

The court held that, "Cash in the hands of such an official [disbursing officer] manifestly con-

17. 31 USC § 72.

18. 31 USC § 496.

19. 31 USC § 497.

20. See *Romney v United States*, 167 F2d 521, at 524, 525 (D.C. Cir. 1948); cert. den. 334 U.S. 847 (1948).

1. 2 USC § 84, which requires the Sergeant at Arms to submit to the House a statement of disbursements; 2 USC § 91, which directs the Committee on House Administration to inquire into compliance with certain statutory provisions; and 2 USC § 97, which provides for the establishment of a temporary committee on accounts of the House.

2. Rule IV clause 1, *House Rules and Manual* § 648 and 649 (1973) which provides that the Sergeant at Arms keep accounts of pay and mileage of Members.

tinues to be the property of the government until it has actually been disbursed by him to persons lawfully entitled to receive it”, and that ‘cash drawn from the Treasury by the Sergeant at Arms is properly reported in his accounts current as part of the item styled ‘Balance now due the United States.’”⁽³⁾

The court also rejected the appellant’s contention that falsification of the item of cash on hand did not violate the false claims statute [18 USC § 80] because cash ceased to be government property and became Members’ property at the moment the Sergeant at Arms received it from the Treasury. This contention was based on the appellant’s view that he held the money not as a disbursing officer, but as a private person acting as an agent for other private persons.⁽⁴⁾

Following this decision, Congress enacted 63 Stat. 482 (codified as 2 USC § 81a)⁽⁵⁾ which au-

thorized the Comptroller General to detail employees of the General Accounting Office to make on-the-spot audits of all receipts and disbursements pertaining to fiscal records of the Sergeant at Arms not less frequently than once each six months.

Purchasing Insurance

§ 19.4 The Sergeant at Arms may protect funds of his office by purchasing insurance out of the contingent fund of the House when authorized by simple resolution.

On Apr. 1, 1947,⁽⁶⁾ Apr. 1, 1949,⁽⁷⁾ and July 24, 1956,⁽⁸⁾ the House authorized the Sergeant at Arms to protect the funds of his office by purchasing insurance out of the contingent fund of the House.

In each instance, a Member introduced a resolution in the following form:

Mr. Speaker, by direction of the Committee on House Administration, I

Cong. 1st Sess., July 20, 1949 (passage in Senate); 95 CONG. REC. 10487, 81st Cong. 1st Sess., Aug. 1, 1949 (announcement in House of approval by the President).

3. See *Romney v United States*, 167 F2d 521, at 526, 527 (D.C. Cir. 1948); cert. den. 334 U.S. 847 (1948). [See also *Crain v United States*, 25 Ct. Cl. 204 (1890) which held that the Sergeant at Arms was a disbursing officer.]
4. See *Romney* at p. 525.
5. See 95 CONG. REC. 9475, 81st Cong. 1st Sess., July 14, 1949 (passage in House); 9. CONG. REC. 9755, 81st

6. 93 CONG. REC. 2971, 80th Cong. 1st Sess.
7. 95 CONG. REC. 3703, 81st Cong. 1st Sess.
8. 102 CONG. REC. 14241. 84th Cong.

submit a privileged resolution . . . and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Sergeant at Arms of the House of Representatives is authorized and directed to protect the funds of his office by purchasing insurance [in stated amounts], providing protection against loss with respect to such funds. Until otherwise provided by law, premiums on such insurance shall be paid out of the contingent fund of the House on vouchers signed by the Sergeant at Arms and approved by the Committee on House Administration.

In each case the resolution was agreed to and a motion to reconsider was laid on the table.

Regulation of Parking

§ 19.5 The Sergeant at Arms assigns space for outdoor parking of automobiles under direction of the Select Committee to Regulate Parking.

On June 28, 1967,⁽⁹⁾ a select committee charged with responsibility for outdoor parking on the House side of the Capitol was created.

MR. [B. F.] SISK [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 514 and ask for its immediate consideration.

9. 113 CONG. REC. 17791, 17792, 90th Cong. 1st Sess.

The Clerk read the resolution, as follows:

H. RES. 514

Resolved, (a) That there is hereby created select committee to be composed of three Members of the House of Representatives to be appointed by the Speaker, one of whom shall be designated as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

(b) The said committee is hereby authorized to exercise direction over the Sergeant at Arms of the House of Representatives in the assignment of space for outdoor parking of automobiles in squares 639, south of 635, and G92, located adjacent to the House Office Buildings, and for all other outdoor parking of automobiles on the House side of the United States Capitol Grounds. . . .

The resolution was agreed to.

§ 20. Duties of the Doorkeeper

Under Rule V clause 1, of the *House Rules and Manual*,⁽¹⁰⁾ the Doorkeeper enforces rules⁽¹¹⁾ relating to privileges of the Hall of the House. Under Rule V clause

10. See 1 Hinds' Precedents §260 for the origin of Rule V clause 1.

11. These rules include Rule XXXI *House Rules and Manual* §918 (1973) relating to the Hall of the House; and Rule XXXII clauses 1, 2, *House Rules and Manual* §919-921 (1973), relating to admission to the floor.

2,⁽¹²⁾ he allows no person to enter the Hall of the House during sessions, and clears the floor of all persons not privileged to remain.

Before the 92d Congress, the Doorkeeper was responsible for making an inventory of all furniture, books, and other public property in committee rooms and other spaces.⁽¹³⁾ However, the provision containing this directive, former Rule V clause 2, was deleted in the general revision of the rules effected by the Legislative Reorganization Act of 1970⁽¹⁴⁾ because the duty of taking inventories and accounting for custody of furniture and other office equipment was placed in the Clerk by the House Office Building Commission.⁽¹⁵⁾

With the Sergeant at Arms, the Doorkeeper enforces the rule⁽¹⁶⁾ relating to behavior of Members on the floor. Although Jefferson's Manual,⁽¹⁷⁾ states that porters or the Sergeant at Arms keeps the doors, this duty is executed by the Doorkeeper and his assistants.

The Speaker in executing his own responsibilities under the

rules imposes on the Doorkeeper duties in addition to those mentioned above. Thus, pursuant to his authority to exercise general control of the Hall of the House and corridors thereof under Rule I clause 3, the Speaker has directed the Doorkeeper to remove a placard posted by a Member in the lobby of the House,⁽¹⁸⁾ or to clear⁽¹⁹⁾ and close the galleries.⁽²⁰⁾

Statutes also impose duties on the Doorkeeper. For example, he certifies his payroll each month,⁽¹⁾ and he reports position descriptions of all employee positions under the House Radio and Television Correspondents' Gallery and the House Periodical Press Gallery to the Committee on House Administration.⁽²⁾

The Doorkeeper performs supervisory responsibilities, which include appointing the superintendent of the Document Room⁽³⁾ and the superintendent of the Publications Distribution Service (folding room).⁽⁴⁾ The Doorkeeper oversees operations of

12. See 5 Hinds' Precedents §7295 for the origin of clause 2.

13. See 1 Hinds' Precedents §261.

14. 84 Stat. 1140.

15. 34 Stat. 1365.

16. Rule XIV clause 7, *House Rules and Manual* §763 (1973).

17. *House Rules and Manual* §380 (1973).

18. 6 Cannon's Precedents §262.

19. See §20.2, 20.3, *infra*.

20. See §20.4, *infra*.

1. 2 USC §89. A violation of this duty is deemed to be a cause for removal from office (see 2 USC §90).

2. 2 USC §294(b)(1).

3. 44 USC §739.

4. 44 USC §740.

a special as assistant,⁽⁵⁾ telephone clerks,⁽⁶⁾ doormen, and the pages that serve the House.⁽⁷⁾

With the Clerk of the House, the Secretary of the Senate, and Sergeant at Arms of the Senate, the Doorkeeper (a) sells waste-paper and useless documents that accumulate in his department,⁽⁸⁾ and (b) invoices public documents stored in and about the Capitol at the convening of each regular session.⁽⁹⁾

In the absence of the Clerk and Sergeant at Arms, certain duties devolve upon the Doorkeeper including (a) calling the House to order before election of a Speaker,⁽¹⁰⁾ (b) sending to Governors certificates of the number of Representatives to which each state is entitled after each decennial census,⁽¹¹⁾ and (c) making a roll of

5. 2 USC § 76a.

6. 2 USC § 76b.

The chief telephone clerk is chosen by the majority; the assistant chief telephone clerk is chosen by the minority.

7. See annotation to Rule V clause 1, *House Rules and Manual* §652 (1973).

8. 2 USC § 117.

9. 44 USC § 741.

10. Rule III clause 1, *House Rules and Manual* §639 (1973). See §20.8, *infra*, in which the Doorkeeper presided at the commencement of the 80th Congress.

11. 2 USC § 2a(b).

Representatives-elect before the meeting of each Congress.⁽¹²⁾

When the office of the Doorkeeper is declared vacant because of misconduct of an incumbent, the duties of the Doorkeeper devolve upon the Sergeant at Arms.⁽¹³⁾

The Doorkeeper with the aid of his appointees performs services not enumerated in the rules or statutes such as furnishing Members with printed copies of bills, reports, and other documents; conveying messages from Members; and keeping the Hall, galleries, and committee rooms in order.⁽¹⁴⁾

Controlling Access to Galleries

§ 20.1 The distribution of tickets for seats in the gallery during special occasions is the responsibility of the Doorkeeper of the House.

On Feb. 28, 1945,⁽¹⁵⁾ a Member raised an inquiry concerning distribution of gallery tickets to minority members:

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, I would like to make an inquiry of the Chair, although

12. 2 USC § 26.

13. 1 Hinds' Precedents § 288, 289.

14. 1 Hinds' Precedents § 262, note 9.

15. 91 CONG. REC. 1594, 79th Cong. 1st Sess.

I do not know that it is a parliamentary inquiry. Heretofore, when tickets have been distributed, there were a certain number of step tickets. Does the minority get any of those, or do they all go to the majority?

THE SPEAKER PRO TEMPORE: ⁽¹⁶⁾ That is a double-edged question. . . . The Chair does not undertake to answer the question, because no matter how it is answered, it is put in such manner as would make it appear that tickets have been distributed in the past contrary to the understanding of the Chair. That matter is left with the Doorkeeper, who is an officer of the House. . . .

§ 20.2 The Doorkeeper executes the Speaker's directive to clear the galleries issued in response to a Member's point of order.

On Jan. 18, 1972,⁽¹⁷⁾ the Speaker, Carl Albert, of Oklahoma, during a speech by a Member, Bella S. Abzug, of New York, discussing her resolution to censure the President's conduct of the war in Indochina, twice admonished spectators that expressions of approval were not permitted under the rules. When all persons in one gallery stood and displayed signs indicating approval of proceedings on the floor, the Speaker ordered the galleries cleared.

THE SPEAKER: The Chair reminds our guests in the galleries that the

16. John W. McCormack (Mass.).

17. 118 CONG. REC. 9, 92d Cong. 2d Sess.

Chair must enforce the rules of the House and that demonstrations from the galleries will not be permitted. . . .

POINT OF ORDER

MR. [DURWARD G.] HALL, [of Missouri]: Mr. Speaker, I demand that the gallery be cleared.

THE SPEAKER: The Chair will not tolerate demonstrations of approval or disapproval in the galleries.

MR. HALL: Mr. Speaker, I make a point of order that our guests and those in the galleries are not in order. I request that the gallery be cleared.

THE SPEAKER: The gentleman's point is well taken. The galleries will be cleared.

Parliamentarian's Note: The Doorkeeper cleared the gallery pursuant to the Speaker's directive. See 2 Hinds' Precedents §1352 for an instance in 1836 wherein the Speaker had ordered the galleries cleared.

§ 20.3 The Doorkeeper executed the Speaker's order to clear certain spectator galleries but not others, as announced at the commencement of the day's sitting.

On May 9, 1972,⁽¹⁸⁾ the Speaker, Carl Albert, of Oklahoma, ordered some spectator galleries to be cleared.

THE SPEAKER: The Chair desires to make the announcement that the

18. 118 CONG. REC. 16287, 92d Cong. 2d Sess

Chair did not order the clearing of the galleries except those on the Chair's left, where there was disorder.

Parliamentarian's Note: This order was given because some persons protesting the President's announcement on May 8, 1972, to mine the North Vietnamese harbor caused disorder in the galleries.

§ 20.4 The Doorkeeper executes the Speaker's order to close the galleries in anticipation of disturbances.

On May 10, 1972,⁽¹⁹⁾ the Speaker, Carl Albert, of Oklahoma, ordered the galleries to be closed.

THE SPEAKER: The Chair desires to make a statement.

The Chair has received intelligence from the police force and other responsible authorities that there will be disturbances in the gallery today. On the basis of this information and their recommendation the Chair has ordered that the galleries be closed to the public for the time being.

