§ 600. Procedure of the Senate as to treaties.

It has been the usage for the Executive, when it communicates a treaty to the Senate for their ratification, to communicate also the correspondence of the negotiators. This having been omitted in the case of the Prussian treaty, was asked by a vote of the House of February 12, 1800, and was obtained. And in December, 1800, the convention of that year between the United States and France, with the report of the negotiations by the envoys, but not their instructions, being laid before the Senate, the instructions were asked for and communicated by the President.

The mode of voting on questions of ratification is by nominal call.

The Senate now has rules governing its procedure on treaties.

SEC. LIII—IMPEACHMENT

* * * * *

§ 601. Jurisdiction of Lords and Commons as to impeachments.

These are the provisions of the Constitution of the United States on the subject of impeachments. The following is a sketch of some of the principles and practices of England on the same subject:

Jurisdiction. The Lords can not impeach any to themselves, nor join in the accusation, because they are the judges. *Seld. Judic. in Parl., 12, 63.* Nor can they proceed against a commoner but on complaint of the Commons. *Ib., 84.* The Lords may not, by the law, try a commoner for a capital offense, on the information of the King or a private person, because the accused is entitled to a trial by his peers generally; but on

accusation by the House of Commons, they may proceed against the delinquent, of whatsoever degree, and whatsoever be the nature of the offense; for there they do not assume to themselves trial at common law. The Commons are then instead of a jury, and the judgment is given on their demand, which is instead of a verdict. So the Lords do only judge, but not try the delinquent. *Ib., 6, 7.* But Wooddeson denies that a commoner can now be charged capitally before the Lords, even by the Commons; and cites Fitzharris's case, 1681, impeached of high treason, where the Lords remitted the prosecution to the inferior court. *8 Grey's Deb., 325–7; 2 Wooddeson, 576, 601; 3 Seld., 1604, 1610, 1618, 1619, 1641; 4 Blackst., 25; 9 Seld., 1656; 73 Seld., 1604–18.*

§ 602. Parliamentary law as to accusation in impeachment.

Accusation. The Commons, as the grand inquest of the nation, becomes suitors for penal justice. *2 Wood., 597; 6 Grey, 356.* The general course is to pass a resolution containing a criminal charge against the supposed delinquent, and then to direct some member to impeach him by oral accusation, at the bar of the House of Lords, in the name of the Commons. The person signifies that the articles will be exhibited, and desires that the delinquent may be sequestered from his seat, or be committed, or that the peers will take order for his appearance. *Sachev. Trial, 325; 2 Wood., 602, 605; Lords' Journ., 3 June, 1701; 1 Wms., 616; 6 Grey, 324.*

§ 603. Inception of impeachment proceedings in the House.

In the House various events have been credited with setting an impeachment in motion: charges made on the floor on the responsibility of a Member or Delegate (II, 1303; III, 2342, 2400, 2469; VI, 525, 526, 528, 535, 536); charges preferred by a memorial, which is usually referred to a committee for examination (III, 2364, 2491, 2494, 2496, 2499, 2515; VI, 543); a resolution introduced by a Member and referred to a committee (Apr. 15, 1970, p. 11941; Oct. 23, 1973, p. 34873); a message from the President (III, 2294, 2319; VI, 498); charges transmitted from the legislature of a State (III, 2469) or territory (III, 2487) or from a grand jury (III, 2488); or facts developed and reported by an investigating committee of the House (III, 2399, 2444). In the 93d Congress, the Vice President sought to initiate an investigation by the House of charges against him of possibly impeachable offenses. The Speaker and the House took no action on the request since the matter was pending in the courts and the offenses did not relate to activities during the Vice President's term of office (Sept. 25, 1973, p. 31368; III, 2510 (wherein the Committee on the Judiciary, to which the matter had been referred by privileged resolution, reported that the Vice President could not be impeached for acts or omissions committed before his term of office)). On the other hand, in 1826 the Vice President's request that the House investigate charges against his prior official conduct as Secretary of War was referred, on motion, to a select committee (III, 1736). On September 9, 1998, an independent counsel transmitted to the House under 28 U.S.C. 595(c) a communication containing evidence of alleged impeachable offenses by the President. The House adopted a privileged resolution reported by the Committee on Rules referring the communication to the Committee on the Judiciary, restricting Members' access to the communication, and restricting access to committee meetings and hearings on the communication (H. Res. 525, Sept. 11, 1998, p. 20020). Later, the House adopted a privileged resolution reported by the Committee on the Judiciary authorizing an impeachment inquiry by that committee (H. Res. 581, Oct. 8, 1998, p. 24679). The authority to appoint an independent counsel under 28 U.S.C. 573 expired on June 30, 1999.

§ 604. A proposition to impeach a question of privilege.

A direct proposition to impeach is a question of high privilege in the House and at once supersedes business otherwise in order under the rules governing the order of business (III, 2045–2048, 2051, 2398; VI, 468, 469; July 22, 1986, p. 17294; Aug. 3, 1988, p. 20206; May 10, 1989, p. 8814; Sept. 23, 1998, pp. 21560–62; see Deschler, ch. 14, § 8). It may not even be superseded by an election case, which is also a matter of high privilege (III, 2581). It does not lose its privilege from the fact that a similar proposition has been made at a previous time during the same session of Congress (III, 2408), previous action of the House not affecting it (III, 2053). As such, a report of the Committee on the Judiciary accompanying an impeachment resolution is filed from the floor as privileged (Dec. 17, 1998,

p. 27819), and is called up as privileged (Dec. 18, 1998, p. 27828). The addition of new articles of impeachment offered by the managers but not reported by committee are also privileged (III, 2401), as is a proposition to refer to committee the papers and testimony in an impeachment of the preceding Congress (V, 7261). To a privileged resolution of impeachment, an amendment proposing instead censure, which is not privileged, was held not germane (Dec. 19, 1998, p. 28107). On several occasions the Committee on the Judiciary, having been referred a question of impeachment, reported a recommendation that impeachment was not warranted and, thereafter, called up the report as a question of privilege (Deschler, ch. 14, § 1.3). Under 28 U.S.C. 596(a) an independent counsel appointed to investigate the President may be impeached; and a resolution impeaching such independent counsel constitutes a question of the privileges of the House under rule IX (Sept. 23, 1998, p. 21560).

Propositions relating to an impeachment already made also are privileged (III, 2400, 2402, 2410; July 22, 1986, p. 17294; Dec. 2, 1987, p. 33720; Aug. 3, 1988, p. 20206), such as resolutions providing for selection of managers of an impeachment (VI, 517; Dec. 19, 1998, p. 28112), proposing abatement of impeachment proceedings (VI, 514), reappointing managers for impeachment proceedings continued in the Senate from the previous Congress (Jan. 3, 1989, p. 84; Jan. 6, 1999, p. 14), empowering managers to hire special legal and clerical personnel and providing for their pay, and to carry out other responsibilities (Jan. 3, 1989, p. 84; Dec. 19, 1998, p. 28112; Jan. 6, 1999, p. 240), and replacing an excused manager (Feb. 7, 1989, p. 1726); but a resolution simply proposing an investigation, even though impeachment may be a possible consequence, is not privileged (III, 2050, 2546; VI, 463).

Where a resolution of investigation positively proposes impeachment or suggests that end, it has been admitted as of privilege (III, 2051, 2052, 2401, 2402), such as a resolution reported by the Committee on the Judiciary authorizing an impeachment inquiry by that committee and investing the committee with special investigative authorities to facilitate the inquiry (III, 2029; VI, 498, 528, 549; Deschler, ch. 14, §§ 5.8, 6.2; H. Res. 581, Oct. 8, 1998, p. 24679). A committee to which has been referred privileged resolutions for the impeachment of an officer may call up as privileged resolutions incidental to consideration of the impeachment question, including conferral of subpoena authority and funding of the investigation from the contingent fund (now referred to as "applicable accounts of the House described in clause 1(j)(1) of rule X") (VI, 549; Feb. 6, 1974, p. 2349). Similarly, a resolution authorizing depositions by committee counsel in an impeachment inquiry is privileged under rule IX as incidental to impeachment (Speaker Wright, Oct. 3, 1988, p. 27781).

§ 605. Investigation of impeachment charges.

The impeachment having been made on the floor by a Member (III, 2342, 2400; VI, 525, 526, 528, 535, 536), or charges suggesting impeachment having been made by memorial (III, 2495, 2516, 2520; VI, 552), or even appearing through com-

mon fame (III, 2385, 2506), the House has at times ordered an investigation at once. At other times it has refrained from ordering investigation until the charges had been examined by a committee (III, 2364, 2488, 2491, 2492, 2494, 2504, 2513). Under the later practice, resolutions introduced through the hopper that directly call for the impeachment of an officer have been referred to the Committee on the Judiciary, while resolutions calling for an investigation by that committee or by a select committee with a view toward impeachment have been referred to the Committee on Rules (Oct. 23, 1973, p. 34873). Upon receipt of a communication from an independent counsel transmitting to the House under 28 U.S.C. 595(c) a communication containing evidence of alleged impeachable offenses by the President, the House adopted a resolution reported by the Committee on Rules referring the communication to the Committee on the Judiciary to conduct a review (H. Res. 525, 106th Cong., Sept. 11, 1998, p. 20020). Later, the House adopted a privileged resolution reported by the Committee on the Judiciary authorizing an impeachment inquiry by that committee (H. Res. 581, Oct. 8, 1998, pp. 24679, 24735).

§ 606. Procedure of committee in investigating.

The House has always examined the charges by its own committee before it has voted to impeach (III, 2294, 2487, 2501). This committee has sometimes been a select committee (III, 2342, 2487, 2494), sometimes a standing committee (III, 2400, 2409). In some instances the committee has made its inquiry ex parte (III, 2319, 2343, 2366, 2385, 2403, 2496, 2511); but in the later practice the sentiment of committees has been in favor of permitting the accused to explain, present witnesses, cross-examine (III, 2445, 2471, 2518), and be represented by counsel (III, 2470, 2501, 2511, 2516; 93d Cong., Aug. 20, 1974, p. 29219; H. Rept. 105–830, Dec. 16, 1998). The Committee on the Judiciary having been directed by the House to investigate whether sufficient grounds existed for the impeachment of President Nixon, and the President having resigned following the decision of that committee to recommend his impeachment to the House, the chairman of the committee submitted from the floor as privileged the committee's report containing the articles of impeachment approved by the committee but without an accompanying resolution of impeachment. The House thereupon adopted a resolution (1) taking notice of the committee's action on a resolution and Articles of Impeachment and of the President's resignation; (2) accepting the report and authorizing its printing, with additional views; and (3) commending the chairman and members of the committee for their efforts (Aug. 20, 1974, p. 29361).

§ 606a. Procedure of House in considering.

During the pendency of an impeachment resolution, remarks in debate may include references to personal misconduct on the part of the President but may not include language generally abusive toward the President and may not include comparisons to the personal conduct of sitting Members of the House or Senate (Dec. 18, 1998, p. 27829). A resolution setting forth four separate

articles of impeachment may be divided among the articles (Dec. 19, 1998, p. 28110).

§ 607. Impeachment carried to the Senate.

Its committee on investigation having reported, the House may vote the impeachment (III, 2367, 2412; VI, 500, 514; Mar. 2, 1936, pp. 3067–91), and, after having notified the Senate by message (III, 2413, 2446), may direct the impeachment to be presented at the bar of the Senate by a single Member (III, 2294), or by two (III, 2319, 2343, 2367), or five (III, 2445) or nine (July 22, 1986, p. 17306) or 13 (Dec. 19, 1998, p. 28112). These Members in two notable cases represented the majority party alone (*e.g.*, Dec. 19, 1998, p. 28112), but ordinarily include representation of the minority party (III, 2445, 2472, 2505). Under early practice the House elected managers by ballot (III, 2300, 2323, 2345, 2368, 2417). In two instances the Speaker appointed the managers on behalf of the House pursuant to an order of the House (III, 2388, 2475). Since 1912 the House has adopted a resolution appointing managers. In the later practice the House considers together the resolution and articles of impeachment (VI, 499, 500, 514; Mar. 2, 1936, pp. 3067–91) and following their adoption adopts resolutions electing managers to present the articles before the Senate, notifying the Senate of the adoption of articles and election of managers, and authorizing the managers to prepare for and to conduct the trial in the Senate (VI, 500, 514, 517; Mar. 6, 1936, pp. 3393, 3394; July 22, 1986, p. 17306; Aug. 3, 1988, p. 20206). These privileged incidental resolutions may be merged into a single indivisible privileged resolution (H. Res. 614, Dec. 19, 1998, p. 28112; H. Res. 10, Jan. 6, 1999, p. 240).

§ 608. Impeachment process in the Senate.

Process. If the party do not appear, proclamations are to be issued, giving him a day to appear. On their return they are strictly examined. If any error be found in them, a new proclamation issues, giving a short day. If he appear not, his goods may be arrested, and they may proceed. *Seld. Jud. 98, 99.*

§ 608a. Senate impeachment proceedings against President Clinton.

Under an order of the Senate, the Secretary of the Senate informed the House and the Chief Justice that it was ready to receive the House managers for the purpose of exhibiting articles of impeachment against President Clinton (Jan. 6, 1999, p. 37). At the appointed hour the House managers were announced and escorted into the Senate chamber by the Senate Sergeant-at-Arms (Jan. 7, 1999, p. 272). The managers presented the articles of impeachment by reading two resolutions as follows: (1) the appointment of managers (H. Res. 10, Jan. 7, 1999, p. 272); and (2) the two articles of impeachment (H. Res. 611, Jan. 7, 1999, p. 273).

Thereupon, the managers requested the Senate take order for trial (Jan. 7, 1999, p. 273).

The Senate adopted a resolution governing the initial impeachment proceedings of President Clinton (S. Res. 16, Jan. 8, 1999, p. 349). Later it adopted a second resolution governing the remaining proceedings (S. Res. 30, Jan. 28, 1999, p. 1843). The first resolution issued the summons in the usual form. It also provided a timetable for (1) the filing of an answer by the President; (2) the filing of a reply by the House, together with the record consisting of publicly available materials that had been submitted to or produced by the House Judiciary Committee (the resolution further directed that the record be admitted into evidence, printed, and made available to Senators); (3) the filing of a trial brief by the House; (4) the filing of any motions permitted under the rules of impeachment (except for motions to subpoena witnesses or to present evidence not in the record); (5) the filing of responses to any such motions; (6) the filing of a trial brief by the President; (7) the filing of a rebuttal brief by the House; and (8) arguments on such motions. The resolution then directed the Senate to dispose of any such motions and established a further timetable for (1) the House to make its presentation in support of the articles of impeachment (such argument to be confined to the record); (2) the President to make his presentation in opposition to the articles of impeachment; and (3) the Senators to question the parties. The resolution directed the Senate, upon completion of that phase of the proceedings, to dispose of a motion to dismiss, and if defeated, to dispose of a motion to subpoena witnesses or to present any evidence not in the record. The resolution further provided that, if the motion to call witnesses were adopted, the witnesses would first be deposed and then the Senate would decide which witnesses should testify. It further provided that if the Senate failed to dismiss the case, the parties would proceed to present evidence. Finally, the resolution directed the Senate to vote on each article of impeachment at the conclusion of the deliberations. The evidentiary record (summons, answer, replies, and trial briefs) was printed in the Record by unanimous consent (Jan. 14, 1999, p. 357). Pursuant to the previous order of the Senate (S. Res. 16, Jan. 8, 1999, p. 349), the House managers were recognized for 24 hours to present their case in support of conviction and removal of President Clinton (Jan. 14, 1999, p. 521); counsel for the President was then recognized for 24 hours to present the President's defense (Jan. 19, 1999, p. 1055); and Senators submitted questions in writing of either the House managers or the President's counsel (which were read by the Chief Justice, alternating between parties) for a period not to exceed 16 hours (Jan. 22, 1999, p. 1244). The Chief Justice ruled that a House manager could not object to a question although he could object to an answer (Jan. 22, 1999, p. 1250; Jan. 23, 1999, p. 1320). The Senate adopted a motion to consider a motion to dismiss in executive session (Jan. 25, 1999, p. 1339), and the motion to dismiss was defeated (Jan. 27, 1999, p. 1397). The Senate adopted a motion to consider a motion of the House managers to subpoena witnesses

in executive session (Jan. 26, 1999, p. 1370). The Senate adopted that motion, which: (1) authorized the issuance of subpoenas for depositions of three witnesses; (2) admitted miscellaneous documents into the trial record; and (3) petitioned the Senate to request the appearance of President Clinton at a deposition (Jan. 26, 1999, p. 1370).

The Senate subsequently adopted a resolution governing the remaining impeachment proceedings as follows: (1) establishment of a timetable for conducting and reviewing depositions, resolving any objections made during the depositions, and considering motions to admit any portions of the depositions into evidence; (2) consideration of motions for additional discovery (if made by the two Leaders jointly); (3) disposition of motions governing the presentation of evidence or witnesses before the Senate and motions by the President's counsel (specifically precluding a motion to reopen the record and specifically permitting a motion to allow final deliberations in open session); (4) establishment of a timetable to vote on the articles of impeachment; and (5) authorization to issue subpoenas to take certain depositions and to establish procedures for conducting depositions (S. Res. 30, Jan. 28, 1999, p. 1453). The Senate adopted two parts of a divided motion as follows: (1) permitting the House managers to admit transcripts and videotapes of oral depositions into evidence (Feb. 4, 1999, p. 1817); and (2) permitting the parties to present before the Senate for an equally divided specified period of time portions of videotapes or oral depositions admitted into evidence, having first rejected a preemptive motion to restrict the House managers' presentation of evidence to written transcripts (Feb. 4, 1999, p. 1817). The Senate rejected the portion of the divided motion that would have authorized a subpoena for the appearance of a named witness (Feb. 4, 1999, p. 1827). During debate on the motion, the Senate, by unanimous consent, permitted the House managers and counsel for the President to make references to videotaped oral depositions (Feb. 4, 1999, p. 1817). The Senate rejected two additional motions as follows: (1) a motion to proceed directly to closing arguments and an immediate vote on the articles of impeachment (Feb. 4, 1999, p. 1827); and (2) a motion that the House managers provide written notice to counsel for the President by a time certain of those portions of videotaped deposition testimony they planned to use during their evidentiary presentation or during closing arguments (Feb. 4, 1999, p. 1827). By unanimous consent the Senate printed certain deposition transcripts in the Record and transmitted to the House managers and the counsel for the President deposition transcripts and videotapes (Feb. 4, 1999, p. 1827). The Chief Justice held inadmissible a portion of a videotaped deposition not entered as evidence into the Senate record (other portions of which were admitted under an order of the Senate), and a unanimous-consent request nevertheless to admit that portion of a deposition was objected to (Feb. 6, 1999, p. 1954). After closing arguments, the Senate adopted a motion to consider the articles of impeachment in closed session (Feb. 9, 1999, p. 2055). After closed deliberations the Senate Clerk read the articles of impeachment against President Clinton

in open session, and each Senator voted "guilty" or "not guilty" on each article (Feb. 12, 1999, p. 2375). By votes of 45–55 and 50–50 respectively, the Senate adjudged President Clinton not guilty on each article of impeachment (Feb. 12, 1999, p. 2375). The Senate communicated to the House and the Secretary of State the judgment of the Senate (Feb. 12, 1999, p. 2375).

See S. Doc. 93–102, "Procedure and Guidelines for Impeachment Trials in the United States Senate," for precedents relating to the conduct of Senate impeachments.

§ 609. Exhibition and form of articles.

Articles. The accusation (articles) of the Commons is substituted in place of an indictment. Thus, by the usage of Parliament, in impeachment for writing or speaking, the particular words need not be specified. *Sach. Tr., 325; 2 Wood., 602, 605; Lords' Journ., 3 June, 1701; 1 Wms., 616.*

Having delivered the impeachment, the committee returns to the House and reports verbally (III, 2413, 2446; VI, 501). Formerly, the House exhibited its articles after the impeachment had been carried to the bar of the Senate; in the later practice, the resolution and articles of impeachment have been considered together and exhibited simultaneously in the Senate by the managers (VI, 501, 515; Mar. 10, 1936, pp. 3485–88; Oct. 7, 1986, p. 29126; Jan. 7, 1999, p. 272). The managers, who are elected by the House (III, 2300, 2345, 2417, 2448; VI, 500, 514, 517; Mar. 2, 1936, pp. 3393, 3394) or appointed by the Speaker (III, 2388, 2475), carry the articles in obedience to a resolution of the House (III, 2417, 2419, 2448) to the bar of the Senate (III, 2420, 2449, 2476), the House having previously informed the Senate (III, 2419, 2448) and received a message informing them of the readiness of the latter body to receive the articles (III, 2078, 2325, 2345; Aug. 6, 1986, p. 19335; Jan. 6, 1999, p. 240). Having exhibited the articles the managers return and report verbally to the House (III, 2449, 2476).

The articles in the Belknap impeachment were held sufficient, although attacked for not describing the respondent as one subject to impeachment (III, 2123). In the proceedings against Judge Ritter, objections to the articles of impeachment, on the ground that they duplicated and accumulated separate offenses, were overruled (Apr. 3, 1936, p. 4898; Apr. 17, 1936, p. 5606). These articles are signed by the Speaker and attested by the Clerk (III, 2302, 2449), and in form approved by the practice of the House (III, 2420, 2449, 2476).

Articles of impeachment that have been exhibited to the Senate may be subsequently modified or amended by the House (VI, 520; Mar. 30, 1936, pp. 4597–99), and a resolution proposing to amend articles of im-

peachment previously adopted by the House is privileged for consideration when reported by the managers on the part of the House (VI, 520; Mar. 30, 1936, p. 4597).

For discussion of substantive charges contained in articles of impeachment and the constitutional grounds for impeachment, see § 175, *supra* (accompanying Const., art. II, sec. 4). For a discussion of the presentation of the House managers in support of the impeachment of President Clinton, and related matters, see § 608a, *supra*.

§ 610. Parliamentary law as to appearance of respondent.

Appearance. If he appear, and the case be capital, he answers in custody; though not if the accusation be general. He is not to be committed but on special accusations. If it be for a misdemeanor only, he answers, a lord in his place, a commoner at the bar, and not in custody, unless, on the answer, the Lords find cause to commit him, till he finds sureties to attend, and lest he should fly. *Seld. Jud., 98, 99.* A copy of the articles is given him, and a day fixed for his answer. *T. Ray.; 1 Rushw., 268; Fost., 232; 1 Clar. Hist. of the Reb., 379.* On a misdemeanor, his appearance may be in person, or he may answer in writing, or by attorney. *Seld. Jud., 100.* The general rule on accusation for a misdemeanor is, that in such a state of liberty or restraint as the party is when the Commons complain of him, in such he is to answer. *Ib., 101.* If previously committed by the commons, he answers as a prisoner. But this may be called in some sort judicium parium suorum. *Ib.* In misdemeanors the party has a right to counsel by the common law, but not in capital cases. *Seld. Jud., 102, 105.*

§ 611. Requirements of the Senate as to appearance of respondent.

This paragraph of the parliamentary law is largely obsolete so far as the practice of the House and the Senate are concerned. The accused may appear in person or by attorney (III, 2127, 2349, 2424), and take the stand in his own behalf (VI, 511, 524; Apr. 11, 1936, pp. 5370–86; Oct. 7, 1986, p. 29149), or he may not appear at all (III, 2307, 2333, 2393). In case he does not appear the House does not ask that he be compelled to appear (III, 2308), but the trial proceeds as on a plea of "not guilty." It has been decided that the Senate has no power to take into custody the body of the accused (III, 2324, 2367). The writ of summons to the accused recites the articles and notifies him to appear at a fixed time and place and file his answer (III, 2127). In all cases respondent may appear by counsel (III, 2129), and in one trial, when a petition set forth that respondent was insane, the counsel of his son was admitted to be heard and present evidence in support of the petition, but not to make argument (III, 2333). For a discussion of answers, arguments, and presentations of the respondent in the Clinton impeachment proceedings, see § 608a, *supra*.

The chairman of the committee impeaches at the bar of the Senate by oral accusation (III, 2413, 2446, 2473), and the managers for the House attend in the Senate after the articles have been exhibited and demand that process issue for the attendance of respondent (III, 2451, 2478), after which they return and report verbally to the House (III, 2423, 2451; VI, 501). The Senate thereupon issue a writ of summons, fixing the day of return (III, 2423, 2451; S. Res. 16, Jan. 8, 1999, p. 349); and in a case wherein the respondent did not appear by person or attorney the Senate published a proclamation for him to appear (III, 2393). But the respondent's goods were not attached. In only one case has the parliamentary law as to sequestration and committal been followed (III, 2118, 2296), later inquiry resulting in the conclusion that the Senate had no power to take into custody the body of the accused (III, 2324, 2367).

§ 612. Answer of respondent.

Answer. The answer need not observe great strictness of the form. He may plead guilty as to part, and defend as to the residue; or, saving all exceptions, deny the whole or give a particular answer to each article separately. *1 Rush., 274; 2 Rush., 1374; 12 Parl. Hist., 442; 3 Lords' Journ., 13 Nov., 1643; 2 Wood., 607.* But he cannot plead a pardon in bar to the impeachment. *2 Wood., 615; 2 St. Tr., 735.*

In the Senate proceedings of the impeachment of President Andrew Johnson, the answer of the President took up the articles one by one, denying some of the charges, admitting others but denying that they set forth impeachable offenses, and excepting to the sufficiency of others (III, 2428). The form of this answer was commented on during preparation of the replication in the House (III, 2431). In the Senate proceedings on the impeachment of President Clinton, the answer of the President also took up the articles one by one, denying some of the charges and admitting others but denying that they set forth impeachable offenses (Jan. 14, 1999, pp. 359–361). Blount and Belknap demurred to the charges on the ground that they were not civil officers within the meaning of the Constitution (III, 2310, 2453), and Swayne also raised questions as to the jurisdiction of the Senate (III, 2481). The answer is part of the pleadings, and exhibits in the nature of evidence may not properly be attached thereto (III, 2124). The answer of the respondent in impeachment proceedings is messaged to the House and subsequently referred to the managers on the part of the House (VI, 506; Apr. 6, 1936, p. 5020; Sept. 9, 1986, p. 22317).

For a chronology of arguments and presentations of the respondent in the Clinton impeachment proceedings, see § 608a, *supra*.

§ 613. Other pleadings.

Replication, rejoinder, &c. There may be a replication, rejoinder, &c. *Sel. Jud., 114; 8 Grey's Deb., 233; Sach. Tr., 15; Journ. H. of Commons, 6 March, 1640–1.*

A replication is always filed (for the form of replication in modern practice, see Sept. 26, 1988, p. 25357), and in one instance the pleadings proceeded to a rejoinder, surrejoinder, and similiter (III, 2455). A respondent also has filed a protest instead of pleading on the merits (III, 2461), but there was objection to this and the Senate barely permitted it. In another case respondent interposed a plea as to jurisdiction of offenses charged in certain articles, but declined to admit that it was a demurrer with the admissions pertinent thereto (III, 2125, 2431). In the Belknap trial the House was sustained in averring in pleadings as to jurisdiction matters not averred in the articles (III, 2123). The right of the House to allege in the replication matters not touched in the articles has been discussed (III, 2457). In the Louderback (VI, 522) and Ritter (Apr. 6, 1936, p. 4971) impeachment proceedings, the managers on the part of the House prepared and submitted the replication to the Senate without its consideration by the House, contrary to former practice (VI, 506). The Senate may consider in closed session various preliminary motions made by respondent (*e.g.*, to declare the Senate rule on appointment of a committee to receive evidence to be unconstitutional, to declare beyond a reasonable doubt as the standard of proof in an impeachment trial, and to postpone the impeachment trial) before voting in open session to dispose of those motions (Oct. 7, 8, 1986, pp. 29151, 29412).

For a chronology in the Senate of disposition of motions permitted under Senate impeachment rules, see § 608a, *supra*.

§ 614. Examination of witnesses.

Witnesses. The practice is to swear the witnesses in open House, and then examine them there; or a committee may be named, who shall examine them in committee, either on interrogatories agreed on in the House, or such as the committee in their discretion shall demand. *Seld. Jud., 120, 123.*

In trials before the Senate witnesses have always been examined in open Senate, although examination by a committee has been suggested (III, 2217) and utilized (S. Res. 38, 101st Cong., Mar. 16, 1989, p. 4533). In the 74th Congress, the Senate amended its rules for impeachment trials to allow the presiding officer, upon the order of the Senate, to appoint a committee to receive evidence and take testimony in the trial of any impeachment (May 28, 1935, p. 8309). In the trial of Judge Claiborne the Senate directed the appointment of a committee of twelve Senators to take evidence and testimony pursuant to rule XI of the Rules of Procedure and Practice in the Senate when Sitting on Impeachment Trials (S. Res. 481, Aug. 15, 1986, p. 22035); and in Nixon *v.* United States, 113 S. Ct. 732 (1993), the Supreme Court refused to declare unconstitutional the appointment of such a committee to take evidence and testimony.

For a chronology of motions to subpoena witnesses during the Senate impeachment proceedings against President Clinton, see § 608a, *supra*.

§ 615. Relation of jury trial to impeachment.

Jury. In the case of Alice Pierce, *1 R., 2,* a jury was impaneled for her trial before a committee. *Seld. Jud., 123.* But this was on a complaint, not on impeachment by the Commons. *Seld. Jud., 163.* It must also have been for a misdemeanor only, as the Lords spiritual sat in the case, which they do on misdemeanors, but not in capital cases. *Id., 148.* The judgment was a forfeiture of all her lands and goods. *Id., 188.* This, Selden says, is the only jury he finds recorded in Parliament for misdemeanors; but he makes no doubt, if the delinquent doth put himself on the trial of his

country, a jury ought to be impaneled, and he adds that it is not so on impeachment by the Commons, for they are in loco proprio, and there no jury ought to be impaneled. *Id., 124.* The Ld. Berkeley, *6 E., 3,* was arraigned for the murder of L. 2, on an information on the part of the King, and not on impeachment of the Commons; for then they had been patria sua. He waived his peerage, and was tried by a jury of Gloucestershire and Warwickshire. *Id., 126.* In *1 H., 7,* the Commons protest that they are not to be considered as parties to any judgment given, or hereafter to be given in Parliament. *Id., 133.* They have been generally and more justly considered, as is before stated, as the grand jury; for the conceit of Selden is certainly not accurate, that they are the patria sua of the accused, and that the Lords do only judge, but not try. It is undeniable that they do try; for they examine witnesses as to the facts, and acquit or condemn, according to their own belief of them. And Lord Hale says, "the peers are judges of law as well as of fact;" *2 Hale, P. C., 275;* Consequently of fact as well as of law.

No jury is possible as part of an impeachment trial under the Constitution (III, 2313). In 1868, after mature consideration, the Senate overruled the old view of its functions (III, 2057), and decided that it sat for impeachment trials as the Senate and not as a court (III, 2057), and eliminated from its rules all mention of itself as a "high court of impeachment" (III, 2079, 2082). However, the modern view of the Senate as a court was evident during the impeachment trial of President Clinton. There the Senate convened as a "Court of Impeachment" (see, *e.g.*, Jan. 7, 1999, p. 272). In response to an objection raised by a Senator, the Chief Justice held that the Senate was not sitting as a "jury" but was sitting as a "court" during the impeachment trial of President Clinton. As such, the House managers

were directed to refrain from referring to the Senators as "jurors" (Jan. 15, 1999, p. 580).

§ 615a. The presiding officer.

An anxiety lest the Chief Justice might have a vote in the approaching trial of the President seems to have prompted this earlier action (III, 2057). There was examination of the question of the Chief Justice's power to vote (III, 2098); but the Senate declined to declare his incapacity to vote, and he did in fact give a casting vote on incidental questions (III, 2067). Under the earlier practice, the Senate declined to require that the Chief Justice be sworn when about to preside (III, 2080); but the Chief Justice had the oath administered by an associate justice (III, 2422). The President pro tempore of the Senate, pursuant to an earlier order of the Senate, appointed a committee to escort the Chief Justice into the Senate chamber to preside over the impeachment trial of President Clinton, administered the oath to him, and the Chief Justice in turn administered the oath to the Senators (Jan. 7, 1999, p. 272).

In impeachments for officers other than the President of the United States the presiding officer of the Senate presides, whether he be Vice President, the regular President pro tempore (III, 2309, footnote, 2337, 2394) or a special President pro tempore chosen to preside at the trial only (III, 2089, 2477).

§ 615b. Oath and quorum.

Senators elected after the beginning of an impeachment trial are sworn as in the case of other Senators (III, 2375). The quorum of the Senate sitting for an impeachment trial is a quorum of the Senate itself, and not merely a quorum of the Senators sworn for the trial (III, 2063). The vote required for conviction is two-thirds of those Senators present and voting (Oct. 20, 1989, p. 25335). In 1868, when certain States were without representation, the Senate declined to question its competency to try an impeachment case (III, 2060). The President pro tempore of the Senate administered the oath to the Chief Justice presiding over the impeachment trial of President Clinton, and the Chief Justice in turn administered the oath to the Senators (Jan. 7, 1999, p. 272).

§ 616. Attendance of the Commons.

Presence of Commons. The Commons are to be present at the examination of witnesses. *Seld. Jud., 124.* Indeed, they are to attend throughout, either as a committee of the whole House, or otherwise, at discretion, appoint managers to conduct the proofs. *Rushw. Tr. of Straff., 37; Com. Journ., 4 Feb., 1709–10; 2 Wood., 614.* And judgment is not to be given till they demand it. *Seld. Jud., 124.* But

they are not to be present on impeachment when the Lords consider of the answer or proofs and determine of their judgment. Their presence, however, is necessary at the answer and judgment in case capital *Id., 58, 158,* as well as not capital; *162.* * * *.

§ 617. Attendance of the House of Representatives.