Parliamentarian's Note: This decision, made after consultation with the Majority and Minority Leaders and the Parliamentarian, was based on reports from the Capitol Police that certain persons would demonstrate in the gallery against the Indochina war. The galleries were closed by the Door-

19. 118 CONG. REC. 16576, 92d Cong. 2d Sess.

keeper from the commencement of business at 12:00 meridian until 2:52 p.m. when they were reopened.

§ 20.5 The Doorkeeper confiscated the film of a visitor who was ordered to leave the gallery for photographing the Members while in session.

On Feb. 22, 1942,⁽²⁰⁾ a visitor was ordered to remove himself or his camera because he was taking pictures from the gallery.

THE SPEAKER [Sam Rayburn, of Texas]: The Chair understands there is a camera in the gallery. Whoever has that camera will remove the camera or remove themselves and the camera immediately. That is a violation of the rules of the House.

The film in the camera of the person taking the pictures was confiscated by the Doorkeeper.

Closing or Locking Doors

§ 20.6 Upon a personal instruction by the Speaker during a call of the House under former Rule XV clause 2, the Doorkeeper locked all exits from the House Chamber and removed doorknobs from cloakroom doors to prevent Members from leaving during a call of the House.

20. 88 CONG. REC. 2152, 77th Cong. 2d Sess.

On Oct. 8, 1968,⁽¹⁾ the Speaker ordered the doors to the Chamber closed and locked during a call of the House under former Rule XV clause 2, and instructed the Doorkeeper to enforce the rule and let no Members leave the Hall.

The Chair personally instructed the Doorkeepers to lock all exits from the House Chamber and to prohibit Members from leaving during the call of the House. Doors leading from the Chamber to the Speaker's lobby, as well as those opening from the cloakrooms to the north corridor in the House wing were locked. Door-knobs were removed in the cloakrooms to prevent doors being opened.

THE SPEAKER [John W. McCormack, of Massachusetts]: The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Speaker, a point of order, which relates to the call of the roll.

. . . The point of order is the doors were ordered closed, and the doors to the outside of the Chamber are open in the cloakrooms.

THE SPEAKER: The Chair has given instructions to close all doors and allow no Members out.

Parliamentarian's Note: The Speaker's order to lock the doors

1. 114 CONG. REC. 30093, 90th Cong. 2d Sess.

was permitted under former Rule XV clause 2; the rule in its present form refers merely to the doors being "closed" when so ordered by the Speaker. Rule XV clause 2(b).

§ 20.7 When proceedings under a call of the House pursuant to Rule XV clause 2 are dispensed with, doors to the Chamber are reopened by the Doorkeeper without further instructions from the Chair.

On Oct. 8, 1968,⁽²⁾ a Member raised a parliamentary inquiry concerning doors locked during a call of the House:

MR. [CRAIG] HOSMER [of California]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER [John W. McCormack, of Massachusetts]: The gentleman will state it.

MR. HOSMER: Mr. Speaker, a point of order having been made of no quorum, a quorum having been called, and a quorum having been found present, and the further proceedings under the call having been dispensed with, does that mean that the doors of the House are now unlocked?

THE SPEAKER: The gentleman is correct.

Doorkeeper as Presiding Officer

§ 20.8 In the absence of the Clerk and Sergeant at Arms,

2. 114 CONG. REC. 30093, 90th Cong. 2d Sess

the Doorkeeper calls the House to order when a Congress convenes and presides until a Speaker is elected and takes the chair.

On Jan. 3, 1947,⁽³⁾ the Doorkeeper, Ralph R. Roberts, called the House to order at the commencement of the 80th Congress and presided until a Speaker was elected because the Clerk of the 79th Congress had died and the Sergeant at Arms was absent.

§21. Duties of the Chaplain

The Chaplain of the House is responsible for offering a prayer at the commencement of each day's sitting of the House under Rule VII of the *House Rules and Manual*.⁽⁴⁾

Although the prayer generally precedes the transaction of any business,⁽⁵⁾ it follows the election of a new Speaker at the first meeting after the death of a Speaker.⁽⁶⁾ And despite the general practice that a prayer be of-

3. 93 CONG. REC. 33-35, 80th Cong. 1st Sess.

4. Rule VII *House Rules and Manual* §650 (1973).

5. 4 Hinds' Precedents §3056.

6. §21.4, *infra*.

ferred daily,⁽⁷⁾ it was not offered on certain occasions.⁽⁸⁾

Application of Quorum Requirement to Prayer

§21.1 A quorum is not required for prayer by the Chaplain when a meeting commences, and the Speaker does not recognize Members for a point of order against the prayer based on the absence of a quorum.

On Mar. 19, 1941,⁽⁹⁾ a Member raised a parliamentary inquiry:

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER [Sam Rayburn, of Texas]: The gentleman will state it.

MR. RICH: Mr. Speaker, when I was seeking recognition from the Speaker before the Chaplain offered prayer, I felt that there would be a call of the House and I thought it would be a good thing for all the Members to be here for once to hear the Chaplain offer prayer. What does the Speaker think about that? Would it be proper procedure for a Member to make the point of order that a quorum is not present before the Chaplain offers prayer?

THE SPEAKER: As the Chair understands it, it has been held many times

7. See §21.2, *infra*.

8. See §21.3, *infra*, for instances where no prayer was offered.

9. 87 CONG. REC. 2352, 77th Cong. 1st Sess.

that the prayer is not such business of the House that a quorum is required.⁽¹⁰⁾

When Prayers Are Offered

§ 21.2 As a general rule, a prayer is offered daily, whether the House had adjourned until the next day or had recessed at its previous sitting.

On June 18, 1948,⁽¹¹⁾ a prayer was offered by the Chaplain at the expiration of a recess.

On the legislative day of Sept. 22, 1961,⁽¹²⁾ a prayer was offered at 10 o'clock a.m. after the Speaker pro tempore had recessed the House at 6:19 p.m. on the previous calendar day.⁽¹³⁾

§ 21.3 Notwithstanding the usual practice that a prayer be offered daily, it has not been offered where the House is meeting after a recess to transact business of the same legislative day, although a new calendar day may have begun.

On the legislative day of Aug. 31, 1960, after a recess begun at

10. See also 6 Cannon's Precedents 663.

11. 94 CONG. REC. 8824, 80th Cong. 2d Sess.

12. 107 CONG. REC. 20888, 87th Cong. 1st Sess., Sept. 23, 1961.

13. 107 CONG. REC. 20869, 87th Cong. 1st Sess., Sept. 22, 1961.

3:37 a.m., no prayer was offered prior to resumption of business in the House at 12 o'clock noon on the same legislative day, although a new calendar day, Sept. 1, 1960, had begun.⁽¹⁴⁾

Prayers After Death of Speaker

§ 21.4 At the first meeting following the death of a Speaker during a Congress, the prayer is not offered by the Chaplain until the oath has been administered to the Speaker-elect.

Although a prayer normally precedes the transaction of any business under Rule XXIV clause 1,⁽¹⁵⁾ including the election of a new Speaker at the commencement of a Congress,⁽¹⁶⁾ the prayer follows

14. See 106 CONG. REC. 18921 (recess on legislative day of Aug. 31, at 3:37 a.m., Sept. 1), 86th Cong. 2d Sess., Aug. 31, 1960; and 106 CONG. REC. 19113 (resumption of business for legislative day of Aug. 31 at 12:00 noon, Sept. 1), 86th Cong. 2d Sess., Sept. 1, 1960.

15. 4 Hinds' Precedents § 3056.

16. For instances involving the election at the commencement of Congress of a different Member to the office of Speaker when his predecessor has chosen not to seek reelection to the House, see 77 CONG. REC. 67, 73d Cong. 1st Sess., Mar. 9, 1933, election of Henry T. Rainey; 117 CONG. REC. 9, 92d Cong. 1st Sess., Jan. 21,

the administration of the oath to a Speaker-elect whose election was necessitated by the death of his predecessor.⁽¹⁾

Printing of Prayers

§ 21.5 The House has authorized the printing of prayers offered by the Chaplain of the House.

On Mar. 11, 1965,⁽²⁾ the House authorized the printing of prayers offered by the Chaplain of the House, Rev. Bernard Braskamp, as follows:

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, by direction of the Committee on House Administration I call up

1971, election of Carl Albert after John W. McCormack did not seek reelection to the House in 1970.

1. See 80 CONG. REC. 9016, 74th Cong. 2d Sess., June 4, 1936, election of William B. Bankhead after death of Joseph W. Byrns on same date; and 86 CONG. REC. 12231, 76th Cong. 3d Sess., Sept. 16, 1940, election of Sam Rayburn after death of William B. Bankhead on Sept. 15, 1940.

Compare 79 CONG. REC. 9, 74th Cong. 1st Sess., Jan. 3, 1935, election of Joseph W. Byrns, the prayer preceding the administration of the oath. The previous Speaker, Henry T. Rainey, died on Aug. 19, 1934, two months after adjournment of the second session of the 73d Congress on June 15, 1933.

2. 111 CONG. REC. 4766, 89th Cong. 1st Sess.

House Resolution 230 and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 230

Resolved, That the prayers offered by the Chaplain, the Reverend Bernard Braskamp, doctor of divinity, at the opening of the daily sessions of the House of Representatives of the United States during the Eighty-seventh and Eighty-eighth Congresses, be printed as a House document, and that two thousand additional copies be printed and bound for the use of the House of Representatives, to be distributed by the Chaplain of the House of Representatives.

With the following committee amendment:

On page 1, line 6, strike out "two" and insert "one".

The committee amendment was agreed to.

The resolution was agreed to.

Prayers Offered on Special Occasions

§ 21.6 On the day following the shooting in the House Chamber in which several Members were wounded, the Chaplain offered a special prayer when the House convened.

On Mar. 2, 1954,⁽³⁾ the Chaplain of the House, Rev. Bernard Braskamp, D.D., offered the following prayer:

Almighty God, our Father, by whose mercies we have been spared and by

3. 100 CONG. REC. 2483, 83d Cong. 2d Sess.

whose powers we are sustained in our earthly pilgrimage, we are coming unto Thee with a humble spirit and a contrite heart.

Gird us now with courage and with confidence in Thy loving kindness for Thou art never closer unto us than when our hearts are wrung with sorrow and our heads are bowed in tribulation.

We commend unto Thy gracious care in keeping our beloved colleagues, beseeching Thee that Thou wilt share Thine eternal wisdom with the doctors and nurses for Thou art the Great Physician who canst mediate unto them divine skill and enable them to do that which is far beyond all that we can ask or think.

Grant unto the Members of the sorrowing and stricken families the consolidations of Thy grace and, as they bravely carry on and faithfully and patiently keep the vigil of faith, hope, and love, may they have the blessed companionship of that friend who sticketh closer than a brother.

We thank Thee for the beautiful spirit of Thy servant, so seriously ill, who has besought us to remember in our prayer those who have harmed us. May we also emulate the example of our blessed Lord who prayed, "Father, forgive them for they know not what they do."

To Thy name, through Jesus Christ our Lord and Saviour, we ascribe all the praise. Amen.

Absence of Chaplain

§ 21.7 The prayer may be offered by an acting Chaplain.

On Apr. 25, 1966,⁽⁴⁾ Dr. Edward Gardiner Latch, acting Chaplain

4. 112 CONG. REC. 8786, 89th Cong. 2d Sess.

of the House, offered the following opening prayer:

God is our refuge and strength, a very present help in trouble. Therefore will we not fear.—Psalm 46:1.

O God, our Father, who art the refuge and strength of Thy people in every age and our refuge and our strength in this present hour, we pause in Thy presence to offer unto Thee once again the devotion of our hearts. Amid all the changes of this life, help us to rest our spirits upon those eternal foundations of truth and love which Thou hast laid for us. Save us from restlessness, from confusion, and from perpetual movement. Draw us unto Thyself that for this moment we may be still and know that Thou art God. With the assurance of Thy Spirit may we accept the responsibilities of This day and fulfill all our obligations with fidelity and honor. Into Thy loving arms we commit ourselves and our Nation—praying that together we may be one in Thee: through Jesus Christ our Lord. Amen.

Dr. Latch was appointed as acting Chaplain by the Speaker, John W. McCormack, of Massachusetts, on Mar. 14, 1966. Daily prayers during the period between that date and Apr. 25, were offered by visiting chaplains who had been scheduled by the Doorkeeper following the death of Chaplain Braskamp.

§ 21.8 In the absence of the Chaplain of the House, the Members rose for a silent prayer.

On Oct. 5, 1949,⁽⁵⁾ Members were asked to rise for a moment of silent prayer.

The House met at 10 o'clock a.m.

THE SPEAKER [Sam Rayburn, of Texas]: Will the membership rise for a moment in silent prayer?