The House has consulted its own inclination and convenience about attending its managers at an impeachment. It did not attend at all in the trials of Blount, Swayne, Archbald. Louderback and Ritter (III, 2318, 2483; VI, 504, 516); and after attending at the answer of Belknap, decided that it would be represented for the remainder of the trial by its managers alone (III, 2453). At the trial of the President the House, in Committee of the Whole, attended throughout the trial (III, 2427), but this is exceptional. In the Peck trial the House discussed the subject (III, 2377) and reconsidered its decision to attend the trial daily (III, 2028). While the Senate is deliberating the House does not attend (III, 2435); but when the Senate votes on the charges, as at the other open proceedings of the trial, it may attend (III, 2383, 2388, 2440). While it has frequently attended in Committee of the Whole, it may attend as a House (III, 2338).

§ 618. Voting on the articles in an impeachment trial.

* * * The Lords debate the judgment among themselves. Then the vote is first taken on the question of guilty or not guilty; and if they convict, the question, or particular sentence, is out of that which seemeth to be most generally agreed on. *Seld. Jud., 167; 2 Wood., 612.*

The question in judgment in an impeachment trial has occasioned contention in the Senate (III, 2339, 2340), and in the trial of the President the form was left to the Chief Justice (III, 2438, 2439). In the Belknap trial there was much deliberation over this subject (III, 2466). In the Chase trial the Senate modified its former rule as to form of final question (III, 2363). The yeas and nays are taken on each article separately (III, 2098, 2339) in the form "Senators, how say you? is the respondent guilty or not guilty?" (Oct. 9, 1986, p. 29871). But in the trial of President Johnson the Senate, by order, voted on the articles in an order differing from the numerical order (III, 2440), adjourned after voting on one article (III, 2441), and adjourned without day after voting on three of the eleven articles (III, 2443). In other impeachments, the Senate has adopted an order to provide the method of voting and putting the question separately and successively

on each article (VI, 524; Apr. 16, 1936, p. 5558). For a discussion of the vote of the Senate on each article of impeachment of President Clinton, see § 608a, *supra*.

§ 619. Judgment in impeachments.

Judgment. Judgments in Parliament, for death have been strictly guided per legem terrae, which they can not alter; and not at all according to their discretion. They can neither omit any part of the legal judgment nor add to it. Their sentence must be secundum non ultra legem. *Seld. Jud., 168, 171.* This trial, though it varies in external ceremony, yet differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments, prevailed; for impeachments are not framed to alter the law, but to carry it into more effectual execution against too powerful delinquents. The judgment, therefore, is to be such as is warranted by legal principles or precedents. *6 Sta. Tr., 14; 2 Wood., 611.* The Chancellor gives judgment in misdemeanors; the Lord High Steward formerly in cases of life and death. *Seld. Jud., 180.* But now the Steward is deemed not necessary. *Fost., 144; 2 Wood., 613.* In misdemeanors the greatest corporal punishment hath been imprisonment. *Seld. Jud., 184.* The King's assent is necessary to capital judgments (but *2 Wood., 614,* contra), but not in misdemeanors, *Seld. Jud., 136.*

The Constitution of the United States (art. I, sec. 3, cl. 7) limits the judgment to removal and disqualification. The order of judgment following conviction in an impeachment trial is divisible for a separate vote if it contains both removal and disqualification (III, 2397; VI, 512; Apr. 17, 1936, p. 5606), and an order of judgment (such as disqualification) requires a majority vote (VI, 512; Apr. 17, 1936, p. 5607). Under earlier practice,

after a conviction the Senate voted separately on the question of disqualification (III, 2339, 2397), but no vote is required by the Senate on judgment of removal from office following conviction, since removal follows automatically from conviction under article II, section 4 of the Constitution (Apr. 17, 1936, p. 5607). Thus, the presiding officer directs judgment of removal from office to be entered and the respondent removed from office without separate action by the Senate where disqualification is not contemplated (Oct. 9, 1986, p. 29873). A resolution impeaching the President may provide only for his removal from office (H. Res. 1333, 93d Cong., Aug. 20, 1974, p. 29361) or for both his removal and disqualification from holding any future office (H. Res. 611, 105th Cong., Dec. 19, 1998, p. 27828).

§ 620. Impeachment not interrupted by adjournments.

Continuance. An impeachment is not discontinued by the dissolution of Parliament, but may be resumed by the new Parliament. *T. Ray 383; 4 Com. Journ., 23 Dec., 1790; Lord's Jour., May 15, 1791; 2 Wood., 618.*

In Congress impeachment proceedings are not discontinued by a recess (III, 2299, 2304, 2344, 2375, 2407, 2505, see also § 592, *supra*). The following impeachment proceedings extended from one Congress to the next: (1) the impeachment of Judge Pickering was presented in the Senate on the last day of the Seventh Congress (III, 2320), and the Senate conducted the trial in the Eighth Congress (III, 2321); (2) the impeachment of Judge Louderback was presented in the Senate on the last day of the 72d Congress (VI, 515), and the Senate conducted the trial in the 73d Congress (VI, 516); (3) the impeachment of Judge Hastings was presented in the Senate during the second session of the 100th Congress (Aug. 3, 1988, p. 20223) and the trial in the Senate continued into the 101st Congress (Jan. 3, 1989, p. 84); (4) the impeachment of President Clinton was presented to the Senate after the Senate had adjourned sine die for the 105th Congress (Jan. 6, 1999, p. 14), and the Senate conducted the trial in the 106th Congress (Jan. 7, 1999, p. 272). While impeachment proceedings may continue from one Congress to the next, the authority of the managers appointed by the House expires at the end of a Congress; and the managers must be reappointed when a new Congress convenes (Jan. 6, 1999, p. 15).

RULES OF THE HOUSE OF REPRESENTATIVES

RULES OF THE HOUSE OF REPRESENTATIVES, WITH NOTES AND ANNOTATIONS

RULE I

THE SPEAKER

Approval of the Journal

1. The Speaker shall take the Chair on every legislative day precisely at the hour to which the House last adjourned and immediately call the House to order. Having examined and approved the Journal of the last day's proceedings, the Speaker shall announce to the House his approval thereof. The Speaker's approval of the Journal shall be deemed agreed to unless a Member, Delegate, or Resident Commissioner demands a vote thereon. If such a vote is decided in the affirmative, it shall not be subject to a motion to reconsider. If such a vote is decided in the negative, then one motion that the Journal be read shall be privileged, shall be decided without debate, and shall not be subject to a motion to reconsider.

§ 621. Journal; Speaker's approval.

This clause was adopted in 1789, amended in 1811, 1824 (II, 1310), 1971 (H. Res. 5, Jan. 22, 1971, pp. 140–44, with the implementation of the Legislative Reorganization Act of 1970, 84 Stat. 1140), and 1979 (H. Res. 5, 96th Cong., Jan. 15, 1979, pp. 7, 16). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

The hour of meeting is fixed by standing order, and was traditionally set at 12 m. (I, 104–109, 116, 117; IV, 4325); but beginning in the 95th

Congress, the House by standing order formalized the practice of varying its convening time to accommodate committee meetings on certain days of the week and to maximize time for floor action on other days (H. Res. 7, Jan. 4, 1977, p. 70; H. Res. 949, Jan. 19, 1978, p. 108; H. Res. 9, Jan. 15, 1979, p. 17; H. Res. 522, Jan. 22, 1980, p. 188; H. Res. 8, Jan. 5, 1981, p. 114; H. Res. 313, Jan. 25, 1982, p. 62; H. Res. 8, Jan. 3, 1983, p. 51; H. Res. 388, Jan. 23, 1984, p. 74; H. Res. 9, Jan. 3, 1985, p. 414; H. Res. 355, Jan. 21, 1986, p. 2; H. Res. 7, Jan. 6, 1987, p. 19; H. Res. 348, Jan. 25, 1988, p. 39; H. Res. 7, Jan. 3, 1989, p. 82; H. Res. 304, Jan. 23, 1990, p. 3; H. Res. 7, Jan. 3, 1991, p. 63; H. Res. 330, Jan. 28, 1992, p. 684; H. Res. 7, Jan. 5, 1993, p. 101; H. Res. 327, Jan. 25, 1994, p. 88; H. Res. 8, Jan. 4, 1995, p. 547; H. Res. 327, Jan. 3, 1996, p. 36; H. Res. 9, Jan. 7, 1997, p. 143; H. Res. 337, Jan. 27, 1998, p. 75; H. Res. 14, Jan. 6, 1999, p. 246; H. Res. 403, Jan. 27, 2000, p. 132; H. Res. 9, Jan. 3, 2001, p. 37; H. Res. 333, Jan. 23, 2002, p. 3; H. Res. 9, Jan. 7, 2003, p. 21; H. Res. 488, Jan. 20, 2004, p. ——; H. Res. 8, Jan. 4, 2005, p. ——; H. Res. 651, Jan. 31, 2006, p. ——; H. Res. 10, Jan. 4, 2007, p. ——). The House retains the right to vary from this schedule by use of the motion to fix the day and time to which the House shall adjourn as provided in clause 4 of rule XVI. By special order, the House may provide for a session of the House on a Sunday, traditionally a "dies non" under the precedents of the House (Dec. 17, 1982, p. 31946; Dec. 18, 1987, p. 36352; Nov. 19, 1989, p. 30029; Aug. 20, 1994, p. 23367; Nov. 7, 1997, p. 25160; Oct. 10, 1998, p. 25483). Beginning in the second session of the 103d Congress, the House has by unanimous consent agreed to convene earlier on Mondays and Tuesdays for morning-hour debate and then recess to the hour established for convening under a previous order (see § 951, *infra*).

Immediately after the Members are called to order, the prayer is offered by the Chaplain (IV, 3056), and the Speaker declines to entertain a point of no quorum before prayer is offered (VI, 663; clause 7 of rule XX). Before the 96th Congress, clause 1 of rule I directed the Speaker to announce his approval of the Journal on the appearance of a quorum after having called the House to order. Under that form of the rule, a point of no quorum could be made after the prayer and before the approval of the Journal when the House convened, notwithstanding the provisions of former clause 6(e) of rule XV (now clause 7 of rule XX), allowing such points of order in the House only when the Speaker had put the pending motion or proposition to a vote (Oct. 3, 1977, p. 31987). Similarly, prior practice had permitted a point of no quorum before the reading of the Journal (IV, 2733; VI, 625) or during its reading (VI, 624). In the 96th Congress, the House eliminated the necessity for the appearance of a quorum before the Speaker's announcement of his approval of the Journal (H. Res. 5, Jan. 15, 1979, pp. 7, 16). If a quorum fails to respond on a motion incident to the approval, reading, or amendment of the Journal, and there is an objection to the vote, a call of the House under clause 6 of rule XX is automatic (Feb. 2, 1977, p. 3342).

Pursuant to clause 8 of rule XX, the Speaker may postpone until a later time on the same legislative day a record vote on the Speaker's approval of the Journal. Where the House adjourns on consecutive days without having approved the Journal of the previous days' proceedings, the Speaker puts the question de novo in chronological order as the first order of business on the subsequent day (Nov. 3, 1987, p. 30592).

Before the 92d Congress, the reading of the Journal was mandatory, could not be dispensed with except by unanimous consent (VI, 625; Sept. 19, 1962, p. 19941), or by motion to suspend the rules (IV, 2747–2750). It had to be read in full when demanded by any Member (IV, 2739–2741; VI, 627, 628; Feb. 22, 1950, p. 2152), but the demand came too late after the Journal was approved (VI, 626). Under the rule as in effect from the 92d Congress through the 95th Congress, any Member could offer a privileged, nondebatable motion that the Journal be read pending the Speaker's announcement of his approval and before agreement by the House (Apr. 23, 1975, p. 11482).

The Journal of the last day of a session is not read on the first day of the next session (IV, 2742). No business is transacted before the approval of the Journal (or the postponement of a vote under clause 8 of rule XX on agreeing to the Speaker's approval), including consideration of a conference report (IV, 2751–2756; VI, 629, 630, 637). However, the motion to adjourn (IV, 2757; Speaker Wright, Nov. 2, 1987, p. 30387) and the swearing of a Member (I, 172) could take precedence.

Once begun, the reading may not be interrupted, even by business so highly privileged as a conference report (V, 6443; rule XXII). However, a parliamentary inquiry (VI, 624), an arraignment of impeachment (VI, 469), or a question of privilege relating to a breach of privilege (such as an assault occurring during the reading) may interrupt its reading or approval (II, 1630).

Under the prior rule, the Speaker's examination and approval of the Journal was preliminary to the reading and did not preclude subsequent amendment by the House itself (IV, 2734–2738). If the Speaker's approval of the Journal is rejected, a motion to amend takes precedence of a motion to approve (IV, 2760; VI, 633), and a Member offering an amendment is recognized under the hour rule (Mar. 19, 1990, p. 4488); but the motion is not admissible after the previous question is demanded on the motion to approve (IV, 2770; VI, 633; VIII, 2684; Sept. 13, 1965, p. 23600).

Preservation of order

§ 622. Speaker preserves order on floor and in galleries and lobby.

2. The Speaker shall preserve order and decorum and, in case of disturbance or disorderly conduct in the galleries or in the lobby, may cause the same to be cleared.

This clause was adopted in 1789 and amended in 1794 (II, 1343). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

The Speaker may name a Member who is disorderly, but may not, of his own authority, censure or punish him (II, 1344, 1345; VI, 237). In cases of extreme disorder in the Committee of the Whole the Speaker has taken the chair and restored order without a formal rising of the Committee (II, 1348, 1648–1653, 1657); and the Speaker, as an exercise of his authority under this clause, has on his own initiative declared the House in recess in an emergency (Speaker Martin, Mar. 1, 1954, p. 2424; see also Speaker Rayburn, Mar. 1, 1943, p. 1487 (air-raid drill)). A former Member must observe the rules of decorum while on the floor, and the Speaker may request the Sergeant-at-Arms to assist him in maintaining such decorum (Sept. 17, 1997, pp. 19026, 19027).

The authority to have the galleries cleared has been exercised but rarely (II, 1352; Speaker Albert, Jan. 18, 1972, p. 9). On one occasion, acting on the basis of police reports and other evidence, the Speaker ordered the galleries cleared before the House convened (May 10, 1972, p. 16576) and then informed the House of his decision. In an early instance the Speaker ordered the arrest of a person in the gallery; but this exercise of power was questioned (II, 1605). In response to a disruptive demonstration in the gallery, the Chair notes for the Record the disruptive character of the demonstration and enlists the Sergeant-at-Arms to remove the offending parties (Oct. 8, 2002, p. 19543; Oct. 10, 2002, p. 20274). Occupants of the gallery are not to manifest approval or disapproval of, or otherwise disrupt, proceedings on the floor (see, *e.g.*, Speaker Foley, June 12, 1990, p. 13593) and the Speaker may quell such demonstrations prior to the adoption of the rules (Speaker Gingrich, Jan. 4, 1995, p. 454).

Although Members are permitted to use exhibits such as charts during debate (subject to clause 6 of rule XVII), the Speaker may direct the removal of a chart from the well of the House that is not being utilized during debate (Apr. 1, 1982, p. 6304; Apr. 19, 1990, p. 7402). The Speaker's responsibility to preserve decorum requires that he disallow the use of exhibits in debate that would be demeaning to the House, or to any Member of the House, or that would be disruptive of the decorum thereof (Sept. 13, 1989, p. 20362; Oct. 16, 1990, p. 29647; Oct. 1, 1991, p. 24828; Nov. 16, 1995, p. 33395; Jan. 3, 1996, p. 42). The Speaker has disallowed the use of a person on the floor as a guest of the House as an "exhibit," including a Member's child (see § 678, *infra*). The Chair also has cautioned Members to refrain from using audio devices during debate (May 24, 2005, p. ——). Although a Member may enlist the assistance of a page to manage the placement of an exhibit on an easel, it is not appropriate to refer to the page or to use the page as though part of the exhibit (June 11, 2003, p. 14417; Speaker Hastert, June 12, 2003, p. 14576). The Chair will distinguish between using an exhibit in the immediate area the Member is addressing the House as a visual aid for the edification of Members and

staging an exhibition; for example, a Member having a large number of his colleagues accompany him in the well, each carrying a part of his exhibit, was held to impair the decorum of the House (June 12, 2003, p. 14627). The Speaker may inquire as to a Member's intentions, as to the use of exhibits, before conferring recognition to address the House (Mar. 21, 1984, p. 6187). In the 101st Congress both the Speaker and the chairman of the Committee of the Whole reinforced the Chair's authority to control the use of exhibits in debate, distinguishing between the constitutional authority of the House to make its own rules and first amendment rights of free speech, and the use of all exhibits was prohibited during the consideration of a bill in the Committee of the Whole (Oct. 11, 1990, p. 28650). The Speaker may permit the display of an exhibit in the Speaker's lobby during debate on a measure (May 20, 1999, p. 10280). Just as an appeal may be entertained on a decision from the Chair that a Member has engaged in personalities in debate (Sept. 28, 1996, pp. 25780–82; see also clause 4 of rule XVII), so also may an appeal be entertained on a ruling of the Chair on the propriety of an exhibit (Nov. 16, 1995, p. 33395).

At the request of the Committee on Standards of Official Conduct, the Speaker announced that (1) all handouts distributed on or adjacent to the floor must bear the name of a Member authorizing the distribution; (2) the content of such handouts must comport with the standards applicable to words used in debate; (3) failure to comply with these standards may constitute a breach of decorum and thus give rise to a question of privilege; (4) staff are prohibited in the Chamber or rooms leading thereto from distributing handouts and from attempting to influence Members with regard to legislation; and (5) Members should minimize the use of handouts to enhance the quality of debate (Sept. 27, 1995, p. 26567; Mar. 20, 1996, p. 5644).

Questions having been raised concerning proper attire for Members in the Chamber (thermostat controls having been raised to comply with a Presidential directive conserving energy in the summer months), the Speaker announced he considered traditional attire for Members appropriate, including coats and ties for male Members and appropriate attire for female Members, but that he would recognize for a question of privileges of the House to relax such standards. The Speaker also requested a Member in violation of those standards to remove himself from the Chamber and appear in appropriate attire, and refused to recognize such Member until he did so (Speaker O'Neill, July 17, 1979, p. 19008). The House later agreed to a resolution (presented as a question of the privileges of the House) requiring Members to wear proper attire as determined by the Speaker (July 17, 1979, p. 19072). See also § 962, *infra*.

Recognition is within the discretion of the Chair, and in order to uphold order and decorum in the House as required under clause 2 of rule I, the Speaker may deny a Member recognition for a "one-minute speech" (Aug. 27, 1980, p. 23456). Furthermore, it is a breach of decorum for a Member to continue to speak beyond the time for which recognized (Mar. 22, 1996,

p. 6086; May 22, 2003, p. 12965; Oct. 2, 2003, p. ——), and the Speaker may deny further recognition to such Member (Mar. 16, 1988, p. 4081), from which there is no appeal (see § 629, *infra*). Even before adoption of the rules, the Speaker may maintain decorum by directing a Member engaging in such breach of decorum to be removed from the well and by directing the Sergeant-at-Arms to present the mace as the traditional symbol of order (Jan. 3, 1991, p. 58). A Member's comportment may constitute a breach of decorum even though the content of that Member's speech is not, itself, unparliamentary (July 29, 1994, p. 18609). Under this standard the Chair may deny further recognition to a Member engaged in unparliamentary debate who ignores repeated admonitions by the Chair to proceed in order (unless the Member is permitted to proceed by order of the House) (Sept. 18, 1996, p. 23535).

Control of Capitol facilities

§ 623. Speaker's control of the Hall, corridors, and rooms.

3. Except as otherwise provided by rule or law, the Speaker shall have general control of the Hall of the House, the corridors and passages in the part of the Capitol assigned to the use of the House, and the disposal of unappropriated rooms in that part of the Capitol.

This clause was adopted in 1811 and amended in 1824, 1885 (II, 1354), and 1911 (VI, 261). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

Control of the appropriated rooms in the House portion of the Capitol is exercised by the House itself (V, 7273–7279), but repairs and alterations have been authorized by statute (V, 7280–7281; 59 Stat. 472). On January 15, 1979, the Speaker announced his directive concerning free access by Members in the corridors approaching the Chamber (p. 19). The Speaker has declined to recognize for a unanimous-consent request to change the decor in the Chamber, stating that he would take the suggestion under advisement in exercising his authority under this clause (Mar. 2, 1989, p. 3220). The Speaker has announced that a joint Republican Conference and Democratic Caucus meeting would be held in the Chamber following the adjournment of the House on that day (July 27, 1998, p. 17466).

Signature of documents

§ 624. Speaker's signature to acts, warrants, subpoenas, etc.

4. The Speaker shall sign all acts and joint resolutions passed by the two Houses and all writs, warrants, and subpoenas of, or issued by order of, the House. The Speaker may sign enrolled bills and joint resolutions whether or not the House is in session.

The Speaker was given authority to sign acts, warrants, subpoenas, etc., in 1794 (II, 1313). The last sentence of this clause, granting the Speaker standing authority to sign enrolled bills, even if the House is not in session, was added in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). Before the House recodified its rules in the 106th Congress, clauses 4 and 5 occupied a single clause (H. Res. 5, Jan. 6, 1999, p. 47).

§ 625. Signing of enrolled bills.

Enrolled bills are signed first by the Speaker (IV, 3429). For precedents relevant to the signing of enrolled bills before this clause was amended to permit the Speaker to sign at any time, see IV, 3458, and V, 5705. Before the adoption of clause 2(d)(2) of rule II (enabling the Clerk to examine enrolled bills), the House authorized the Speaker to sign an enrolled bill before the Committee on Enrolled Bills could attest to its accuracy (IV, 3452). In cases of error the House has permitted the Speaker's signature to be vacated (IV, 3453, 3455–3457; VII, 1077–1080). Under the modern practice, the Committee of the Whole may rise informally without motion to enable the Speaker to assume the Chair and to sign an enrolled bill and lay it before the House (Jan. 28, 1980, p. 888; Apr. 30, 1980, p. 9505).

§ 626. Signing of warrants, subpoenas, etc.

Warrants, subpoenas, etc., during recesses of Congress are signed only by authority specially given (III, 1753, 1763, 1806). The issuing of warrants must be specially authorized by the House (I, 287) or pursuant to a standing rule (clause 6 of rule XX; § 1026, *infra*). Instance wherein the House authorized the Speaker to warrant for the arrest of absentees (VI, 638). The Speaker also signs the articles, replications, etc., in impeachments (III, 2370, 2455; *e.g.*, H. Res. 611, Dec. 19, 1998, p. 28112); and certifies cases of contumacious witnesses for action by the courts (III, 1691, 1769; VI, 385; 2 U.S.C. 194). A subpoena validly issued by a committee authorized by the House under clause 2(m) of rule XI to issue subpoenas need only be signed by the chairman of that committee, whereas when the House issues an order or warrant, the Speaker must issue the summons under his hand and seal, and it must be attested by the Clerk (III, 1668; see H. Rept. 96–1078, p. 22).

Questions of order

5. The Speaker shall decide all questions of order, subject to appeal by a Member, Delegate, or Resident Commissioner. On such an appeal a Member, Delegate, or Resident Commissioner may not speak more than once without permission of the House.

§ 627. Questions of order.

This rule was adopted in 1789 and amended in 1811. Before the House recodified its rules in the 106th Congress, clauses 4 and 5 occupied a single clause (H. Res. 5, Jan. 6, 1999, p. 47).

§ 628. Practice governing the Speaker in deciding points of order.

The Speaker may require that a question of order be presented in writing (V, 6865). When enough of a proposition has been read to show that it is out of order, the question of order may be raised without waiting for the reading to be completed (V, 6886, 6887; VIII, 2912, 3378, 3437), though the Chair may decline to rule until the entire proposition has been read (Dec. 14, 1973, pp. 41716–18). For example, the Chair declined to entertain a point of order that a motion to recommit was not germane before any nongermane portion of the motion had been read (May 9, 2003, p. 11110); and a motion to recommit with instructions was ruled out of order before the entire motion had been read as a matter of form where a special order of business precluded instructions (May 6, 2004, p. ——). Questions arising during a division are decided peremptorily (V, 5926), and when they arise out of any other question must be decided before that question (V, 6864). In rare instances the Speaker has declined to rule until he has taken time for examination of the question (III, 2725; VI, 432; VII, 2106; VIII, 2174, 2396, 3475).

Debate on a point of order, being for the Chair's information, is within the Chair's discretion (see, *e.g.*, V, 6919, 6920; VIII, 3446–3448; Deschler-Brown, ch. 29, § 67.3; Jan. 24, 1996, p. 1248; Sept. 12, 1996, p. 22901; Oct. 10, 1998, p. 25420). Debate is confined to the question of order and may not extend to the merits of the proposition against which it lies or to parliamentarily similar propositions permitted to remain in the pending bill by waivers of points of order (*e.g.*, July 18, 1995, p. 19335; June 22, 2000, p. 12078; Oct. 16, 2003, p. ——). Members must address the Chair and cannot engage in colloquies on the point of order (*e.g.*, Sept. 18, 1986, p. 24083; Oct. 16, 2003, p. ——), nor can they offer pro forma amendments to debate the point of order (July 21, 1998, p. 16369). To ensure that the arguments recorded on a question of order are those actually heard by the Chair before ruling, the Chair will not entertain a unanimous-consent request to permit a Member to revise and extend remarks on a point of order (Sept. 22, 1976, p. 31873; May 15, 1997, p. 8493, 8494; July 24, 1998, p. 17278). However, the Committee of the Whole by unanimous con-

sent has allowed a Member to revise and extend his remarks to follow the ruling on a point of order (July 13, 2000, p. 14095). A Member may raise multiple points of order simultaneously, and the Chair may hear argument and rule on each question individually (Mar. 28, 1996, pp. 6931, 6933); or the Chair may choose to rule on only one of the points of order raised (July 24, 1998, p. 17278). Where a Member incorrectly demands the "regular order," rather than making a point of order to assert that remarks are not confined to the question under debate, the Chair may treat the demand as a point of order and rule thereon (May 1, 1996, p. 9889).

The Chair is constrained to give precedent its proper influence (II, 1317; VI, 248). While the Chair will normally not disregard a decision of the Chair previously made on the same facts (IV, 4045), such precedents may be examined and reversed where shown to be erroneous (IV, 4637; VI, 639; VII, 849; VIII, 2794, 3435; Sept. 12, 1986, p. 23178). The authoritative source for proper interpretations of the rules are statements made directly from the Chair and not comments made by the Speaker in other contexts (May 25, 1995, p. 14437; Sept. 19, 1995, p. 25454). Preserving the authority and binding force of parliamentary law is as much the duty of each Member of the House as it is the duty of the Chair (VII, 1479). The Speaker's decisions are recorded in the Journal (IV, 2840, 2841), but responses to parliamentary inquiries are not so recorded (IV, 2842).

The Chair does not decide on the legislative or legal effect of propositions (II, 1274, 1323, 1324; VI, 254; VII, 2112; VIII, 2280, 2841; Mar. 16, 1983, p. 5669; May 13, 1998, p. 9129), on the consistency of proposed action with other acts of the House (II, 1327–1336; VII, 2112, 2136; VIII, 3237, 3458), whether Members have abused leave to print (V, 6998–7000; VIII, 3475), or on the propriety or expediency of a proposed course of action (II, 1275, 1325, 1326, 1337; IV, 3091–3093, 3127).

Also, the Chair does not rule on: (1) the constitutional power of the House (II, 1490; IV, 3507), such as the constitutional authority of the House to propose a rule of the House, such matter appropriately being decided by way of the question of consideration or disposition of the proposal (Jan. 4, 2005, p. ——); (2) the constitutional competency of proposed legislation (II, 1255, 1318–1322, VI, 250, 251; VIII, 2225, 3031, 3427; July 21, 1947, pp. 9522, 9551; May 13, 1948, p. 5817; Oct. 10, 1998, p. 25424); (3) the constitutional rights of Members (VIII, 3071).

The Chair is not required to decide a question not directly presented by the proceedings (II, 1314). Furthermore, it is not his duty to decide a hypothetical question (VI, 249, 253; Nov. 20, 1989, p. 30225), including: (1) the germaneness of an amendment not yet offered (Dec. 12, 1985, p. 36167; May 5, 1988, p. 9936; May 18, 1988, p. 11404; Mar. 22, 2000, p. 3283) or previously offered and entertained without a point of order (June 6, 1990, p. 13194); (2) the admissibility under existing Budget Act allocations of an amendment not yet offered, particularly where the Chair's response might depend on the disposition of a prior amendment on which

proceedings had been postponed (June 27, 1994, p. 14593; June 12, 2000, p. 10377); (3) the admissibility under clause 2 of rule XXI of an amendment already pending (July 29, 1998, p. 17963), against which all points of order had been waived (July 27, 1995, p. 20800); (4) the admissibility of an amendment at a future date, pending a ruling of the Chair on its immediate admissibility (June 25, 1997, p. 12488). The Chair will not declare judgment on the propriety of words taken down before they are read to the House (Sept. 21, 2001, p. 17613). The Chair does not take cognizance of complaints relating to pairs (VIII, 3087). The Chair passes on the validity of conference reports (V, 6409, 6410, 6414–6416; VIII, 3256, 3264), but not on the sufficiency of the accompanying statements as distinguished from the form (V, 6511–6513), or on the question of whether a conference report violates instructions of the House (V, 6395; VIII, 3246). As to reports of committees, he does not decide as to their sufficiency (II, 1339; IV, 4653), or whether the committee has followed instructions (II, 1338; IV, 4404, 4689); or on matters arising in the Committee of the Whole (V, 6927, 6928, 6932–6937; Dec. 12, 1985, p. 36173); but he has decided as to the validity of the authorization of a report (IV, 4592, 4593) and has indicated that a point of order could be raised at a proper time where the content of a filed report varies from that approved by the committee (May 16, 1989, p. 9356). An objection to the use of an exhibit under clause 6 of rule XVII (formerly rule XXX) is not a point of order on which the Chair must rule (July 31, 1996, pp. 20694, 20700). Before the rule was rewritten in the 107th Congress, it required that the Chair put the question whether the exhibit may be used. It now merely permits the Chair to put such question (sec. 2(o), H. Res. 5, Jan. 3, 2001, p. 25). A complaint that certain remarks that might be uttered in debate would improperly disclose executive-session material of a committee is not cognizable as a point of order in the House where the Chair is not aware of the executive-session status of the information (Nov. 5, 1997, p. 24648). A request that the voting display be turned on during debate is not in order (Oct. 12, 1998, p. 25770). The assertion that a Member may be inconvenienced by the legislative schedule announced by the Leadership does not give rise to a point of order that the Member cannot attend both to House and constituent duties at the same time (Nov. 10, 1999, p. 29537).

Before the 104th Congress, precedents and applicable guidelines allowed the Chair to refine a ruling on a point of order in the Record in order to clarify the ruling without changing its substance, including one sustained by the House on appeal (Feb. 19, 1992, p. 2461; see H. Res. 230, 99th Cong., July 31, 1985, p. 21783; and H. Rept. 99–228 (in accordance with existing accepted practices, the Chair may make such technical or parliamentary corrections or insertions in transcript as may be necessary to conform to rule, custom, or precedent); see also H. Res. 330, 101st Cong., Feb. 7, 1990, p. 1515, and report of House Administration task force on Record inserted by Speaker Foley, Oct. 27, 1990, p. 37124). However, the Chair ruled that the requirement of former clause 9 of rule XIV (now clause

8 of rule XVII) that the Record be a substantially verbatim account of remarks made during House proceedings, extended to statements and rulings of the Chair (Jan. 20, 1995, p. 1866).

In interpreting the language of a special order adopted by the House, the Chair will not look behind the unambiguous language of the resolution itself (June 18, 1986, p. 14267). Questions concerning informal guidelines of the Committee on Rules for advance submission of amendments for possible inclusion under a "modified closed" rule may not be raised under the guise of parliamentary inquiry (May 5, 1988, p. 9938). Because the Chair refrains from issuing advisory opinions on hypothetical or anticipatory questions of order, the Chair will not interpret a special order before it is adopted by the House (Oct. 14, 1986, p. 30862; July 27, 1993, p. 17116; July 27, 1995, p. 20741; Jan. 5, 1996, p. 366; Mar. 28, 1996, p. 7064; June 28, 2000, p. 12649; Mar. 8, 2001, p. 3229; May 22, 2002, p. 8681; Oct. 17, 2003, p. ——). Thus, the Chair has declined to identify provisions in a bill as ostensible objects of a waiver in the pending resolution providing a special order for that bill (Oct. 19, 1995, pp. 28503, 28504; Oct. 26, 1995, p. 29477; Mar. 28, 1996, p. 7064); to determine whether a bill, for which the pending resolution provides a special order waiving any requirement for a three-fifths vote on passage, actually "carries" a Federal income tax rate increase under clause 5 of rule XXI (Oct. 26, 1995, p. 29477); or to opine whether an amendment might be in order in the Committee of the Whole (May 22, 2002, p. 8681; Oct. 17, 2003, p. ——). The Chair will not compare the text made in order by a pending special order as original text for further amendment with the text reported by the committee of jurisdiction (Oct. 19, 1995, p. 28503). Similarly, the Chair will not issue an advisory opinion on how debate on a pending resolution will bear on the Chair's ultimate interpretation of the resolution as an order of the House (Sept. 18, 1997, p. 19343).

Recognition for parliamentary inquiry lies in the discretion of the Chair (VI, 541; Apr. 7, 1992, p. 8273). The Speaker may recognize and respond to a parliamentary inquiry although the previous question may have been demanded (Mar. 27, 1926, p. 6469). While the Chair may in his discretion recognize Members for parliamentary inquiries when no other Member is occupying the floor for debate, when another Member has the floor he must yield for a parliamentary inquiry (Oct. 1, 1986, p. 27465; July 13, 1989, p. 14633). A Member under recognition for a parliamentary inquiry may not yield to another Member (Nov. 22, 2002, p. 23510).