Parliamentarian's Note: Although the Chaplain of the House had designated an acting Chaplain to serve during his absence, the acting Chaplain was unaware that the House had agreed to convene at 10 o'clock a.m. and arrived too late to open the House with a prayer.

§ 21.9 Visiting Chaplains offer prayers when the Chaplain of the House is absent.

On June 9, 1948,⁽⁶⁾ the prayer was offered by a woman minister,⁽⁷⁾ for the first time in the history of the Congress.

On June 21, 1965,⁽⁸⁾ the prayer was offered in the House by Rev. Harold S. Horan, son of Walter F. Horan, a former Member (1943–55) from Washington.

5. 95 CONG. REC. 13897, 81st Cong. 1st Sess.

6. 94 CONG. REC. 7597, 7598, 80th Cong. 2d Sess.

7. Rev. Annalee Stewart, of Chicago and Boston.

8. 111 CONG. REC. 14097, 89th Cong. 1st Sess.

§ 22. Vacancies; Selection of Successors

The unexpected death of the Sergeant at Arms, William F. Russell, on July 8, 1953,⁽⁹⁾ dramatically underscored the need for a mechanism to select acting officers. On that date,⁽¹⁰⁾ the House authorized Lyle O. Snader, Clerk of the House, to serve concurrently as Clerk and Sergeant at Arms with the proviso that he would receive no additional compensation for performing the duties of the Sergeant at Arms.⁽¹¹⁾ Later, Congress passed a statute (2 USCA §75a–1) authorizing the Speaker to appoint a person to act as Clerk, Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain whenever a vacancy occurs.⁽¹²⁾

Appointments by Speaker

§ 22.1 The Speaker is authorized by statute to appoint temporary officers to fill vacancies.

On July 28, 1953,⁽¹³⁾ Mr. Charles A. Halleck, of Indiana, of-

9. See 99 CONG. REC. 8263, 83d Cong. 1st Sess. for announcement of the death of the Sergeant at Arms.

10. 99 CONG. REC. 8242, 83d Cong. 1st Sess.

11. See § 16.3, *supra*.

12. See § 22.1, *infra*, for text of resolution.

13. 99 CONG. REC. 10128, 83d Cong. 1st Sess.

ferred and the House passed the following bill (H.R. 6571) which was codified as 2 USC §75a-1 (approved Aug. 5, 1953):⁽¹⁴⁾

(a) In case of a vacancy, from whatever cause, in the office of Clerk, Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain, of the House of Representatives, or in the case of the incapacity or inability of the incumbent of any such office to perform the duties thereof, the Speaker of the House of Representatives may appoint a person to act as, and to exercise temporarily the duties of, Clerk, Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain, as the case may be, until a person is chosen by the House of Representatives and duly qualifies as Clerk, Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain, as the case may be or until the termination of the incapacity or inability of the incumbent.

(b) Any person appointed pursuant to this section shall exercise all the duties, shall have all the powers, and shall be subject to all the requirements and limitations applicable with respect to one chosen by the House of Representatives to fill the office involved; but nothing in this section shall be held to amend, repeal, or otherwise affect section 7 of the Legislative Branch Appropriation Act, 1943 (2 U.S.C. sec. 75a).

(c) Any person appointed pursuant to this section shall be paid the compensation he would receive if he were chosen by the House of Representatives to fill the office involved, unless

14. See also 99 CONG. REC. 10073, 83d Cong. 1st Sess., July 8, 1958, for passage in Senate.

such person is concurrently serving in any office or position the compensation for which is paid from the funds of the United States, in which case he shall receive no compensation for services rendered pursuant to his appointment under this section, and his compensation for performing the duties of such office other than the one to which he is appointed pursuant to this section shall be in full discharge for all services he performs for the United States while serving in such dual capacity.

§ 22.2 The Speaker, pursuant to 2 USCA §75a-1(a), appointed a Sergeant at Arms following resignation of the incumbent who concurrently held the office of Clerk.

On Jan. 6, 1954,⁽¹⁵⁾ the Speaker, Joseph W. Martin, Jr., of Massachusetts, laid before the House the following communication from the Clerk:

MY DEAR MR. SPEAKER: I submit herewith, effective at the close of business today, my resignation as Sergeant at Arms, House of Representatives, which additional duty I assumed pursuant to House Resolution 323, dated July 8, 1953, 83d Congress.

Respectfully yours,
 LYLE O. SNADER,
*Clerk of the
 House of Representatives.*

At the same time the Speaker made the following announcement:

The Chair announces that, pursuant to the provisions of section

15. 100 CONG. REC. 8, 83d Cong. 2d Sess.

208(a) of the Legislative Reorganization Act of 1946 [2 USCA 75a-1], he did on September 15, 1953, appoint William R. Bonsell, of the State of Pennsylvania, to act temporarily as Sergeant at Arms until the House chooses a person for that office.⁽¹⁶⁾

§ 22.3 The person who had resigned as permanent Sergeant at Arms was appointed to fill the office on a temporary basis until a successor could be chosen.

On June 30, 1972,⁽¹⁷⁾ the Speaker, Carl Albert, of Oklahoma, laid before the House a letter of resignation from the Sergeant at Arms, Zeake W. Johnson, Jr., effective June 30, 1972, and, pursuant to 2 USC §75a-1 (a) appointed him to act as and to exercise temporarily the duties of that office.

Parliamentarian's Note: Mr. Johnson resigned as permanent Sergeant at Arms on this date to qualify for certain retirement benefits available to persons who left government service on or before the last day of the 1972 fiscal year. He agreed to serve as acting Sergeant at Arms until the Democratic Caucus nominated a can-

16. 100 CONG. REC. 8, 83d Cong. 2d Sess. See §16.4, supra, for the election of Mr. Bonsell as permanent Sergeant at Arms.

17. 118 CONG. REC. 23665, 92d Cong. 2d Sess.

didate for the office of Sergeant at Arms.

Mr. Johnson served as temporary Sergeant at Arms until Oct. 1, 1972. On Sept. 25, 1972,⁽¹⁸⁾ the Speaker, laid before the House the following communication from the acting Sergeant at Arms:

DEAR MR. SPEAKER: On June 30, 1972, pursuant to the provisions of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 75-1(a)), you appointed me to act and to exercise temporarily the duties of Sergeant at Arms of the House of Representatives effective July 1, 1972.

Since the Democratic Caucus has nominated a candidate for the Office of Sergeant at Arms, I hereby tender my resignation effective midnight September 30, 1972.

In my leave-taking, I want to thank you, Members of the House, and to say that words cannot adequately express my feelings of gratitude and fulfillment for the privilege that has been mine to serve the House of Representatives as Sergeant at Arms.

Sincerely,

ZEAKE W. JOHNSON, JR.,
Sergeant at Arms.

§ 22.4 The Speaker appointed an acting Chaplain following the death of the incumbent.

On Mar. 14, 1966,⁽¹⁹⁾ the Speaker, John W. McCormack, of Massachusetts, pursuant to 2 USC §75a-1(a), appointed Rev. Edward Gardiner Latch, D.D., L.H.D., to

18. 118 CONG. REC. 31999, 32000, 92d Cong. 2d Sess.

19. Cong. Rec. 5712, 89th Cong. 2d Sess.

act as and exercise temporarily the duties of the Chaplain of the House of Representatives following the death of the Chaplain

of the House, Rev. Bernard Braskamp.

Rev. Latch served as acting Chaplain until the end of the 89th Congress.⁽²⁰⁾

D. AS PARTY DEFENDANT OR WITNESS

§ 23. In General; Immunities

This division focuses on the liability to suit or to judicial process of House officials or employees for acts committed by them in the performance of their duties for the House. Immunity arising under the Speech or Debate Clause of the U.S. Constitution (art. I, §6) is discussed. Court opinions dealing with aides of individual legis-

lators⁽¹⁾ and committee employees⁽²⁾ are also taken up here.⁽³⁾

In the exercise of official duties, an officer of the House may become involved in litigation by receiving a summons to appear as a party defendant,⁽⁴⁾ in which case he informs the Speaker,⁽⁵⁾ and may request legal representation by the United States Attorney for the district in which the action is brought.⁽⁶⁾ Or he may receive a

20. See §16.9, *supra*, for the election of Rev. Latch as Chaplain.

1. See *Gravel v United States*, 408 U.S. 606 (1972), for example, which is discussed at §23.13, *infra*. See also Ch. 7, *infra*, for a discussion of litigation involving Members generally.
2. *Dombrowski v Eastland*, 387 U.S. 82 (1967), *Stamler v Willis*, 415 F2d 1365 (7th Cir. 1969); cert. den. 399 U.S. 929 (1970), and *Doe v McMillan*, 412 U.S. 306 (1973), which are discussed at §§23.10, *infra*, 23.12, *infra*, and 23.14, *infra*, respectively.
3. See Ch. 11, which includes a discussion of the privilege of the House as related to subpoenas served on Members or on House officers or employees.

4. See the reports of the Joint Committee on Congressional Operations Identifying Court Proceedings and Actions of Vital Interest to the Congress, for the record of legal actions involving House officers, beginning with the first cumulative report dated Oct. 20, 1971.

5. See §§23.1 and 23.2 *infra*, for precedents relating to receiving a summons and notifying the Speaker.

6. See USC §118.

See §§93.3, *infra*, and 23.5, *infra*, for examples of requests for representation from the Clerk and the Sergeant at Arms, respectively.

subpena to appear and testify as a witness (subpena ad testificandum) or to produce records (subpena duces tecum), in which case he informs the Speaker who lays the matter before the House,⁽⁷⁾ which may grant leave for the withdrawal of papers from its files.⁽⁸⁾

At one time, immunity from suit under the Speech or Debate Clause was considered to be broader for Members of Congress than for nonmembers who acted on their behalf, including officers of legislative bodies, staff personnel of committees, and aides to individual Members. For example, in *Kilbourn v Thompson*, 103 U.S. 168 (1881),⁽⁹⁾ the U.S. Supreme Court held that although damages for false imprisonment could not be recovered in that case against Members of the House, they could be recovered against the Sergeant

Compare §23.6, *infra*, for an instance in which the House by resolution authorized the Speaker to appoint and fix the compensation of special counsel to represent officers, Members, and the House in *Powell v McCormack*.

7. See §§23.7–23.9, *infra*, for precedents relating to receiving subpoenas and notifying the Speaker.
8. Rule XXXVII, *House Rules and Manual* §933 (1973).
9. See 2 Hinds' Precedents §1611, for a discussion of *Kilbourn v Thompson*.

at Arms, who executed an arrest warrant pursuant to a resolution found to be an unconstitutional exercise of judicial authority by a legislative body. Likewise in *Dombrowski v Eastland*, 387 U.S. 82 (1967)⁽¹⁰⁾ a criminal suit was dismissed as to a Senate subcommittee chairman, but remanded for a finding of facts on alleged illegal activities by the subcommittee counsel.

This double standard was applied in *Powell v McCormack*, 395 U.S. 606 (1969),⁽¹¹⁾ in which the Court dismissed a suit for declaratory, injunctive, and mandatory relief as to Members, but held that the Clerk, Sergeant at Arms, and Doorkeeper of the House could be held liable for refusal to perform services for a Member-elect who had been excluded from the office by an unconstitutional resolution. In *Stamler v Willis*, 415 F2d 1365 (7th Cir. 1969), cert. den. 399 U.S. 929 (1970),⁽¹²⁾ a suit against members of a House committee, a lower federal court on its own motion granted plaintiffs leave to amend their complaint to include committee personnel to

10. See §23.10, *infra*.

Collateral reference: *Dombrowski v Eastland* Id—A Political Compromise and Its Impact. 22 Rutgers Law Review 1.27 (Fall 1967).

11. See §23.11, *infra*.
12. See §23.12, *infra*.

ensure that adequate relief could be obtained. At the same time, the Court dismissed the action as to the Members on the ground that their activities were protected by the Speech or Debate Clause.

The practice of recognizing greater immunity for Members than their agents was modified in *Gravel v United States*, 408 U.S. 606 (1972),⁽¹³⁾ a criminal action which arose when an aide to the Senator who publicized the contents of the Pentagon Papers refused to respond to a subpoena to appear before a grand jury and answer questions relating to assistance given by him to the Senator. Intervening to quash the subpoena, the Senator contended that requiring the aide to testify about such assistance would violate the Senator's privilege under the Speech or Debate Clause. Adopting the position of the Senate, which filed a friend of the court brief and argued the cause, the Supreme Court held that the legislative process is such as to make the work of an aide so critical that he must be treated as a Member's alter ego to avoid frustration of the central purpose of the constitutional immunity. The Court ruled that "the Speech or Debate Clause applies not only to a Member, but also to his aides

13. See §23.13. *infra*.

insofar as the conduct of the latter would be protected if performed by the Member himself." One year later the Court extended the Speech or Debate Clause immunity, granted to aides of individual Members in *Gravel*, to committee employees. See *Doe v McMillan*, 412 U.S. 306 (1973).⁽¹⁴⁾

Receipt of Summons

§ 23.1 When the Clerk receives a summons to appear as a party defendant in a court action, he informs the Speaker who lays the matter before the House.⁽¹⁵⁾

For example, on Oct. 24, 1967,⁽¹⁶⁾ the Speaker, John W.