The Speaker may take a parliamentary inquiry under advisement, especially where not related to the pending proceedings (VIII, 2174; Apr. 7, 1992, p. 8273). The Chair responds to parliamentary inquiries relating in a practical sense to the pending proceedings but does not respond to requests to place them in historical context (June 25, 1992, p. 16174; Jan. 3, 1996, pp. 36–41; Nov. 5, 1997, p. 24653; Sept. 9, 2003, p. ——).

The Speaker may entertain a parliamentary inquiry during a record vote if it relates to the vote (Oct. 9, 1997, p. 22017; Oct. 6, 1999, p. 24199;

Sept. 9, 2003, p. ——; Mar. 30, 2004, p. ——). However, the Speaker will not respond to a request to place the length of a record vote in historical context (Sept. 9, 2003, p. ——) or explain the exercise of his discretion to hold a vote open beyond the minimum time prescribed under clause 2 of rule XX (Mar. 30, 2004, p. ——).

A proper parliamentary inquiry relates to an interpretation of a House rule, not of a statute or of the Constitution (Oct. 10, 1998, p. 25424; July 18, 2006, p. ——). The Chair will not respond to a parliamentary inquiry to: (1) judge the propriety of words spoken in debate pending a demand that those words be "taken down" as unparliamentary (June 8, 1995, p. 15267); (2) judge the veracity of remarks in debate (June 5, 1996, p. 13195; June 17, 2004, p. ——); (3) judge the propriety of words uttered earlier in debate (June 15, 2000, p. 11106); (4) reexamine and explain the validity of a prior ruling (Oct. 26, 1995, p. 29477); (5) anticipate the precedential effect of a ruling (Oct. 10, 1998, p. 25424); (6) judge the accuracy of the content of an exhibit (Nov. 10, 1995, p. 32142); (7) indicate which side of the aisle has failed under the Speaker's guidelines to clear a unanimous-consent request (Feb. 1, 1996, p. 2260; Nov. 22, 2002, p. 23510); (8) respond to political commentary (June 25, 1998, p. 13978; Apr. 4, 2001, p. 5417; Oct. 8, 2004, p. ——); (9) comment on the effect of time consumed on a pending amendment as a tactic to prevent the offering of other amendments under a special order adopted by the House (May 10, 2000, p. 7508); (10) anticipate whether bill language would trigger certain executive actions; (11) interpret a pending proposition (Sept. 20, 1989, p. 20969; May 13, 1998, p. 9129) (although the Chair may explain the application of the procedural status quo to a pending proposal to change that status quo by way of an amendment to the standing rules (Feb. 1, 2006, p. ——)); (12) judge the appropriateness of Senate action (Apr. 10, 2003, p. 9279); (13) characterize proceedings of a committee (June 15, 2006, p. ——). The Chair may clarify a prior response to a parliamentary inquiry (July 31, 1996, p. 20700).

The Speaker rarely submits a question directly to the House for its decision (IV, 3173, 3282, 4930; V, 5014, 5323, 6701; VI, 49; Speaker Longworth, Apr. 8, 1926, p. 7148; Dec. 19, 1998, p. 28107), and rarely raises and submits a question on his own initiative (II, 1277, 1315, 1316; VIII, 3405). Even as to questions of privilege he usually, in later practice, makes a preliminary decision instead of submitting the question directly to the House (III, 2648, 2649, 2650, 2654, 2678; Speaker Wright, Mar. 11, 1987, p. 5404).

§ 629. Practice, governing appeals.

The right of appeal insures the House against the arbitrary control of the Speaker and cannot be taken away from the House (V, 6002). While a decision of the Chair on a point of order is subject to appeal on demand of any Member, a Member cannot secure a recorded vote on a point of order absent an appeal and the Chair's putting the question thereon (June 20, 1996, p. 14847).

An appeal may not be entertained from the following: (1) response to a parliamentary inquiry (V, 6955; VIII, 3457); (2) decision on recognition (II, 1425–1428; VI, 292; VIII, 2429, 2646, 2762; July 23, 1993, p. 16820; Apr. 4, 1995, p. 10298; June 17, 1999, p. 13465; June 22, 2006, p. ——); (3) decision on dilatoriness of motions (V, 5731); (4) question on which an appeal has just been decided (IV, 3036; V, 6877); (5) Chair's count of the number rising to demand tellers (VIII, 3105), to demand a recorded vote (June 24, 1976, p. 20390; June 14, 2000, p. 10841) or the yeas and nays (Sept. 12, 1978, p. 28950), or to object to a request under the former rule that required a committee have permission to sit during floor proceedings under the five-minute rule (Sept. 12, 1978, p. 28984); (6) Chair's count of a quorum (July 24, 1974, p. 25012); (7) Chair's call of a voice vote (Aug. 10, 1994, p. 20766); (8) Chair's refusal to recapitulate a vote (VIII, 3128); (9) Chair's refusal under clause 7 of rule XX (formerly clause 6(e) of rule XV) to entertain a point of no quorum when a pending question has not been put to a vote (Sept. 16, 1977, p. 29594); (10) determination that a Member's time in debate has expired (Mar. 22, 1996, p. 6086); (11) the Speaker's announcement of the whole number of the House upon the death, resignation, expulsion, disqualification, or removal of a Member (clause 5(d) of rule XX); (12) the Speaker's announcement of the content of a catastrophic quorum failure report under clause 5(c) of rule XX (§ 1024a, *infra*). Although an announcement by the Chair that an objection to a unanimous-consent request has been heard is not subject to appeal, the Chair's ruling on the timeliness of the objection is subject to appeal (Apr. 14, 2005, p. ——). Although the timeliness of the Chair's recognition of a Member to offer a motion to table an appeal is not subject to appeal (June 22, 2006, p. ——), the Chair's ruling on timeliness of a Member's demand that words be taken down is subject to appeal (Jan. 22, 2007, p. ——).

An appeal also may not be entertained: (1) while another is pending (V, 6939–6941); (2) between the motion to adjourn and vote thereon (V, 5361); (3) during a call of the yeas and nays (V, 6051); or (4) when dilatory (V, 5715–5722; VIII, 2822).

An appeal may be debated (VII, 1608; VIII, 2347, 2375, 3453–3455; June 24, 2003, p. ——); unless the motion is made to lay on the table (V, 5301; Mar. 16, 1988, p. 4086), or the previous question is ordered (V, 5448, 5449). An appeal from a decision relating to the priority of business (V, 6952), or relevancy of debate (V, 5056–5063) is not debatable. In practice in the House, a Member in favor of the ruling usually moves to lay the appeal on the table, thus shutting off debate (*e.g.*, Oct. 8, 1968, p. 30215; Apr. 6, 1995, p. 10614). Debate in the House is under the hour rule (V, 4978), but may be closed at any time by the adoption of a motion for the previous question (V, 6947); or to lay on the table (VIII, 3453). Debate on an appeal in the Committee of the Whole is under the five-minute rule (VII, 1608; VIII, 2347, 2556a, 3454, 3455; June 24, 2003, p. ——), and may be closed by motion to close debate or to rise and report (V, 6947, 6950; VIII, 3453).

An appeal of a ruling of the Chair may be withdrawn in the Committee of the Whole as a matter of right (June 8, 2000, p. 9954). An appeal may be withdrawn at any time before action by the House thereon (as where the Chair has not even stated the question on appeal) (May 6, 2004, p. ——).

A motion to postpone an appeal has been held in order (VIII, 2613). The Speaker may vote to sustain his own decision (IV, 4569; V, 5686, 6956, 6957).

Form of a question

§ 630. Putting of the question by the Speaker.

6. The Speaker shall rise to put a question but may state it sitting. The Speaker shall put a question in this form: "Those in favor (of the question), say 'Aye.'"; and after the affirmative voice is expressed, "Those opposed, say 'No.'". After a vote by voice under this clause, the Speaker may use such voting procedures as may be invoked under rule XX.

This clause was adopted in 1789 (II, 1311). Before the House recodified its rules in the 106th Congress, this clause (formerly clause 5) consisted of this clause and current clause 1(a), clause 1(b), and clause 2(a) of rule XX (H. Res. 5, Jan. 6, 1999, p. 47).

The motion as stated by the Chair in putting the question and not as stated by the Member in offering the motion, is the proposition voted on (VI, 247). Under this paragraph the Speaker must put the pending question to a voice vote before entertaining a demand for a recorded vote or the yeas and nays (Speaker Foley, Mar. 9, 1992, p. 4698). It is not in order for a Member having the floor in debate to conduct a "straw vote" or otherwise ask for a show of support for a proposition (Nov. 18, 1995, p. 33973).

Discretion to vote

§ 631. The Speaker's vote. Tie vote.

7. The Speaker is not required to vote in ordinary legislative proceedings, except when his vote would be decisive or when the House is engaged in voting by ballot.

This clause was adopted in 1789, and amended in 1850 (V, 5964) and 1911. Before the House recodified its rules in the 106th Congress, clause 7 (formerly clause 6) consisted of this clause and current clause 1(c) of rule XX (H. Res. 5, Jan. 6, 1999, p. 47).

Although the amendment of 1850 granted the Speaker the same right to vote as other Members (V, 5966, 5967), he has historically rarely exercised it (V, 5964, footnote). The Speaker's name is not on the roll from which the yeas and nays are called (V, 5970), is called only on his request (V, 5965), and is then called at the end of the roll by name (V, 5965; VIII, 3075). During an electronic vote, the Speaker directs the Clerk to record him and verifies that instruction by submitting a vote card (Oct. 17, 1990, p. 30229). The Speaker may vote to make a tie and so decide a question in the negative, as he may vote to break a tie and so decide a question in the affirmative (VIII, 3100; Aug. 14, 1957, p. 14783). The Speaker never has two votes on the same question; that is, having voted as a Member, he may not vote again should the result be a tie (V, 5964). The duty of giving a decisive vote may be exercised after the intervention of other business, or after the announcement of the result or on another day, if a correction of the roll shows a condition wherein his vote would be decisive (V, 5969, 6061–6063; VIII, 3075). In one instance the Speaker asserted a right to withdraw his vote where a correction indicated that it was unnecessary (V, 5971).

Before the vote by tellers was repealed (§§ 1012–1013, *infra*), the chairman of the Committee of the Whole could be counted on a vote by tellers without passing through the tellers (V, 5996, 5997; VIII, 3100, 3101).

Speaker pro tempore

§ 632. Speaker pro tempore.

8. (a) The Speaker may appoint a Member to perform the duties of the Chair. Except as specified in paragraph (b), such an appointment may not extend beyond three legislative days.

(b)(1) In the case of his illness, the Speaker may appoint a Member to perform the duties of the Chair for a period not exceeding 10 days, subject to the approval of the House. If the Speaker is absent and has omitted to make such an appointment, then the House shall elect a Speaker pro tempore to act during the absence of the Speaker.

(2) With the approval of the House, the Speaker may appoint a Member to act as Speaker pro

tempore only to sign enrolled bills and joint resolutions for a specified period of time.

(3)(A) In the case of a vacancy in the Office of Speaker, the next Member on the list described in subdivision (B) shall act as Speaker pro tempore until the election of a Speaker or a Speaker pro tempore. Pending such election the Member acting as Speaker pro tempore may exercise such authorities of the Office of Speaker as may be necessary and appropriate to that end.

(B) As soon as practicable after his election and whenever he deems appropriate thereafter, the Speaker shall deliver to the Clerk a list of Members in the order in which each shall act as Speaker pro tempore under subdivision (A).

(C) For purposes of subdivision (A), a vacancy in the Office of Speaker may exist by reason of the physical inability of the Speaker to discharge the duties of the office.

This clause was adopted in 1811, and amended in 1876 (II, 1377) and in 1920 (VI, 263). The clause was again amended in the 99th Congress to authorize the Speaker, with approval of the House, to designate a Speaker pro tempore to sign enrolled bills (H. Res. 7, Jan. 3, 1985, p. 393). Before the House recodified its rules in the 106th Congress, clause 8 (formerly clause 7) and clause 9 occupied a single clause (H. Res. 5, Jan. 6, 1999, p. 47). Clause 8(b)(3) was added in the 108th Congress (sec. 2(a), H. Res. 5, Jan. 7, 2003, p. 7). The Speaker delivers to the Clerk the list required under clause 8(b)(3)(B) and announces such delivery to the House (*e.g.*, Mar. 13, 2003, p. 6118; Jan. 20, 2005, p. ——).

§ 634. Election, oath, and designation of Speaker pro tempore.

The right of the House to elect a Speaker pro tempore in the absence of the Speaker was exercised before the rule was adopted (II, 1405), although the House sometimes preferred to adjourn (I, 179). An elected Speaker pro tempore in the earlier practice was not sworn (I, 229; II, 1386); but the Senate and sometimes the President were notified of his election (II, 1386–1389, 1405–1412; VI, 275). On August 31, 1961 (p. 17765), the House adopted House Resolution 445, electing Hon. John W. McCormack as Speaker pro tempore in the absence and terminal illness of Speaker

Rayburn. The resolution provided that the Clerk notify the President and the Senate. The chairman of the Democratic Caucus then administered the oath. The Speaker has appointed a Speaker pro tempore to perform the duties of the Chair for a fourth consecutive day on account of illness (Speaker Hastert, Feb. 26, 2001, p. 2192). Elected Speakers pro tempore have signed enrolled bills, appointed select committees, administered the oath of office to a Member-elect (Mar. 17, 1998, p. 3836), etc., functions not exercised by a Speaker pro tempore designated under paragraph (a) of this clause (II, 1399, 1400, 1404; VI, 274, 277; Sept. 21, 1961, p. 20572; June 21, 1984, p. 17708). The House agreed by unanimous consent to the Speaker's appointment under this clause of two Members in the alternative to act as Speakers pro tempore to sign enrollments through a date certain (*e.g.*, Aug. 6, 1998, p. 19128; Nov. 18, 1999, p. 30790).

A call of the House may take place with a Speaker pro tempore in the chair (IV, 2989), and the Speaker pro tempore may issue a warrant for the arrest of absent Members under a call of the House (VI, 688). When the Speaker is not present at the opening of a session, including morning-hour debates, he designates a Speaker pro tempore in writing (II, 1378, 1401); but he does not always announce the Member whom he calls to the chair temporarily during the day's sitting (II, 1379, 1400). The presence of the Speaker either at the opening of morning-hour debates or at the opening of the regular session on a day satisfies the requirement that the Speaker be present to convene the House at least every fourth day. A Speaker pro tempore elected under clause 8 of rule I may in turn designate another Member to act as Speaker pro tempore on a day certain (II, 1384; VI, 275; Feb. 23, 1996, p. 2807). Members of the minority have been called to the chair on occasions of ceremony (II, 1383; VI, 270; Jan. 31, 1951, p. 779; Jan. 6, 1999, p. 41), but in rare instances on other occasions (II, 1382, 1390; III, 2596; VI, 264).

Other responsibilities

§ 635. Drug testing in the House.

9. The Speaker, in consultation with the Minority Leader, shall develop through an appropriate entity of the House a system for drug testing in the House. The system may provide for the testing of a Member, Delegate, Resident Commissioner, officer, or employee of the House, and otherwise shall be comparable in scope to the system for drug testing in the executive branch pursuant to Executive Order 12564 (Sept. 15, 1986). The ex-

penses of the system may be paid from applicable accounts of the House for official expenses.

This clause was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes to this clause were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). This clause was redesignated from clause 13 to clause 9 in the 108th Congress (sec. 2(b), H. Res. 5, Jan. 7, 2003, p. 7).

§ 635a. Former Term limit.

Clause 9 formerly was occupied by a prohibition against the Speaker serving for more than four consecutive Congresses, which was added in the 104th Congress (sec. 103(a), H. Res. 6, Jan. 4, 1995, p. 462) and repealed in the 108th Congress (sec. 2(b), H. Res. 5, Jan. 7, 2003, p. 7). Before the House recodified its rules in the 106th Congress, the former term-limit rule and current clause 8 occupied a single clause (formerly clause 7) (H. Res. 5, Jan. 6, 1999, p. 47).

Designation of travel

§ 636. Travel authority.

10. The Speaker may designate a Member, Delegate, Resident Commissioner, officer, or employee of the House to travel on the business of the House within or without the United States, whether the House is meeting, has recessed, or has adjourned. Expenses for such travel may be paid from applicable accounts of the House described in clause 1(j)(1) of rule X on vouchers approved and signed solely by the Speaker.

This clause was adopted in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). In the 105th Congress this clause was amended to update archaic references to the "contingent fund" (H. Res. 5, Jan. 7, 1997, p. 121). In the 106th and 109th Congresses, clerical corrections were effected with respect to the "applicable accounts of the House" (H. Res. 5, Jan. 6, 1999, p. 47; sec. 2(a), H. Res. 5, Jan. 4, 2005, p. ——). Before the House recodified its rules in the 106th Congress, this clause and the provision now found in clause 10 of rule XXIV together occupied former clause 8 of this rule (H. Res. 5, Jan. 6, 1999, p. 47). See also §§ 769, 770, *infra*, for discussion of the Speaker's authority under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754) to authorize use of counterpart funds for Members and employees for foreign travel, except where authorized by the chairman of the committee for members and employees thereof.

Committee appointment

§ 637. Select and conference committees.

11. The Speaker shall appoint all select, joint, and conference committees ordered by the House. At any time after an original appointment, the Speaker may remove Members, Delegates, or the Resident Commissioner from, or appoint additional Members, Delegates, or the Resident Commissioner to, a select or conference committee. In appointing Members, Delegates, or the Resident Commissioner to conference committees, the Speaker shall appoint no less than a majority who generally supported the House position as determined by the Speaker, shall name those who are primarily responsible for the legislation, and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill or resolution passed or adopted by the House.

The provision of this clause relating to select committees was adopted in 1880, and the provision relating to conference committees was first adopted in 1890, although the practice of leaving the appointment of conference committees to the Speaker had existed from the earliest years of the House's history (IV, 4470; VIII, 2192). The provision authorizing the Speaker to add or remove select committee members or conferees after his initial appointment was added in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49). The provision requiring the Speaker to appoint a majority of Members who generally supported the House position became effective on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The provision requiring the Speaker to appoint Members primarily responsible for the legislation was added in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6(f) of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

Before 1880 the House might take from the Speaker the appointment of a select committee (IV, 4448, 4470; VIII, 2192) and on several occasions did so (IV, 4471–4476). In the earlier practice of the House, the Member moving a select committee was appointed its chairman (II, 1275; III, 2342;

IV, 4514–4516). However, in modern practice, except for matters of ceremony, the inconvenience and even impropriety of the usage has caused it often to be disregarded (IV, 4517–4523, 4671). The Speaker has removed Members from a select committee (*e.g.*, Sept. 8, 2004, p. ——).

It is within the discretion of the Chair as to whom he appoints as conferees (June 24, 1932, p. 13876; July 8, 1947, p. 8469), and his discretion is not subject to challenge on a point of order even though clause 11 requires the Speaker to appoint as conferees Members who are primarily responsible for the legislation (Speaker O'Neill, Oct. 12, 1977, p. 33434). A motion to instruct the Speaker as to the number and composition of a conference committee on the part of the House is not in order (VIII, 2193, 3221), and a motion to instruct conferees does not necessarily form the basis for the Speaker's determination under this clause as to which Members support the legislation (May 9, 1990, p. 9830).

The Speaker may appoint conferees from committees (1) that have not reported a measure, (2) that have jurisdiction over provisions of a nongermane Senate amendment to a House amendment to a Senate bill originally narrower in scope (Speaker O'Neill, Nov. 28, 1979, p. 33904), or (3) that have jurisdiction over provisions of an original Senate bill where the House amendment was narrower in scope (Speaker O'Neill, July 28, 1980, p. 19875; July 11, 1985, p. 18545). The Speaker may also appoint one who, although not a member of the committee of jurisdiction, is a principal proponent of the measure (Speaker Gingrich, Feb. 1, 1995, p. 3258) or a principal proponent of an adopted floor amendment (June 21, 1977, p. 20132). The Speaker has appointed as sole conferees on a nongermane portion of a Senate bill or amendment only members from the committee having jurisdiction over the subject matter thereof (Speaker O'Neill, Aug. 27, 1980, p. 23548; July 24, 1986, p. 17644), and also members from such committees as additional rather than exclusive conferees on other nongermane portions of the Senate bill (July 24, 1986, p. 17644). Where a comprehensive matter is committed to conference, the Speaker may appoint separate groups of conferees from several committees for concurrent or exclusive consideration of provisions within their respective jurisdictions (Feb. 7, 1990, p. 1522; May 9, 1990, p. 9830). Pursuant to this clause the Speaker may by the terms of his appointment empower a group of exclusive conferees to report in total disagreement (June 10, 1988, p. 14077; Sept. 20, 1989, p. 20955). Pursuant to this clause the Speaker may modify an appointment by removal (*e.g.,* Mar. 10, 1998, p. 3049), addition (*e.g.,* Nov. 14, 2005, p.——), or substitution of one conferee for another (Dec. 16, 2005, p.——), or by expansion of the specification of provisions for which a conferee is appointed (Oct. 3, 2002, p. 19011; Nov. 14, 2005, p.——). In the 102d Congress the Speaker reiterated his announced policy of simplifying conference appointments by noting on the occasion of a relatively complex appointment that, inasmuch as conference committees are select committees that dissolve when their report is acted upon, conference appointments should not be construed as jurisdictional precedent (Speaker Foley, June

3, 1992, p. 13288). The Speaker may fill a vacancy on a conference committee by appointment but may not accept a resignation from a conference committee (as contrasted with his authority to remove) absent an order of the House (Nov. 4, 1987, p. 30808).

For a further discussion of the Speaker's authority to appoint conferees, see § 536, *supra*.

Recess and Convening Authorities

§ 638. Short recess authority.

12. (a) To suspend the business of the House for a short time when no question is pending before the House, the Speaker may declare a recess subject to the call of the Chair.

This paragraph was added as clause 12 of rule I in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49). It was redesignated as paragraph (a) in the 108th Congress (sec. 2(c), H. Res. 5, Jan. 7, 2003, p. 7). Having postponed proceedings on a pending question, the Speaker may declare a recess for a short time under this paragraph (there being no question then pending before the House) (Apr. 30, 1998, p. 7381). A Member's mere revelation that he seeks to offer a motion to adjourn does not suffice to make that motion "pending," and thus the Chair remains able to declare a short recess under this paragraph (Oct. 28, 1997, p. 23524; June 25, 2003, p. ——).

§ 639. Emergency recess and reconvening authority.

(b)(1) To suspend the business of the House when notified of an imminent threat to its safety, the Speaker may declare an emergency recess subject to the call of the Chair.

(2) To suspend the business of the Committee of the Whole House on the state of the Union when notified of an imminent threat to its safety, the Chairman of the Committee of the Whole may declare an emergency recess subject to the call of the Chair.

(c) During any recess or adjournment of not more than three days, if the Speaker is notified by the Sergeant-at-Arms of an imminent impairment of the place of reconvening at the time pre-

viously appointed, then he may, in consultation with the Minority Leader—

(1) postpone the time for reconvening within the limits of clause 4, section 5, article I of the Constitution and notify Members accordingly; or

(2) reconvene the House before the time previously appointed solely to declare the House in recess within the limits of clause 4, section 5, article I of the Constitution and notify Members accordingly.

(d) The Speaker may convene the House in a place at the seat of government other than the Hall of the House whenever, in his opinion, the public interest shall warrant it.

Paragraphs (b)–(d) were added in the 108th Congress (sec. 2(c), H. Res. 5, Jan. 7, 2003, p. 7) and the application of paragraph (b) to the Committee of the Whole was clarified in the 110th Congress (sec. 505(a), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)). For similar authority in the Senate, see Senate Resolution 296 (108th Cong., Feb. 3, 2004, p. ——). An emergency recess under paragraph (b) was declared by the Speaker pro tempore on May 11, 2005 (p. ——) and by the chairman of the Committee of the Whole on June 29, 2005 (p. ——). For a drill, see March 6, 2003 (p. 5355). For the Speaker's inherent authority to declare a recess under clause 2 of rule I, see § 622, *supra*.

RULE II

OTHER OFFICERS AND OFFICIALS

Elections

§ 640. Election, oath, and removal of officers.

1. There shall be elected at the commencement of each Congress, to continue in office until their successors are chosen and qualified, a Clerk, a Sergeant-at-Arms, a Chief Administrative Officer, and a Chaplain. Each of these officers shall

take an oath to support the Constitution of the United States, and for the true and faithful exercise of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House. Each of these officers shall appoint all of the employees of his department provided for by law. The Clerk, Sergeant-at-Arms, and Chief Administrative Officer may be removed by the House or by the Speaker.

When the House recodified its rules, it consolidated former rules II through VII, former clauses 10 and 11 of rule I, former clause 6 of rule XIII, and former clause 5 of rule XVI under rule II (H. Res. 5, Jan. 6, 1999, p. 47). A rudimentary form of this clause was adopted in 1789, and was amended several times before 1880, when it assumed the form it retained for more than a century (I, 187). During the 102d Congress, section 2 of the House Administrative Reform Resolution of 1992 amended the clause to abolish the Office of the Postmaster (see § 668, *infra*) and to empower the Speaker to remove certain elected officers (H. Res. 423, Apr. 9, 1992, p. 9039). The 104th Congress made conforming changes to the clause to reflect the abolishment of the Office of the Doorkeeper and the establishment of an elected Chief Administrative Officer (sec. 201(a), H. Res. 6, Jan. 4, 1995, p. 463). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). For a discussion of the former Office of the Doorkeeper, see § 663a, *infra*; and for a discussion of the evolution of the Chief Administrative Officer (an elected officer) from the former Director of Non-legislative and Financial Services (an officer appointed jointly by the Speaker and the Majority and Minority Leaders under clause 1 of rule VI of the 103d Congress), see § 664, *infra*.

The House having discarded a theory that the rules might be imposed by one House on its successor (V, 6743–6745), it follows that this clause is not operative at the organization before the rules are adopted. Before the House recodified its rules in the 106th Congress, the House was required under former rule II to elect its Speaker and other officers by a viva voce vote following nominations (I, 204, 208). However, the officers mentioned in the rule, other than Speaker, were, even then, usually chosen by resolution, which is not a viva voce election (I, 193, 194). A majority vote is required for the election of officers of both Houses of Congress (VI, 23). The oath is administered by the Speaker to the officers (I, 81; § 198, *supra*). The requirement that the officers be sworn to keep the secrets of the House had become obsolete (I, 187), but the 104th Congress adopted a requirement that Members, officers, and employees subscribe an oath

of secrecy regarding classified information (clause 13 of rule XXIII). Clause 4(d)(1)(A) of rule X requires the Committee on House Administration to provide policy direction for, and oversight of, the Inspector General, and oversight of the Clerk, Sergeant-at-Arms, and Chief Administrative Officer (see § 752, *infra*).

The House has declined to interfere with the Clerk's power of removing his subordinates (I, 249). Employees under the Clerk and other officers are to be assigned only to the duties for which they are appointed (V, 7232). The Sergeant-at-Arms having died, the Clerk was elected by the House to serve temporarily also as Sergeant-at-Arms without additional compensation (July 8, 1953, p. 8242). The Legislative Reorganization Act of 1946 (2 U.S.C. 75a–1) authorizes the Speaker to fill temporary vacancies in the offices of Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Chaplain. A former version of the Act also permitted temporary appointments to the former offices of Doorkeeper and Postmaster. The Speaker has exercised his authority to fill temporary vacancies in the offices of Sergeant-at-Arms (Jan. 6, 1954, p. 8; June 30, 1972, p. 23665; Feb. 28, 1980, p. 4350; and Mar. 12, 1992, p. 5519), Clerk (Nov. 15, 1975, p. 36901; Jan. 6, 1999, p. 257; Nov. 18, 2005, p. ——), Chaplain (Mar. 14, 1966, p. 5712; Mar. 23, 2000, p. 3481), Doorkeeper (Dec. 20, 1974, p. 41855), and Chief Administrative Officer (Jan. 9, 1997, p. 279). A resolution electing a House officer is presented as a question of privilege (July 31, 1997, p. 17021; Speaker Hastert, Dec. 6, 2005, p. ——) even when prospective (Feb. 6, 2007, p. ——). The resignation of an elected officer of the House is subject to acceptance by the House (Mar. 23, 2000, p. 3480; Feb. 6, 2007, p. ——).

Clerk

§ 641. Clerk; commencement of first session.

2. (a) At the commencement of the first session of each Congress, the Clerk shall call the Members, Delegates, and Resident Commissioner to order and proceed to record their presence by States in alphabetical order, either by call of the roll or by use of the electronic voting system. Pending the election of a Speaker or Speaker pro tempore, the Clerk shall preserve order and decorum and decide all questions of order, subject to appeal by a Member, Delegate, or Resident Commissioner.

In 1880 several rules, adopted at different periods from 1794 to 1846, were consolidated into this clause, which, before the House recodified its rules in the 106th Congress, was found in rule III (H. Res. 5, Jan. 6, 1999, p. 47). Paragraph (a) was initially framed in 1880, on a basis furnished by a rule of 1860 (I, 64), and amended in 1911.

§ 642. Other duties of the Clerk.

Various administrative duties, similar to those specified in this clause, are imposed on the Clerk by law (I, 253; Legislative Reorganization Act of 1946, 60 Stat. 812); and the law also makes it his duty to furnish stationery, blank books, etc., to the committees and officers of the House (V, 7322); to exercise discretionary authority as to reprinting of bills and documents (V, 7319); to receive the testimony taken in election contests (I, 703, 705; see also Federal Contested Election Act, P.L. 91–138, 83 Stat. 284), to serve as an ex officio member of the Federal Election Commission established pursuant to Public Law 94–283; 2 U.S.C. 437c; and to make certain reports on receipts and expenditures (2 U.S.C. 102, 103, 113; see § 655, *infra*). Instance of Clerk serving temporarily also as Sergeant-at-Arms (July 8, 1953, p. 8242).

§ 643. Clerk's duties at organization.

As rules are not usually adopted until after the election of the Speaker, this paragraph is not in force at the time of organization of a new House. The procedure at organization does, however, follow a practice conforming to the terms of the paragraph (I, 81), although the House may depart from it. Since the 97th Congress, for example, the House has permitted by unanimous consent the alphabetical roll call of Members by States to be conducted by electronic device to establish a quorum (Jan. 5, 1981, pp. 93–96). For a discussion of procedure in the House before the adoption of rules, including the procedure by which the Clerk conducts the election of the Speaker, see §§ 27, 60, *supra*. The Clerk, in presiding before the election of the Speaker, recognizes Members (I, 74). The Members-elect have on one occasion, before the election of the Speaker or adoption of rules, authorized the Clerk and Sergeant-at-Arms of the last House to preserve order (I, 101).

While the Speaker ceases to be an officer of the House with the expiration of a Congress, the Clerk, by old usage, continues in a new Congress (I, 187, 188, 235, 244).

§ 644. The roll of Members-elect.

The roll of Members is made up by the Clerk from the credentials, in accordance with a provision of law (I, 14–62; VI, 2; 2 U.S.C. 26). A certificate of election in due form having been filed, the Clerk placed the name of the Member-elect on the roll, although he was subsequently advised that a State Supreme Court had issued a writ restraining the Secretary of State from issuing such certificate (Jan. 3, 1949, p. 8). The call of the roll may not be interrupted, especially by one not on that roll (I, 84), and a person not on the roll may not be recognized (I, 86). A motion to proceed to the election of the Speaker is of higher privilege than a motion to correct the

roll (I, 19–24). The House has declined to permit enrollment by the Clerk to be final as to prima facie right (I, 376, 589, 592).

§ 645. Clerk as presiding officer at organizations.

In early years the authority of the Clerk to decide questions of order pending the election of a Speaker was questioned (I, 65). The Clerks often declined to make decisions (I, 68–72; V, 5325). However, in 1855 and 1997 the Clerk decided a question of order; and in 1997 the Clerk was sustained on appeal (I, 91; Jan. 7, 1997, pp. 115, 116). During the existence of a rule that applied the rules of a prior House to a successor House (1860 through 1890) (I, 64; V, 6743–6747) the Clerks made several rulings (I, 76, 77; VI, 623).

In a case of a vacancy in the Office of the Speaker arising after the adoption of the rules, this rule would be operative and conclude questions as to the Clerk's authority. For example, upon the death of the Speaker during a sine die adjournment of the first session of the 87th Congress, the Clerk called the House to order on the first day of the second session (Jan. 10, 1962, p. 5). However, this rule should be read in light of clause 8(b)(3) of rule I, which requires the Speaker to deliver to the Clerk a list of Members in the order in which each shall act as Speaker pro tempore in the case of a vacancy.

The Clerk having died, and in the absence of the Sergeant-at-Arms, the Doorkeeper of the 79th Congress presided at organization of the 80th Congress (Jan. 3, 1947, p. 33). The Clerk, having been appointed pursuant to 2 U.S.C. 75a–1 by the previous Speaker at the end of the 105th Congress to fill a vacancy caused by resignation of the Clerk elected for that Congress, presided at the organization of the 106th Congress (Jan. 6, 1999, p. 41).

§ 646. Clerk furnishes a list of reports.

(b) At the commencement of every regular session of Congress, the Clerk shall make and cause to be delivered to each Member, Delegate, and the Resident Commissioner a list of the reports that any officer or Department is required to make to Congress, citing the law or resolution in which the requirement may be contained and placing under the name of each officer the list of reports he is required to make.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule II (H. Res. 5, Jan. 6, 1999, p. 47). The paragraph was initially adopted in 1822 (I, 252). It was amended in the 107th Congress to permit the Clerk to publish the list in a form other than printed (sec. 2(a), H. Res. 5, Jan. 3, 2001, p. 25).

(c) The Clerk shall—

§647. Clerk's duty as to Journal and documents.

(1) note all questions of order, with the decisions thereon, the record of which shall be appended to the Journal of each session;

(2) enter on the Journal the hour at which the House adjourns;

(3) complete the distribution of the Journal to Members, Delegates, and the Resident Commissioner, together with an accurate and complete index, as soon as possible after the close of a session; and

(4) send a copy of the Journal to the executive of and to each branch of the legislature of every State as may be requested by such State officials.

Before the House recodified its rules in the 106th Congress, this paragraph (except subparagraph (2)) was found in former clause 3 of rule III; and subparagraph (2) was found in former clause 5 of rule XVI (H. Res. 5, Jan. 6, 1999, p. 47). Subparagraph (2) was adopted initially in 1837 and amended in 1880 (V, 6740). Former provisions directing the Clerk to make all contracts, keep contingent and stationery accounts, and pay officers and employees were stricken by section 3 of the House Administrative Reform Resolution of 1992 (H. Res. 423, 102d Cong., Apr. 9, 1992, p. 9050), to relieve the Clerk of functions to be transferred to the Director of Non-legislative and Financial Services pursuant to section 7 of that resolution (see §664, *infra*). Clerical corrections were effected at the beginning of the 104th Congress (sec. 223(f), H. Res. 6, Jan. 4, 1995, p. 469) and the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). During the 104th Congress the requirement to send a printed copy of the Journal to each branch of every State legislature was changed to an authorization to send such copies on request (H. Res. 254, Nov. 30, 1995, p. 35077). Subparagraphs (3) and (4) were amended in the 107th Congress to permit the Clerk to publish the Journal in a form other than printed (sec. 2(a), H. Res. 5, Jan. 3, 2001, p. 25).

§ 648. Attests and seals process and certifies passage of bills; oversees engrossment and enrollment process.

(d)(1) The Clerk shall attest and affix the seal of the House to all writs, warrants, and subpoenas issued by order of the House and certify the passage of all bills and joint resolutions.

(2) The Clerk shall examine all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examine all bills and joint resolutions that have passed both Houses to see that they are correctly enrolled and forthwith present those bills and joint resolutions that originated in the House to the President in person after their signature by the Speaker and the President of the Senate, and report to the House the fact and date of their presentment.

Before the House recodified its rules in the 106th Congress, subparagraph (1) was found in former clause 3 of rule III (H. Res. 5, Jan. 6, 1999, p. 47). When the House issues an order or warrant, the Speaker must issue the summons under his hand and seal, and it must be attested by the Clerk; but when the power is granted to a committee to send for persons and papers under clause 2(m) of rule XI, a summons signed by the chairman of the committee is sufficient (III, 1668).

The enrollment process was originally the responsibility of the Committee on Enrolled Bills, which was created in 1789 by a joint rule of the two Houses (IV, 4350). This joint rule lapsed in 1876 with other joint rules, but in 1880 the Rules of the House were amended to again recognize the Committee on Enrolled Bills (IV, 4350, 4416; VII, 2099). Responsibility for the engrossment and enrollment process was given to the Committee on House Administration when that Committee was created effective January 2, 1947 as part of the Legislative Reorganization Act of 1946 (60 Stat. 812) as an enumerated subject of legislative jurisdiction. That responsibility was transferred from the Committee's legislative jurisdiction to its special oversight jurisdiction (see former clause 4(d)(1)(A) of rule X) by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470) and was transferred to the Clerk in the 107th Congress (sec. 2(b), H. Res. 5, Jan. 3, 2001, p. 28). The Clerk and the Secretary of the Senate make comparisons of bills of

their respective Houses for enrollment, and the two cooperate in the interchange of bills for signature.

§ 649. Calendars distributed.

(e) The Clerk shall cause the calendars of the House to be distributed each legislative day.

Before the House recodified its rules in the 106th Congress, paragraph (e) was found in former clause 6 of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47). This paragraph was adopted initially in the 62d Congress, April 5, 1911 (VI, 743), and amended December 8, 1931 (pp. 10, 83). It was amended in the 107th Congress to permit the Clerk to publish the calendars in a form other than printed (sec. 2(a), H. Res. 5, Jan. 3, 2001, p. 25).

§ 650. Documents.

(f) The Clerk shall—

(1) retain in the library at the Office of the Clerk for the use of the Members, Delegates, Resident Commissioner, and officers of the House, and not to be withdrawn therefrom, two copies of all the books and printed documents deposited there; and

(2) deliver to any Member, Delegate, or the Resident Commissioner an extra copy of each document requested by that Member, Delegate, or Resident Commissioner that has been printed by order of either House of Congress in any Congress in which the Member, Delegate, or Resident Commissioner served.

Before the House recodified its rules in the 106th Congress, paragraphs (c) and (f) were found in former clause 3 of rule III (H. Res. 5, Jan. 6, 1999, p. 47). They were amended in the 92d Congress to include Delegates and the Resident Commissioner among those entitled to the listed services (H. Res. 5, Jan. 22, 1971, pp. 140–44; H. Res. 1153, Oct. 13, 1972, pp. 36013–15). It was amended in the 107th Congress to permit the Clerk to distribute documents by a method other than mail and in a form other than bound (sec. 2(a), H. Res. 5, Jan. 3, 2001, p. 25).

§ 651. Official to act as Clerk upon designation.

(g) The Clerk shall provide for his temporary absence or disability by designating an official in the Office of the Clerk to sign all papers that may require the official signature of the Clerk and to perform all other official acts that the Clerk may be required to perform under the rules and practices of the House, except such official acts as are provided for by statute. Official acts performed by the designated official shall be under the name of the Clerk. The designation shall be in writing and shall be laid before the House and entered on the Journal.

Before the House recodified its rules in the 106th Congress, this paragraph was found in former clause 4 of rule III (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially on January 18, 1912 (VI, 25) and was amended January 3, 1953 (p. 16). Form of designation of a Clerk pro tempore (VI, 26). Technical corrections to the clause were effected in the 108th Congress (sec. 2(u), H. Res. 5, Jan. 7, 2003, p. 7).

§ 652. Authority to receive messages.

(h) The Clerk may receive messages from the President and from the Senate at any time when the House is not in session.

Before the House recodified its rules in the 106th Congress, this paragraph was found in former clause 5 of rule III (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). In the case of Kennedy *v.* Sampson, 511 F.2d 430 (D.C. Cir. 1974) (see § 113, *supra*, accompanying Const., art. I, sec. 7, cl. 2) a United States Court of Appeals held that a bill could not be pocket-vetoed by the President during an "intrasession" adjournment of Congress to a day certain for more than three days, where the House of origin has made appropriate arrangements for the receipt of Presidential messages during the adjournment. This clause has been construed to authorize the Clerk to receive messages during recesses as well as during adjournments (Dec. 22, 1987, p. 37966).

§ 653. Administration of vacant Member's office.

(i)(1) The Clerk shall supervise the staff and manage the office of a Member, Delegate, or Resident Commissioner who has died, resigned, or been expelled until a successor is elected. The Clerk shall perform similar duties in the event that a vacancy is declared by the House in any congressional district because of the incapacity of the person representing such district or other reason. Whenever the Clerk is acting as a supervisory authority over such staff, he shall have authority to terminate employees and, with the approval of the Committee on House Administration, may appoint such staff as is required to operate the office until a successor is elected.

(2) For 60 days following the death of a former Speaker, the Clerk shall maintain on the House payroll, and shall supervise in the same manner, staff appointed under House Resolution 1238, Ninety-first Congress (as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971) (2 U.S.C. 31b–5).

Before the House recodified its rules in the 106th Congress, this paragraph was found in former clause 6 of rule III (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). It was amended in the 104th and 106th Congresses to reflect changes in the name of the Committee on House Administration (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 464; H. Res. 5, Jan. 6, 1999, p. 47).

§ 654. Semi-annual reports.

(j) In addition to any other reports required by the Speaker or the Committee on House Administration, the Clerk shall report to the Committee on House Administration not later than 45 days following the close of each semiannual period ending on June

30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Clerk. Each report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

§ 655. Cooperation with others.

(k) The Clerk shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

Before the House recodified its rules in the 106th Congress, paragraphs (j) and (k) were found in former clauses 7 and 8 of rule III (H. Res. 5, Jan. 6, 1999, p. 47). They were adopted initially in the 104th Congress (sec. 201(b), H. Res. 6, Jan. 4, 1995, p. 463). A conforming change was effected at the beginning of the 106th Congress in the name of the Committee on House Administration (H. Res. 5, Jan. 6, 1999, p. 47).

The Clerk is also required to make certain reports on receipts and expenditures under law (2 U.S.C. 102, 103, 113), which are available to the public. However, members of the public have no statutory or constitutional right to examine the actual financial records that are used in preparing such reports. Trimble *v.* Johnston, 173 F. Supp. 651, (D.C. Cir. 1959).

Sergeant-at-Arms

§ 656. Sergeant-at-Arms enforces authority of House.

3. (a) The Sergeant-at-Arms shall attend the House during its sittings and maintain order under the direction of the Speaker or other presiding officer. The Sergeant-at-Arms shall execute the commands of the House, and all processes issued by authority thereof, directed to him by the Speaker.

Before the House recodified its rules in the 106th Congress, this paragraph was found in former clause 1 of rule IV (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in 1789, with additions and amendments in 1838, 1877, 1890 (I, 257), 1911 (VI, 29), and 1971. Amendments adopted

in the 92d Congress clarified the responsibility of the Sergeant-at-Arms to keep the accounts for the pay and mileage of the Delegates from the District of Columbia, Guam, and the Virgin Islands and the Resident Commissioner from Puerto Rico as well as for Members (H. Res. 5, Jan. 22, 1971, p. 144; H. Res. 1153, Oct. 13, 1972, pp. 36013–15). In the 94th Congress, the provisions of House Resolution 732, directing the Sergeant-at-Arms to enter into agreements with State officials, with the approval of the Committee on House Administration, to withhold State income taxes from the pay of each Member subject to such State income tax and requesting such withholding, were enacted into permanent law (90 Stat. 1448; 2 U.S.C. 60e–1b). Former provisions of this clause directing the Sergeant-at-Arms to keep the accounts for the pay and mileage of Members and Delegates and the Resident Commissioner from Puerto Rico were stricken by section 4 of the House Administrative Reform Resolution of 1992 (H. Res. 423, 102d Cong., Apr. 9, 1992, p. 9039), to relieve the Sergeant-at-Arms of functions to be transferred to the Director of Non-legislative and Financial Services pursuant to section 7 of that resolution (see § 664, *supra*). During the 102d Congress, the House adopted a resolution presented by the Majority Leader as a question of the privileges of the House to terminate all bank and check-cashing operations in the Office of the Sergeant-at-Arms and direct the Committee on Standards of Official Conduct to review GAO audits of such operations (Oct. 3, 1991, p. 25435). When former rule IV was rewritten in the 104th Congress, clause 1 was restated without change (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. 463).

The Sergeant-at-Arms is authorized to make payments from the contingent fund of the House (now referred to as "applicable accounts of the House described in clause 1(j)(1) of rule X"), under rules prescribed by the Committee on House Administration, to defray the expenses of the funeral of a deceased Member of the House and the expenses of any delegation of Members of Congress duly appointed to attend (76 Stat. 686; 2 U.S.C. 124).

The Speaker ordered that documents received in a communication from an independent counsel advising the House of substantial and credible information that may constitute grounds for impeachment of the President be kept under armed guard of the Sergeant-at-Arms until the House determined which documents to make available to the public (Sept. 9, 1998, p. 19769).

At the organization of the House in a new Congress the election of Speaker occurs before the adoption of rules. Therefore this rule is not in force at that time, and in case of necessity a special rule may be adopted conferring the authority, as was done in 1849 and 1859 (I, 101, 102).

Duties are imposed on the Sergeant-at-Arms by law (I, 258): Control of Capitol police; and the making up of the roll of Members-elect and presiding over the organization of a new Congress in case of vacancy in the Office of the Clerk, or the absence or disability of that officer (2 U.S.C. 26). The death of the Sergeant-at-Arms being announced, the House passed

appropriate resolutions and adjourned as a mark of respect (VI, 32; July 8, 1953, p. 8263). The Clerk having died, and in the absence of the Sergeant-at-Arms, the Doorkeeper of the 79th Congress presided at the organization of the 80th Congress (Jan. 3, 1947, p. 33). In the 83d Congress the Sergeant-at-Arms having died, the Clerk was elected to serve temporarily both as Clerk and Sergeant-at-Arms (July 8, 1953, p. 8242), and upon resignation by the Clerk from his additional position of Sergeant-at-Arms, the Speaker, pursuant to 2 U.S.C. 75a–1, appointed a temporary Sergeant-at-Arms (Jan. 6, 1954, p. 8). The Sergeant-at-Arms having resigned in the 96th Congress, the Speaker appointed a temporary Sergeant-at-Arms pursuant to the statute (Feb. 28, 1980, pp. 4349–50); and the same occurred in the 102d Congress (Mar. 12, 1992, p. 5519). Instance where the Senate by resolution removed its Sergeant-at-Arms (VI, 37).

§ 657. The mace is the symbol of Sergeant-at-Arms' office.

(b) The symbol of the Office of the Sergeant-at-Arms shall be the mace, which shall be borne by him while enforcing order on the floor.

Before the House recodified its rules in the 106th Congress, this paragraph was found in former clause 2 of rule IV (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in 1789 (II, 1346). When former rule IV was rewritten entirely in the 104th Congress, the paragraph was restated without change (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. 463). An attempt to enforce order without the mace has been questioned as illegitimate (II, 1347). Extreme disorder arising on the floor, the Speaker directed the Sergeant-at-Arms to enforce order with the mace (VI, 258; VIII, 2530).

§ 658. Doorkeeping.

(c) The Sergeant-at-Arms shall enforce strictly the rules relating to the privileges of the Hall of the House and be responsible to the House for the official conduct of his employees.

(d) The Sergeant-at-Arms may not allow a person to enter the room over the Hall of the House during its sittings; and from 15 minutes before the hour of the meeting of the House each day until 10 minutes after adjournment, he shall see that the floor is cleared of all persons except those privileged to remain.

Before the House recodified its rules in the 106th Congress, paragraphs (c) and (d) were found in former clauses 3 and 4 of rule IV (H. Res. 5, Jan. 6, 1999, p. 47). They were adopted initially in the 104th Congress to transfer functions incident to the abolishment of the Office of the Doorkeeper (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. 463). For the history of the Office of the Doorkeeper, see § 663a, *infra*.

§ 659. Semi-annual reports.

(e) In addition to any other reports required by the Speaker or the Committee on House Administration, the Sergeant-at-Arms shall report to the Committee on House Administration not later than 45 days following the close of each semiannual period ending on June 30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Sergeant-at-Arms. Each report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

§ 660. Cooperation with others.

(f) The Sergeant-at-Arms shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

Before the House recodified its rules in the 106th Congress, paragraphs (e) and (f) were found in former clauses 5 and 6 of rule IV (H. Res. 5, Jan. 6, 1999, p. 47). They were adopted initially in the 104th Congress (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. 463). A conforming change was effected at the beginning of the 106th Congress in the name of the Committee on House Administration (H. Res. 5, Jan. 6, 1999, p. 47).

Chief Administrative Officer

§ 661. Duties.

4. (a) The Chief Administrative Officer shall have operational and financial responsibility for functions as assigned by the Committee on House Administra-

tion and shall be subject to the oversight of the Committee on House Administration.

§ 662. Semi-annual reports.

(b) In addition to any other reports required by the Committee on House Administration, the Chief Administrative Officer shall report to the Committee on House Administration not later than 45 days following the close of each semiannual period ending on June 30 or December 31 on the financial and operational status of each function under the jurisdiction of the Chief Administrative Officer. Each report shall include financial statements and a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

§ 663. Cooperation with others.

(c) The Chief Administrative Officer shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

Before the House recodified its rules in the 106th Congress, clause 4 was found in former rule V (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in this form in the 104th Congress (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. 463). It was amended in the 105th Congress to eliminate the supervisory role of the Speaker over the Chief Administrative Officer (H. Res. 5, Jan. 7, 1997, p. 121). A conforming change was effected at the beginning of the 106th Congress in the name of the Committee on House Administration (H. Res. 5, Jan. 6, 1999, p. 47). It was amended in the 107th Congress to reflect the removal of the requirement that the Committee on House Administration provide policy direction to the Chief Administrative Officer (sec. 2(g), H. Res. 5, Jan. 3, 2001, p. 25). The earlier form of the rule enumerated the duties of the Doorkeeper, which were transferred to the Sergeant-at-Arms incident to the abolishment of the Office of the Doorkeeper.

§ 663a. Former Office of Doorkeeper.

Before the 104th Congress (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. 463), rule V enumerated the duties of the Doorkeeper, who enforced the rules relating to the privileges of the Hall of the House. The earlier form of the rule was adopted

in 1838 and amended in 1869, 1880 (I, 260), and 1890 (V, 7295). By law the Doorkeeper was assigned certain administrative duties (I, 262), including certain housekeeping functions. Through his employees and appointees, the Doorkeeper also discharged various duties not enumerated in the law or in the rules, such as announcing at the door of the Hall of the House all messengers from the President and the Senate (V, 6591). The Clerk having died, and the Sergeant-at-Arms having been absent, the Doorkeeper of the 79th Congress presided at the organization of the 80th Congress (Jan. 3, 1947, p. 33). In the 78th Congress, the House adopted a resolution on the death of the Doorkeeper and appointed a committee to attend his funeral (Jan. 28, 1943, pp. 421–22).

§ 664. Former Director of Non-legislative and Financial Services.

The Chief Administrative Officer supplanted the Director of Non-legislative and Financial Services formerly provided for under clause 1 of rule VI in the 103d Congress, which corresponded to an erstwhile rule LII of the 102d Congress. Certain functions and entities formerly within the purview of elected officers were transferred to the Director of Non-legislative and Financial Services pursuant to section 7 of the House Administrative Reform Resolution of 1992 (H. Res. 423, Apr. 9, 1992, p. 9040). Section 7(b) of that resolution vested the Committee on House Administration with authority to prescribe regulations providing for the orderly transfer of such functions and entities and any other transfers necessary for the improvement of non-legislative and financial services in the House, so long as not transferring a function or entity within the jurisdiction of the committee under rule X. Section 13 of the resolution provided that previous responsibility for a function or entity would remain fixed until such function or entity were transferred. Pursuant to clause 1 of rule VI of the 103d Congress (then still designated as rule LII of the 102d Congress), the Speaker, the Majority Leader, and the Minority Leader jointly appointed the first Director of Non-legislative and Financial Services of the House on October 23, 1992 (Oct. 29, 1992, p. 34802).

Chaplain

5. The Chaplain shall offer a prayer at the commencement of each day's sitting of the House.

§ 665. Duties of the Chaplain.

Before the House recodified its rules in the 106th Congress, this clause was found in former rule VII (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in 1880 (I, 272), but the sessions of the House were opened with prayer from the first, and the Chaplain was an officer of the House before the adoption of the rule (I, 273–282). The Chaplain takes the oath prescribed for the officers of the House (VI, 31; Feb. 1, 1950, p. 1311). Prayer by the Chaplain is not business requiring the presence of a quorum and the Speaker declines to entertain a point of no quorum before prayer is

offered (VI, 663; clause 7(a)(1) of rule XX). There is no precedent for prayer to be offered by the Chaplain during a continuous session of the House, absent an adjournment or recess (compare Apr. 22 and 23, 1985, pp. 8753 and 8959). Form of resignation of the Chaplain (Feb. 28, 1921, p. 4075; Jan. 30, 1950, p. 1097; Mar. 23, 2000, p. 3480). Form of resolution electing a Chaplain emeritus (VI, 31; Jan. 30, 1950, p. 1095; Nov. 10, 1999, p. 29493).

During the 97th Congress, the Supreme Court held that employment of a chaplain for the legislative body of Nebraska did not violate the Establishment Clause of the first amendment to the Constitution. Marsh *v.* Chambers, 463 U.S. 783 (1983). The Court of Appeals cited the Marsh decision as controlling authority in a similar challenge to the House Chaplain. Murray *v.* Buchanan, 729 F.2d 689 (D.C. Cir. 1983). The House adopted a privileged resolution articulating its position in the Murray case (H. Res. 413, Mar. 30, 1982, p. 5890).

Office of Inspector General

§ 667. Inspector General.

6. (a) There is established an Office of Inspector General.

(b) The Inspector General shall be appointed for a Congress by the Speaker, the Majority Leader, and the Minority Leader, acting jointly.

(c) Subject to the policy direction and oversight of the Committee on House Administration, the Inspector General shall only—

(1) conduct periodic audits of the financial and administrative functions of the House and of joint entities;

(2) inform the officers or other officials who are the subject of an audit of the results of that audit and suggesting appropriate curative actions;

(3) simultaneously notify the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority member of the Committee on House Administration in the case of any financial irregularity discovered in

the course of carrying out responsibilities under this clause;

(4) simultaneously submit to the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority member of the Committee on House Administration a report of each audit conducted under this clause; and

(5) report to the Committee on Standards of Official Conduct information involving possible violations by a Member, Delegate, Resident Commissioner, officer, or employee of the House of any rule of the House or of any law applicable to the performance of official duties or the discharge of official responsibilities that may require referral to the appropriate Federal or State authorities under clause 3(a)(3) of rule XI.

Before the House recodified its rules in the 106th Congress, this clause was found in former rule VI (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in this form at the beginning of the 104th Congress (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. 463). Later in the 104th Congress and in the 106th Congress it was amended to effect a technical correction (H. Res. 254, Nov. 30, 1995, p. 35077; H. Res. 5, Jan. 6, 1999, p. 47). Its predecessor form was composed in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49) by combining two rules adopted in the House Administrative Reform Resolution of 1992 (H. Res. 423, 102d Cong., Apr. 9, 1992, p. 9040). For the history of former rule VI before 1992, see § 668, *infra*.

In the form of the rule adopted in the 103d Congress, paragraph (a) (formerly clause 1) corresponded to an erstwhile rule LII of the 102d Congress (relating to the Director of Non-legislative and Financial Services, who in the 104th Congress was supplanted by the Chief Administrative Officer; see clause 4 of rule II, §§ 661–663, *supra*), and paragraph (b) (formerly clause 2) corresponded to an erstwhile rule LIII of the 102d Congress (relating to the Inspector General). The 104th Congress rewrote clause 2 of rule VI (as it was composed in the 103d Congress) to occupy all of rule VI and to: broaden the auditing responsibilities beyond the offices of the elected officers (paragraph (c)(1), formerly clause 2(c)(1)); add requirements for simultaneous reporting (paragraphs (c)(3) and (4), formerly

clauses 2(c)(3) and (4)); delete a provision relating to classification of employees (formerly clause 2(d)); and add the responsibility to report certain information to the Committee on Standards of Official Conduct (paragraph (c)(5)) (sec. 201, H. Res. 6, Jan. 4, 1995, p. 464). The 104th Congress also mandated that the Inspector General, in consultation with the Speaker and the Committee on House Administration, procure an independent and comprehensive audit of House financial records and administrative operations and report the results thereof in accord with this rule (sec. 107, H. Res. 6, Jan. 4, 1995, p. 463).

§ 668. Former Office of the Postmaster.

Until the 102d Congress, former rule VI provided for an Office of the Postmaster, who superintended the post offices of the House and the delivery of its mail. The earlier form of the rule was adopted in 1838 and amended in 1880 (I, 270), 1911 (VI, 34), 1971 (H. Res. 5, 92d Cong., p. 144), and 1972 (H. Res. 1153, 92d Cong., pp. 36013–15). The Office of the Postmaster was abolished during the 102d Congress by sections 2 and 5 of the House Administrative Reform Resolution of 1992 (H. Res. 423, Apr. 9, 1992, p. 9040).

Office of the Historian

§ 669. Historian.

7. There is established an Office of the Historian of the House of Representatives. The Speaker shall appoint and set the annual rate of pay for employees of the Office of the Historian.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 10 of rule I (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). The second sentence was added in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). An earlier form of this clause provided for the seven-year establishment of an Office for the Bicentennial to coordinate the commemoration of the two-hundredth anniversary of the House of Representatives (H. Res. 621, 97th Cong., Dec. 17, 1982, p. 31951). The management, supervision, and administration of the office was under the direction of the Speaker and was staffed by a professional historian appointed by the Speaker on a nonpartisan basis. In 1984 the Office of the Bicentennial was removed from the standing rules and established by law for the remainder of its existence in P.L. 98–367 (2 U.S.C. 29c). Apart from the Office of the Historian, the History of the House Awareness and Preservation Act requires the Librarian of Congress to prepare a new and complete written history of the House in consultation with the Committee on House Administration (2 U.S.C. 183). The Act also requires the Librarian to accept for deposit, preserve, maintain, and make accessible an oral history of the House as told by its Members and former Members (2 U.S.C. 183a).

Office of General Counsel

§670. General Counsel.

8. There is established an Office of General Counsel for the purpose of providing legal assistance and representation to the House. Legal assistance and representation shall be provided without regard to political affiliation. The Office of General Counsel shall function pursuant to the direction of the Speaker, who shall consult with a Bipartisan Legal Advisory Group, which shall include the majority and minority leaderships. The Speaker shall appoint and set the annual rate of pay for employees of the Office of General Counsel.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 11 of rule I (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted intially in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49). The previous year, in section 12 of the House Administrative Reform Resolution of 1992 (H. Res. 423, Apr. 9, 1992, p. 9040), the House had directed the Committee on House Administration to provide for an Office of General Counsel in a manner ensuring appropriate coordination with and participation by both the majority and minority leaderships in matters of representation and litigation.

The General Counsel is authorized by law to appear in any proceeding before a State or Federal court (except the United States Supreme Court) without compliance with admission requirements of such court (2 U.S.C. 130f(a)). Furthermore, the law requires the Attorney General to notify the General Counsel of a determination not to appeal a court decision affecting the constitutionality of an Act (2 U.S.C. 130f(b)).

RULE III

THE MEMBERS, DELEGATES, AND RESIDENT COMMISSIONER OF PUERTO RICO

Voting

§ 671. Personal interest.

1. Every Member shall be present within the Hall of the House during its sittings, unless excused or necessarily prevented, and shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question.

When the House recodified its rules, it consolidated former rule VIII, rule XII, and clause 6(h) of rule X under rule III, except that viable provisions of former clause 2 of rule VIII were transferred to current clause 3 of rule XX. This clause was adopted initially in 1789, with amendment in 1890 (V, 5941). Before the House recodified its rules in the 106th Congress, this clause was found in former clause 1 of rule VIII (H. Res. 5, Jan. 6, 1999, p. 47).

Leaves of absence are presented pending the motion to adjourn (IV, 3151), and are usually granted by unanimous consent, but sometimes are opposed or even refused (II, 1142–1145). Application for leave of absence is properly presented by filing with the Clerk the printed form to be secured at the desk rather than by oral request from the floor (VI, 199). Whether or not they are privileged is a matter of doubt (II, 1146, 1147). Excuses for absence, as distinguished from leaves of absence, may be granted by less than a quorum (IV, 3000–3002). The statutes provide that deductions may be made from the salaries of Members who are absent without sufficient excuse (II, 1149, 1150); and while this law has been enforced (IV, 3011, footnote; VI, 30, 198), its general application is not practical under modern conditions. Form of resolution for the arrest of Members absent without leave (VI, 686).

§ 672. Member's control of his own vote.

It has been found impracticable to enforce the provision requiring every Member to vote (V, 5942–5948), and such question, even if entertained, may not interrupt a pending record vote (V, 5947). The weight of authority also favors the idea that there is no authority in the House to deprive a Member of the right to vote (V, 5937, 5952, 5959, 5966, 5967; VIII, 3072). In one or two early instances the Speaker decided that because of personal interest, a Member should not vote (V, 5955, 5958); but on all other occasions and in the later practice the Speaker has held that the Member himself and not the Chair should determine this question (V, 5950, 5951;

VIII, 3071; Speaker Albert, Dec. 2, 1975, p. 38135; Speaker O'Neill, Mar. 1, 1979, p. 3748; July 30, 1996, p. 19952), and the Speaker has denied his own power to deprive a Member of the constitutional right to vote (V, 5956; Speaker Albert, Dec. 2, 1975, p. 38135; Speaker O'Neill, Mar. 1, 1979, p. 3748). Members may not vote in the House by proxy (VII, 1014). Instance where a Member submitted his resignation from a committee on grounds of disqualifying personal interest (VIII, 3074).

The House has at times excused Members from voting in cases of personal interest (III, 2294; V, 5962; Aug. 2, 1949, pp. 10591, 10592; Oct. 20, 1951, p. 13746; July 21, 1954, p. 11262; July 28, 1955, p. 11930; July 12, 1956, p. 12566).

§ 673. Nature of disqualifying personal interest.

It is a principle of "immemorial observance" that a Member should withdraw when a question concerning himself arises (V, 5949); but it has been held that the disqualifying interest must be such as affects the Member directly (V, 5954, 5955, 5963), and not as one of a class (V, 5952; VIII, 3071, 3072; Speaker Bankhead, May 31, 1939, p. 6359; Speaker Albert, Dec. 2, 1975, p. 38135). In a case where question affected the titles of several Members to their seats, each refrained from voting in his own case, but did vote on the identical cases of his associates (V, 5957, 5958). While a Member should not vote on the direct questions affecting himself, he has sometimes voted on incidental questions (V, 5960, 5961).

§ 674. Voting.

2. (a) A Member may not authorize any other person to cast his vote or record his presence in the House or the Committee of the Whole House on the state of the Union.

(b) No other person may cast a Member's vote or record a Member's presence in the House or the Committee of the Whole House on the state of the Union.

Before the House recodified its rules in the 106th Congress, this clause was found in former clause 3 of rule VIII (H. Res. 5, Jan. 6, 1999, p. 47). The Committee on Standards of Official Conduct recommended this addition to the rules in its May 15, 1980, report on voting anomalies that had occurred in the House (H. Rept. 96–991), and the House adopted the rule in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). Even before the addition of this clause, however, "ghost voting" was considered unethical (VII, 1014; Dec. 18, 1987, p. 36274).

Delegates and the Resident Commissioner

§ 675. Committee service.

3. (a) In a Committee of the Whole House on the state of the Union, each Delegate and the Resident Commissioner shall possess the same powers and privileges as Members of the House. Each Delegate and the Resident Commissioner shall be elected to serve on standing committees in the same manner as Members of the House and shall possess in such committees the same powers and privileges as the other members of the committee.

Before the House recodified its rules in the 106th Congress, this provision was found in former rule XII (H. Res. 5, Jan. 6, 1999, p. 47). The first form of paragraph (a) was adopted in 1871, and it was perfected by amendments in 1876, 1880, 1887, and 1892 (II, 1297). Reference to the Resident Commissioner was first found in 1904 (II, 1306). Paragraph (a) was again amended on January 2, 1947 (Legislative Reorganization Act of 1946), August 2, 1949 (p. 10618), February 2, 1951 (p. 883), January 22, 1971 (H. Res. 5, 92d Cong., p. 144), January 3, 1973 (H. Res. 6, 93d Cong., p. 26), and January 3, 1991 (H. Res. 5, 102d Cong., p. 39). Paragraph (a) was completely revised in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49) to provide that each of the Delegates and the Resident Commissioner be elected to committees of the House on the same bases, vote in any committees on which they serve, and vote on questions arising in the Committee of the Whole House on the state of the Union. The latter power was affected by former clause 2(d) of rule XXIII (current clause 6(h) of rule XVIII) (providing for immediate reconsideration in the House of questions resolved in the Committee of the Whole by a margin within which the votes of Delegates and the Resident Commissioner were decisive; see § 984, *infra*). The changes effected in the 103d Congress were revoked in the 104th Congress (sec. 212, H. Res. 6, Jan. 4, 1995, p. 462) and reinstated in the 110th Congress (H. Res. 78, Jan. 24, 2007, p. ——).

The constitutionality of granting to Delegates the right to vote in the Committee of the Whole under the former rule, as circumscribed by former clause 2(d) of rule XXIII (current clause 6(h) of rule XVIII), was upheld based on the premise that immediate "revote" where votes cast by Delegates had been decisive rendered their votes merely symbolic and not an investment of true legislative power. Michel *v.* Anderson, 14 F.3d 623 (D.C. Cir. 1994).

The Office of Delegate was established by ordinance of the Continental Congress and confirmed by a law of Congress (I, 400, 421). The nature of the office has been the subject of much discussion (I, 400, 403, 473); and except as provided by law (I, 431, 526) the qualifications of the Delegate also have been a matter of discussion (I, 421, 423, 469, 470, 473). A territory or district must be organized by law before the House will admit a Delegate (I, 405, 407, 411, 412). The Office of Delegate from the District of Columbia was established by Public Law 91–405 (84 Stat. 845). The Offices of Delegate from the Territories of Guam and the Virgin Islands were established by Public Law 92–271 (86 Stat. 118). The Office of Delegate from American Samoa was established by Public Law 95–556 (92 Stat. 2078) and was first filled by the general Federal election of 1980. The Office of Resident Commissioner was established (with a four-year term) by the Act of March 2, 1917 (39 Stat. 963; 48 U.S.C. 891). The Act of May 17, 1932, changed the name of Porto Rico to Puerto Rico (48 U.S.C. 731a).

Under an earlier practice, Delegates did not vote in committee (VI, 243); but this had not always been so (II, 1301). The Resident Commissioner, who under the rules of the 91st and earlier Congresses, was designated as an additional member of the Committees on Agriculture, Armed Services, and Interior and Insular Affairs, is now elected to committees in the same fashion as are other Members and may exercise in those committees on which he serves the same powers as other members, including the right to vote.