14. See §23.14, *infra*.

Collateral reference: *Constitution of the United States of America: Analysis and Interpretation*, "Privilege of Speech or Debate, Congressional Employees," pp. 120-22, S. Doc. No. 92-82, 92d Cong. 2d Sess.

15. See, for example, 113 CONG. REC. 6035, 6036, 90th Cong. 1st Sess., Mar. 9, 1967 (Clerk's receipt of summons in *Powell v McCormack*); 113 CONG. REC. 29821, 90th Cong. 1st Sess., Oct. 24, 1967 (receipt of summons in *Wilkinson v United States and Clerk of the House of Representatives*); 117 CONG. REC. 1503, 1504, 92d Cong. 1st Sess., Feb. 3, 1971 (receipt of summons in *Eckert v House of Representatives*).

16. 113 CONG. REC. 29821, 90th Cong. 1st Sess.

McCormack, of Massachusetts, laid before the House the following communication from the Clerk:

OCTOBER 19, 1967.

Re civil action file No. 2643-1967.
The Honorable the SPEAKER, HOUSE
OF REPRESENTATIVES.

DEAR SIR: By this letter I am transmitting to you a summons in a civil action directed against the United States of America and the Clerk of the House of Representatives of the Congress of the United States.⁽¹⁷⁾ I was served with this petition on the 17th of October by a Deputy United States Marshal. In addition to notifying you of this action in accordance with 2 U.S. Code 118 a copy of this summons is being forwarded to the U.S. District Attorney for the District of Columbia. In accordance with the provisions of this statute I am requesting the U.S. District Attorney to enter an appearance, file an answer and defend this civil action. Additionally I am notifying the Attorney General of the United States that this suit has been filed against me in my official capacity as Clerk of the House of Representatives of the Congress of the United States. Copies of these letters and notification are attached hereto.

This summons is attached and the matter is presented for such action as the House in its wisdom may see fit to take.

Respectfully submitted.
W. PAT JENNINGS,
Clerk,
U.S. House of Representatives.

17. The suit referred to in the letter, *Wilkinson v United States of America et al.*, Civil Action File No. 26431967, sought statutory death benefits for the daughter of a deceased House employee.

THE SPEAKER: Without objection, the summons and pleadings will be printed in the Record.

There was no objection.

§ 23.2 When the Sergeant at Arms receives a summons to appear as a party defendant in a court action, he informs the Speaker who lays the matter before the House.

For example, on June 6, 1963,⁽¹⁸⁾ the Speaker, John W. McCormack, of Massachusetts, laid before the House the following communication from the Sergeant at Arms:

JUNE 6, 1963.

Hon. JOHN W. MCCORMACK,
Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have in my official capacity as Sergeant at Arms of the House of Representatives been served in a civil action in the U.S. District Court for the District of Columbia (civil action file No. 137163).⁽¹⁹⁾ Having in mind that the privileges of the House of Representatives may be involved, I am bringing this matter to your attention.

I did, on June 5, 1963, address letter to the Honorable David C. Acheson, U. S. attorney for the District

18. 109 CONG. REC. 10359, 88th Cong. 1st Sess.

19. *Parliamentarian's Note*: The civil action referred to above alleged the failure of the Sergeant at Arms to withhold the salary of a Member (Adam C. Powell [N.Y.]) for periods of alleged absence from the House. It was dismissed with prejudice.

of Columbia, requesting assignment of counsel to represent the Sergeant at Arms as provided for in 2 United States Code 118. A copy of that letter is attached hereto.

Sincerely,
ZEAKE W. JOHNSON, JR.,
Sergeant at Arms.

Legal Representation

§ 23.3 When named as a party defendant in a legal action involving performance of official duties, the Clerk has requested representation from the United States Attorney for the district in which the action was brought.

A statute⁽²⁰⁾ provides that any officer of either House may request legal representation in any action involving the discharge of official duties. A representative illustration of one of these requests, a letter to the United States Attorney for the district in which the action was brought, was laid before the House by the Speaker, John W. McCormack, of Massachusetts, on Oct. 24, 1967:⁽¹⁾

OCTOBER 19, 1967.

Re civil action file No. 2643-1967.
Hon. DAVID G. BRESS,
U.S. Attorney for the District of Columbia,
U.S. Courthouse, Washington, D.C.

DEAR MR. BRESS: I am sending you a copy of a summons in a civil

action that was served on me in my official capacity as Clerk of the House of Representatives of the Congress of the United States. This service was accomplished on October 17 by a Deputy U.S. Marshal.

In accordance with 2 U.S. Code 118 I respectfully request that you enter an appearance, file an answer or take such other action as you may deem necessary in defense of this suit against the United States of America and the Clerk of the U.S. House of Representatives of the Congress of the United States.

This office will assist you in any way possible in preparation of your answer and defense. If you have any questions regarding this matter or if you need additional information please contact my legal advisor, Mr. Bill Hollowell.

Respectfully submitted.

W. PAT JENNINGS,
Clerk,
U.S. House of Representatives.

§ 23.4 In addition to informing the United States Attorney for the district in which the action was brought, an officer named as a party defendant sometimes notifies the Attorney General, although this latter notification is not required by statute.

For example, on Oct. 24, 1967,⁽²⁾ the Speaker, John W. McCormack, of Massachusetts, laid before the House the following letter from the Clerk:

²⁰. 2 USC § 118.

1. 113 CONG. REC. 29821, 90th Cong. 1st Sess.

2. 113 CONG. REC. 29821, 90th Cong. 1st Sess.

OCTOBER 19, 1967.

Re civil action file No. 2643-1967.

Hon. RAMSEY CLARK,
Attorney General of the United States,
Department of Justice, Washington, D.C.

DEAR MR. CLARK: I am sending you a copy of a summons in a civil action filed against the United States of America and the Clerk of the House of Representatives of the Congress of the United States. I was served with this summons on October 17 by a Deputy U.S. Marshal.

In accordance with 2 U.S. Code 118 I have sent a copy of this action to the U.S. District Attorney for the District of Columbia requesting that he enter an appearance and defend this action. Realizing that the defense of this action will be conducted under the supervision and direction of the Attorney General I am also sending you a copy of the summons as well as a copy of the letter that I am forwarding to the U.S. District Attorney.

Respectfully submitted.

W. PAT JENNINGS,
Clerk,

U.S. House of Representatives.

§ 23.5 The Sergeant at Arms has requested representation of the United States Attorney for the district where the action was brought in a lawsuit involving his official duties.

For example, on June 6, 1963,⁽³⁾ the Speaker, John W. McCormack, of Massachusetts, laid before the House the following communication requesting representation

3. 109 CONG. REC. 10359, 88th Cong. 1st Sess.

from the United States Attorney pursuant to 2 USC § 118:

JUNE 6, 1963.

Hon. DAVID C. ACHESON,
U.S. Attorney for the District of Columbia, U.S. Courthouse, Washington, D.C.

DEAR MR. ACHESON: I respectfully request that you assign counsel to represent the Sergeant at Arms of the House of Representatives, Zeake W. Johnson, Jr., in a civil action in the U.S. District Court for the District of Columbia (civil action file No. 1371-63) pursuant to 2 United States Code 118. I was served in my official capacity, on June 4, 1963, with instructions to answer the complaint within 60 days after service.

I am enclosing herewith a copy of the summons which was served on me. I may add that I will be available at any time to confer with any counsel that you may assign to this case.

Very truly yours,

ZEAKE W. JOHNSON, JR.,
Sergeant at Arms.

§ 23.6 In an action where both Members and officers were named as defendants, the House authorized the Speaker to appoint special counsel to represent both groups.

Although House officers by statute⁽⁴⁾ may request representation by the United States Attorney in any action involving the discharge of their official duties, they did

4. 2 USC § 118.

See § 23.3, *supra*, for a discussion of the procedure for requesting representation by the United States Attorney.

not exercise this authority in *Powell v McCormack*, 395 U.S. 606 (1967), a suit where both officers and Members were named as defendants. Instead, they were represented by special counsel appointed by the Speaker and paid out of the contingent fund.⁽⁵⁾

Thus, on Mar. 9, 1967, in the 90th Congress,⁽⁶⁾ Mr. Hale Boggs, of Louisiana, offered and the House adopted House Resolution 376. The proceedings were as follows:

MR. BOGGS: Mr. Speaker, I rise to a question of the privilege of the House, and offer a resolution (H. Res. 376) which I send to the Clerk's desk.

THE SPEAKER [John W. McCormack, of Massachusetts]: The gentleman submits a resolution relating to the privilege of the House, which the Clerk will report.

The Clerk read as follows:

H. RES. 376

Whereas Adam Clayton Powell, Jr., et al., on March 8, 1967, filed a suit in the United States District Court for the District of Columbia,

5. See 2 Hinds' Precedents § 1611, n. 1, for references to other instances in which the House by resolution authorized an officer (the Sergeant at Arms) to retain counsel in a legal action (*Kilbourn v Thompson*, 103 U.S. 168 [1881]). These resolutions were passed prior to passage of 2 USC § 118.
6. See 113 CONG. REC. 6040 et seq., 90th Cong. 1st Sess.

naming as defendants certain Members and officers of the House of Representatives, and contesting certain actions of the House of Representatives; and

Whereas this suit raises questions concerning the rights and privileges of the House of Representatives, the separation of powers between the legislative and judicial branches of the Government and fundamental constitutional issues: Now, therefore, be it

Resolved, That the Speaker of the House of Representatives of the United States is hereby authorized to appoint and fix the compensation of such special counsel as he may deem necessary to represent the House of Representatives, its Members and officers named as defendants, in the suit filed by Adam Clayton Powell, Jr., et al. in the United States District Court for the District of Columbia, as well as in any similar or related proceeding brought in any court of the United States; and be it further

Resolved, That any expenses incurred pursuant to these resolutions, including the compensation of such special counsel and any costs incurred thereby, shall be paid from the contingent fund of the House on vouchers authorized and signed by the Speaker of the House of Representatives and approved by the Committee on House Administration; and be it further

Resolved, That the Clerk of the House of Representatives transmit a copy of these resolutions to the aforementioned court and to any other court in which related legal proceedings may be brought.

The resolution was agreed to. And on Feb. 17, 1969, in the 91st Congress⁽⁷⁾ it was continued in ef-

7. 116 CONG. REC. 3359, 91st Cong. 1st Sess.

fect when a Member, Carl Albert, of Oklahoma, offered and the House-adopted the resolution (H. Res. 243) below.:

MR. ALBERT: Mr. Speaker, I offer a privileged resolution (H. Res. 243) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 243

Resolved, That the provisions of House Resolution 376, Ninetieth Congress, are hereby continued in effect during the Ninety-first Congress; and be it further

Resolved, That the Clerk of the House of Representatives transmit a copy of this resolution to the Supreme Court of the United States and to any other court in which related legal proceedings may be pending or brought.

Receipt of Subpena

§ 23.7 When the Sergeant at Arms receives a subpoena, he informs the Speaker who lays the matter before the House.

In his capacity as custodian of Members' bank accounts, payroll and other information pertaining to Members,⁽⁸⁾ the Sergeant at Arms sometimes receives subpoenas to appear before or present documents to grand juries and courts. Upon receipt of a subpoena,

8. See summary of § 19, *supra*, for discussion of duties of the Sergeant at Arms.

he sends a copy of it with a covering letter to the Speaker who lays them before the House,⁽⁹⁾ which then considers whether a response to the subpoena should be authorized.⁽¹⁰⁾

9. See for example, 99 CONG. REC. 5523, 5524, 83d Cong. 1st Sess., May 25, 1953 (notice of a subpoena duces tecum to appear before a grand jury empaneled to investigate possible violations of 18 USC § 1001 by Ernest King Bramblett); 100 CONG. REC. 1162, 83d Cong. 2d Sess., Feb. 2, 1954 (notice of a subpoena ad testificandum to appear as a witness in *U.S. v Ernest King Bramblett* [No. 971-53, criminal docket]); 106 CONG. REC. 4393, 86th Cong. 2d Sess., Mar. 3, 1960 (notice of a subpoena ad testificandum to appear as a witness in *U.S. v Adam Clayton Powell* [No. 35-208]); 111 CONG. REC. 5284, 5285, 89th Cong. 1st Sess., Mar. 18, 1965 (notice of a subpoena duces tecum to appear before a grand jury in *People of the State of New York v Adam Clayton Powell*); 111 CONG. REC. 16529, 89th Cong. 1st Sess., July 13, 1965 (notice of a subpoena ad testificandum to appear as a witness in *U.S. v Ernestine Washington, et al.* [crim. cases U.S. 5379-65 and U.S. 5380-65]); 113 CONG. REC. 17561, 17562, 90th Cong. 1st Sess., June 27, 1967 (notice of a subpoena duces tecum to appear before a grand jury in *U.S. v In re Possible Violations of 18 USC Sections 201, 287, 371, 641, and 1001* [concerning Adam Clayton Powell]).