The law provides that on the floor of the House a Delegate may debate (II, 1290), and he may in debate call a Member to order (II, 1295). He may make any motion that a Member may make except the motion to reconsider (II, 1291, 1292). A Delegate may make a point of order (VI, 240). A Delegate has even moved an impeachment (II, 1303). However, a resolution offered from the floor to permit the Delegate of the District of Columbia to vote on the articles of impeachment against the President was held not to constitute a question of the privileges of the House under rule IX (Dec. 18, 1998, p. 27825). He may be appointed a teller (II, 1302); but the law forbids him to vote (II, 1290). He has been recognized to object to the consideration of a bill (VI, 241), to a unanimous-consent request to concur in a Senate amendment (June 29, 1984, p. 20267), and has made reports for committees (July 1, 1958, p. 12870). A discharge petition may not be signed by a Delegate or the Resident Commissioner, even by unanimous consent (Oct. 1, 2003, p. ——) because the phrase in clause 2 of rule XV "a majority of the total membership of the House" is construed to mean 218 Members (Speaker Byrns, Apr. 15, 1936, p. 5509), not including Delegates or the Resident Commissioner. The rights and prerogatives of a Delegate in parliamentary matters are not limited to legislation affecting his own territory (VI, 240). Under paragraph (a), the Delegates and the Resident Commissioner are counted for purposes of establishing a quorum in a Committee of the Whole (Feb. 8, 2007, p. ——).

At the organization of the House, the Delegates and Resident Commissioner are sworn (I, 400, 401); but the Clerk does not put them on the roll (I, 61, 62; Jan. 6, 1999, p. 41).

A Delegate resigns in a communication addressed to the Speaker (II, 1304). He may be arrested and censured for disorderly conduct (II, 1305), but there has been disagreement as to whether he should be expelled by a majority or two-thirds vote (I, 469).

The privileges of the floor with the right to debate were extended to Resident Commissioners in the 60th Congress (VI, 244). Before the independence of the Philippines it was represented in the House by a Resident Commissioner (Deschler, ch. 7, § 3.3).

§ 676. Appointment to select and conference committees.

(b) The Delegates and the Resident Commissioner may be appointed to any select committee and to any conference committee.

Before the House recodified its rules in the 106th Congress, paragraph (b) was found in former clause 6(h) of rule X (H. Res. 5, Jan. 6, 1999, p. 47). Paragraph (b), effective January 3, 1975, initially authorized the appointment of Delegates and the Resident Commissioner to certain conferences (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Paragraph (b) was amended in the 96th Congress to authorize their appointment to select committees (H. Res. 5, Jan. 15, 1979, pp. 7–16), and again in the 103d Congress to authorize their appointment to any conference (H. Res. 5, Jan. 5, 1993, p. 49).

Before the adoption and refinement of this paragraph, a Delegate or the Resident Commissioner could not be appointed to a conference committee (Sept. 18, 1973, p. 30144; July 20, 1973, p. 25201); and they could be appointed to a select committee only with the permission of the House (Sept. 21, 1976, p. 31673).

RULE IV

THE HALL OF THE HOUSE

Use and admittance

§ 677. Use of the Hall of the House.

1. The Hall of the House shall be used only for the legislative business of the House and for caucus and conference meetings of its Members, except when the House agrees to take part in any ceremonies to be observed therein. The Speaker may not en-

tertain a motion for the suspension of this clause.

When the House recodified its rules in the 106th Congress, it consolidated former rules XXXI, XXXII, and XXXIII under rule IV, and clause 1 was found in former rule XXXI (H. Res. 5, Jan. 6, 1999, p. 47). Rules relating to the use of the Hall were adopted as early as 1804. The present form of this clause dates from 1880 (V, 7270). It was renumbered January 3, 1953 (p. 24).

§678. Persons and officials admitted to the floor during sessions of the House.

2. (a) Only the following persons shall be admitted to the Hall of the House or rooms leading thereto:

(1) Members of Congress, Members-elect, and contestants in election cases during the pendency of their cases on the floor.

(2) The Delegates and the Resident Commissioner.

(3) The President and Vice President of the United States and their private secretaries.

(4) Justices of the Supreme Court.

(5) Elected officers and minority employees nominated as elected officers of the House.

(6) The Parliamentarian.

(7) Staff of committees when business from their committee is under consideration, and staff of the respective party leaderships when so assigned with the approval of the Speaker.

(8) Not more than one person from the staff of a Member, Delegate, or Resident Commissioner when that Member, Delegate, or Resident Commissioner has an amendment under consideration (subject to clause 5).

(9) The Architect of the Capitol.

(10) The Librarian of Congress and the assistant in charge of the Law Library.

(11) The Secretary and Sergeant-at-Arms of the Senate.

(12) Heads of departments.

(13) Foreign ministers.

(14) Governors of States.

(15) Former Members, Delegates, and Resident Commissioners; former Parliamentarians of the House; and former elected officers and minority employees nominated as elected officers of the House (subject to clause 4).

(16) One attorney to accompany a Member, Delegate, or Resident Commissioner who is the respondent in an investigation undertaken by the Committee on Standards of Official Conduct when a recommendation of that committee is under consideration in the House.

(17) Such persons as have, by name, received the thanks of Congress.

(b) The Speaker may not entertain a unanimous consent request or a motion to suspend this clause.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XXXII (H. Res. 5, Jan. 6, 1999, p. 47). It was subjected to many changes from 1802 until 1880 (V, 7823; VIII, 3634) and was renumbered in the 83d Congress (Jan. 3, 1953, p. 24). The rule was amended in the 92d Congress to include the Delegate from the District of Columbia among those having the privilege of the floor (H. Res. 5, Jan. 22, 1971, p. 144), and later in that same Congress was again revised to permit all Delegates to enjoy the privilege (H. Res. 1153, Oct. 13, 1972, pp. 36021–23). The latter revision was necessary because of the enactment of Public Law 92–271, which created the positions of Delegate from Guam and Delegate from the Virgin Islands. Officers and elected employees, both present and former, were given floor privileges by the adoption of this same resolution (H. Res. 1153, Oct. 13, 1972, p. 36013) but had in fact, by custom, been permitted on the floor before this change in the clause.

This clause was substantially amended in the 94th Congress (H. Res. 1435, Oct. 1, 1976, pp. 35175–80) and was amended by the Ethics Reform Act of 1989 to permit floor privileges for one attorney for a Member-respondent during consideration of a disciplinary resolution (P.L. 101–194, Nov. 30, 1989). Clause 2(a)(7) was amended in the 108th Congress to extend floor privileges to party leadership staff when so assigned with the approval of the Speaker (sec. 2(d), H. Res. 5, Jan. 7, 2003, p. 7). This amendment codified current practice, including the Speaker's ultimate control over such assignments.

The portion of this clause that permits clerks of committees access to the floor during the consideration of business from their committees has been interpreted by the Speaker to allow four professional staff members and one clerk on the floor at one time (Speaker Albert, June 8, 1972, p. 20318; Speaker O'Neill, Jan. 26, 1977, p. 2333). The Legislative Reorganization Act of 1970, section 503(3) (84 Stat. 1140, 1202; 2 U.S.C. 281b(3)), also allows two staff members of the Legislative Counsel access to the floor to assist the committee.

The portion of the clause forbidding the Speaker to entertain requests for suspension of the rule applies also to the chairman of the Committee of the Whole (V, 7285). "Heads of departments" means members of the President's Cabinet, and not subordinate executive officers, and "foreign ministers" means ministers from foreign governments only. "Governors of States" does not include governors of territories (V, 7283; VIII, 3634).

An alleged violation of the rule relating to admission to the floor presents a question of privilege (III, 2624, 2625; VI, 579), but not a higher question of privilege than an election case (III, 2626). In one case where a former Member was abusing the privilege, he was excluded by direction of the Speaker (V, 7288), but in another case the Speaker declared it a matter for the House and not the Chair to consider (V, 7286). In one case an alleged abuse was inquired into by a select committee (V, 7287). See §680, *infra*, for the rule constraining conduct of former Members, Delegates, the Resident Commissioner, officers, and staff while on the floor. The Speaker announced his intention to strictly enforce the rule to prevent a proliferation of committee and other staff on the floor (Aug. 22, 1974, p. 30027; Jan. 19, 1981, p. 402; Jan. 25, 1983, p. 224). The Speaker announced that committee staff would be required to display staff badges on the floor in exchange for identification cards before admission to the floor (Speaker O'Neill, Jan. 21, 1986, p. 5; Jan. 5, 1993, p. 105). It is not in order to refer to persons on the floor of the House as guests of the House, such as Members' children (Apr. 28, 1994, p. 8783; Dec. 19, 1995, p. 37575; Jan. 22, 1996, p. 682; Apr. 30, 1998, p. 7320; June 17, 2004, p. ——), other children (May 18, 1995, p. 13490; Oct. 7, 1999, p. 24425;), or Senators exercising floor privileges (May 18, 1995, p. 13491).

§ 679. Admission to the floor when the House is not sitting.

3. (a) Except as provided in paragraph (b), all persons not entitled to the privilege of the floor during the session shall be excluded at all times from the Hall of the House and the cloakrooms.

(b) Until 15 minutes of the hour of the meeting of the House, persons employed in its service, accredited members of the press entitled to admission to the press gallery, and other persons on request of a Member, Delegate, or Resident Commissioner by card or in writing, may be admitted to the Hall of the House.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XXXII (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in 1902 (V, 7346).

§ 680. Former Members and officers.

4. (a) A former Member, Delegate, or Resident Commissioner; a former Parliamentarian of the House; or a former elected officer of the House or former minority employee nominated as an elected officer of the House shall not be entitled to the privilege of admission to the Hall of the House and rooms leading thereto if he or she—

(1) is a registered lobbyist or agent of a foreign principal as those terms are defined in clause 5 of rule XXV;

(2) has any direct personal or pecuniary interest in any legislative measure pending before the House or reported by a committee; or

(3) is in the employ of or represents any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative proposal.

(b) The Speaker may promulgate regulations that exempt ceremonial or educational functions from the restrictions of this clause.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XXXII (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in the 94th Congress (H. Res. 1435, Oct. 1, 1976, pp. 35175–80) to consolidate in one place and to clarify the restrictions on admittance to the floor of former Members, officers, and employees and to give the Speaker the power to promulgate regulations to enforce the rule. The form of the rule adopted during the 109th Congress established plainer proscriptions with respect to registered lobbyists, agents of foreign principals, and persons with similar representational roles and specified particular exercises of regulatory authority by the Speaker (H. Res. 648, Feb. 1, 2006, p. ——).

As early as 1945 the Chair held that former Members do not have the privilege of the floor when they are personally interested in legislation (Speaker Rayburn, Oct. 2, 1945, p. 9251). Pursuant to the authority granted by this clause, Speakers have issued regulations from time to time (Speaker O'Neill, Jan. 6, 1977, p. 321; Speaker Foley, June 9, 1994, p. 12387; Speaker Gingrich, May 24, 1995, p. 14300; Speaker Gingrich, Aug. 1, 1996, p. 21031; Speaker Hastert, Feb. 1, 2006, p. ——).

A former Member has not been entitled to the privileges of the floor under this clause if he (1) has a direct personal or pecuniary interest in legislation under consideration in the House or reported by any committee, or (2) represents any party or organization for the purpose of influencing the disposition of legislation pending before the House, reported by any committee or under consideration in any committee or subcommittee (June 7, 1978, p. 16625). The essence of the rule has been the former Member's status as one with a personal or pecuniary interest and not whether the former Member may have a present intent to lobby (Speaker Foley, June 9, 1994, p. 12387). Even before the adoption of a more categorical form of the rule during the 109th Congress, intent to lobby was assumed where a former Member was employed or retained as a lobbyist to influence legislative measures as described in (2) above (Aug. 1, 1996, p. 21031). The Speaker has emphasized that the rule applies not only to the floor but also to "rooms leading thereto," and has construed the latter phrase to include, for example, the Speaker's Lobby and the cloakrooms (Speaker Gingrich, May 24, 1995, p. 14300; Aug. 1, 1996, p. 21031) and the Rayburn Room (Feb. 1, 2006, p. ——).

A former Member must observe the rules of proper decorum while on the floor, and the Chair may direct the Sergeant-at-Arms to assist the Chair in maintaining such decorum (Sept. 17, 1997, pp. 19026, 19027). A former Member may not manifest approval or disapproval of the proceedings (VIII, 3635). In the 105th Congress the House adopted a resolution offered as a question of the privileges of the House alleging indecorous

behavior of a former Member and instructing the Sergeant-at-Arms to ban the former Member from the floor, and rooms leading thereto, until the resolution of a contested election to which he was party (H. Res. 233, Sept. 18, 1997, p. 19340).

§ 681. Members' staff.

5. A person from the staff of a Member, Delegate, or Resident Commissioner may be admitted to the Hall of the House or rooms leading thereto under clause 2 only upon prior notice to the Speaker. Such persons, and persons from the staff of committees admitted under clause 2, may not engage in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Such persons shall remain at the desk and are admitted only to advise the Member, Delegate, Resident Commissioner, or committee responsible for their admission. A person who violates this clause may be excluded during the session from the Hall of the House and rooms leading thereto by the Speaker.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4 of rule XXXII (H. Res. 5, Jan. 6, 1999, p. 47). This clause was added initially in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to extend the privilege of the floor to one person from the staff of a Member who has an amendment under consideration but not of a measure's sponsor or during special-order speeches. The Speaker promulgated regulations for the implementation of this clause on January 26, 1977 (p. 2333). In the 97th Congress the Speaker announced that personal staff of Members did not have the privilege of the floor and that committee staff, permitted on the floor when business from their committees is under consideration, were required to remain unobtrusively by the committee tables (Aug. 18, 1982, p. 21934). Staff permitted on the floor under this clause are not permitted to pass out literature or otherwise attempt to influence Members in their votes (Aug. 1, 1990, p. 21519; Sept. 27, 1995, p. 26567) and may not applaud during debate (June 14, 1995, p. 15896).

Gallery

§ 682. The various galleries and admission thereto.

6. (a) The Speaker shall set aside a portion of the west gallery for the use of the President, the members of the Cabinet, justices of the Supreme Court, foreign ministers and suites, and the members of their respective families. The Speaker shall set aside another portion of the same gallery for the accommodation of persons to be admitted on the cards of Members, Delegates, or the Resident Commissioner.

(b) The Speaker shall set aside the southerly half of the east gallery for the use of the families of Members of Congress. The Speaker shall control one bench. On the request of a Member, Delegate, Resident Commissioner, or Senator, the Speaker shall issue a card of admission to his family, which may include their visitors. No other person shall be admitted to this section.

Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXXIII (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in 1880 (V, 7302) and renumbered January 3, 1953 (p. 24).

On special occasions the House sometimes makes a special rule for admission to the galleries (V, 7303), as on the occasion of the electoral count (III, 1961), of an address by the President, and of public funerals.

Prohibition on campaign contributions

§ 683. Prohibition on distribution of campaign contributions.

7. A Member, Delegate, Resident Commissioner, officer, or employee of the House, or any other person entitled to admission to the Hall of the House or rooms leading thereto by this rule, may not knowingly distribute a political cam-

paign contribution in the Hall of the House or rooms leading thereto.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5 of rule XXXIII (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121).

RULE V

BROADCASTING THE HOUSE

§ 684. Broadcasting of House proceedings.

1. The Speaker shall administer a system subject to his direction and control for closed-circuit viewing of floor proceedings of the House in the offices of all Members, Delegates, the Resident Commissioner, and committees and in such other places in the Capitol and the House Office Buildings as he considers appropriate. Such system may include other telecommunications functions as the Speaker considers appropriate. Any such telecommunications shall be subject to rules and regulations issued by the Speaker.

2. (a) The Speaker shall administer a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of the House. The Speaker shall provide for the distribution of such broadcasts and recordings to news media, for the storage of audio and video recordings of the proceedings, and for the closed-captioning of the proceedings for hearing-impaired persons.

(b) All television and radio broadcasting stations, networks, services, and systems (including cable systems) that are accredited to the House

Radio and Television Correspondents' Galleries, and all radio and television correspondents who are so accredited, shall be provided access to the live coverage of the House.

(c) Coverage made available under this clause, including any recording thereof—

(1) may not be used for any political purpose;

(2) may not be used in any commercial advertisement; and

(3) may not be broadcast with commercial sponsorship except as part of a bona fide news program or public affairs documentary program.

3. The Speaker may delegate any of his responsibilities under this rule to such legislative entity as he considers appropriate.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 9 of rule I (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 7). The requirement that the televised broadcasts of the proceedings of the House be closed captioned for hearing-impaired individuals was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). The authority of the Speaker to make rules governing telecommunications functions within the House was added in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. 39).

In the 95th Congress the House considered as a question of the privileges of the House and adopted a resolution directing the Committee on Rules to investigate the impact on the safety, dignity, and integrity of House proceedings, of a test authorized by the Speaker under his general control over the Hall of the House for the audiovisual broadcast of House proceedings within the Capitol and House Office Buildings (H. Res. 404, Mar. 15, 1977, p. 7608). The resolution directed the Committee on Rules to report to the House at the earliest practicable date its findings and recommendations, including whether such coverage should be made available to the public. The committee reported and the House adopted another resolution that: (1) authorized the Speaker to establish a closed-circuit system for in-House broadcasting of House proceedings; (2) directed the Committee on Rules to study methods for providing complete audio and visual broad-

casting of House proceedings and to report to the House thereon; and (3) directed the Speaker after receipt of the committee's report to establish a system subject to his direction and control for audio and visual broadcast and recording of House proceedings and to provide for distribution and access to the news media (H. Res. 866, Oct. 27, 1977, pp. 35425–37). The Speaker, after receipt of that report (H. Rept. 95–881, Feb. 15, 1978), directed implementation of full audio coverage, with distribution to the media, on June 8, 1978 (p. 16746). Public Law 95–391 (Legislative Branch Appropriations Act, 1979) contained the following proviso in section 306 relating to the broadcasting of House proceedings: "No funds in this bill may be used to implement a system for televising and broadcasting the proceedings of the House pursuant to House Resolution 866, Ninety-Fifth Congress, under which the TV cameras in the Chamber purchased by the House are controlled and operated by persons not in the employ of the House."

Pursuant to his authority under this rule, the Speaker directed the Clerk in the 98th Congress to immediately implement periodic wide-angle television coverage of all "special-order" speeches at the end of legislative business (with captions at the bottom of the screen indicating that legislative business has been completed) (May 10, 1984, p. 11894) but not during "interim" special orders (Dec. 19, 1985, p. 38106). However, in the 103d and 104th Congresses, the Speaker prohibited wide-angle coverage but continued the caption at the bottom of the screen not only during special-order speeches but also during morning-hour debates (Speaker Foley, Feb. 11, 1994, p. 2244; Speaker Gingrich, Jan. 4, 1995, p. 551). In the 99th Congress, the House adopted a resolution, raised as a question of the privileges of the House, authorizing and directing the Speaker to provide for the audio and visual broadcast coverage of the Chamber while Members are voting (H. Res. 150, Apr. 30, 1985, p. 9821). Although paragraph (a) requires complete and unedited broadcast coverage of House proceedings, the House held (by tabling an appeal of a ruling of the Chair) that it does not require in-House microphone amplification of disorderly conduct by a Member following expiration of his recognition for debate (Mar. 16, 1988, p. 4081).

RULE VI

OFFICIAL REPORTERS AND NEWS MEDIA GALLERIES

Official reporters

§ 685. Reporters of debates and committee stenographers.

1. Subject to the direction and control of the Speaker, the Clerk shall appoint, and may remove for cause, the official reporters of the House, includ-

ing stenographers of committees, and shall supervise the execution of their duties.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XXXIV (H. Res. 5, Jan. 6, 1999, p. 47). From 1874 until March 1, 1978, the appointment and removal of the official reporters, and the manner of the execution of their duties, was vested in the Speaker (V, 6958); effective March 1, 1978 (H. Res. 959, Jan. 23, 1978, p. 431) those responsibilities were vested in the Clerk, subject to the direction and control of the Speaker.

The reporters of debates have played an important role in the evolution of the system by which the House compiles a daily verbatim report of its proceedings, made by its own corps of reporters (V, 6959). Since these reporters have become officers of the House a correction of the Congressional Record has been held a question of privilege (V, 7014–7016).

§ 686. Rules relating to Congressional Record.

The arrangement, style, etc., of the Congressional Record is prescribed by the Joint Committee on Printing pursuant to 44 U.S.C. 901, 904 (see also VIII, 3500). The rules of the Joint Committee on Printing governing publication of the Congressional Record are as follows:

1. *Arrangement of the daily Congressional Record.*—The Public Printer shall arrange the contents of the daily Congressional Record as follows: The Senate proceedings shall alternate with the House proceedings in order of placement in consecutive issues insofar as such an arrangement is feasible, and Extensions of Remarks and Daily Digest shall follow: *Provided,* That the makeup of the Congressional Record shall proceed without regard to alternation whenever the Public Printer deems it necessary in order to meet production and delivery schedules.

2. *Type and style.*—The Public Printer shall print the report of the proceedings and debates of the Senate and House of Representatives, as furnished by the official reporters of the Congressional Record, in 8-point type; and all matter included in the remarks or speeches of Members of Congress, other than their own words, and all reports, documents, and other matter authorized to be inserted in the Congressional Record shall be printed in 7-point type; and all roll calls shall be printed in 6-point type. No italic or black type nor words in capitals or small capitals shall be used for emphasis or prominence; nor will unusual indentions be permitted. These restrictions do not apply to the printing of or quotations from historical, official, or legal documents or papers of which a literal reproduction is necessary.

3. Only as an aid in distinguishing the manner of delivery in order to contribute to the historical accuracy of the Record, statements or insertions in the Record where no part of them was spoken will be preceded and followed by a "bullet" symbol, *i.e.,* ● (now applicable only in Senate).

4. *Return of manuscript.*—When manuscript is submitted to Members for revision it should be returned to the Government Printing Office not

later than 9 o'clock p.m. in order to insure publication in the Congressional Record issued on the following morning; and if all of the manuscript is not furnished at the time specified, the Public Printer is authorized to withhold it from the Congressional Record for 1 day. In no case will a speech be printed in the Congressional Record of the day of its delivery if the manuscript is furnished later than 12 o'clock midnight.

5. *Tabular matter.*—The manuscript of speeches containing tabular statements to be published in the Congressional Record shall be in the hands of the Public Printer not later than 7 o'clock p.m. to insure publication the following morning. When possible, manuscript copy for tabular matter should be sent to the Government Printing Office 2 or more days in advance of the date of publication in the Congressional Record. Proof will be furnished promptly to the Member of Congress to be submitted by him instead of manuscript copy when he offers it for publication in the Congressional Record.

6. *Proof furnished.*—Proofs or "leave to print" and advance speeches will not be furnished the day the manuscript is received but will be submitted the following day, whenever possible to do so without causing delay in the publication of the regular proceedings of Congress. Advance speeches shall be set in the Congressional Record style of type, and not more than six sets of proofs may be furnished to Members without charge.

7. *Notation of withheld remarks.*—If manuscript or proofs have not been returned in time for publication in the proceedings, the Public Printer will insert the words "Mr. —— addressed the Senate (House or Committee). His remarks will appear hereafter in Extensions of Remarks" and proceed with the printing of the Congressional Record.

8. *Thirty-day limit.*—The Public Printer shall not publish in the Congressional Record any speech or extension of remarks which has been withheld for a period exceeding 30 calendar days from the date when its printing was authorized: *Provided,* That at the expiration of each session of Congress the time limit herein fixed shall be 10 days, unless otherwise ordered by the committee.

9. *Corrections.*—The permanent Congressional Record is made up for printing and binding 30 days after each daily publication is issued; therefore all corrections must be sent to the Public Printer within that time: *Provided,* That upon the final adjournment of each session of Congress the time limit shall be 10 days, unless otherwise ordered by the committee: *Provided further,* That no Member of Congress shall be entitled to make more than one revision. Any revision shall consist only of corrections of the original copy and shall not include deletions of correct material, substitutions for correct material, or additions of new subject matter.

10. The Public Printer shall not publish in the Congressional Record the full report or print of any committee or subcommittee when the report or print has been previously printed. This rule shall not be construed to apply to conference reports. However, inasmuch as rule XXII (§ 1082, *infra*)

provides that conference reports be printed in the daily edition of the Congressional Record, they shall not be printed therein a second time.

11. *Makeup of the Extensions of Remarks.*—Extensions of Remarks in the Congressional Record shall be made up by successively taking first an extension from the copy submitted by the official reporters of one House and then an extension from the copy of the other House, so that Senate and House extensions appear alternately as far as possible. The sequence for each House shall follow as closely as possible the order or arrangement in which the copy comes from the official reporters of the respective Houses.

The official reporters of each House shall designate and distinctly mark the lead item among their extensions. When both Houses are in session and submit extensions, the lead item shall be changed from one House to the other in alternate issues, with the indicated lead item of the other House appearing in second place. When only one House is in session, the lead item shall be an extension submitted by a Member of the House in session. This rule shall not apply to Congressional Records printed after the sine die adjournment of the Congress.

12. *Official reporters.*—The official reporters of each House shall indicate on the manuscript and prepare headings for all matter to be printed in Extensions of Remarks and shall make suitable reference thereto at the proper place in the proceedings.

13. *Two-page rule—Cost estimate from Public Printer.*—(1) No extraneous matter in excess of two printed Record pages, whether printed in its entirety in one daily issue or in two or more parts in one or more issues, shall be printed in the Congressional Record unless the Member announces, coincident with the request for leave to print or extend, the estimate in writing from the Public Printer of the probable cost of publishing the same. (2) No extraneous matter shall be printed in the House proceedings or the Senate proceedings, with the following exceptions: (*a*) Excerpts from letters, telegrams, or articles presented in connection with a speech delivered in the course of debate; (*b*) communications from State legislatures; (*c*) addresses or articles by the President and the Members of his Cabinet, the Vice President, or a Member of Congress. (3) The official reporters of the House or Senate or the Public Printer shall return to the Member of the respective House any matter submitted for the Congressional Record which is in contravention of these provisions.

HOUSE SUPPLEMENT TO "LAWS AND RULES FOR PUBLICATION OF THE CONGRESSIONAL RECORD"—EFFECTIVE AUGUST 12, 1986

1. *Extensions of Remarks in the daily Congressional Record.*—When the House has granted leave to print (1) a newspaper or magazine article, or (2) any other matter not germane to the proceedings, it shall be published under Extensions of Remarks. This rule shall not apply to quotations which form part of a speech of a Member, or to an authorized extension of his own remarks: *Provided,* That no address, speech, or article delivered or released subsequently to the sine die adjournment of a session of Con-

gress may be printed in the Congressional Record. One-minute speeches delivered during the morning business of Congress shall not exceed 300 words. Statements exceeding this will be printed following the business of the day.

2. Any extraneous matter included in any statement by a Member, either under the 1-minute rule or permission granted to extend at this point, will be printed in the "Extensions of Remarks" section, and that such material will be duly noted in the Member's statement as appearing therein.

3. Under the general leave request by the floor manager of specific legislation only matter pertaining to such legislation will be included as per the request. This, of course, will include tables and charts pertinent to the same, but not newspaper clippings and editorials.

4. In the makeup of the portion of the Record entitled "Extensions of Remarks," the Public Printer shall withhold any Extensions of Remarks which exceed economical press fill or exceed production limitations. Extensions withheld for such reasons will be printed in succeeding issues, at the direction of the Public Printer, so that more uniform daily issues may be the end result and, in this way, when both Houses have a short session the makeup would be in a sense made easier so as to comply with daily proceedings, which might run extremely heavy at times.

5. The request for a Member to extend his or her remarks in the body of the Record must be granted to the individual whose remarks are to be inserted.

6. All statements for "Extensions of Remarks," as well as copy for the body of the Congressional Record must be submitted on the Floor of the House to the Official Reporters of Debates and must carry the *actual* signature of the Member. Extensions of Remarks will be accepted up to 15 minutes after adjournment of the House. To insure printing in that day's proceedings, debate transcripts still out for revision must be returned to the Office of Official Reporters of Debates, Room HT–60, the Capitol, (1) by 5 p.m., or 2 hours following adjournment, whichever occurs later; or (2) within 30 minutes following adjournment when the House adjourns at 11 p.m., or later.

7. Pursuant to clause 8 of rule XVII of the Rules of the House, the Congressional Record shall be a substantially verbatim account of remarks made during the proceedings of the House, subject only to technical, grammatical, and typographical corrections authorized by the Member making the remarks involved. Unparliamentary remarks may be deleted only by permission or order of the House. Consistent with rule 9 of the Joint Committee on Printing Rules, any revision shall consist only of technical, grammatical, or typographical corrections of the original copy and shall not include deletions of correct material, substitutions for correct material, or additions of new subject matter. By obtaining unanimous consent to revise and extend, a Member will be able to relax the otherwise strict prohibition contained in clause 8 of rule XVII only in two respects: (1) to revise by technical, grammatical, and typographical corrections; and (2) to extend

remarks in a distinctive type style to follow the remarks actually uttered. In no event would the actually uttered remarks be removable.

§ 687. Substantially verbatim account.

The requirement of rule 7 of the supplemental rules that the Congressional Record be a substantially verbatim account of remarks actually rendered was included in clause 8(a) of rule XVII (formerly clause 9 of rule XIV) in the 104th Congress, with the prescription that that rule constitute a standard of conduct under former clause 3(a)(2) of rule XI (formerly clause 4(e)(1)(B) of rule X) (sec. 213, H. Res. 6, Jan. 4, 1995, p. 468). Under clause 8 of rule XVII, remarks actually delivered may not be deleted and remarks inserted must appear in distinctive type (Jan. 4, 1995, p. 541). The Speaker has instructed the Official Reporters of Debates to adhere strictly to the requirement of rule 7 of the supplemental rules (Mar. 2, 1988, p. 2963; Feb. 3, 1993, p. 1980).

Words spoken by a Member not under recognition are not included in the Congressional Record (V, 6975–6978; VIII, 3466, 3471). For example the Record does not include remarks uttered: (1) after a Member has been called to order (July 29, 1994, p. 18609); (2) when a Member fails to heed the gavel at the expiration of time for debate (May 22, 2003, p. ——; Oct. 2, 2003, p. ——); (3) when a Member interrupts another during debate without being yielded or otherwise recognized (as on a point of order) (Speaker O'Neill, Feb. 7, 1985, p. 2229). Remarks held irrelevant by the Chair may be removed from the Record by unanimous consent only (Mar. 20, 2002, p. 3663).

In response to a parliamentary inquiry, the Chair advised that when the Pledge of Allegiance is delivered as the third element of the daily order of business, the Record reflects the pledge in its statutory form (Apr. 27, 2004, p. ——). The Chair announced the Record-printing policy regarding remarks in debate uttered in languages other than English, to deny transcription in the foreign language (unless a transcript is provided in a language that the Government Printing Office can print) and to require Members to submit translations for distinctive printing in the Record in English as a revision of remarks (Mar. 4, 1998, p. 2535; see also Feb. 25, 2003, p. 4402).

Through the 103d Congress, under applicable precedents and guidelines, the Chair could refine a ruling on a point of order in the Record in order to clarify the ruling without changing its substance, including one sustained by the House on appeal (Feb. 19, 1992, p. 2461; see H. Res. 230, 99th Cong., July 31, 1985, p. 21783, and H. Rept. 99–228). In accordance with existing accepted practices, the Speaker customarily made such technical or parliamentary corrections or insertions in the transcript of a ruling or statement by the Chair as may have been necessary to conform to rule, custom, or precedent (see also H. Res. 330, 101st Cong., Feb. 7, 1990, p. 1515, and report of House Administration task force on Record inserted by Speaker Foley, Oct. 27, 1990, p. 37124). However, in the 104th Congress the Speaker ruled that the requirement of clause 8 of rule XVII (formerly

clause 9 of rule XIV) that the Record be a substantially verbatim account of remarks made during House proceedings extended to statements and rulings of the Chair (Jan. 20, 1995, p. 1866).

The Congressional Record is for the proceedings of the House and Senate only, and matters not connected therewith are rigidly excluded (V, 6962). It is not, however, the official record, that function being fulfilled by the Journal (IV, 2727). Because the Record is maintained as a substantially verbatim account of the proceedings of the House (44 U.S.C. 901), the Speaker will not entertain a unanimous-consent request to give a special-order speech "off the Record" (June 24, 1992, p. 16131). As a general principle the Speaker has no control over the Record (V, 6984, 7017).

The traditional practice to allow a Member, with the approval of the House and under conditions set forth by the Joint Committee on Printing, to revise his remarks before publication in the Congressional Record (V, 6971, 7024; VIII, 3500) should be interpreted in light of clause 8 of rule XVII and rule 7 of the supplemental rules of the Joint Committee on Printing, which require the Record to be a substantially verbatim account of remarks made during House proceedings (see § 686, *supra*, and §§ 967, 968, *infra*). In any event, a Member should not change the notes of his own speech in such a way as to affect the remarks of an opponent in controversy without bringing the correction to the attention of that Member (V, 6972; VIII, 3461), and alterations that place a different aspect on the remarks of a colleague require authorization by the House (VIII, 3463, 3497). Where a Member so revised his remarks as to affect the import of words uttered by another Member, the House corrected the Record (V, 6973). A Member is not entitled to inspect the reporter's notes of remarks that do not contain reflections on himself, delivered by another Member and withheld for revision (V, 6964).

§ 688. Relations of the Committee of the Whole to the Congressional Record.

As a general rule the Committee of the Whole has no control over the Congressional Record (V, 6986); but the Chairman in the preservation of order, may direct the exclusion of disorderly words spoken by a Member after he has been called to order (V, 6987). In a case wherein the Committee conceived that a letter read in Committee involved a breach of privilege, it reported the matter to the House for action, and the House struck the letter from the Record (V, 6986). The chairman of the Committee of the Whole does not determine the privileges of a Member under a general leave to print in the Record, that being for the House alone (V, 6988). Neither may the Committee of the Whole grant a general leave to print, although for convenience it does permit individual Members to extend their remarks (V, 7009, 7010; VIII, 3488–3490; Aug. 31, 1965, p. 22385), nor may the Committee of the Whole permit the inclusion of extraneous material (Jan. 23, 1936, p. 950; Feb. 1, 1937, p. 656; Sept. 19, 1967, p. 26032).

§ 689. Correction of the Congressional Record.

While the House controls the Congressional Record, the Speaker with the assent of the House laid down the principle that words spoken by a Member in order might not be changed by the House, as this would be determining what a Member should utter on the floor (V, 6974; VI, 583; VIII, 3469, 3498). Neither should one House strike out matter placed in the Record by permission of the other House (V, 6966). But the House may correct the speech of one of its Members so that it may record faithfully what he actually said (V, 6972). Similarly, a motion to correct the Record has been entertained to allow a Member to print in subsequent edition of the daily Record the correct text of an amendment that he had offered on a previous day and that had been substantially misprinted in the daily Record for the day on which it was offered (Deschler, ch. 5, § 18.6). In addition, privileged motions have been permitted to correct the Record as follows: (1) striking unparliamentary words inserted in the Record (Deschler, ch. 5, § 17); (2) correcting the Record where the remarks of one Member have been attributed to another (Deschler, ch. 5, §§ 18.1, 18.2); (3) correcting the Record where a Member has improperly altered his remarks during an exchange of colloquy with another Member (Deschler, ch. 5, § 18.9). Mere typographical errors in the Record or ordinary revisions of a Member's remarks do not give rise to privileged motions for the correction of the Record (Apr. 25, 1985, p. 9419), since such changes for the permanent edition of the Record may be made without the permission of the House (Deschler, ch. 5, § 19) (subject to clause 8 of rule XVII). The House does not change the Record merely to show what a Member should have said during debate (Deschler, ch. 5, § 18).

Furthermore, the Speaker declines to entertain unanimous-consent requests to correct the Record on a vote taken by electronic device, based upon the presumed accuracy of the electronic system and the ability and responsibility of each Member to verify his vote (Feb. 6, 1973, p. 3558; Apr. 18, 1973, p. 13081; Dec. 3, 1974, p. 37897). It also has been held that a Member may not, in a controversy over a proposed correction of the Record as to a matter of business, demand as a matter of right the reading of the reporter's notes (V, 6967; VIII, 3460).

The accuracy and propriety of reports in the Congressional Record constitute questions of the privileges of the House (see, § 704, *infra*). Subject to the requirements of rule IX, a motion or resolution for the correction of the Congressional Record that involves a question of privilege may be made properly after the reading and approval of the Journal (V, 7013; VIII, 3496), is not in order pending the approval of the Journal (V, 6989), and may not be raised until the Record has appeared (V, 7020). A correction of the Record that involves a motion and a vote is recorded in the Journal (IV, 2877). Propositions to make corrections are sometimes considered by the Committee on House Administration.

§ 690. Unparliamentary remarks and the Congressional Record.

Where a Member had uttered disorderly words on the floor without objection, the House yet decided that it was not precluded from action when the words, after being withheld for revision, appeared in the Record, and struck them out (V, 6979, 6981; VI, 582; VIII, 2538, 3463, 3472). The House also has ordered stricken from the Record printed speeches condemned as unparliamentary for reflections on Members, committees of the House, the House itself (V, 7017), and the Senate (V, 5129). In the 101st Congress a resolution presented as a question of privilege was adopted to direct the Committee on House Administration to report with respect to certain unauthorized deletions from the Record. A task force of that committee recommended that deletion of unparliamentary remarks be permitted only by consent of the House and not by the Member uttering the words under authority to revise and extend (Oct. 27, 1990, p. 37124). That recommendation has been incorporated into the Rules of the House (clause 8(b) of rule XVII). In debating a resolution to strike from the Record disorderly language a Member may not read the language (V, 7004); but it was held that as part of a personal explanation relating to matter excluded as out of order a Member might read the matter, subject to a point of order if the reading should develop anything in violation of the rules of debate (V, 5079). A resolution to omit from the Congressional Record certain remarks merely declared by the Member offering the resolution to be out of order is not privileged (V, 7021). A motion to strike unparliamentary words from the Record is privileged (see § 961, *infra*), although a question of privilege may not subsequently arise therefrom (V, 7023; VI, 596).

§ 692. "Leave to print" in the Congressional Record.

The practice of inserting in the Congressional Record speeches not actually delivered on the floor has developed by consent of the House as the membership has increased and it has become difficult at times for every Member to express at length on the floor his reasons for his attitude on public questions (V, 6990–6996, 6998–7000). The House, in granting such leave to print, stipulates that it be exercised without unreasonable freedom (V, 7002, 7003). For example: (1) a Member with permission to insert one matter may not insert another (V, 7001; VIII, 3462, 3479, 3480); (2) a Member may not insert statements and letters of others unless the leave granted specifies such matter as extraneous (VIII, 3475, 3481), whether the extension be under general leave for all Members or individual; (3) a Member may not insert that which would not have been in order if uttered on the floor, and the House may exclude such insertion in whole or in part (V, 7004–7008; VIII, 3495; Oct. 2, 1992, p. 30709; Sept. 27, 1996, p. 25633); (4) a Member may not insert in the Record the individual votes of Members on a question of which the yeas and nays have not been entered on the Journal (V, 6982). The principle that a Member shall not be called to order for words spoken in debate if business has intervened does not apply to a case where leave to print has been violated (V, 7005). Neither

the House nor the Committee of the Whole may permit the insertion of an entire colloquy between two or more Members not actually delivered (Aug. 10, 1982, pp. 20266, 20267; Oct. 3, 1985, p. 26028; Dec. 15, 1995, p. 37133). This prohibition does not apply to the insertion of remarks spoken in debate in the Senate in the form of a colloquy (Mar. 7, 2006, p. ——) given the form of clause 1 of rule XVII as adopted in the 109th Congress.

The House, and not the Speaker, determines what liberty shall be allowed to a Member who has leave to extend his remarks (V, 6997–7000; VIII, 3475), whether or not a copyrighted article shall be printed therein (V, 6985), as to an alleged abuse of the leave to print (V, 7012; VIII, 3474), or as to a proposed amendment (V, 6983). General leave to print may be granted only by the House, although in the Committee of the Whole a Member, by unanimous consent, may be given leave to extend his remarks (V, 7009, 7010; VIII, 3488–3490). In the Committee of the Whole leave for an extension of remarks should not be granted except in connection with remarks actually delivered and relevant to the bill; and the extension under such circumstances should be brief (Speaker Longworth, Mar. 18, 1926, p. 5854).

Where a Member abused a leave to print on the last day of the session, the House at the next session condemned the abuse and declared the matter not a legitimate part of the official debates (V, 7017). An abuse of the leave to print gives rise to a question of privilege (V, 7005–7008, 7011; VIII, 3163, 3491, 3495), and a resolution or motion to expunge from the Record in such a case is offered as a question of privilege (V, 7012; VIII, 3475, 3491). An inquiry by the House as to an alleged abuse of the leave to print does not necessarily entitle the Member implicated to the floor on a question of privilege (V, 7012). Clause 8 of rule XVII (formerly clause 9 of rule XIV) requires substantive remarks inserted under leave to revise and extend to be printed in distinctive type and precludes deletion under such permission of words actually uttered (Jan. 4, 1995, p. 541).

A motion that a Member be permitted to extend his remarks in the Record is not privileged (Feb. 8, 1950, p. 1661), and under the rules of the Joint Committee on Printing, one Member cannot obtain permission for other individual Members to extend their remarks (rule 5 of House Supplement, § 686, *supra*).

Where extraneous material proposed to be inserted in the body or in the Extension of Remarks portion of the Record exceeds two Record pages, the rules of the Joint Committee on Printing require that the Member state an estimate of printing cost when permission is requested to make the insertion (Feb. 12, 1962, p. 2207; May 24, 1972, p. 18653). It is the Member's responsibility and not that of the Chair to ascertain the cost of printing extraneous material and obtaining consent of the House when necessary (Feb. 11, 1994, p. 2245). As indicated in supplemental rule 3 of the Laws and Rules for Publication of the Congressional Record, the general leave request of the floor manager permits matter pertaining to

specific legislation, including tables and charts but not newspaper clippings and editorials. The Clerk normally does not require a cost estimate for charts and tables admitted under general leave that exceed two Record pages.

The Joint Committee on Printing amended the rules for publication of the Record, effective March 1, 1978, to require the identification in the Record by "bullet" symbols of statements or insertions no part of which were actually delivered in debate (Feb. 20, 1978, p. 3676). Where the House permitted all Members leave to revise and extend their remarks on a certain subject, those Members who actually spoke during the debate could revise their remarks to appear as if actually delivered, but Members' statements no part of which were spoken were preceded and followed by a "bullet" symbol (Nov. 15, 1983, p. 32729). In the 99th Congress, the House adopted a resolution requesting the Joint Committee on Printing to adopt temporary rules to require distinctive type styles rather than bulleting of remarks not actually spoken in debate (H. Res. 230, July 31, 1985, p. 21783), and also adopted a resolution requesting that those rules be made permanent (H. Res. 514, Aug. 12, 1986, p. 20980). Under regulations of the Joint Committee on Printing, remarks delivered or inserted under leave to revise and extend in connection with a "one-minute speech" made before legislative business are printed after legislative business if exceeding 300 words (Speaker O'Neill, Apr. 5, 1978, p. 8846). See § 686, *supra*.

Based upon several unauthorized insertions of extensions of remarks in the Record, the Speaker announced that henceforth all extensions of remarks must be signed by the Member submitting them (Aug. 15, 1974, p. 28385). The House by unanimous consent may grant permission for all Members to extend their remarks and to include extraneous material within the established limits in that section of the Congressional Record entitled "Extensions of Remarks" for a session of Congress (*e.g.*, Jan. 6, 1999, p. 247; Jan. 3, 2001, p. 38).

News media galleries

§ 693. Unofficial reporters in the press gallery and on the floor.

2. A portion of the gallery over the Speaker's chair, as may be necessary to accommodate representatives of the press wishing to report debates and proceedings, shall be set aside for their use. Reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may prescribe from time to time. The Standing Committee of Correspondents for the Press Gallery, and the Executive Committee of

Correspondents for the Periodical Press Gallery, shall supervise such galleries, including the designation of its employees, subject to the direction and control of the Speaker. The Speaker may assign one seat on the floor to Associated Press reporters and one to United Press International reporters, and may regulate their occupation. The Speaker may admit to the floor, under such regulations as he may prescribe, one additional representative of each press association.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XXXIV. When it was transferred to this clause, it also was amended to reflect the existing practice of including the Periodical Press Gallery under the ambit of the rule (H. Res. 5, Jan. 6, 1999, p. 47). This provision was first adopted in 1857 and has been amended from time to time (V, 7304; VIII, 3642; Jan. 3, 1953, p. 24; Jan. 22, 1971, p. 144). See also Consumers Union *v.* Periodical Correspondents' Association, 1515 F.2d 1341 (D.C. Cir. 1975), *cert. den.* 423 U.S. 1051 (1976) (action in enforcing correspondents' association regulations is within legislative immunity granted by the Speech or Debate Clause).

§694. Unofficial reporters in the radio gallery and on the floor.

3. A portion of the gallery as may be necessary to accommodate reporters of news to be disseminated by radio, television, and similar means of transmission, wishing to report debates and proceedings, shall be set aside for their use. Reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may prescribe. The Executive Committee of the Radio and Television Correspondents' Galleries shall supervise such gallery, including the designation of its employees, subject to the direction and control of the Speaker. The Speaker may admit to the floor, under such reg-

ulations as he may prescribe, one representative of the National Broadcasting Company, one of the Columbia Broadcasting System, and one of the American Broadcasting Company.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XXXIV (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially on April 20, 1939 (p. 4561), and was amended on May 30, 1940 (p. 7208) and on January 22, 1971 (p. 144).

RULE VII

RECORDS OF THE HOUSE

Archiving

§ 695. Duties of Clerk and committees as to custody of papers before committees.

1. (a) At the end of each Congress, the chairman of each committee shall transfer to the Clerk any noncurrent records of such committee, including the subcommittees thereof.

(b) At the end of each Congress, each officer of the House elected under rule II shall transfer to the Clerk any noncurrent records made or acquired in the course of the duties of such officer.

2. The Clerk shall deliver the records transferred under clause 1, together with any other noncurrent records of the House, to the Archivist of the United States for preservation at the National Archives and Records Administration. Records so delivered are the permanent property of the House and remain subject to this rule and any order of the House.

Public availability

3. (a) The Clerk shall authorize the Archivist to make records delivered under clause 2 avail-

able for public use, subject to clause 4(b) and any order of the House.

(b)(1) A record shall immediately be made available if it was previously made available for public use by the House or a committee or a subcommittee.

(2) An investigative record that contains personal data relating to a specific living person (the disclosure of which would be an unwarranted invasion of personal privacy), an administrative record relating to personnel, or a record relating to a hearing that was closed under clause 2(g)(2) of rule XI shall be made available if it has been in existence for 50 years.

(3) A record for which a time, schedule, or condition for availability is specified by order of the House shall be made available in accordance with that order. Except as otherwise provided by order of the House, a record of a committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.

(4) A record (other than a record referred to in subparagraph (1), (2), or (3)) shall be made available if it has been in existence for 30 years.

4. (a) A record may not be made available for public use under clause 3 if the Clerk determines that such availability would be detrimental to the public interest or inconsistent with the rights and privileges of the House. The

Clerk shall notify in writing the chairman and ranking minority member of the Committee on House Administration of any such determination.

(b) A determination of the Clerk under paragraph (a) is subject to later orders of the House and, in the case of a record of a committee, later orders of the committee.

5. (a) This rule does not supersede rule VIII or clause 11 of rule X and does not authorize the public disclosure of any record if such disclosure is prohibited by law or executive order of the President.

(b) The Committee on House Administration may prescribe guidelines and regulations governing the applicability and implementation of this rule.

(c) A committee may withdraw from the National Archives and Records Administration any record of the committee delivered to the Archivist under this rule. Such a withdrawal shall be on a temporary basis and for official use of the committee.

Definition of record

6. In this rule the term "record" means any official, permanent record of the House (other than a record of an individual Member, Delegate, or Resident Commissioner), including—

(a) with respect to a committee, an official, permanent record of the committee (including any record of a legislative, oversight, or other

activity of such committee or a subcommittee thereof); and

(b) with respect to an officer of the House elected under rule II, an official, permanent record made or acquired in the course of the duties of such officer.

Before the House recodified its rules in the 106th Congress, clauses 1 through 6 were found in former rule XXXVI (H. Res. 5, Jan. 6, 1999, p. 47). That rule was adopted initially in 1880 (V, 7260). Clause 2 (which derived from section 140(a) of the Legislative Reorganization Act of 1946 (60 Stat. 812)) was added in the 83d Congress when the rule was also renumbered (H. Res. 5, Jan. 3, 1953, p. 24). It was amended on January 22, 1971 (p. 144). It was again amended in the 99th Congress to change the reference from the General Services Administration to the National Archives and Records Administration (H. Res. 114, Oct. 14, 1986, p. 30821). The rule was rewritten entirely in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 73) to incorporate the provisions of H. Res. 419 as reported from the Committee on Rules in the 100th Congress (H. Rept. 100–1054). Clerical corrections were effected to reflect changes in the name of the Committee on House Administration in the 104th and 106th Congresses (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 467; H. Res. 5, Jan. 6, 1999, p. 47). Clerical corrections were effected in the 107th Congress to correct cross references (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 24).

The Clerk has historically been authorized to permit the Administrator of General Services (now Archivist) to make available for use certain records of the House transferred to the National Archives (H. Res. 288, June 16, 1953, p. 6641). Under this rule, an order of the House is required for the release of noncurrent records of the House not covered by clause 3 of this rule (Mar. 22, 1991, p. 7549).

Withdrawal of papers

§ 696. Custody of papers in the files of the House.

7. A memorial or other paper presented to the House may not be withdrawn from its files without its leave. If withdrawn certified copies thereof shall be left in the Office of the Clerk. When an act passes for the settlement of a claim, the Clerk may transmit to the officer charged with the settlement thereof the papers on file in his office relating to such claim. The Clerk may lend tem-

porarily to an officer or bureau of the executive departments any papers on file in his office relating to any matter pending before such officer or bureau, taking proper receipt therefor.

Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXXVII (H. Res. 5, Jan. 6, 1999, p. 47). It was adopted initially in 1873 and amended in 1880 (V, 7256). It was renumbered January 3, 1953 (p. 24).

The House usually allows the withdrawal of papers only in cases where there has been no adverse report. As the rules for the order of business give no place to the motion to withdraw, it is made by unanimous consent (V, 7259). The House formerly adopted a privileged resolution at the beginning of each Congress authorizing the Clerk to furnish certified copies of certain types of House papers subpoenaed by courts upon determination of relevancy by the court, but not permitting production of executive session papers or transfer of original papers (Jan. 3, 1973, p. 30).

See rule VIII, *infra* for current procedure for response to subpoenas for papers of the House.

RULE VIII

RESPONSE TO SUBPOENAS

§ 697. Response to subpoenas.

1. When a Member, Delegate, Resident Commissioner, officer, or employee of the House is properly served with a judicial or administrative subpoena or judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any document relating to the official functions of the House, such Member, Delegate, Resident Commissioner, officer, or employee shall comply, consistently with the privileges and rights of the House, with the judicial or administrative subpoena or judicial order as hereinafter provided, unless otherwise determined under this rule.

2. Upon receipt of a properly served judicial or administrative subpoena or judicial order described in clause 1, a Member, Delegate, Resident Commissioner, officer, or employee of the House shall promptly notify the Speaker of its receipt in writing. Such notification shall promptly be laid before the House by the Speaker. During a period of recess or adjournment of longer than three days, notification to the House is not required until the reconvening of the House, when the notification shall promptly be laid before the House by the Speaker.

3. Once notification has been laid before the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall determine whether the issuance of the judicial or administrative subpoena or judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House. Such Member, Delegate, Resident Commissioner, officer, or employee shall notify the Speaker before seeking judicial determination of these matters.

4. Upon determination whether a judicial or administrative subpoena or judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall immediately notify the Speaker of the determination in writing.

5. The Speaker shall inform the House of a determination whether a judicial or administrative subpoena or judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House. In so informing the House, the Speaker shall generally describe the records or information sought. During a period of recess or adjournment of longer than three days, such notification is not required until the reconvening of the House, when the notification shall promptly be laid before the House by the Speaker.

6. (a) Except as specified in paragraph (b) or otherwise ordered by the House, upon notification to the House that a judicial or administrative subpoena or judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall comply with the judicial or administrative subpoena or judicial order by supplying certified copies.

(b) Under no circumstances may minutes or transcripts of executive sessions, or evidence of witnesses in respect thereto, be disclosed or copied. During a period of recess or adjournment of longer than three days, the Speaker may authorize compliance or take such other action as he considers appropriate under the circumstances. Upon the reconvening of the House, all matters

that transpired under this clause shall promptly be laid before the House by the Speaker.

7. A copy of this rule shall be transmitted by the Clerk to the court when a judicial or administrative subpoena or judicial order described in clause 1 is issued and served on a Member, Delegate, Resident Commissioner, officer, or employee of the House.

8. Nothing in this rule shall be construed to deprive, condition, or waive the constitutional or legal privileges or rights applicable or available at any time to a Member, Delegate, Resident Commissioner, officer, or employee of the House, or of the House itself, or the right of such Member, Delegate, Resident Commissioner, officer, or employee, or of the House itself, to assert such privileges or rights before a court in the United States.

Before the House recodified its rules in the 106th Congress, this provision was found in former rule L (H. Res. 5, Jan. 6, 1999, p. 47). It was added initially in the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98). Until the 95th Congress, whenever a Member, officer, or employee received a subpoena, the House would adopt a resolution authorizing the person to respond. This case-by-case approach was changed in the 95th and 96th Congresses (H. Res. 10, Jan. 4, 1977, p. 73; H. Res. 10, Jan. 15, 1979, p. 19) when general authority was granted to respond to subpoenas and a procedure was established for automatic compliance without the necessity of a House vote. This standing authority was clarified and revised later in the 96th Congress (H. Res. 722, Sept. 17, 1980, pp. 25777–90) and forms the basis for the present rule. In the 107th Congress the rule was amended to broaden its application to administrative subpoenas (sec. 2(c), H. Res. 5, Jan. 3, 2001, p. 25).

In the 102d Congress the House considered as questions of the privileges of the House resolutions: responding to a subpoena for records of the "bank" in the Office of the Sergeant-at-Arms (Apr. 29, 1992, p. 9753); responding to a contemporaneous request for such records from a Special Counsel (Apr. 29, 1992, p. 9763); and authorizing an officer of the House to release certain documents in response to another such request from the Special Counsel (May 28, 1992, p. 12790). Under rule VIII as amended in the 107th Con-

gress, a Member or employee receiving such a subpoena informs the Speaker, as had been the practice under precedent (Deschler, ch. 11, § 14.8) before the rule was amended (July 30, 1998, p. 18298; May 3, 1999, p. 8040).

Under clause 2, the Speaker promptly lays before the House a communication notifying him of the receipt of a subpoena, but the rule does not require that the text of a subpoena be printed in the Record (July 31, 1992, p. 20602).

RULE IX

QUESTIONS OF PRIVILEGE

§ 698. Definition of questions of privilege.

1. Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; and second, those affecting the rights, reputation, and conduct of Members, Delegates, or the Resident Commissioner, individually, in their representative capacity only.

§ 699. Precedence of questions of privilege.

2. (a)(1) A resolution reported as a question of the privileges of the House, or offered from the floor by the Majority Leader or the Minority Leader as a question of the privileges of the House, or offered as privileged under clause 1, section 7, article I of the Constitution, shall have precedence of all other questions except motions to adjourn. A resolution offered from the floor by a Member, Delegate, or Resident Commissioner other than the Majority Leader or the Minority Leader as a question of the privileges of the House shall have precedence of all other questions except motions to adjourn only at a time or place, designated by the Speaker, in the legislative schedule within two legislative days after the day on

which the proponent announces to the House his intention to offer the resolution and the form of the resolution. Oral announcement of the form of the resolution may be dispensed with by unanimous consent.

(2) The time allotted for debate on a resolution offered from the floor as a question of the privileges of the House shall be equally divided between (A) the proponent of the resolution, and (B) the Majority Leader, the Minority Leader, or a designee, as determined by the Speaker.

(b) A question of personal privilege shall have precedence of all other questions except motions to adjourn.

This rule was adopted in 1880 (III, 2521). It merely defined what had been long established in the practice of the House but what the House had hitherto been unwilling to define (II, 1603). It was amended in the 103d Congress to authorize the Speaker to designate a time within a period of two legislative days for the consideration of a resolution to be offered from the floor by a Member other than the Majority Leader or the Minority Leader as a question of the privileges of the House after that Member has announced to the House his intention to do so and the content of the resolution, and to divide the time for debate on a resolution offered from the floor as a question of privilege (H. Res. 5, Jan. 5, 1993, p. 49). Clause 2 was amended in the 106th Congress to permit the announcement of the form of the resolution to be dispensed with by unanimous consent, and clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

§ 700. Questions of privileges of the House.

The body of precedent relating to questions of the privileges of the House includes rulings that span the adoption of standing rule IX in 1880. The rule was adopted "to prevent the large consumption of time which resulted from Members getting the floor for all kinds of speeches under the pretext of raising a question of privilege" (III, 2521). In a landmark decision on constitutional assertions of privilege, Speaker Gillett placed significant reliance on the history of rule IX by observing that it "was obviously adopted for the purpose of hindering the extension of constitutional or other privilege" (VI, 48).

§ 701. Questions relating to organization.

The privileges of the House include questions relating to its organization (I, 22–24, 189, 212, 290), and the title of its Members to their seats (III, 2579–2587), which may be raised as questions of the privileges of the House even though the subject has been previously referred to committee (I, 742; III, 2584; VIII, 2307). Such resolutions include those: (1) to declare prima facie right to a seat, or to declare a vacancy, where the House has referred the questions of prima facie and final rights to an elections committee for investigation (H. Res. 1, Jan. 3, 1985, p. 381; H. Res. 52, Feb. 7, 1985, p. 2220; H. Res. 97, Mar. 4, 1985, p. 4277; H. Res. 121, Apr. 2, 1985, p. 7118; H. Res. 148, Apr. 30, 1985, p. 9801); (2) to raise various questions incidental to the right to a seat (I, 322, 328, 673, 742; II, 1207; III, 2588; VII, 2316), such as a resolution to declare a vacancy in the House because a Member-elect is unable to take the oath of office and to serve as a Member or to expressly resign the office due to an incapacitating illness (H. Res. 80, Feb. 24, 1981, p. 2916); (3) to declare neither of two claimants seated pending a committee report and decision of final right to the seat by the House (Jan. 3, 1961, pp. 23–25; Jan. 3, 1985, p. 381), including incidental provisions providing compensation for both claimants and office staffing by the Clerk (Jan. 3, 1985, p. 381) and to direct temporary seating of a certified Member-elect pending determination of final right notwithstanding prior House action declining to seat either claimant (Feb. 7, 1985, p. 2220; Mar. 4, 1985, p. 4277); and (4) to propose directly to dispose of a contest over the title to a seat in the House (Nov. 8, 1997, p. 25294; Nov. 9, 1997, p. 25721; Jan. 28, 1998, p. 175) or to dispose of such contest upon the expiration of a specified day (Oct. 23, 1997, p. 23231; Oct. 29, 1997, p. 23695; Oct. 30, 1997, p. 23959; Nov. 5, 1997, p. 24645).

A resolution electing a House officer is presented as a question of the privileges of the House (July 31, 1997, p. 17021; Feb. 6, 2007, p. ——). A resolution declaring vacant the Office of the Speaker is presented as a matter of high constitutional privilege (VI, 35). For further discussion with respect to the organization of the House and the title of its Members to seats, see §§ 18–30, 46–51, 56, and 58–60, *supra*.

§ 702. Questions relating to constitutional prerogatives.

The privileges of the House, as distinguished from that of the individual Member, include questions relating to its constitutional prerogatives in respect to revenue legislation and appropriations (see, *e.g.*, II, 1480–1501; VI, 315; Nov. 8, 1979, p. 31517; Oct. 1, 1985, p. 25418; June 16, 1988, p. 14780; June 21, 1988, p. 15425; Aug. 12, 1994, p. 21655). For a more thorough record of revenue bills returned to the Senate, see § 102, *supra*. Such a question of privilege may be raised at any time when the House is in possession of the papers (June 20, 1968, Deschler, ch. 13, § 14.2; Aug. 19, 1982, p. 22127), but not otherwise (Apr. 6, 1995, p. 10701). Such a question of privilege includes a resolution asserting that a conference report accompanying a House bill originated revenue provisions in derogation of the sole constitutional prerogative of the House and

resolving that such bill be recommitted to conference (July 27, 2000, p. 16565). The constitutional prerogatives of the House also include its function with respect to: (1) impeachment and matters incidental thereto (see § 604, *supra*); (2) bills "pocket vetoed" during an intersession adjournment (Nov. 21, 1989, p. 31156); (3) its power to punish for contempt, whether of its own Members (II, 1641–1665), of witnesses who are summoned to give information (II, 1608, 1612; III, 1666–1724), or of other persons (II, 1597–1640); and (4) questions relating to legal challenges involving the prerogatives of the House (Jan. 29, 1981, p. 1304; Mar. 30, 1982, p. 5890), including a resolution responding to a court challenge to the prerogative of the House to establish a Chaplain (Mar. 30, 1982, p. 5890). A resolution laying on the table a message from the President containing certain averments inveighing disrespect toward Members of Congress was considered as a question of the privileges of the House asserting a breach of privilege in a formal communication to the House (VI, 330).

For a discussion of the relationship of the House and its Members to the courts, see §§ 290–291b, *supra.* For examples of Senate messages requesting the return of Senate measures that intruded on the constitutional prerogative of the House to originate revenue measures, see § 565, *supra.* For a discussion of the prerogatives of the House with respect to treaties affecting revenue, see § 597, *supra*.

The ordinary rights and functions of the House under the Constitution are exercised in accordance with the rules without precedence as matters of privilege (III, 2567). Neither the enumeration of legislative powers in article I of the Constitution nor the prohibition in the seventh clause of section 9 of that article against any withdrawal from the Treasury except by enactment of an appropriation renders a measure purporting to exercise or limit the exercise of those powers a question of the privileges of the House, because rule IX is concerned not with the privileges of the Congress, as a legislative branch, but only with the privileges of the House, as a House (Feb. 7, 1995, p. 3905; Dec. 22, 1995, p. 38501; Jan. 3, 1996, p. 40; Jan. 24, 1996, p. 1248; Feb. 1, 1996, p. 2245; Oct. 10, 1998, p. 25420; Nov. 4, 1999, pp.28528–33; June 6, 2002, p. 9492 (sustained by tabling of appeal); Oct. 2, 2002, pp. 18932 (sustained by tabling of appeal), 18934 (sustained by tabling of appeal), 18936 (sustained by tabling of appeal), 18938 (sustained by tabling of appeal); Oct. 3, 2002, pp. 19001 (sustained by tabling of appeal), 19002 (sustained by tabling of appeal)). For example, the following legislative propositions have been held not to involve a question of constitutional privileges of the House: (1) a resolution requiring a committee inquiry into the extent to which the right to vote was denied under the provisions of the 14th amendment (VI, 48); (2) a resolution alleging an unconstitutional abrogation of a treaty by the President, and calling on the President to seek the approval of Congress before such abrogation (June 6, 2002, p. 9492 (sustained by tabling of appeal)); and (3) a resolution alleging that Congress had been negligent in its oversight responsibilities with regard to military involvement in Iraq, and calling on leadership and

committee chairmen to conduct oversight of that matter, but refraining from alleging any impropriety (Nov. 3, 2005, p. —— (sustained by tabling of appeal)). On the other hand, an extraordinary question relating to the House vote required by the Constitution to pass a joint resolution extending the ratification period of a proposed constitutional amendment was raised as a question of privilege where the House had not otherwise made a separate determination on that procedural question and where consideration of the joint resolution had been made in order (Speaker O'Neill, Aug. 15, 1978, p. 26203).

§ 703. Questions relating to official conduct.

The privileges of the House include certain questions relating to the conduct of Members, officers, and employees (see, *e.g.*, I, 284, 285; III, 2628, 2645–2647). Under that standard, the following resolutions have been held to constitute questions of the privileges of the House: (1) directing the Committee on Standards of Official Conduct to investigate illegal solicitation of political contributions in the House Office Buildings by unnamed sitting Members (July 10, 1985, p. 18397); (2) establishing an ad hoc committee to investigate allegations of "ghost" employment in the House (Apr. 9, 1992, p. 9029); (3) directing a committee to further investigate the conduct of a Member on which it has reported to the House (Aug. 5, 1987, p. 22458); (4) directing the Committee on Standards of Official Conduct to report to the House the status of an investigation pending before the committee (Nov. 17, 1995, p. 33846; Nov. 30, 1995, p. 35075); (5) appointing an outside counsel (Sept. 19, 1996, p. 23851; Sept. 24, 1996, p. 24525); (6) committing other matters to an outside counsel already appointed by the committee (June 27, 1996, p. 15917); (7) directing the committee to release the report of an outside counsel (Sept. 19, 1996, p. 23852; Sept. 24, 1996, p. 24526); (8) making allegations concerning the propriety of responses by officers of the House to court subpoenas for papers of the House without notice to the House, and directions to a committee to investigate such allegations (Feb. 13, 1980, p. 2768); (9) making allegations of improper representation by counsel of the legal position of Members in a brief filed in the Court and directions for withdrawal of the brief (Mar. 22, 1990, p. 4996); (10) making allegations of unauthorized actions by a committee employee to intervene in judicial proceedings (Feb. 5, 1992, p. 1601); (11) directing the Clerk to notify interested parties that the House regretted the use of official resources to present to the Supreme Court of Florida a legal brief arguing the unconstitutionality of congressional term limits, and that the House had no position on that question (Nov. 4, 1991, p. 29968); (12) alleging a chronology of litigation relating to the immunity of a Member from civil liability for bona fide official acts and expressing the views of the House thereon (May 12, 1988, p. 10574); (13) directing the Committee on Standards of Official Conduct to establish an investigative subcommittee and appoint outside counsel to investigate certain allegations against a Member (Oct. 8, 2004, p. ——); (14) alleging, among other things, the improper and unilateral firing of nonpartisan staff of the Com-

mittee on Standards of Official Conduct and directing the Speaker to appoint a bipartisan task force to address the efficacy of that committee so as to restore public confidence in the ethics process (Mar. 15, 2005, p. ——; Apr. 14, 2005, p. ——) and directing the committee to appoint nonpartisan professional staff (June 9, 2005, p. ——); (15) alleging, among other things, the improper and unilateral firing of nonpartisan staff of the Committee on Standards of Official Conduct and illegal activities between a lobbyist and Members, and directing that committee to investigate misconduct of Members and staff with that lobbyist (Mar. 30, 2006, p. ——; Apr. 5, 2006, p. ——); (16) alleging improper conduct by a former Member with regard to the House Page program and insufficient response thereto by the House leadership, and directing the Committee on Standards of Official Conduct to establish a subcommittee to investigate (Sept. 29, 2006, p. ——); (17) alleging a violation of the Code of Official Conduct and issuing a reprimand (May 22, 2007, p. ——); (18) directing the Committee on Standards of Official Conduct to investigate a Member's conduct and make a recommendation regarding expulsion (June 5, 2007, p. ——). For a discussion of disciplinary resolutions meting out punishment for violations of standards of official conduct, which constitute questions of the privileges of the House, see §§ 62–66, *supra*.