10. See Rule XXXVII, *House Rules and Manual* § 933 (1973), which provides

For example, on July 13, 1965,⁽¹¹⁾ the Speaker, John W. McCormack, of Massachusetts, laid before the House the following letter from the Sergeant at Arms, Zeake W. Johnson, Jr., who had received a subpoena ad testificandum to appear as a witness in *United States v Ernestine Washington, et al.*:

JULY 13, 1965.

DEAR MR. SPEAKER: I have received a subpoena from the District of Columbia court of general sessions, criminal division, directing me as Sergeant at Arms of the House of Representatives to appear as witness for the defendants.

The rules and practice of the House of Representatives indicate that the Sergeant at Arms may not, either voluntarily or in obedience to a subpoena appear without the consent of the House being first obtained.

The subpoena in question is herewith attached and the matter is presented for such action as the House in its wisdom may see fit to take.

Sincerely,

ZEAKE W. JOHNSON, JR.,
Sergeant at Arms.

Mr. Hale Boggs, of Louisiana, offered and the House passed House Resolution 456, authorizing the Sergeant at Arms to appear as a Witness⁽¹²⁾

that no document presented to the House shall be withdrawn without its leave.

11. 111 CONG. REC. 16529, 89th Cong. 1st Sess.
12. *Id.*

Similarly, on June 27, 1967,⁽¹³⁾ the Speaker, John W. McCormack, of Massachusetts, laid before the House the following letter from the Sergeant at Arms, Zeake W. Johnson, Jr., who had received a subpoena duces tecum to appear and produce records before a grand jury empaneled to investigate alleged illegal activities by Adam Clayton Powell in *United States v In re Possible Violations of 18 USC Sections 201, 287, 371, 611, and 1001*:

DEAR MR. SPEAKER: From the United States District Court for the District of Columbia, I have received a subpoena directing the Sergeant at Arms or authorized representative to appear before the said Court and to bring with him certain records under his jurisdiction.

The rules and practice of the House of Representatives indicate that the Sergeant at Arms may not, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpoena in question is herewith attached and the matter is presented for such action as the House in its wisdom sees fit to take.

Sincerely,

ZEAKE W. JOHNSON, JR.,
Sergeant at Arms.

Following presentation of this letter, Mr. Carl Albert, of Okla-

13. 113 CONG. REC. 17561, 90th Cong. 1st Sess.

homa, offered and the House passed House Resolution 674, authorizing the Sergeant at Arms to appear before the grand jury, but not to take with him original documentary evidence, and to supply certified copies of evidence deemed material and relevant by the court.⁽¹⁴⁾

§ 23.8 When the Clerk receives a subpoena, he informs the Speaker who lays the matter before the House.

As custodian of House files, the Clerk sometimes receives subpoenas to appear or present documents before courts and grand juries. He sends a copy: of the subpoena with a covering letter to the Speaker who lays the matter before the House,⁽¹⁵⁾ which then con-

1948 (notice of receipt of a subpoena duces tecum in *U.S. v Albert Maltz*); 96 CONG. REC. 565, 81st Cong. 2d Sess., Jan. 18, 1950 (notice of receipt of a subpoena duces tecum in *U.S. v Christoffel*); 96 CONG. REC. 1695, 81st Cong. 2d Sess., Feb. 8, 1950 (notice of receipt of subpoena duces tecum for minutes of an executive session of a committee in *U.S. v Christoffel*; see also p. 1765, Feb. 13, 1950, for resolution adopted by the Judiciary Committee in response to this subpoena duces tecum); 97 CONG. REC. 3403, 3404, 82d Cong. 1st Sess., Apr. 6, 1951 (notices of receipt of subpoenas duces tecum in *U.S. v Patterson* and *U.S. v Kamp*); 97 CONG. REC. 3800, Apr. 12, 1951 (notice of receipt of subpoena duces tecum in *U.S. v Brehm*); 104 CONG. REC. 7262, 7263, 85th Cong. 2d Sess., Apr. 24, 1958 (notice of receipt of subpoena duces tecum from a superior court in North Carolina); 104 CONG. REC. 7636, 85th Cong. 2d Sess., Apr. 29, 1958 (notice of receipt of subpoena duces tecum to appear before a grand jury investigating alleged violations of 26 USC §145(b) by Representative Adam C. Powell [N. Y.]); 113 CONG. REC. 29374, 90th Cong. 1st Sess., Oct. 19, 1967 (notice of receipt of a subpoena ad testificandum to appear before a grand jury investigating alleged violations of 18 USC §§101, 201, 287, 371, 641, and 1505 by Representative-elect Adam Clayton Powell [N.Y.]); 115 CONG. REC. 80, 81, 91st Cong. 1st Sess., Oct. 29, 1969 (notice of receipt of a subpoena duces tecum to produce records required by the Corrupt Practices Act before a grand jury investigating ac-

14. 113 CONG. REC. 17561, 90th Cong. 1st Sess., June 27, 1967.

15. See for example, 76 CONG. REC. 5581, 72d Cong. 2d Sess., Mar. 3, 1933 (notice of receipt of subpoena duces tecum referred to Judiciary Committee); 94 CONG. REC. 2266, 80th Cong. 2d Sess., Mar. 5, 1948 (notice of receipt of subpoena duces tecum in *U.S. v Marshall*); 94 CONG. REC. 5066, 5067, 80th Cong. 2d Sess., Apr. 29, 1948 (notice of receipt of subpoena duces tecum in contempt cases; see also p. 5161, Apr. 30, 1948, for memorandum on Clerk's immunity in responding to a subpoena duces tecum); 94 CONG. REC. 5432, 80th Cong. 2d Sess., May 6,

siders whether it should permit the Clerk to answer the subpoena.⁽¹⁶⁾

For example, on Jan. 16, 1968,⁽¹⁷⁾ the Clerk, W. Pat Jennings, who had received a subpoena to appear and present original House records before a federal grand jury empaneled to investigate alleged violations of law by Member-elect Adam Clayton Powell, notified the Speaker, John W. McCormack, of Massachusetts, who laid before the House the following letter:

JANUARY 9, 1968.

The Honorable the SPEAKER,
House of Representatives.

DEAR SIR: On this date I, W. Pat Jennings, Clerk of the United States House of Representatives and the Honorable Zeake W. Johnson, Jr.,

activities of the Seafarer's Political Activities Donations Committee); 117 CONG. REC. 2744, 92d Cong. 1st Sess., Feb. 17, 1971 (notice of receipt of a subpoena duces tecum to appear before a general court martial and produce certain executive session testimony taken by a subcommittee in *U.S. v Lt. William L. Calley, Jr.*).

16. See Rule XXXVII, *House Rules and Manual* §933 (1973) which gives the House authority to grant leave to remove paper from House files. Jefferson's Manual, *House Rules and Manual* §352 (1973) provides that the Clerk should allow no documents to be taken from his custody.
17. 114 CONG. REC. 80, 81, 90th Cong. 2d Sess.

Sergeant at Arms of the United States House of Representatives were served with subpoenas issued under the authority of the United States District Court for the District of Columbia. These subpoenas direct that Mr. Johnson and myself, as officers of the United States House of Representatives produce documents, papers and records belonging to the United States House of Representatives. The subpoenas were issued in connection with a Grand Jury investigation of possible violations of Title 18 U.S. Code, Sections 201, 287, 371, 641, 1001 and 1505. It is noted that these subpoenas command our appearance and production of the House records mentioned therein on Thursday the 18th of January 1968 at 10:00 a.m. The subpoenas themselves outline the House records that we were requested to produce.

The rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained.

The subpoenas in question are herewith attached, and this matter is presented for such action as the House may deem appropriate.

Sincerely yours,

W. PAT JENNINGS,
Clerk, U.S. House of Representatives.

Following presentation of this letter, Mr. Hale Boggs, of Louisiana, offered and the House passed House Resolution 1022, authorizing the Clerk and Sergeant at Arms to appear and deliver original House documents to the grand jury.⁽¹⁸⁾

18. 114 CONG. REC. 80, 81, 90th Cong. 2d Sess., Jan. 16, 1968.

§ 23.9 The Doorkeeper reports receipt of a subpoena duces tecum to the Speaker, who lays the matter before the House.

On Apr. 13, 1961,⁽¹⁹⁾ the Speaker, Sam Rayburn, of Texas, laid before the House the following communication, which was read by the Clerk:

OFFICE OF THE DOORKEEPER,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 13, 1961.

Hon. SAM RAYBURN,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: As Doorkeeper of the House of Representatives, I have received a subpoena from the U.S. District Court for the District of Columbia to appear regarding the case of Claude Anderson Taylor (criminal case No. 965-60).

The subpoena directed me to appear before said court as a witness in the case and to bring with me certain and sundry papers therein described in the House of Representatives.

Since the development of this case has extended into the 87th Congress, and it is well recognized that each House controls its own papers, this matter is presented for such action as the House, in its wisdom, may see fit to take.

Respectfully yours,

WM. M. MILLER,
Doorkeeper, House of Representatives.

Mr. John W. McCormack, of Massachusetts, offered and the House passed House Resolution

19. 107 CONG. REC. 5851, 87th Cong. 1st Sess.

256 authorizing the Doorkeeper to appear before the court but not take with him any papers or documents on file in his office or under his control or in possession or control of the House of Representatives, except those documents which the court determines to be material and relevant.⁽²⁰⁾

Immunities of Officers and Employees; Dombrowski v Eastland

§ 23.10 The Speech or Debate Clause of the U.S. Constitution (art. I, §6) does not immunize a committee counsel from civil liability for tortious conduct, and such an action will not be dismissed when there is substantial testimony regarding his alleged participation in unconstitutional activity.

In *Dombrowski v Eastland*, 387 U.S. 82 (1967), a suit alleging that the Chairman and Counsel of the Subcommittee on Internal Security of the Senate Judiciary Committee tortiously participated in a conspiracy to seize petitioners' property and records in violation of the fourth amendment, the Supreme Court dismissed the action as to the Chairman, but remanded

20. 107 CONG. REC. 5852, 87th Cong. 1st Sess., Apr. 13, 1961.

it for a finding of facts of alleged illegal activity by the Counsel. A significant consideration was the Court's interpretation of the state of the law at that time, that immunity under the Speech or Debate Clause was "less absolute, although applicable, when applied to officers or employees, rather than to legislators themselves," and that, when applied to a legislator, the clause "deserves greater respect than where an official acting on behalf of the legislator is sued."

The Court also noted that the record showed no involvement by the Chairman "in any activity that could result in liability," whereas it revealed "controverted evidence . . . which afford[ed] more than merely colorable substance to petitioners assertions . . . sufficient to entitle petitioners to go to trial" as to the Counsel.⁽¹⁾

Powell v McCormack

§ 23.11 An officer who executes an order pursuant to a House resolution held to be unconstitutional is not immune from suit.

In *Powell v McCormack*, 395 U.S. 486 (1969),⁽²⁾ a civil action

1. *Dombrowski v Eastland*, 387 U.S. 82, 84 (1967).
2. See 115 CONG. REC. 17326-42, 91st Cong. 1st Sess., June 25, 1969, for

for declaratory and injunctive relief, the Clerk, Sergeant at Arms, and Doorkeeper of the House, along with several Members, were sued individually and in their Representative capacities for executing House Resolution 278, which denied administration of the oath to the plaintiff, Adam C. Powell, a Member-elect from New York, in the 90th Congress.⁽³⁾

The complaint in *Powell* alleged as actionable the Clerk's threat to refuse to perform for the plaintiff those services to which a duly elected Member was entitled, the Sergeant at Arms' refusal and threat to continue to refuse to pay salary and other moneys to which a duly elected Member was entitled, and the Doorkeeper's refusal and threat to continue to refuse to admit the plaintiff to the Hall of the House.⁽⁴⁾ The complaint ex-

full text of the Court's opinion. See also 113 CONG. REC. 8729-62, 90th Cong. 1st Sess., Apr. 10, 1967, for memoranda of counsel.

3. See 113 CONG. REC. 4997 et seq., 90th Cong. 1st Sess., Mar. 1, 1967, for the text of H. Res. 278 providing for imposition of a fine, and for the text of amendment providing for exclusion of Mr. Powell.
4. *Powell v McCormack*, 395 U.S. 486, 493 (1969). The resolution of exclusion [H. Res. 278], appearing in 113 CONG. REC. 6036-39, 90th Cong. 1st Sess., Mar. 9, 1967, neither expressly ordered the officers to refuse

pressly stated that these refusals by the respective officers were made “under color of the authority and mandate of House Resolution 278.” The Supreme Court dismissed the action against the Members without determining whether they would be immune,⁽⁵⁾ and held that the naming of the House officers provided a sufficient basis for judicial review.⁽⁶⁾

In finding that Congress was not authorized to exclude a Member-elect who met the constitutional qualifications of age, inhabitancy, and citizenship, a finding which rendered unconstitutional House Resolution 278 of the 90th Congress, the Court held, “That House employees are acting pursuant to express orders of the House does not bar judicial review . . .”⁽⁷⁾ and “. . . petitioners are entitled to maintain their action against House employees and to

to pay or perform services for Powell nor provided that he should no longer be entitled to the salary and perquisites of office. Nonetheless, these refusals were implied because the resolution excluded him from membership in the 90th Congress.

5. See Chs. 7 and 12, *infra*, for discussion of this case as it relates to Members.
6. See *Powell v McCormack*, 395 U.S. 486, 506 (1969).
7. *Powell v McCormack*, 395 U.S. 486, 504 (1969).

judicial review of the propriety of the decision to exclude petitioner Powell.⁽⁸⁾ The Court also indicated that Powell could sue the Sergeant at Arms to determine entitlement to mandatory relief for salary withheld pursuant to an unconstitutional House resolution.⁽⁹⁾

In reaching these conclusions, the Court relied on *Kilburn v Thompson*, 103 U.S. 168 (1881),⁽¹⁰⁾ which allowed a contumacious witness, Hallet Kilbourn, to bring an action for false imprisonment against John G. Thompson, the Sergeant at Arms of the House, who had executed the warrant for Kilbourn’s arrest pursuant to a House resolution which the Court found to be an unconstitutional exercise of a judicial function by a legislative body. In *Kilbourn*, the Court first articulated the doctrine that, although an action against a Congressman may be barred by the Speech or Debate Clause, legislative employees who participate in an unconstitutional activity are responsible for their

8. *Powell v McCormack*, 395 U.S. 486, 506 (1969).

9. *Powell v McCormack*, 395 U.S. 486, 500, n. 16 (1969).

10. See 2 Hinds’ Precedents § 1612, for a discussion of *Kilbourn*.

acts.⁽¹¹⁾ Kilbourn eventually recovered \$20,000.⁽¹²⁾

The Court in *Powell* concluded that the factual situation did not fall within the scope of the Speech or Debate Clause, the purpose of which is “. . . to insure that legislators are not distracted from or hindered in the performance of their legislative tasks by being called into court to defend their actions.”⁽¹³⁾

11. See *Powell v McCormack*, 395 U.S. 486, 504, 505 (1969), stating that, in *Kilbourn*, “the Sergeant at Arms was held liable for false imprisonment even though he did nothing more than execute the House Resolution that Kilbourn be arrested and imprisoned.”
12. *Kilbourn v Thompson*, 11 McArth. & M. 401, 432 (Sup. Ct. D.C. 1883). The 48th Congress appropriated \$20,000 to pay Kilbourn directly for the judgment against Thompson (see 23 Stat. 467, Mar. 3, 1885).
13. “A legislator is no more or no less hindered or distracted by litigation against a legislative employee calling into question the employee’s affirmative action than he would be by the employee’s failure to act. Nor is the distraction or hindrance increased because the litigation questions action taken by the employee within rather than without the House. Freedom of legislative activity and the purposes of the Speech or Debate Clause are fully protected if legislators are relieved of the burden of defending themselves.” *Powell v McCormack*, 395 U.S. 486, 505 (1969).

Stamler v Willis

§ 23.12 Leave to join legislative employees as additional parties defendant may be granted following the dismissal, under the Speech or Debate Clause, of an action against various Members and officials to declare unconstitutional a House rule and to enjoin enforcement of a committee contempt citation.

In *Stamler v Willis*, 415 F2d 1365 (7th Cir. 1969); cert. den. 399 U.S. 929 (1970),⁽¹⁴⁾ persons who were being prosecuted for contempt of Congress filed suit to declare Rule XI of the House rules violative of the first amendment and to enjoin enforcement of the contempt citation of the Committee on UnAmerican Activities. The named defendants were certain Members of the House, and two prosecuting officials, the Attorney General of the United States and the United States Attorney for the Northern District of Illinois. The district court dismissed the complaint under the Speech or Debate Clause as to the Members and, without considering

14. See also 287 F Supp 734 (N.D. Ill., 1968) for the district court opinion which dismissed the action under the Speech or Debate Clause as to Members of Congress.

whether this immunity applied to executive officials, held that the action against the Attorney General and United States Attorney, being “ancillary to the claims against the Congressional defendants,” must also be dismissed.⁽¹⁵⁾

On appeal, the circuit court affirmed the dismissal of the complaint as to the Members of Congress, but reversed the dismissal as to the prosecuting officials, holding that they would have to defend their actions in court. In addition, the court on its own motion granted leave to amend the complaint to add additional parties defendant, such as committee officials, “. . . for the sole purpose of making effective relief possible in this declaratory and injunctive action.” The court offered this opportunity to the plaintiffs, if they desired to use it, because:

. . . [I]n view of our decision to dismiss the Congressional defendants from this action, it may develop that complete relief cannot be accorded plaintiffs in the event that they are successful on the merits unless the appropriate agents of the House committee are served and joined as defendants below.⁽¹⁶⁾

Gravel v United States

§ 23.13 The Supreme Court has extended the immunity arising

15. *Stamler v Willis*, 287 F Supp 734, 739 (N.D. Ill., 1968).
16. *Stamler v Willis*, 415 F2d 1365, 1368 (7th Cir. 1969); cert. den. 399 U.S. 929 (1970).

ing under the Speech or Debate Clause to aides to legislators for actions committed in performance of duties that are within the sphere of legitimate legislative activity.

In *Gravel v United States*, 408 U.S. 606 (1972), which arose out of a grand jury investigation of possible criminal conduct in the release and publication of the so called Pentagon Papers, the Supreme Court held, “. . . the Speech or Debate Clause applies not only to a Member but also to his aides insofar as the conduct of the latter would be a protected legislative act if performed by the Member himself.”⁽¹⁷⁾ The Court adopted the view argued by the Senate that the day-to-day work of aides and assistants in the modern legislative process is so critical that they must be treated as the legislator’s alter ego; failure to recognize them as such would diminish and frustrate the purpose of the Speech or Debate Clause—to prevent intimidation of legislators by the other branches of government.⁽¹⁸⁾ Rejecting the

17. *Gravel v United States*, 408 U.S. 606, 618 (1972). See Ch. 7, *infra*, for further discussion of *Gravel*.

18. *Id.* at pp. 616, 617. The position of the Senate was presented in its amicus curiae brief, which is reprinted in full in “Constitutional Immunity

government's contention that this holding was foreclosed by *Kilbourn v Thompson*, 103 U.S. 168 (1881), *Dombrowski v Eastland*, 387 U.S. 82 (1967), and *Powell v McCormack*, 395 U.S. 486 (1969), the Court observed, "Those cases do not hold that persons other than Members of Congress are beyond the protection of the [Speech or Debate] Clause when they perform or aid in the performance of legislative acts."⁽¹⁹⁾

The immunity of an aide is viewed in *Gravel* as a privilege which the legislator may repudiate or waive; it is invocable by the aide only on behalf of the legislator and is confined to those services that would be protected if performed by the legislator himself.⁽²⁰⁾ The Speech or Debate Clause does not protect criminal conduct which threatens the security of the person or property of others, nor immunize a legislator

of Members of Congress," Hearings Before the Joint Committee on Congressional Operations, 93d Cong. 1st Sess., pp. 94-117. Senators Sam J. Ervin, Jr. (N.C.) and William B. Saxbe, (Ohio) personally advocated the cause for the Senate by special leave of the Supreme Court.

19. *Gravel v United States*, 408 U.S. 618 (1972).

20. *Gravel v United States*, 408 U.S. 606, 621, 622 (1972).

or aide from testifying at trials or grand jury proceedings involving third-party crimes where the questions do not require testimony about a legislative act.⁽¹⁾ Furthermore, not all activities performed by a legislator and his aides are entitled to protection. The immunity may be invoked only as to matters that are an integral part of the legislative process.⁽²⁾

1. *Id.* at pp. 622, 626, the Court saying: ". . . Article I, §6, cl. 1 [the Speech or Debate Clause], as we have emphasized, does not purport to confer a general exemption upon Members of Congress from liability or process in criminal cases. While the Speech or Debate Clause recognizes speech, voting, and other legislative acts as exempt from liability that might otherwise attach, it does not privilege either Senator or aide to violate an otherwise valid criminal law in preparing for or implementing legislative acts."

See also *Kilbourn v Thompson*, 103 U.S. 168 (1881), which held that an arrest by the Sergeant at Arms pursuant to a House order found to be unconstitutional was subject to judicial review.

2. "The heart of the clause," said the Court in *Gravel*, is "speech or debate in either House, and insofar as the clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the con-

Doe v McMillan

§ 23.14 Immunity arising under the Speech or Debate Clause has been extended to committee staff personnel for conduct held to be within the sphere of legitimate legislative activity.

In *Doe v McMillan*, 412 U.S. 306 (1973), the parents of District of Columbia school children, under pseudonyms, sought damages and declaratory and injunctive relief for invasion of privacy which allegedly resulted from dissemination of a report of the Special Subcommittee of the Committee on the District of Columbia

sideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House." In their dissents, Mr. Justice Brennan stated and Mr. Justice Douglas implied that the majority also excluded from the protected sphere of legislative activities the "informing function" defined in *Watkins v United States*, 354 U.S. 178, 200 (1957) as "the power of Congress to inquire into and publicize corruption, maladministration or inefficiency in agencies of the Government." The basis of their belief was the majority's holding that Gravel's alleged arrangement for a private publication of the Pentagon Papers was not shielded from inquiry. *Gravel v United States*, 408 U.S. 606, 649 (1972).

on the D.C. school system,⁽³⁾ which identified students by name in derogatory contexts. Named as defendants were, among others, the Chairman of the House District Committee,⁽⁴⁾ plus its members, clerk, staff director, and counsel, as well as a consultant to that committee; the Superintendent of Documents and the Public Printer (officials of the Government Printing Office); officials and employees of the D.C. school system; and the United States.

The U.S. Supreme Court held that the congressional committee members, staff officials, and the investigator and consultant were absolutely immune under the

3. This report, H. Rept. No. 91-1681 (1971), which was submitted to the Speaker of the House on Dec. 8, 1970, was authorized by H. Res. 76 (see 115 CONG. REC. 2784, 91st Cong. 1st Sess., Feb. 5, 1969), and was referred to the Committee of the Whole House on the state of the Union and ordered printed (see 116 CONG. REC. 40311, 91st Cong. 1st Sess., Dec. 8, 1970). It was subsequently published and distributed by the Government Printing Office pursuant to 44 USC §§501 and 701. *Doe v McMillan*, 412 U.S. 306, 307-30X (1973).

4. Named in the caption of the case is John L. McMillan (S.C.), who was Chairman of the House District Committee at the time this suit was filed and decided.