In the 102d and 103d Congresses, a large number of resolutions relating to the operation of the "bank" in the Office of the Sergeant-at-Arms and the management of the Office of the Postmaster were presented as questions of the privileges of the House. The former category included resolutions: (1) terminating all bank and check-cashing operations in the Office of the Sergeant-at-Arms and directing the Committee on Standards of Official Conduct to review GAO audits of such operations (Oct. 3, 1991, p. 25435); (2) instructing the Committee on Standards of Official Conduct to disclose the names and pertinent account information of Members and former Members found to have abused the privileges of the "bank" in the Office of the Sergeant-at-Arms (Mar. 12, 1992, p. 5519); (3) instructing the Committee on Standards of Official Conduct to disclose further account information respecting Members and former Members having checks held by that entity (Mar. 12, 1992, p. 5534); (4) mandating full and accurate disclosure of pertinent information concerning the operation of that entity (Mar. 12, 1992, p. 5551); (5) responding to a subpoena for records of that entity (Apr. 29, 1992, p. 9453); (6) responding to a contemporaneous request for such records from a Special Counsel (Apr. 29, 1992, p. 9763); and (7) authorizing an officer of the House to release certain documents in response to another such request from the Special Counsel (May 28, 1992, p. 12790). The latter category included resolutions: (1) directing the Committee on House Administration to conduct a thorough investigation of the operation and management of the Office of the Postmaster in light of recent press allegations of wrongdoing (Feb. 5, 1992, p. 1589); (2) creating a select committee to investigate the same matter (Feb. 5, 1992, p. 1599); (3) requiring an explanation of a reported interference with authorized access to a com-

mittee investigation of that matter (Apr. 9, 1992, p. 9024); (4) redressing a perception of obstruction of justice by recusing the General Counsel to the Clerk from matters relating to the investigation of that matter (Apr. 9, 1992, p. 9076); (5) directing the Speaker to explain the lapse of time before the House received notice that several Members and an officer of the House had received subpoenas to testify before a Federal grand jury investigating that matter (May 14, 1992, p. 11309); (6) directing the Committee on House Administration to transmit to the Committee on Standards of Official Conduct and to the Department of Justice all records obtained by its task force to investigate that matter (July 22, 1992, p. 18786); (7) directing the Committee on Standards of Official Conduct to investigate violations of confidentiality by staff engaged in the investigation of that matter (July 22, 1992, p. 18795); (8) directing the Committee on House Administration to release transcripts of the proceedings of its task force to investigate that matter, where the investigation was ordered as a question of privilege and its results had been ordered reported to the House (July 22, 1992, p. 18796; July 23, 1992, p. 19125); (9) directing the Committee on House Administration to redress the erroneous naming of a Member in minority views accompanying a report on that matter (July 23, 1992, p. 19121); (10) directing the public release of official papers of the House relating to an investigation by the Committee on House Administration's task force to investigate the operation and management of the Office of the Postmaster (July 22, 1993, p. 16634); (11) directing the public release of transcripts and other relevant documents relating to an investigation by the Committee on House Administration's task force to investigate the operation and management of the Office of the Postmaster unless two designees of the bipartisan leadership agree to the contrary (June 9, 1994, p. 12437); and (12) directing the Committee on Standards of Official Conduct to defer any investigation relating to the operation of the former Post Office until assured that its inquiry would not interfere with an ongoing criminal investigation, as well as a resolution directing the Committee on Standards of Official Conduct to proceed with the investigation (Mar. 2, 1994, p. 3672).

In the 105th Congress a 12-member bipartisan task force appointed by the Majority and Minority Leaders conducted a comprehensive review of the House ethics process. During the deliberations of the task force, the House imposed a moratorium on raising certain questions of privilege under this rule with respect to official conduct and on the filing or processing of ethics complaints. The moratorium was imposed in the expectation that the recommendations of the task force would include rules changes relating to establishment and enforcement of standards of official conduct for Members, officers, and employees of the House (Feb. 12, 1997, p. 2058). The moratorium was extended through September 10, 1997 (July 30, 1997, p. 16958). The task force recommendations ultimately were reported from the Committee on Rules and were adopted with certain amendments (H. Res. 168, Sept. 18, 1997, p. 19340).

§ 704. Questions relating to integrity of proceedings.

The privileges of the House include questions relating to the integrity of its proceedings, including the processes by which bills are considered (III, 2597–2601, 2614; IV, 3383, 3388, 3478), such as the constitutional question of the vote required to pass a joint resolution extending the State ratification period of a proposed constitutional amendment (Speaker O'Neill, Aug. 15, 1978, p. 26203). Privileges of the House also include: (1) resignation of a Member from a select or standing committee (Speaker Albert, June 16, 1975, p. 19054; Speaker O'Neill, Mar. 8, 1977, pp. 6579–82); (2) newspaper charges affecting the honor and dignity of the House (VII, 911); and (3) the conduct of representatives of the press (II, 1630, 1631; III, 2627; VI, 553).

Admission to the floor of the House constitutes a question of privilege (III, 2624–2626), including a resolution alleging indecorous behavior of a former Member and instructing the Sergeant-at-Arms to ban the former Member from the floor, and rooms leading thereto, until the resolution of a contested election to which he was party (H. Res. 233, Sept. 18, 1997, p. 19340).

The accuracy and propriety of reports in the Congressional Record also constitute a question of privileges of the House (V, 7005–7023; VIII, 3163, 3461, 3463, 3464, 3491, 3499; Apr. 20, 1936, p. 5704; May 11, 1936, p. 7019; May 7, 1979, p. 10099), including a resolution: (1) asserting that a Member's remarks spoken in debate were omitted from the printed Record, directing that the Record be corrected and requiring the Clerk to report on the circumstances and possible corrective action (July 29, 1983, p. 21685); (2) directing the Committee on Rules to investigate and report to the House within a time certain on alleged alterations of the Congressional Record (Jan. 24, 1984, p. 250); and (3) addressing whether the Record should constitute a verbatim transcript (May 8, 1985, p. 11072; Feb. 7, 1990, p. 1515). Although a motion to correct the Congressional Record based on improper alterations or insertions may constitute a question of privilege, mere typographical errors or ordinary revisions of a Member's remarks do not form the basis for privileged motions to correct the Record (Apr. 25, 1985, p. 9419; see § 690, *supra*). A resolution directing the placement of an asterisk in the Congressional Record to note alleged inaccuracies in the State of the Union address (but not alleging improper transcription of that address) was held not to constitute a question of privilege (Oct. 20, 2003, p. ——).

The protection of House records constitutes a question of the privileges of the House, especially when records are demanded by the courts (III, 2604, 2659, 2660–2664; VI, 587; Sept. 18, 1992, p. 25750; see also § 291, *supra*). Privileges of the House involving records also include resolutions: (1) furnishing certain requested information to an Independent Counsel investigating covert arms transactions with Iran (June 4, 1992, p. 13664); (2) responding to a request of a law enforcement official regarding the timing of the public release of official papers of the House (July 22, 1993,

p. 16624); (3) directing a committee to investigate press publication of a report that the House had ordered not to be released (Speaker Albert, Feb. 19, 1976, p. 3914); (4) directing the public release of transcripts and other relevant documents relating to an investigation by the Committee on House Administration's task force to investigate the operation and management of the Office of the Postmaster unless two designees of the bipartisan leadership agreed to the contrary (June 9, 1994, p. 12437); and (5) alleging that a Member willfully abused his power as chairman of a committee by unilaterally releasing records of the committee in contravention of its rules (adopted "protocol"), and expressing disapproval of such conduct (May 14, 1998, p. 9279). However, a resolution directing a standing committee to release executive-session material referred to it as such by special rule of the House was held to propose a change in the rules and, therefore, not to constitute a question of the privileges of the House under rule IX (Sept. 23, 1998, p. 21562).

A question regarding the accuracy of House documents constitutes a question of privileges of the House (V, 7329), including resolutions: (1) asserting that a printed transcript of joint subcommittee hearings contained unauthorized alterations of the statements of subcommittee members in the prior Congress and that unauthorized alterations may have occurred in other committee hearing transcripts, and proposing the creation of a select committee to investigate and report back by a date certain (June 29, 1983, p. 18279); (2) alleging the unauthorized creation and falsification of documents distributed to the general public at a committee hearing and resolving that the Speaker take appropriate measures to ensure the integrity of the legislative process and report his actions and recommendations to the House (Oct. 25, 1995, p. 29373); (3) alleging that a committee report contained descriptions of recorded votes (as required by clause 3(b) of rule XIII) that deliberately mischaracterized certain amendments and directing the chairman of the committee to file a supplemental report to change those descriptions (May 3, 2005, p. ——); (4) alleging that known errors in the engrossment of a bill were ignored, that matter had been inserted into a conference report after conferees had signed it, that material information concerning legislation had been withheld for the purpose of achieving passage of that measure in a prior Congress, and resolving that the Committee on Standards of Official Conduct investigate inaccuracies in the enrollment of a bill (Feb. 16, 2006, p. ——). The privileges of the House also include: (1) the integrity of its Journal (II, 1363; III, 2620) and messages (III, 2613); (2) unreasonable delay in transmitting an enrolled bill to the President (Oct. 8, 1991, p. 25761); and (3) a concurrent resolution directing the Clerk of the House and the Secretary of the Senate to produce official duplicates of certain legislative papers (Oct. 5, 1992, p. 32064). For a discussion of the privileged status of a request of one House for the return of a measure messaged to the other, see § 565, *supra*.

A resolution alleging that the Chair had improperly ordered the interruption of audio broadcast coverage of certain House proceedings constitutes a question of privileges of the House (Mar. 17, 1988, p. 4180), as does a resolution providing for an experiment in the telecasting and broadcasting of House proceedings (Speaker O'Neill, Mar. 15, 1977, p. 7607). Similarly, a resolution authorizing and directing the Speaker to provide for the audio and visual broadcast coverage of the Chamber while Members are voting has been held to present a question of the privileges of the House, because rule V (formerly clause 9 of rule I), which requires complete and unedited audio and visual coverage of House proceedings and coverage of record votes, had not been implemented (Apr. 30, 1985, p. 9821).

A resolution alleging intentional abuse of House practices and customs in holding a vote open for approximately three hours for the sole purpose of circumventing the initial will of the House and directing the Speaker to take such steps as necessary to prevent further abuse constitutes a question of the privileges of the House (Dec. 8, 2003, p. ——), as does a resolution alleging such abuse, both in a prior Congress and in the current one, and alleging illegal behavior on the House floor during one such vote (bribery of a public official) (Dec. 8, 2005, p. ——).

Alleged improprieties in committee procedures, including charges of committee inaction (III, 2610), secret committee conferences (VI, 578), refusal to make a staff study available to certain Members and to the public (Feb. 14, 1939, p. 1370), refusal to give hearings or allow petitions to be read (III, 2607), refusal to permit committee member to take photostatic copies of committee files (Aug. 14, 1957, p. 14739), and calling for a determination whether a committee violated House rules by voting to take allegedly defamatory testimony in open session (June 30, 1958, p. 12690), were all held not to give rise to a question of the privileges of the House. However, the following resolutions were held to give rise to questions of the privileges of the House: (1) alleging that the chairman of a committee directed his staff to request the Capitol Police to remove minority party members from a committee room where they were meeting during the reading of an amendment, alleging that the chairman deliberately and improperly refused to recognize a legitimate and timely objection by a member of the committee to dispense with the reading of that amendment, resolving that the House disapproves of the manner in which the chairman conducted the markup, and finding that the bill considered at that markup was not validly ordered reported (July 18, 2003, p. ——) and resolving that the House disapproves of the manner in which the chairman summoned the Capitol Police as well as the manner in which he conducted the markup, finding that the bill considered at that markup was not validly ordered reported, and calling for a police report to be placed in the Record (July 23, 2003 p. ——); (2) alleging, among other things, the improper and unilateral firing of nonpartisan staff of the Committee on Standards of Official Conduct and directing the Speaker to appoint a bipartisan task force to address the efficacy of that committee so as to restore public confidence

in the ethics process (Mar. 15, 2005, p. ——; Apr. 14, 2005, p. ——) and directing the committee to appoint nonpartisan professional staff (June 9, 2005, p. ——); (3) alleging that the chairman of a committee intentionally violated House rules and abused his power as chairman during a minority day of hearings under clause 2(j) of rule XI and directing the chairman to schedule a further day of hearings (June 16, 2005, p. ——); (4) alleging that the majority members of a committee wrongfully withheld a committee record from minority committee members (Jan. 24, 2007, p. ——).

§ 705. Questions relating to comfort and convenience.

The privileges of the House include questions relating to the comfort and convenience of Members and employees (III, 2629–2636), such as resolutions concerning the proper attire for Members in the Chamber when the temperature is uncomfortably warm (July 17, 1979, p. 19008); as well as questions relating to safety, such as resolutions requiring an investigation into the safety of Members in view of alleged structural deficiencies in the West Front of the Capitol (July 25, 1980, pp. 19762–64); and directing the appointment of a select committee to inquire into alleged fire safety deficiencies in the environs of the House (May 10, 1988, p. 10286).

§ 706. May not effect change in rules.

A motion to amend the Rules of the House does not present a question of privilege (Speaker Cannon, sustained by the House, thereby overruling the House's decision of March 19, 1910 (VIII, 3376), which held such motion privileged (VIII, 3377)), and a question of the privileges of the House may not be invoked to effect a change in the rules or standing orders of the House or their interpretation (Speaker O'Neill, Dec. 6, 1977, pp. 38470–73; Sept. 9, 1988, p. 23298; July 30, 1992, p. 20339; Jan. 31, 1996, p. 1887), including directions to the Speaker infringing upon his discretionary power of recognition under clause 2 of rule XVII (formerly clause 2 of rule XIV) (July 25, 1980, pp. 19762–64), for example, by requiring that he give priority in recognition to any Member seeking to call up a matter highly privileged pursuant to a statutory provision, over a member from the Committee on Rules seeking to call up a privileged report from that committee (Speaker Wright, Mar. 11, 1987, p. 5403), or by requiring that he state the question on overriding a veto before recognizing for a motion to refer (thereby overruling prior decisions of the Chair to change the order of precedence of motions) (Speaker Wright, Aug. 3, 1988, p. 20281). Similarly, a resolution alleging that, in light of an internationally objectionable French program of nuclear test detonations, for the House to receive the President of France in a joint meeting would be injurious to its dignity and to the integrity of its proceedings, and resolving that the Speaker withdraw the pending invitation and refrain from similar invitations, was held not to present a question of the privileges of the House because it proposed a collateral change in an order of the House previously adopted (that the House recess for the purpose of receiving the President of France) and a new rule for future cases (Jan. 31, 1996, p. 1887). A resolution collaterally challenging the validity or fairness of an adopted rule of the House by delaying its

implementation was held not to give rise to a question of the privileges of the House (Feb. 3, 1993, p. 1974 (sustained by tabling of appeal)). A resolution directing that the party ratios of all standing committees, subcommittees, and staffs thereof be changed within a time certain to reflect overall party ratios in the House was held to constitute a change in the Rules of the House and not to constitute a proper question of the privileges of the House (the standing rules already providing mechanisms for selecting committee members and staff) (Jan. 23, 1984, p. 78). On the other hand, although the Rules of the House establish a procedure for fixing the ratio of majority to minority members on full committees and also provide that subcommittees are subject to the direction and control of the full committee (clause 1 of rule XI), a question of the privileges of the House is raised where it is alleged that subcommittee ratios should reflect full committee ratios established by the House and failure to do so denies representational rights at the subcommittee level (Oct. 4, 1984, p. 30042). A resolution alleging that a recitation of the Pledge of Allegiance at the start of each legislative day would enhance the dignity and integrity of the proceedings of the House and directing that the Speaker implement such a recitation as the practice of the House was held to propose a change in the rules and therefore not to give rise to a question of the privileges of the House (Sept. 9, 1988, p. 23298). A resolution directing that the reprogramming process established in law for legislative branch appropriations be subjected to third-party review for conformity with external standards of accounting but alleging no deviation from duly constituted procedure was held not to give rise to a question of the privileges of the House (May 20, 1992, p. 12005 (sustained by tabling of appeal)). A resolution to permit the Delegate of the District of Columbia to vote on articles of impeachment of the President in contravention of statutory law and the Rules of the House was held to be tantamount to change in the rules and therefore not to constitute a question of the privileges of the House (Dec. 18, 1998, p. 27825). A resolution directing a standing committee to release executive-session material referred to it as such by special rule of the House was held to propose a change in the rules and, therefore, not to constitute a question of the privileges of the House (Sept. 23, 1998, p. 21562). A resolution expressing Congressional sentiment that the President should take specified action to achieve a desired public policy, even though involving executive action under a treaty (under which the Senate had exercised its prerogative to ratify), does not present a question of the privileges of the House, but rather is a legislative matter to be considered under ordinary rules relating to priority of business (June 6, 2002, p. 9492 (sustained by tabling of appeal)).

A question of the privileges of the House may not be invoked to prescribe a special order of business for the House, because otherwise any Member would be able to attach privilege to a legislative measure merely by alleging impact on the dignity of the House based upon House action or inaction (June 27, 1974, p. 21596; Feb. 7, 1995, p. 3905; Dec. 22, 1995, p. 38501;

Jan. 3, 1996, p. 40; Jan. 24, 1996, p. 1248; Feb. 1, 1996, p. 2245; Oct. 10, 1998, p. 25420; Nov. 4, 1999, pp.28528–33; June 6, 2002, p. 9492 (sustained by tabling of appeal); Oct. 2, 2002, pp. 18932 (sustained by tabling of appeal), 18934 (sustained by tabling of appeal), 18936 (sustained by tabling of appeal), 18938 (sustained by tabling of appeal); Oct. 3, 2002, pp. 19001 (sustained by tabling of appeal), 19002 (sustained by tabling of appeal)). For example, the following resolutions have been held not to give rise to a question of the privileges of the House: (1) a resolution directing a committee to meet and conduct certain business (June 27, 1974, p. 21596; July 31, 1975, p. 26250); (2) a resolution alleging that the inability of the House to enact certain legislation constituted an impairment of the dignity of the House, the integrity of its proceedings, and its place in public esteem, and resolving that the House be considered to have passed such legislation (Jan. 3, 1996, p. 40; Jan. 24, 1996, p. 1248); and (3) a resolution precluding an adjournment of the House until a specified legislative measure is considered (Feb. 1, 1996, p. 2247). See also § 702, *supra*, for a discussion of legislative propositions purporting to present questions of the privileges of the House.

§ 707. As distinct from privileged questions.

The clause of the rule giving questions of privilege precedence over all other questions except a motion to adjourn is a recognition of a well-established principle in the House, for it is an axiom of the parliamentary law that such a question "supersedes the consideration of the original question, and must be first disposed of" (III, 2522, 2523; VI, 595). As the business of the House began to increase it was found necessary to give certain important matters a precedence by rule, and such matters are called "privileged questions." But as they relate merely to the order of business under the rules, they are to be distinguished from "questions of privilege" that relate to the safety or efficiency of the House itself as an organ for action (III, 2718). It is evident, therefore, that a question of privilege takes precedence over a matter merely privileged under the rules (III, 2526–2530; V, 6454; VIII, 3465). Certain matters of business, arising under provisions of the Constitution, have been held to have a privilege that superseded the rules establishing the order of business, as bills providing for census or apportionment (I, 305–308), bills returned with the objections of the President (IV, 3530–3536), propositions of impeachment (see § 604, *supra*), and questions incidental thereto (III, 2401, 2418; V, 7261; July 22, 1986, p. 17306; Dec. 2, 1987, p. 33720; Jan. 3, 1989, p. 84; Feb. 7, 1989, p. 1726), matters relating to the count of the electoral vote (III, 2573–2578), resolutions relating to adjournment and recess of Congress (V, 6698, 6701–6706; Nov. 13, 1997, p. 26538), and a resolution declaring the Office of the Speaker vacant (VI, 35); but under later decisions certain of these matters that have no other basis in the Constitution or in the rules for privileged status, such as bills relating to census and apportionment, have been held not to present questions of privilege, and the effect of such decisions is to require all

questions of privilege to come within the specific provisions of this rule (VI, 48; VII, 889; Apr. 8, 1926, p. 7147) (see § 702, *supra*).

A resolution that presents a proper question of the privileges of the House (alteration of subcommittee hearing transcripts) may propose the creation of a select investigatory committee with subpoena authority to report back to the House by a date certain (June 29, 1983, p. 18104), but may not appropriate funds for the investigating committee from the contingent fund (now referred to as "applicable accounts of the House described in clause 1(j)(1) of rule X") (VI, 395).

§ 708. Questions of personal privilege.

The privilege of the Member rests primarily on the Constitution, which gives to him a conditional immunity from arrest (§ 90, *supra*) and an unconditional freedom of debate in the House (III, 2670, § 92, *supra*). A menace to the personal safety of Members from an insecure ceiling in the Hall was held to involve a question of the highest privilege (III, 2685); and an assault on a Member within the Capitol when the House was not in session, from a cause not connected with the Member's representative capacity, was also held to involve a question of privilege (II, 1624). But there has been doubt as to the right of the House to interfere for the protection of Members who, outside the Hall, get into difficulties not connected with their official duties (II, 1277; III, 2678; footnote). Charges against the conduct of a Member are held to involve privilege when they relate to his representative capacity (III, 1828–1830, 2716; VI, 604, 612; VIII, 2479); but when they relate to conduct at a time before he became a Member they have not been entertained as of privilege (II, 1287; III, 2691, 2723, 2725). While questions of personal privilege normally involve matters touching on a Member's reputation, a Member may be recognized for a question of personal privilege based on a violation of his rights as a Member, such as unauthorized printed alterations in his statements made during a subcommittee hearing in a prior Congress (since the second phrase of this clause speaks to the "rights, reputation, and conduct of Members, individually") (June 28, 1983, p. 17674). A printed characterization by an officer of the House of a Member's proposed amendments as "dilatory and frivolous" may give rise to a question of personal privilege (Aug. 1, 1985, p. 22542) as may the fraudulent use of a Member's official stationery as a "Dear Colleague" letter (Sept. 17, 1986, p. 23605). While a Member may be recognized on a question of personal privilege to complain about an abuse of House rules as applied to debate in which he was properly participating, he may not raise a question of personal privilege merely to complain that microphones had been turned off during disorderly conduct following expiration of his recognition for debate (Mar. 16, 1988, p. 4085). A Member's mere assertion of general corruption in the House does not support a question of personal privilege (Jan. 18, 2007, p. ——).

Speaker Wright rose to a question of personal privilege to respond to a "statement of alleged violations" pending in the Committee on Standards of Official Conduct; and, pending the committee's disposition of his motion

to dismiss, announced his intention to resign as Speaker and as a Member (May 31, 1989, p. 10440). Speaker Gingrich rose to a question of personal privilege to discuss his own official conduct previously resolved by the House, which question was based upon press accounts (Apr. 17, 1997, p. 5834). Speaker Hastert rose to a question of personal privilege to discuss the process for selecting a Chaplain, which question was based on press accounts (Mar. 23, 2000, p. 3478).

A Member rose to a question of personal privilege to discuss: (1) his own official conduct relative to his account with the "bank" operated by the Sergeant-at-Arms, which question was based on press accounts (Mar. 19, 1992, p. 6074); (2) reflections on his character in pointed descriptions of recorded votes taken in committee on a Member's amendments, included in a committee report under clause 3(b) of rule XIII, which question was based on the report and on certain media coverage thereof (May 5, 2005, p. ——; May 10, 2005, p. ——).

A Member rose to a question of personal privilege based on press accounts concerning allegations by other Members that he, as a committee chairman, had been "buying votes" (Mar. 26, 1998, p. 4851). A committee chairman rose to a question of personal privilege based on press accounts containing statements impugning his character and motive by alleging intentional violation of rules governing the conduct of an investigation (May 12, 1998, p. 8838). A committee chairman rose to a question of personal privilege to discuss his own official conduct, which question was based on a letter of reproval reported by the Committee on Standards of Official Conduct (Oct. 5, 2000, p. 21048). A committee chairman rose to a question of personal privilege based on press accounts impugning his character to discuss his decision to direct his staff to request the Capitol Police to remove minority party members from a committee room where they were meeting during the reading of an amendment at a committee markup (July 23, 2003, p. ——).

A distinction has been drawn between charges made by one Member against another in a newspaper or press release (July 28, 1970, p. 26002) or in a "Dear Colleague" letter (Aug. 4, 1989, p. 19139; May 14, 1996, p. 11081), and the same when made on the floor (III, 1827, 2691, 2717). Charges made in newspapers against Members in their representative capacities involve privilege (III, 1832, 2694, 2696–2699, 2703, 2704; VI, 576, 621; VIII, 2479), even though the names of individual Members are not given (III, 1831, 2705, 2709; VI, 616, 617). But vague charges in newspaper articles (III, 2711; VI, 570), criticisms (III, 2712–2714; VIII, 2465), or even misrepresentations of the Member's speeches or acts or responses in an interview (III, 2707, 2708; Aug. 3, 1990, p. 22135), have not been entertained. A question of personal privilege may not ordinarily be based merely on words spoken in debate (July 23, 1987, p. 20861; Mar. 16, 1988, p. 4085; Nov. 16, 1989, p. 29569; Sept. 25, 1996, p. 24807; Sept. 21, 2001, p. 17613; Mar. 31, 2004, p. ——) or conveyed by an exhibit in debate (June 28, 2000, p. 12723). However, a Member may raise a question of personal

privilege based upon press accounts of another Member's remarks, in debate or off the floor, that impugn his character or motives (May 15, 1984, pp. 12207, 12211; May 31, 1984, p. 14620), or based upon newspaper accounts of televised press coverage of a committee hearing at which he was criticized derogatorily (Mar. 3, 1988, p. 3196).

§ 709. Precedence of questions of privileges of the House.

The body of precedent relating to the precedence of questions of privilege spans both the adoption of standing rule IX in 1880 and its amendment to require notice in certain cases in 1993.

A question of privilege may interrupt: (1) the reading of the Journal (II, 1630; VI, 637); (2) the consideration of a bill (or series of measures) that had been made in order by a special rule (III, 2524, 2525); (3) in an exceptional decision, where the rule thereon ordered the previous question to final passage without intervening motion, after consideration of the measure in the Committee of the Whole but before passage in the House (VI, 560); (4) under antiquated drafting conventions for special orders of business that ordered the previous question after debate, the consideration of certain matters on which the previous question has been ordered (III, 2532; VI, 561; VIII, 2688). A question of privilege takes precedence over (1) business in order on Calendar Wednesday (VI, 394; VII, 908–910), a "suspension day" (III, 2553; VI, 553; June 5, 2007, p. ——), or over certain motions given precedence under a special rule (VI, 565); (2) reports from the Rules Committee before consideration has begun (VIII, 3491; Mar. 11, 1987, p. 5403); (3) call of the Consent Calendar on Monday (VI, 553), before that Calendar was repealed in the 104th Congress (H. Res. 168, June 20, 1995, p. 16574); (4) motions to resolve into the Committee of the Whole (VI, 554; VIII, 3461); (5) unfinished business, privileged under clauses 1 and 3 of rule XIV (formerly rule XXIV) (Speaker Albert, June 4, 1975, p. 16860). Because a resolution raising a question of the privileges of the House takes precedence over a motion to suspend the rules, it may be offered and voted on between motions to suspend the rules on which the Speaker has postponed record votes until after debate on all suspensions (May 17, 1983, p. 12486). In general, one question of privilege may not take precedence over another (III, 2534, 2552, 2581), and the Chair's power of recognition determines which of two matters of equal privilege is considered first (July 24, 1990, p. 18916). While under rule IX a question of the privileges of the House takes precedence over all other questions except the motion to adjourn, the Speaker may, pursuant to his power of recognition under clause 2 of rule XVII (formerly clause 2 of rule XIV), entertain unanimous-consent requests for "one-minute speeches" pending recognition for a question of privilege, since such unanimous-consent requests, if granted, temporarily waive the standing Rules of the House relating to the order of business (Speaker O'Neill, July 10, 1985, p. 18394; Feb. 6, 1989, pp. 1676–82).

A Member's announcement of intent to offer a resolution as a question of privilege may take precedence over a special order reported from the

Committee on Rules; but, where a special order is pending, such announcements are counted against debate on the resolution absent unanimous consent to the contrary (Oct. 28, 1997, pp. 23525, 23527).

While a question of privilege is pending, a message of the President is received (V, 6640–6642), but is read only by unanimous consent (V, 6639). A motion to reconsider may also be entered but may not be considered (V, 5673–5676). It has been held that only one question of privilege may be pending at a time (III, 2533), but having presented one question of privilege, a Member, before discussing it, may submit a second question of privilege related to the first and discuss both on one recognition (VI, 562). While a resolution raising a question of the privileges of the House has precedence over all other questions, it is nevertheless subject to disposition by the ordinary motions permitted under clause 4 of rule XVI, and by the motion to commit under clause 2 of rule XIX (formerly clause 1 of rule XVII) (Speaker Albert, Feb. 19, 1976, p. 3914; Apr. 28, 1983, p. 10423; Mar. 22, 1990, p. 4996).

§ 711. Precedence of questions of personal privilege.

When a Member proposes merely to address the House on a question of personal privilege, and does not bring up a resolution affecting the dignity or integrity of the House for action, the practice as to precedence is somewhat different. Thus, a Member rising to a question of personal privilege may not interrupt a call of the yeas and nays (V, 6051, 6052, 6058, 6059; VI, 554, 564), or take from the floor another Member who has been recognized for debate (V, 5002; VIII, 2459, 2528; Sept. 29, 1983, p. 26508; July 23, 1987, p. 20861), but he may interrupt the ordinary legislative business (III, 2531). A Member may address the House on a question of personal privilege even after the previous question has been ordered on a pending bill (VI, 561; VIII, 2688). Under modern practice, a question of personal privilege may not be raised in the Committee of the Whole (Sept. 4, 1969, p. 24372; Dec. 13, 1973, p. 41270), the proper remedy being that a demand that words uttered in the Committee of the Whole be taken down pursuant to clause 4 of rule XVII (formerly clause 5 of rule XIV); yet a breach of privilege occurring in the Committee of the Whole relates to the dignity of the House and is so treated (II, 1657). A question of personal privilege may not be raised while a question of the privileges of the House is pending (Apr. 30, 1985, p. 9808; May 1, 1985, p. 10003). The Chair may require a Member to submit for examination the material upon which the Member would rely prior to conferring recognition for a question of personal privilege (Jan. 18, 2007, p. ——).

§ 712. Questions of privilege in relation to quorum.

During a call of the House in the absence of a quorum, only such questions of privilege as relate immediately to those proceedings may be presented (III, 2545). See also § 1024, *infra*.

§ 713. Consideration of questions of privilege.

Whenever it is asserted on the floor that the privileges of the House are invaded, the Speaker entertains the question (II, 1501), and may then refuse recognition

if the resolution is not admissible as a question of privilege under the rule. A proper question of privilege may be renewed (Nov. 17, 1995, p. 33846). Although the early custom was for the Speaker to submit to the House the question whether a resolution involved the privileges of the House (III, 2718), the modern practice is for the Speaker to rule directly on the question (VI, 604; Speaker Wright, Mar. 11, 1987, p. 5404; Feb. 3, 1995, p. 3571; Feb. 7, 1995, p. 3905), subject to appeal where appropriate (Speaker Albert, June 27, 1974, p. 21596).

Under the form of the rule adopted in the 103d Congress, the Speaker may in his discretion recognize a Member other than the Majority or Minority Leader to proceed immediately on a resolution offered as a question of the privileges of the House without first designating a subsequent time or place in the legislative schedule within two legislative days (Speaker Foley, Feb. 3, 1993, p. 1974); and he is not required to announce the time designated to consider a resolution at the time the resolution is noticed but may announce his designation at a later time (Feb. 11, 1994, p. 2209). The Speaker does not rule on the privileged status of a resolution at the time that resolution is noticed, but only when the resolution is called up (Feb. 11, 1994, p. 2209; Sept. 13, 1994, p. 24389; Feb. 3, 1995, p. 3571).

Common fame has been held sufficient basis for raising a question (III, 2538, 2701); a telegraphic dispatch may also furnish a basis (III, 2539). A report relating to the contemptuous conduct of a witness before a committee gives rise to a question of the privileges of the House and may, under this rule, be considered on the same day reported notwithstanding the requirement of clause 4(a) of rule XIII (formerly clause 2(l)(6) of rule XI) that reports from committees be available to Members for at least three calendar days before their consideration (Speaker Albert, July 13, 1971, pp. 24720–23). But a Member may not, as a matter of right, require the reading of a book or paper by suggesting that it contains matter infringing on the privileges of the House (V, 5258). In presenting a question of personal privilege the Member is not required in the first instance to offer a motion or resolution, but must take this preliminary step in raising a question of the privileges of the House (III, 2546, 2547; VI, 565–569; VII, 3464). Such a resolution is read in full by the Clerk (Oct. 10, 1998, p. 25420), and a parliamentary inquiry regarding its content, in the discretion of the Chair, should await the conclusion of the reading (Dec. 8, 2005, p. ——). A proposition of privilege may lose its precedence by association with a matter not of privilege (III, 2551; V, 5890; VI, 395). Debate on a question of privilege is under the hour rule (V, 4990; VIII, 2448), but the previous question may be moved (II, 1256; V, 5459, 5460; VIII, 2672); since the 103d Congress, however, the rule has provided for divided control of the hour in the case of a resolution offered from the floor. Consideration of a resolution as a question of the privileges of the House may include recognition for an hour of debate on a motion to refer under clause 4 of rule XVI (Mar. 12, 1992, p. 5557; Sept. 29, 2006, p. ——); a separate hour of debate on the resolution, itself, under clause 2 of rule XVII (formerly

clause 2 of rule XIV); and a motion to commit (not debatable after the ordering of the previous question) under clause 2 of rule XIX (formerly clause 1 of rule XVII) (Mar. 12, 1992, p. 5557). Debate on a letter of resignation is controlled by the Member moving the acceptance of the resignation (Mar. 8, 1977, pp. 6579–82) if the resigning Member does not seek recognition (June 16, 1975, p. 19054; June 8, 2006, p. ——). Debate on a question of personal privilege must be confined to the statements or issues that gave rise to the question of privilege (V, 5075–77; VI, 576, 608; VIII, 2448, 2481; May 31, 1984, p. 14623). A Member recognized only on the question of whether a resolution qualifies as a question of privilege is not recognized to debate such resolution (Nov. 3, 2005, p. ——).