Speech or Debate Clause.⁽⁵⁾ The Court ruled that authorizing an investigation and holding hearings to gather information, preparing a report which contains the information, and authorizing the report's publication and distribution, because they are integral parts of the deliberative and communicative processes by which Members participate in the consideration of proposed legislation, are protected by the Speech or Debate Clause, even though potentially libelous information may be involved. In reaching this deci-

5. See *Doe v McMillan*, 412 U.S. 306, 312 (1973): “. . . [I]t is plain to us that the complaint in this case was barred by the Speech or Debate Clause insofar as it sought relief from the Congressmen-Committee Members, from the committee staff, from the consultant, or from the investigator, for introducing material to the Speaker of the House, and for voting for publication of the report. Doubtless, also, a published report may, without losing Speech or Debate Clause protection, be distributed to and used for legislative purposes by Members of Congress, congressional committees and institutional or individual legislative functionaries. At least in these respects, the actions upon which petitioners sought to predicate liability were legislative acts, *Gravel v United States*, supra, [408 U.S. 606], at p. 618 [1972], and, as such, were immune from suit.”

sion, the Court followed *Gravel v United States*, 408 U.S. 606, 618 (1972), which held that “the Speech or Debate Clause applies not only to a Member but also to his aides insofar as the conduct of the latter would be a protected legislative act if performed by the Member himself.”⁽⁶⁾

Focusing on the applicability of Speech or Debate Clause immunity to the officials who disseminated the report—the Superintendent of Documents and the Public Printer—the Court in *Doe*

6. The Court in *Doe v McMillan* applied Speech or Debate Clause immunity to committee officials and employees, citing *Gravel* as precedent. *Gravel*, however, dealt only with the immunity of an aide to an individual legislator. The applicability of a Member's immunity to persons other than personal aides was not even discussed in *Gravel* by way of dicta; in fact, the Court expressly disclaimed the need to discuss “issues which may arise when Congress or either House, as distinguished from a single Member, orders the publication and/or public distribution of committee hearings, reports or other materials.” (*Gravel*, supra, at 626, n. 16). The extension of the *Gravel* holding to committee staff members supports the inference that the Court in a future case which raises the issue would apply Speech or Debate Clause immunity to officers of the House insofar as they act within the sphere of legitimate legislative activity.

v McMillan framed the issue as whether informing the public “simply because authorized by Congress, must always be considered ‘an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings’ [citing *Gravel*] with respect to legislative and other matters before the House.” This question was answered in the negative. Observing that republication of a libel, even where the initial publication is privileged, is generally not protected, the Court in *Doe v McMillan* held that “the Superintendent of Documents or the Public Printer or legislative personnel, who participate in distribution of actionable material beyond the reasonable bounds of the legislative task, enjoy no Speech or Debate Clause immunity.”

The Court in *Doe v McMillan* limited the scope of its holding by saying that the Speech or Debate Clause immunity does not protect those who, at the direction of Congress or otherwise, distribute actionable material to the public at

large beyond the Halls of Congress and its functionaries, and beyond the apparent needs of the due functioning of the legislative process.⁽⁷⁾ With respect to the dismissal of the suit as to committee members and personnel, the Court pointed out they had not acted outside the sphere of legitimate legislative activity.

It does not expressly appear from the complaint, nor is it contended in this Court, that either the Members of Congress or the Committee personnel did anything more than conduct the hearings, prepare the report, and authorize its publication.⁽⁸⁾

7. The Court noted that it did not decide whether or under what circumstances the clause would immunize distributors of allegedly actionable materials from grand jury questioning, criminal charges, or a suit by the executive to restrain distribution, where Congress has authorized the particular public distribution.
8. *Doe v McMillan* at p. 317. Presumably, an allegation that the Members or committee personnel had participated in the public dissemination of actionable material would have caused a different result.

EMPLOYMENT

§ 24. In General

Various House rules and statutes govern the activities and status of persons employed by the House.⁽⁹⁾ Jurisdiction over the employment of persons by the House is by rule granted to the Committee on House Administration.⁽¹⁰⁾

Those rules setting forth standards of official conduct for the Members⁽¹¹⁾ are also applicable to House employees. Additionally, those who are “principle assistants” to Members and officers are subject to the financial disclosure requirements which the House by rule has established.⁽¹²⁾

9. For example, pursuant to Rule XLI, *House Rules and Manual* § 937 (1973) no person who is an agent for the prosecution of any claim against the government, or who is interested in such claim other than as an original claimant, may continue as an employee of the House.

The U.S. Code sets forth rules concerning the service of its employees as jurors or witnesses during certain judicial proceedings. 2 USC § 130b.

10. Rule XI clause 9(c), *House Rules and Manual* § 693 (1973).
11. Rule XLIII clauses 1–5, *House Rules and Manual* § 939 (1973).
12. Rule XLIV, *House Rules and Manual* § 940 (1973). See 115 CONG. REC. 10040, 91st Cong. 1st Sess., Apr. 23,

Certain categories of employment in the House are established by statute.⁽¹³⁾ The qualifications of employment applicants are determined by the House officer under whose supervision they will serve, and each officer is authorized to remove or otherwise discipline such employees.⁽¹⁴⁾

Once hired, House employees must be assigned to the positions for which they were appointed.⁽¹⁵⁾ Moreover, the practice of dividing House employees’ salaries⁽¹⁶⁾ or subletting their duties⁽¹⁷⁾ have been prohibited by statute.⁽¹⁸⁾

1969, for the announcement made to the House by the Chairman of the Committee on Standards of Official Conduct concerning the closing date for filing financial disclosure reports with the committee as required by Rule XLIV.

13. For examples of House employee positions created by statute see: 2 USCA § 74–2(a)(b), messengers in office of the Speaker; 2 USCA § 74a, administrative assistants for the Speaker and Majority and Minority Leaders; 2 USCA § 76a, special assistant in the office of the Doorkeeper; and 2 USCA § 123b(f), Director and employees for the House Recording Studio.
14. 2 USCA § 60–1 (a).
15. 2 USC § 85.
16. 2 USC § 86.
17. 2 USC §§ 87, 101.
18. 2 USCA § 130d.

Other statutory provisions sanction the withholding from House employees of amounts due them if an indebtedness of an employee to the House remains unsatisfied.⁽¹⁹⁾

§ 25. Creating Positions

Temporary Employees

§ 25.1 The frequent employment of personnel for brief periods places an undue strain on the accounting procedures of the House; and it is the announced policy of the Committee on House Administration to discourage the temporary employment of personnel for periods of less than a month.

On Oct. 19, 1966,⁽²⁰⁾ Wayne L. Hays, of Ohio, Chairman of the Committee on House Administration, delivered the following remarks to the House:

Mr. Speaker, I have an announcement which I think will be of general interest to all Members and of special interest to some:

Today the House Committee on Administration passed unanimously a motion ordering and directing the chairman to notify all Members that, as of the 15th of November, any em-

ployee put on a Member's payroll, or a committee payroll, shall not be put on for a period of less than 1 month, except that, if the person put on does not work out and they desire to terminate his employment in less than a month, he may not reappear on the Member's payroll for a period of 6 months.

Mr. Speaker, this is done to prevent what has happened to excess in some committees, and I must say in some Members' offices of having people on the payroll for a day or two at a time.

This has caused an impossible situation in the Clerk's office with regard to writing payroll checks. . . .

Assistants to House Officials

§ 25.2 Positions for assistants to House officials are created by resolution.

On Jan. 26, 1960,⁽¹⁾ Mr. John W. McCormack, of Massachusetts, presented before the House the following privileged resolution:

HOUSE RESOLUTION 429

Resolved by the House of Representatives, That, effective February 1, 1960, there shall be paid out of the contingent fund of the House, until otherwise provided by law, compensation for the employment of an Assistant Superintendent in the House Periodical

1. 106 CONG. REC. 1323, 86th Cong. 2d Sess. For further examples of resolutions creating positions for assistants to House officials, see 106 CONG. REC. 408, 86th Cong. 2d Sess., Jan. 13, 1960, and 104 CONG. REC. 9758, 85th Cong. 2d Sess., May 28, 1958.

19. 2 USCA § 89a.

20. 112 CONG. REC. 27653, 89th Cong. 2d Sess.

Press Gallery, at the basic salary of \$2,580 per annum.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Clerks to House Officers and Officials

§ 25.3 Positions for clerks to House officers and officials are created by resolution.

On Jan. 26, 1966,⁽²⁾ Mr. John W. McCormack, of Massachusetts, obtained unanimous consent for the consideration of the following resolution:

H. RES. 690

Resolved, That effective February 1, 1966, there shall be paid out of the contingent fund of the House of Representatives, until otherwise provided by law, such sums as may be necessary for:

1. Additional clerical help in the Office of the Majority Leader, not to exceed \$3,000 (basic) per annum.

2. (a) An additional position in the Office of the Minority Leader, the basic compensation of which shall be at a rate not to exceed \$2,500 per annum.

(b) An additional position in the Office of the Majority Whip, the basic compensation of which shall be at a rate not to exceed \$2,500 per annum.

2. 112 CONG. REC. 1125, 89th Cong. 2d Sess. For a further example of a House resolution providing for additional clerk-hire see 105 CONG. REC. 559, 86th Cong. 1st Sess., Jan. 12, 1959.

(c) An additional position in the Office of the Minority Whip, the basic compensation of which shall be at a rate not to exceed \$2,500 per annum.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Messengers to House Officers and Officials

§ 25.4 Positions for messengers to House officers and officials are created by resolution.

On Apr. 16, 1962,⁽³⁾ subsequent to the Chair's recognition of Mr. Carl Albert, of Oklahoma, the following proceedings occurred:

Mr. Speaker, I offer a resolution (H. Res. 603) to provide for certain new positions and to increase the compensation of certain employees of the House of Representatives, and ask unanimous consent for its immediate consideration.

THE SPEAKER:⁽⁴⁾ Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the resolution as follows:

Resolved, That (a) there is hereby created in the Office of the Speaker the new position of Messenger the basic compensation of which shall be at the rate of \$2,100 per annum, and

(b) There is hereby created in the Office of the Parliamentarian the

3. 108 CONG. REC. 6707, 87th Cong. 2d Sess.

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new position of Clerk-Messenger the basic compensation of which shall be at the rate of \$3,300 per annum.

Sec. 2. The basic compensation of each of the two positions of Telephone Clerk (one minority) in the Office of the Doorkeeper of the House of Representatives shall be at the rate of \$3,000 per annum.

Sec. 3. The additional amounts necessary to carry out the provisions of this resolution shall be paid out of the contingent fund of the House of Representatives until otherwise provided by law.

Sec. 4. This resolution shall take effect May 1, 1962.

The resolution was agreed to.

A motion to reconsider was laid on the table.

§ 26. Minority Positions

Designation of Minority Employees

§ 26.1 The minority employees of the House are designated by and have their compensations established by House resolution.

On Jan. 3, 1973,⁽⁵⁾ Mr. John B. Anderson, of Illinois, offered and

5. 119 CONG. REC. 27, 93d Cong. 1st Sess. For further illustrations of House resolutions designating minority employees see 115 CONG. REC. 4070, 91st Cong. 1st Sess., Feb. 20, 1969; 115 CONG. REC. 35, 91st Cong. 1st Sess., Jan. 3, 1969; 112 CONG. REC. 28514, 89th Cong. 2d Sess., Oct. 21, 1966; 109 CONG. REC. 11457, 88th Cong. 1st Sess., June 25,

asked for the immediate consideration of the following resolution:

H. RES. 7

Resolved, That pursuant to the Legislative Pay Act of 1929, as amended, six minority employees authorized therein shall be the following-named persons, effective January 3, 1973, until otherwise ordered by the House, to-wit: Joe Bartlett and Robert T. Hartmann, to receive gross compensation of \$36,000.00 per annum, respectively; William R. Bonsell, to receive gross compensation of \$35,886.89 per annum; Tommy Lee Winebrenner, to receive gross compensation of \$31,013.37 per annum; Walter P. Kennedy (minority pair clerk), to receive gross compensation of \$30,820.35 per annum; and John J. Williams (Staff Director to the Minority), to receive gross compensation of \$36,000.00 per annum.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Establishing Position Titles

§ 26.2 Position titles for the minority employees of the House and adjustments in their gross compensation are provided for by resolution.

On June 17, 1969,⁽⁶⁾ Mr. Gerald R. Ford, of Michigan, offered and

1963; and 108 CONG. REC. 7073, 87th Cong. 2d. Sess., Apr. 19, 1962.

6. 115 CONG. REC. 16196, 91st Cong. 1st Sess.

asked for the immediate consideration of a resolution, as follows:

H. RES. 441

Resolution relating to the positions of certain minority employees in the House of Representatives

Resolved, That, until otherwise provided by law—(1) The six positions of minority employees listed in House Resolution 8, Ninety-first Congress, as supplemented by House Resolution 238, Ninety-first Congress, and House Resolution 265, Ninety-first Congress, are hereby given position titles in the descending order in which those six positions are listed in House Resolution 8 as follows:

(A) the position title of the position listed first is “Floor Assistant to the Minority”;

(B) the position title of the position listed second is “Floor Assistant to the Minority”;

(C) the position title of the position listed third is “Floor Assistant to the Minority”;

(D) the position title of the position listed fourth is “Floor Assistant to the Minority”;

(E) the position title of the position listed fifth is “Pair Clerk to the Minority”; and

(F) the position title of the position listed sixth is “Staff Director to the Minority”.

(2) Appointments to each position for which a position title is provided by subparagraph (1) of this section shall be made by action of the House of Representatives.

(3) The rate of pay of each position for which a position title is provided by subparagraph (1) of this section shall

be a per annum gross rate equal to the annual rate of basic pay of Level V of the Executive Schedule in section 5316 of title 5, United States Code, unless a different rate is provided for such position by action of the House of Representatives.

Sec. 2. (a) The first section of this resolution shall not affect or change the appointments or continuity of employment of those employees who hold such positions on the date of adoption of this resolution.

(b) In accordance with the authority of the House of Representatives under subparagraph (3) of the first section of this resolution, the respective per annum gross rates of pay of those positions for which position titles are provided by clauses (C), (D), (E), and (F) of subparagraph (1) of the first section of this resolution are as follows:

(1) for the position subject to clause (C)—\$29,160;

(2) for the position subject to clause (D)—\$25,200;

(3) for the position subject to clause (E)—\$28,440; and

(4) for the position subject to subparagraph (F)—\$28,080.

Sec. 3. This resolution shall become effective as of the beginning of the calendar month in which this resolution is adopted.

The resolution was agreed to.

A motion to reconsider was laid on the table.

§ 27. Compensation

The compensation of House employees is regulated both by stat-

ute⁽⁷⁾ and by resolution. The House by resolution has fixed,⁽⁸⁾ increased,⁽⁹⁾ or adjusted⁽¹⁰⁾ the compensation of various employees. It has by resolution established salary limits⁽¹¹⁾ and authorized the transfer of funds to meet employee payrolls.⁽¹²⁾ Employee overtime compensation has been provided for by resolution⁽¹³⁾ and on occasion the House has adopted resolutions increasing the

7. For examples of statutory provisions related to the compensation of various House employees see: 2 USCA §72a-2, basic compensation of employees of House and Senate press, periodical, and radio galleries; 2 USCA §74a, basic compensation for administrative assistants to the Speaker and Majority and Minority Leaders; 2 USCA §75c, basic compensation for Assistant Tally Clerks, Office of the Clerk of the House; 2 USCA §7ad, basic compensation for stationery clerks; 2 USCA §75e, basic compensation for employees of the offices of Clerk, Doorkeeper, and Postmaster; 2 USCA §76a, basic compensation for Special Assistant, Office of the Doorkeeper; 2 USCA §76b, basic compensation for Telephone Clerks in the Office of the Doorkeeper; and 2 USCA §84-3, basic compensation for the Deputy Sergeant at Arms.

8. See §27.1, *infra*.
 9. See §27.2, *infra*.
 10. See §27.3, *infra*.
 11. See §27.4, *infra*.
 12. See §27.5, *infra*.
 13. See §27.6, *infra*.

personnel salary allowances granted to House officers.⁽¹⁴⁾

Fixing Compensation

§ 27.1 A resolution from the Committee on House Administration fixing the compensation of certain House employees and providing for their payment from the contingent fund is reported and called up as privileged.

On Dec. 1 1970⁽¹⁵⁾ Mr. Joe D. Waggoner, Jr., of Louisiana, at the direction of the Committee on House Administration submitted a privileged report⁽¹⁶⁾ on and asked for the immediate consideration of the following resolution:

H. RES. 1241

Resolved, That (a) until otherwise provided by law and effective the first day of the month which begins on or after the date of adoption of this resolution, the rate of basic compensation of—

14. See §27.7, *infra*.
 15. 116 CONG. REC. 39341, 91st Cong. 2d Sess. For additional examples of House resolutions fixing the compensation of House employees see 115 CONG. REC. 22545, 22546, 91st Cong. 1st Sess., Aug. 6, 1969; and 112 CONG. REC. 27647, 89th Cong. 2d Sess., Oct. 19, 1966, where the rate of compensation for several House employees was established.
 16. H. REPT. NO. 91-1639.

(1) the clerk to the Official Reporters of Debates shall be \$6,160 per annum;

(2) the number one assistant clerk to the Official Reporters of Debates shall be \$4,505 per annum; and

(3) the number two assistant clerk to the Official Reporters of Debates shall be \$4,005 per annum.

(b) Until otherwise provided by law, such amounts as may be necessary to carry out subsection (a) of this resolution shall be paid out of the contingent fund of the House of Representatives.

The resolution was agreed to after brief debate thereon, and a motion to reconsider was laid on the table.

Increasing Compensation

§ 27.2 The House by resolution increased the compensation of the Legislative Counsel of the House to equal that of the Legislative Counsel of the Senate.

On Mar. 31, 1965,⁽¹⁷⁾ Mr. Carl Albert, of Oklahoma, obtained

17. 111 CONG. REC. 6412, 89th Cong. 1st Sess. For additional examples of House resolutions increasing House employee compensation see 102 CONG. REC. 7362, 84th Cong. 2d Sess., May 2, 1956, where the salary of the official reporters of debates was increased, and 102 CONG. REC. 6966, 84th Cong. 2d Sess., Apr. 25, 1956, where the salary of certain minority employees was increased.

unanimous consent for the consideration of the following resolution:

H. RES. 312

Resolved, That, effective April 1, 1965, the compensation of the Legislative Counsel of the House of Representatives shall be at a gross per annum rate which is equal to the gross per annum rate of compensation of the Legislative Counsel of the Senate. The additional sums necessary to carry out this resolution shall be paid out of the contingent fund of the House until otherwise provided by law.

The resolution was agreed to.

A motion to reconsider was laid on the table

Compensation Adjustments

§ 27.3 A resolution providing for payment from the contingent fund of salary adjustments for certain House employees was reported and called up as privileged by the Committee on House Administration.

On Jan. 27, 1972,⁽¹⁸⁾ Mr. Frank Thompson, Jr., of New Jersey, was recognized to seek consideration of the resolution shown below:

MR. THOMPSON of New Jersey: Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 741) and ask for its immediate consideration.

18. 118 CONG. REC. 1531, 92d Cong. 2d Sess.

The Clerk read the resolution as follows:

H. RES. 741

Resolved, That until otherwise provided by law, effective as of January 1, 1972, the per annum gross rate of pay of each employee (except an employee who is an elected officer of the House) whose pay is disbursed by the Clerk of the House and is fixed at a specific rate by House resolution is increased by an amount equal to 5.5 per centum of his per annum gross rate of pay. No rate of pay shall be increased by reason of the adoption of this resolution to an amount in excess of the rate of basic pay of level V of the Executive Schedule contained in section 5316 of title 5, United States Code. The contingent fund of the House is made available to carry out the purposes of this resolution.

THE SPEAKER:⁽¹⁹⁾ The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 1, line 4, immediately following the word "the" strike out the word "House" and insert "House or who is an Official Reporter of Debates or an Official Reporter to Committees.)"

THE SPEAKER: Without objection, the committee amendment is agreed

A reservation of the right to object being heard from Mr. Durward G. Hall, of Missouri, a discussion of the resolution ensued at the conclusion of which Mr. Thompson moved the previous question on the resolution. The previous question was ordered. The resolution was agreed to. A

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motion to reconsider was laid on the table.

Fixing Compensation Limits

§ 27.4 The House by resolution permitted the salaries of administrative assistants to House leaders to be increased to the maximum amount authorized under executive level five of the Federal Civil Service.

On Jan. 15, 1968,⁽²⁰⁾ Mr. Carl Albert, of Oklahoma, obtained unanimous consent for the consideration of a resolution as follows:

H. RES. 1015

Resolved, effective January 1, 1968, there will be payable from the contingent fund of the House of Representatives, until otherwise provided by law, an amount which will permit payment of basic compensation per annum, at a rate not in excess of the highest amount, which, together with additional compensation authorized by law, will not exceed the maximum rate authorized by Level 5 of the Executive schedule by Public Law 90-206, to the administrative assistant of each of the following:

20. 114 CONG. REC. 24, 90th Cong. 2d Sess. See also 111 CONG. REC. 4405, 89th Cong. 1st Sess., Mar. 9, 1965, where the House by resolution raised the gross salary limits for several House employees to the maximum amount permissible under the salary schedule in effect for the legislative branch.

- (1) Speaker of the House.
- (2) Majority leader of the House.
- (3) Minority leader of the House.
- (4) Majority whip of the House.
- (5) Minority whip of the House.
- (6) Each Member of the House who has served as Speaker of the House.
- (7) Each Member of the House who has served as majority leader and minority leader of the House.

The resolution was agreed to, and a motion to reconsider was laid on the table.

Transferring Payroll Funds

§ 27.5 By resolution the House has authorized the Clerk and Sergeant at Arms of the House to transfer funds from the balances available to them in several accounts under their administrative control to meet Members' and employee payrolls pending enactment of an appropriation bill carrying funds for that purpose.

On May 28, 1969,⁽¹⁾ Mr. Samuel X. Friedel, of Maryland, submitted a privileged report⁽²⁾ relating to a resolution providing for the transfer of certain funds in order to meet a payroll. The resolution is set out below:

H. RES. 425

Resolved, That the Clerk of the House and Sergeant at Arms be and is

1. 115 CONG. REC. 14165-67, 91st Cong. 1st Sess.
2. H. REPT. NO. 91-278.

hereby directed to pay such sum as may be necessary, from the balance available of the 1968 appropriation and the various funds of the 1969 appropriation, where balances may be available, for the House of Representatives to meet the May and June payroll of Members, officers of the House, and employees of the House. Moneys expended from these funds and/or appropriations by the Sergeant at Arms and the Clerk will be repaid to the funds and/or appropriations from the Sergeant at Arms and Clerk's supplemental appropriation upon its approval.

Following some debate on the resolution and the subsequent call of the House, the resolution was agreed to. A motion to reconsider was laid on the table.

Overtime Compensation

§ 27.6 A resolution providing for payment from the contingent fund of overtime compensation for employees of the publications distribution service (folding room) is reported and called up as privileged by the Committee on House Administration.

On Mar. 2, 1972,⁽³⁾ Mr. Wayne L. Hays, of Ohio, at the direction of the Committee on House Ad-

3. 118 CONG. REC. 6627, 92d Cong. 2d Sess. For another example see 112 CONG. REC. 5993, 89th Cong. 2d Sess., Mar. 16, 1966.

ministration, called up and asked for immediate consideration of the following House resolution:

H. RES. 835

Resolved, That, notwithstanding any other provisions of law, there is authorized to be paid out of the contingent fund of the House of Representatives such sums as may be necessary to pay compensation to each employee of the Publications Distribution Service of the House of Representatives for all services performed by such employee in excess of the normal workday where such services are authorized by the Committee on House Administration. Such compensation shall be paid on an hourly basis at a rate equal to the rate of compensation otherwise paid to such employees.

This resolution shall take effect on its adoption and payments made under this resolution shall be terminated as the Committee on House Administration determines necessary.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Increasing Personnel Salary Allowances

§ 27.7 A resolution from the Committee on House Administration providing for payment from the contingent fund of compensation to employees in the Speaker's office was reported and called up as privileged.

On July 22, 1971,⁽⁴⁾ Mr. Wayne L. Hays, of Ohio, at the direction of the Committee on House Administration, submitted a privileged report⁽⁵⁾ relating to the use of the contingent fund of the House to pay certain salaries, and sought immediate consideration of the resolution shown below:

HOUSE RESOLUTION 533

Resolved, That, until otherwise provided by law, effective as of July 1, 1971, in addition to all other amounts provided by other provisions of law, there shall be paid out of the contingent fund of the House for compensation of the officers and employees of the Office of the Speaker of the House the sum of \$50,000.

Debate on the resolution ensued, at the conclusion of which the previous question on the resolution was moved and ordered. The question was taken and the resolution agreed to. A motion to reconsider was laid on the table.

Presentation of Salary Comparability

§ 27.8 The Speaker laid before the House a directive implementing the salary comparability policy established

4. 117 CONG. REC. 26652, 92d Cong. 1st Sess. For a further example see 108 CONG. REC. 8, 87th Cong. 2d Sess., Jan. 10, 1962.

5. H. REPT. NO. 92-373.

by the Federal Salary Act of 1967 for House officers and employees.

On June 17, 1969,⁽⁶⁾ the Speaker⁽⁷⁾ laid before the House a message from the President, transmitting the President's annual report on salary comparability and his directive implementing certain salary adjustments in the executive branch of government. Upon the receipt of the President's report, the Speaker laid before the House his directive, including a schedule of per annum compensation rates for House employees, which implemented the salary comparability policy established by the Federal Salary Act of 1967.⁽⁸⁾

6. 115 CONG. REC. 16195, 16196, 91st Cong. 1st Sess. See also 114 CONG. REC. 16717, 90th Cong. 2d Sess., June 11, 1968, for the presentation of a similar directive.

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8. Pub. L. No. 90-206.

Announcing Statutory Salary Adjustments

§ 27.9 Adjustments in the House employees' wage schedule are sometimes announced by the Chairman of the Committee on House Administration.

On Jan. 27, 1966,⁽⁹⁾ Mr. Omar T. Burleson, of Texas (at the request of Mr. Lynn E. Stalbaum, of Wisconsin), pursuant to a grant of permission to extend his remarks in the Record, announced and submitted tables reflecting adjustments provided for by public law⁽¹⁰⁾ in the schedule of per annum compensation rates applicable to House employees.

9. 112 CONG. REC. 1399, 89th Cong. 2d Sess.

10. Pub. L. No. 89-301.

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