RULE X

ORGANIZATION OF COMMITTEES

Committees and their legislative jurisdictions

§ 714. Number and jurisdiction of standing committees.

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:

Under the Legislative Reorganization Act of 1946 (60 Stat. 812), the 44 committees of the 79th Congress were consolidated into 19, effective January 2, 1947. The total number of standing committees grew over time with the creation of the Committee on Science and Astronautics (now Science and Technology), established on July 21, 1958 (p. 14513); the Committee on Standards of Official Conduct, established on April 13, 1967 (p. 9425); the Committee on the Budget, established on July 12, 1974, by the Congressional Budget Act of 1974 (88 Stat. 297); and the Committee on Small Business, established as a standing committee effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The Committee on Internal Security was abolished in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20) thereby setting the total number of standing committees at 22.

The 104th Congress reduced the total number to 19 by abolishing the Committees on the District of Columbia, Merchant Marine and Fisheries, and Post Office and Civil Service (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). Matters formerly in the jurisdiction of the Committees on the District of Columbia and Post Office and Civil Service were transferred to the Committee on Oversight and Government Reform (formerly Government Reform and Oversight); and matters formerly in the jurisdiction of the Committee on Merchant Marine and Fisheries were transferred to the Committees on Natural Resources, Transportation and Infrastructure (formerly Public Works and Transportation), Armed Services (National Security during the 104th and 105th Congresses), and Science and Technology (formerly Science, Space, and Technology) (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). The 109th Congress increased the number to 20 by establishing the Committee on Homeland Security (sec. 2(a), H. Res. 5, Jan. 4, 2005, p. ——).

A Permanent Select Committee on Intelligence was established in the 95th Congress (H. Res. 658, July 14, 1977, pp. 22932–49). Before the House recodified its rules in the 106th Congress, the Select Committee was found in former rule XLVIII (current clause 11 of rule X) (H. Res. 5, Jan. 6, 1999, p. 47). A Permanent Select Committee on Aging was added to clause 6 of this rule effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470) until stricken in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49).

Although earlier forms of the rule specified the number of Members comprising each of the standing committees, those specifications were eliminated in the 93d Congress, leaving to the House the authority to establish the sizes of committees by the numbers elected to each standing committee pursuant to clause 5 of rule X. The rules still specify part of the composition of the Committee on the Budget (clause 5(a)(2) of rule X) as well as the overall size and preferred composition of the Permanent Select Committee on Intelligence (clause 11(a) of rule X).

The Speaker refers public bills in accordance with clause 1 of rule X, but when the House itself refers a bill it may send it to any committee without regard to the rules of jurisdiction (IV, 4375; V, 5527; VII, 2131) and jurisdiction is thereby conferred (IV, 4362–4364; VII, 2105). Motions for change of reference of public bills and resolutions must be authorized by the committee claiming jurisdiction (clause 7 of rule XII; VII, 2121; Feb. 13, 1918, p. 2070; Jan. 10, 1941, p. 100), must apply to a bill erroneously referred (VII, 2125), must be made immediately following the reading of the Journal (VII, 1809, 2119, 2120), must apply to a single bill and not to a class of bills (VII, 2125), may be amended (VII, 2127), may not be divided (VII, 2125), and may not be debated (VII, 2126, 2128), but are not in order on Calendar Wednesday (VII, 2117), and are not privileged if the original reference was not erroneous (VII, 2125). The rereferral of most bills is accomplished by unanimous consent (see Procedure, ch. 17, §§ 17–38).

Before the 94th Congress, a bill could not be divided among two or more committees, even though it might have contained matters properly within the jurisdiction of several committees (IV, 4372). The Committee Reform Amendments of 1974 added former clause 5 of rule X (current clause 2 of rule XII), permitting the Speaker to refer any matter to more than one committee (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). That provision was amended in the 104th Congress to require the Speaker to designate a primary committee among those to which a matter is initially referred (sec. 205, H. Res. 6, Jan. 4, 1995, p. 467). However, the provision was amended again in the 108th Congress to permit the Speaker to refrain from designating a primary committee in extraordinary circumstances (sec. 2(i), H. Res. 5, Jan. 7, 2003, p. 7; see § 816, *infra*).

A committee having jurisdiction over a subject by means of a petition (IV, 3365) properly referred (IV, 4361) can report on the subject thereof. It has generally been held that a committee may not report a bill whereof the subject matter has not been referred to it by the House (IV, 4355–4360, 4372; VII, 1029, 2101, 2102). Where a House bill is returned from the Senate with a substitute amendment relating to a new and different subject, the reference could nevertheless be to the committee having jurisdiction over the original bill (IV, 4373, 4374); normally, however, such amended measures are held at the Speaker's table until disposed of by the House. The erroneous reference of a public bill under this rule, if it remains uncorrected, gives jurisdiction (IV, 4365–4371; VII, 2108), but such is not the case with a private bill or petition (IV, 3364, 4382–4389) unless the reference be made by action of the House itself (IV, 4390, 4391; VII 2131). A point of order as to the reference of a private bill is timely when the bill comes up for consideration, either in the House or in the Committee of the Whole (IV, 4382–4389; VII, 2116, 2132; VIII, 2262) or at any time before passage (VII, 2116). The reference of a bill to a committee involving the same subject matter as a bill previously reported confers jurisdiction anew upon the committee to consider and report the bill subsequently introduced (VIII, 2311).

Clause 4 of rule XII prohibits the reception or consideration of certain private bills relating to claims, pensions, construction of bridges, and the correction of military or naval records. In the 104th Congress the House adopted a rule to prohibit introduction or consideration of any bill or resolution expressing a commemoration by designation of a specified period of time (current clause 5 of rule XII, former clause 2 of rule XXII) (sec. 216, H. Res. 6, Jan. 4, 1995, p. 468).

(a) Committee on Agriculture.

§ 715. Agriculture.

(1) Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.

(2) Agriculture generally.

(3) Agricultural and industrial chemistry.

(4) Agricultural colleges and experiment stations.

(5) Agricultural economics and research.

(6) Agricultural education extension services.

(7) Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).

(8) Animal industry and diseases of animals.

(9) Commodity exchanges.

(10) Crop insurance and soil conservation.

(11) Dairy industry.

(12) Entomology and plant quarantine.

(13) Extension of farm credit and farm security.

(14) Inspection of livestock, poultry, meat products, and seafood and seafood products.

(15) Forestry in general and forest reserves other than those created from the public domain.

(16) Human nutrition and home economics.

(17) Plant industry, soils, and agricultural engineering.

(18) Rural electrification.

(19) Rural development.

(20) Water conservation related to activities of the Department of Agriculture.

This committee was established in 1820 (IV, 4149). In 1880 the subject of forestry was added to its jurisdiction, and the committee was conferred authority to receive estimates of and to report appropriations (IV, 4149). However, on July 1, 1920, authority to report appropriations for the De-

partment of Agriculture was transferred to the Committee on Appropriations (VII, 1860).

The basic form of the present jurisdictional statement was made effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812). Subparagraph (7) was altered by the 93d Congress, effective January 3, 1975, to include jurisdiction over agricultural commodities (including the Commodity Credit Corporation) while transferring jurisdiction over foreign distribution and nondomestic production of commodities to the Committee on Foreign Affairs (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Nevertheless, the committee has retained a limited jurisdiction over measures to release CCC stocks for such foreign distribution (Sept. 14, 1989, p. 20428). Previously unstated jurisdictions over commodities exchanges and rural development were codified effective January 3, 1975.

The 104th Congress consolidated the committee's jurisdiction over inspection of livestock and meat products to include inspection of poultry, seafood, and seafood products, and added subparagraph (20) relating to water conservation (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

The Committee has had jurisdiction over bills for establishing and regulating the Department of Agriculture (IV, 4150), for inspection of livestock and meat products, regulation of animal industry, diseases of animals (IV, 4154; VII, 1862), adulteration of seeds, insect pests, protection of birds and animals in forest reserves (IV, 4157; VII, 1870), the improvement of the breed of horses, even with the cavalry service in view (IV, 4158; VII, 1865), and, in addition to the Committee on Energy and Commerce, amending the Horse Protection Act to prevent the shipping, transporting, moving, delivering, or receiving of horses to be slaughtered for human consumption (July 13, 2006, p. ——).

The Committee, having charge of the general subject of forestry, has reported bills relating to timber, and forest reserves other than those created from the public domain (IV, 4160). The Committee on Natural Resources, and not this committee, has jurisdiction over a bill to convey land that is part of a National Forest created from the public domain (Mar. 23, 2004, p. ——). It also has exercised jurisdiction over bills: relating to agricultural colleges and experiment stations (IV, 4152), incorporation of agricultural societies (IV, 4159), and establishment of a highway commission (IV, 4153); to discourage fictitious and gambling transactions in farm products (IV, 4161; VII, 1861); to regulate the transportation, sale, and handling of dogs and cats intended for use in research and the licensing of animal research facilities (July 29, 1965, p. 18691); and to designate an agricultural research center (May 14, 1996, p. 11070). The Committee shares with the Committee on the Judiciary jurisdiction over a bill comprehensively amending the Immigration and Nationality Act and including food stamp eligibility requirements for aliens (Sept. 19, 1995, p. 25533).

The House referred the President's message dealing with the refinancing of farm-mortgage indebtedness to the committee, thus conferring jurisdiction (Apr. 4, 1933, p. 1209).

The Committee has jurisdiction over a bill relating solely to executive level positions in the Department of Agriculture (Mar. 2, 1976, p. 4958) and has jurisdiction over bills to develop land and water conservation programs on private and non-Federal lands (June 7, 1976, p. 16768).

(b) Committee on Appropriations.

§ 716. Appropriations.

(1) Appropriation of the revenue for the support of the Government.

(2) Rescissions of appropriations contained in appropriation Acts.

(3) Transfers of unexpended balances.

(4) Bills and joint resolutions reported by other committees that provide new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974 and referred to the committee under clause 4(a)(2).

This committee was established in 1865, when all the general appropriation bills were confided to its care. In 1885 a portion of the bills were distributed to other committees. On July 1, 1920, the committee again was given jurisdiction over all appropriations (VII, 1741).

In the 95th Congress this paragraph was amended to correct a typographical error (H. Res. 5, Jan. 4, 1977, p. 53). Subparagraph (4) was amended in the 105th and 106th Congresses to conform to changes made by the Budget Enforcement Act of 1997 (sec. 10116, P.L. 105–33; H. Res. 5, Jan. 6, 1999, p. 47). When the House recodified its rules in the 106th Congress, it transferred an undesignated portion of this paragraph to clause 3(f)(2) of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47).

The authority to conduct studies and examinations of the organization and operation of executive departments and agencies was first given to this committee on February 11, 1943 (p. 884); continued by resolution of January 9, 1945 (p. 135); and incorporated into permanent law in section 202(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812). This authority was first made part of the standing rules on January 3, 1953 (pp. 17, 24), and is now listed as a special oversight responsibility of the committee in clause 3 of rule X, effective January 3, 1975 (formerly clause 2(b)(3) of rule X) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The Committee is also authorized and directed to hold hearings on the budget as a whole in open session within 30 days of its submission (clause 4(a)(1)(A) of rule X), and to study on a continuing basis provisions of law

providing spending authority or permanent budget authority and to report to the House recommendations for terminating or modifying such provisions (clause 4(a)(3) of rule X). The requirement of section 139 of the Legislative Reorganization Act of 1946 (60 Stat. 812) that the Committees on Appropriations of the House and Senate develop a standard appropriation classification schedule was superseded by section 202(a) of the Legislative Reorganization Act of 1970 (84 Stat. 1167), which now imposes that responsibility upon the Secretary of the Treasury and the Office of Management and Budget. The further requirement of section 139 of the 1946 Act that the Appropriations Committees study existing permanent appropriations and recommend which, if any, should be discontinued was made the responsibility of all standing committees of the House by clauses 4(e) of rule X, through enactment of section 253 of the 1970 Act (84 Stat. 1175).

Although this committee has authority to report appropriations, the power to report legislation relating thereto belongs to other committees (IV, 4033; clause 2 of rule XXI), and a general appropriation bill reported from this committee may not contain items of appropriation not authorized by law or provisions amending existing law (except retrenchments and rescissions of appropriations) (clause 2 of rule XXI), and may not contain reappropriations of unexpended balances except within agencies (clause 2 of rule XXI). General appropriation bills may not be considered in the House until hearings thereon have been available for three days (clause 4 of rule XIII).

§ 717. Responsibilities under Budget Act.

Effective July 12, 1974, special Presidential messages on rescissions and deferrals of budget authority submitted pursuant to sections 1012 and 1013 of the Impoundment Control Act of 1974 (2 U.S.C. 683, 684), as well as rescission bills and impoundment resolutions defined in section 1011 (2 U.S.C. 682) and required in section 1017 (2 U.S.C. 688) to be referred to the appropriate committee, are referred to the Committee on Appropriations if the proposed rescissions or deferrals involve funds already appropriated or obligated. Also effective July 12, 1974, the Congressional Budget Act of 1974 (sec. 404(a)) added to the committee's jurisdiction, which was later perfected by the Committee Reform Amendments of 1974 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), subparagraphs (2), (3), and (4).

(c) Committee on Armed Services.

§ 718. Armed Services.

(1) Ammunition depots; forts; arsenals; and Army, Navy, and Air Force reservations and establishments.

(2) Common defense generally.

(3) Conservation, development, and use of naval petroleum and oil shale reserves.

(4) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force, generally.

(5) Interoceanic canals generally, including measures relating to the maintenance, operation, and administration of interoceanic canals.

(6) Merchant Marine Academy and State Maritime Academies.

(7) Military applications of nuclear energy.

(8) Tactical intelligence and intelligence-related activities of the Department of Defense.

(9) National security aspects of merchant marine, including financial assistance for the construction and operation of vessels, maintenance of the U.S. shipbuilding and ship repair industrial base, cabotage, cargo preference, and merchant marine officers and seamen as these matters relate to the national security.

(10) Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.

(11) Scientific research and development in support of the armed services.

(12) Selective service.

(13) Size and composition of the Army, Navy, Marine Corps, and Air Force.

(14) Soldiers' and sailors' homes.

(15) Strategic and critical materials necessary for the common defense.

This committee was established January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), combining the Committee on Military Affairs with the Committee on Naval Affairs, both of which had been created in 1822 (IV, 4179, 4189) and had had jurisdiction over

appropriations from 1885 to 1920 (IV, 4179, 4189; VII, 1741). The Committee was redesignated the Committee on National Security in the 104th Congress (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464) and was redesignated again the Committee on Armed Services in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including the deletion of a redundant undesignated recitation of a special oversight function (H. Res. 5, Jan. 6, 1999, p. 47).

Much of the present legislative jurisdiction in this paragraph was adopted on January 3, 1953 (p. 17), to reflect jurisdiction over the Department of Defense, which was created in the National Security Act of 1947 (61 Stat. 495). In the 95th Congress, when the Joint Committee on Atomic Energy was abolished, this committee gained jurisdiction over military applications of nuclear energy (H. Res. 5, Jan. 4, 1977, p. 53). The special oversight function of the committee in clause 3(h) (formerly clause 3(a)) were assigned by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The 104th Congress added subparagraph (8) for clarification and subparagraphs (5), (6), and (9) to reflect the transfer of those matters from the former Committee on Merchant Marine and Fisheries (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464), and later amended subparagraph (8) to effect a technical correction (H. Res. 254, Nov. 30, 1995, p. 35077).

The Committee has jurisdiction over bills: relating to military housing construction (Feb. 21, 1962, p. 2684; Apr. 18, 1967, p. 9981); amending title 10 of the United States Code to permit suits against the United States for damage to reputation of members of Armed Forces acquitted of charges of crimes against civilians in combat zones (July 15, 1970, p. 24451); for construction of facilities at Walter Reed Medical Center (Oct. 3, 1966, p. 24859); to require military commissary, post exchange, and medical care privileges for veterans with sufficient service-connected disabilities (Feb. 3, 1976, p. 1972); of a private character to waive the statutory time limit on the award of the Congressional Medal of Honor on individuals (Feb. 22, 1982, p. 1812); including authorization of appropriations to the Department of Energy for resource applications for naval petroleum and oil shale reserves (May 1, 1978, p. 11946); and effecting the transfer of military property to a State to be designated by the State as a wilderness area (Nov. 15, 1995, p. 32627).

The Committee exercised jurisdiction with the Committee on Interior and Insular Affairs (now Natural Resources) over a resolution regarding continued operation of the Hanford Nuclear Reactor to produce power for the Bonneville Power Administration (July 17, 1986, p. 16888).

(d) **Committee on the Budget.**

§719. Budget.

(1) Concurrent resolutions on the budget (as defined in section 3(4) of the Congressional Budget Act of 1974), other matters required to be referred to the committee under titles III and IV of that Act, and other measures setting forth appropriate levels of budget totals for the United States Government.

(2) Budget process generally.

(3) Establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

This committee was established in the 93d Congress, effective July 12, 1974, by section 101 of the Congressional Budget Act of 1974 (88 Stat. 299). The separate subpoena authority conferred upon the committee by section 101(b) of that Act has been superseded by the general grant of subpoena authority to all committees in clause 2(m) of rule XI (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The Committee is also charged with the special oversight functions as described in clause 3(b) and clause 4(b) of rule X.

Before the House recodified its rules in the 106th Congress, this paragraph consisted of the committee's legislative jurisdiction (current paragraph (d)), its oversight jurisdiction (current clause 4 of rule X), and its composition (current clause 5(a)(2) of rule X (H. Res. 5, Jan. 6, 1999, p. 47)).

In the 99th Congress this paragraph was again amended by section 232(h) of the Balanced Budget and Emergency Deficit Control Act of 1985, to confer jurisdiction over Senate joint or concurrent resolutions constituting congressional responses to a Presidential sequestration order issued pursuant to a report of the Comptroller General under section 252(b) of that Act (P.L. 99–177). It was again amended by the Budget Enforcement Act of 1990 to conform subparagraph (2) to changes in the congressional budget laws (tit. XIII, P.L. 101–508). The 104th Congress amended the

paragraph to expand the limited legislative jurisdiction of the committee by: (1) adding other measures setting forth appropriate levels of budget totals to subparagraph (2) (now subparagraph (1)); (2) granting the committee jurisdiction over the congressional budget process generally in a new subparagraph (3) (now subparagraph (2)); and (3) granting the committee jurisdiction over special controls over the Federal budget in a new subparagraph (4) (now subparagraph (3)), including receiving from the former Committee on Government Operations (now Oversight and Government Reform) jurisdiction over budgetary treatment of off-budget Federal agencies and measures providing exemption from sequestration orders issued under the Balanced Budget and Emergency Deficit Control Act (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). Three rereferrals from the Committee on Government Reform to the Committee on the Budget marked this migration of off-budget treatment jurisdiction: (1) the Committee on the Budget has primary jurisdiction over a bill excluding from the budget the Civil Service Retirement and Disability Fund (although the Committee on Oversight and Government Reform retains programmatic jurisdiction over that Fund); (2) the Committee on the Budget has primary jurisdiction over a bill excluding from the budget the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund (although the Committee on Transportation and Infrastructure retains programmatic jurisdiction); and (3) the Committee on the Budget has secondary jurisdiction over a bill amending title 49 of the United States Code and providing off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund (Dec. 6, 1995, p. 35572). The chairman of the Committee on the Budget inserted in the Congressional Record a Memorandum of Understanding between this committee and the Committee on Rules to clarify each Committee's jurisdiction over the congressional budget process (Jan. 4, 1995, p. 617). In the 105th Congress the jurisdictional statement in subparagraph (2), previously confined to the congressional budget process, was broadened to encompass also the executive budget process formerly included in the jurisdiction of the Committee on Government Reform and Oversight (now Oversight and Government Reform) (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). This committee, and not the Committee on Ways and Means, has jurisdiction over a bill establishing a rule of sequestration under the Balanced Budget and Emergency Deficit Control Act (Dec. 15, 2000, p. 27085). This committee has primary jurisdiction, and the Committee on Ways and Means has additional jurisdiction, over a bill taking Social Security trust funds off budget (Dec. 15, 2000, p. 27085). This committee has primary jurisdiction, and the Committee on Rules has additional jurisdiction, over a bill amending the Budget Act to establish new legislative points of order and directing that the President include a specified matter with his budget (Feb. 13, 2001, p. 1817).

(e) **Committee on Education and Labor.**

(1) Child labor.

(2) Gallaudet University and Howard University and Hospital.

§ 720. Education and Labor.

(3) Convict labor and the entry of goods made by convicts into interstate commerce.

(4) Food programs for children in schools.

(5) Labor standards and statistics.

(6) Education or labor generally.

(7) Mediation and arbitration of labor disputes.

(8) Regulation or prevention of importation of foreign laborers under contract.

(9) Workers' compensation.

(10) Vocational rehabilitation.

(11) Wages and hours of labor.

(12) Welfare of miners.

(13) Work incentive programs.

This committee was established on January 2, 1947, as part of the Legislative Reorganization Act of 1946 (60 Stat. 812), combining the Committee on Education (created in 1867) (IV, 4242) and the Committee on Labor (created in 1883) (IV, 4244). When it was redesignated as the Committee on Economic and Educational Opportunities in the 104th Congress, the jurisdictional statement remained unchanged except by the combination of labor standards and labor statistics in a single subparagraph (5) (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). In the 105th Congress the committee was redesignated the Committee on Education and the Workforce (H. Res. 5, Jan. 7, 1997, p. 121) and was again redesignated the Committee on Education and Labor in the 110th Congress (sec. 212(a), H. Res. 6, Jan. 4, 2007, p. ——).

By the Committee Reform Amendments of 1974, effective January 3, 1975, the committee gained jurisdiction over food programs for children in schools, an expansion of earlier jurisdiction over school-lunch programs (subpara. (4)), work incentive programs (subpara. (13)), and Indian education, a matter formerly within the specific jurisdiction of the Committee on Interior and Insular Affairs (now Natural Resources); jurisdiction of the committee over international education matters was specifically transferred to the Committee on Foreign Affairs; and its special oversight func-

tion was inserted in clause 3(c) of rule X (current clause 3(d) of rule X) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including the deletion of obsolete references to the Columbia Institution for the Deaf, Dumb, and Blind, Freedmen's Hospital, and the United States Employees' Compensation Commission and the deletion of a redundant undesignated recitation of general and special oversight functions (H. Res. 5, Jan. 6, 1999, p. 47).

The Committee has jurisdiction over bills dealing with juvenile delinquency (Jan. 22, 1959, p. 1027), runaway youth (July 12, 1973, p. 23633; Sept. 10, 1973, p. 28970), human services programs administered by HEW (June 21, 1972, p. 21733), education of Indians (Apr. 15, 1975, p. 10247; June 10, 1991, p. 14049), including the Native American Programs Act (Oct. 30, 1997, p. 23967), and compensation for work injuries to Federal employees (Apr. 16, 1975, p. 10339); over bills amending the Community Services Block Grant Act to continue antipoverty programs originally authorized by the Economic Opportunity Act of 1964 (Nov. 4, 1993, p. 27359); and over an executive communication proposing draft legislation to amend the Labor Management Relations Act and the Employee Retirement Income Security Act (Mar. 24, 1983, p. 7402). The Committee shares with the Committee on the Judiciary original jurisdiction over a bill comprehensively amending the Immigration and Nationality Act and including provisions addressing the enforcement of labor laws (Sept. 19, 1995, p. 25533). The Committee has additional jurisdiction (Commerce, now Energy and Commerce, has primary jurisdiction) over a developmental disabilities assistance and family support bill (Feb. 10, 2000, p. 1023). The jurisdiction of this committee over education and vocational rehabilitation does not include those subjects as they relate to veterans, which fall under the jurisdiction of the Committee on Veterans' Affairs.

(f) Committee on Energy and Commerce.

§ 721. Energy and Commerce.

(1) Biomedical research and development.

(2) Consumer affairs and consumer protection.

(3) Health and health facilities (except health care supported by payroll deductions).

(4) Interstate energy compacts.

(5) Interstate and foreign commerce generally.

(6) Exploration, production, storage, supply, marketing, pricing, and regulation of energy

resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.

(7) Conservation of energy resources.

(8) Energy information generally.

(9) The generation and marketing of power (except by federally chartered or Federal regional power marketing authorities); reliability and interstate transmission of, and ratemaking for, all power; and siting of generation facilities (except the installation of interconnections between Government waterpower projects).

(10) General management of the Department of Energy and management and all functions of the Federal Energy Regulatory Commission.

(11) National energy policy generally.

(12) Public health and quarantine.

(13) Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.

(14) Regulation of interstate and foreign communications.

(15) Travel and tourism.

The committee shall have the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of nonnuclear facilities and of use of nonnuclear energy.

The Committee dates from 1795 (IV, 4096). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the name of the committee

was changed from Interstate and Foreign Commerce to Commerce and Health. Effective January 14, 1975, it was redesignated as Interstate and Foreign Commerce (H. Res. 5, 94th Cong., p. 20). In the 96th Congress it was redesignated as Energy and Commerce and given much of its present jurisdiction, effective January 3, 1981 (H. Res. 549, Mar. 25, 1980, pp. 6405–10; *note* publication of intercommittee memoranda of understanding). In the 104th Congress it was redesignated as the Committee on Commerce (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). In the 107th Congress it was redesignated again as the Committee on Energy and Commerce (sec. 2(d), H. Res. 5, Jan. 3, 2001, p. 25).

In the 74th Congress the jurisdictional statement of the committee was amended to include jurisdiction over bills relating to radio; to deprive the committee jurisdiction over bills relating to water transportation, Coast Guard, lifesaving service, lighthouses, lightships, ocean derelicts, Coast and Geodetic Survey, and the Panama Canal; and to vest jurisdiction over those subjects in the former Committee on Merchant Marine and Fisheries (VII, 1814, 1847), but with the demise of the latter committee in the 104th Congress, the latter subjects now reside in the jurisdiction of the Committee on Transportation and Infrastructure, except that the Committee on National Security (now Armed Services) has jurisdiction over the Panama Canal (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). In the 85th Congress matters relating to the Bureau of Standards, standardization of weights and measures, and the metric system (conferred on the committee by the Legislative Reorganization Act of 1946, 60 Stat. 812), were transferred to the Committee on Science and Astronautics (now Science and Technology) (July 21, 1958, p. 14513). In the Committee Reform Amendments of 1974, effective January 3, 1975, the committee obtained specific jurisdiction over consumer affairs and consumer protection (subpara. (2)), travel and tourism (subpara. (16)), health and health facilities, except health care supported by payroll deductions (subpara. (3)) (a matter formerly within the jurisdiction of the Committee on Ways and Means), and biomedical research and development (subpara. (1)), and was released of jurisdiction over civil aeronautics to the Committee on Public Works and Transportation (now Transportation and Infrastructure), jurisdiction over civil aviation research and development, energy and environmental research and development, and the National Weather Service to the Committee on Science and Technology, and jurisdiction over trading with the enemy to the Committee on Foreign Affairs (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 95th Congress, when the legislative jurisdiction of the Joint Committee on Atomic Energy in the House was transferred to various standing committees, this committee was given the same jurisdiction over nuclear energy as it had over nonnuclear energy and facilities (H. Res. 5, Jan. 4, 1977, pp. 53–70). In the 96th Congress the committee obtained specific jurisdiction over national energy policy generally (subpara. (11)), measures relating to exploration, production, storage, supply, marketing, pricing, and regulation of energy resources (subpara. (6)), measures relat-

ing to conservation of energy resources (subpara. (7)), measures relating to energy information generally (subpara. (8)), measures relating to the generation, marketing, interstate transmission of, and ratemaking for power as well as the siting of generation facilities, with certain exceptions (subpara. (9)), interstate energy compacts (subpara. (4)), and measures relating to general management of the Department of Energy and all functions of the Federal Energy Regulatory Commission (subpara. (10)) (H. Res. 549, Mar. 25, 1980, pp. 6405–10). In the 104th Congress the committee's jurisdiction over inland waterways and railroads (including railroad labor, retirement, and unemployment) was transferred to the Committee on Transportation and Infrastructure, and jurisdiction over measures relating to the commercial application of energy technology was transferred to the Committee on Science (now Science and Technology), while the Committee on Energy and Commerce obtained exclusive jurisdiction over regulation of the domestic nuclear energy industry (subpara. (13)) from the Committee on Natural Resources (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). In the 107th Congress the committee's jurisdiction over securities and exchanges was transferred to the Committee on Financial Services (sec. 2(d), H. Res. 5, Jan. 3, 2001, p. 25). The Speaker inserted in the Congressional Record a Memorandum of Understanding between this committee and the Committee on Financial Services to clarify the nature of this transfer (Jan. 30, 2001, p. 995), the final two paragraphs of which no longer provide jurisdictional guidance (Jan. 4, 2005, p. ——).

The Committee has the special oversight responsibility under clause 3(c) of rule X as well as the general oversight responsibility required by clause 2 of rule X. This special oversight responsibility was expanded in the 96th Congress to include all energy, effective January 3, 1981 (H. Res. 549, Mar. 25, 1980, pp. 6405–10). In the 104th Congress it was again expanded to include nonmilitary nuclear energy and research and development including the disposal of nuclear waste (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464), though a conforming change in clause 3(c) was inadvertently omitted.

The Committee formerly reported the river and harbor appropriation bill, but in 1883 the Committee on Rivers and Harbors was created for that role (IV, 4096), and since the 66th Congress such appropriations have been reported by the Committee on Appropriations.

The Committee has general jurisdiction over bills affecting domestic and foreign commerce, except such as may affect the revenue (IV, 4097). It also has jurisdiction over bills authorizing the construction of marine hospitals and the acquisition of sites therefor (IV, 4110; VII, 1816), the general subjects of quarantine and the establishment of quarantine stations (IV, 4109), health, spread of leprosy and other contagious diseases, international congress of hygiene, etc. (IV, 4111), bills declaring as to whether or not streams are navigable and for preventing or regulating hindrances

to navigation (IV, 4101; VII, 1810), such as bridges (IV, 4099; VII, 1812) and dams, except such bridges and dams as are a part of river improvements (IV, 4100; VII, 1810). This committee formerly had jurisdiction over bills proposing construction of bridges across navigable streams, which now are banned under clause 4 of rule XII if private (see § 822, *infra*; see also General Bridge Act, 33 U.S.C. 525, 533).

Before the 104th Congress the committee considered bills regulating railroads in their interstate commerce relations (IV, 414) and exercised jurisdiction with the Committees on Education and Labor and Public Works and Transportation (now Transportation and Infrastructure) over bills providing labor protections to workers in the transportation industry, including railroad employees (Feb. 24, 1993, p. 3577). The Committee considers bills relating to commercial travelers as agents of interstate commerce and the branding of articles going into such commerce (IV, 4115), the prevention of the carriage of indecent and harmful pictures or literature (IV, 4116), the adulteration and misbranding of foods and drugs (IV, 4112), and protection of game through prohibition of interstate transportation (IV, 4117). The Committee has jurisdiction over bills imposing safety standards on motor vehicles purchased by the U.S. Government (Feb. 16, 1959, p. 2420), bills creating civil remedies for false advertising or other violations of commercial ethics (June 4, 1962, p. 9601), and bills to assist financing of the Arctic Winter Games in Alaska (June 7, 1972, p. 19935). The Committee had jurisdiction over a bill to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act (ultimately repealed), which was focused on health matters rather than job training (June 1, 1981, p. 11028; Nov. 3, 1993, p. 27274). This committee and, in addition, the Committee on Education and Labor, have jurisdiction over the Developmental Disabilities Assistance and Bill of Rights Act of 1999 (which replaced the above-mentioned Act) as it contained a family support program within the jurisdiction of the Committee on Education and Labor (then Education and the Workforce) (Feb. 10, 2000, p. 1023). In the 94th Congress, the committee gained jurisdiction over bills amending the Lead-Based Paint Poisoning Prevention Act and bills dealing with nursing home construction as public health matters (June 10, 1975, p. 18009).

(g) **Committee on Financial Services.**

(1) Banks and banking, including deposit insurance and Federal monetary policy.

(2) Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.

§ 722. Financial Services.

(3) Financial aid to commerce and industry (other than transportation).

(4) Insurance generally.

(5) International finance.

(6) International financial and monetary organizations.

(7) Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.

(8) Public and private housing.

(9) Securities and exchanges.

(10) Urban development.

This committee was established in 1865 as the Committee on Banking and Currency (IV, 4082). In the Committee Reform Amendments of 1974, effective January 3, 1975, its name was changed to Banking, Currency and Housing (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 95th Congress its name was changed to Banking, Finance and Urban Affairs (H. Res. 5, Jan. 4, 1977, pp. 53–70). In the 104th Congress its name was changed to Banking and Financial Services (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). In the 107th Congress its name was changed to Financial Services (sec. 2(d), H. Res. 5, Jan. 3, 2001, p. 25).

The Committee was given much of its present jurisdiction in the Legislative Reorganization Act of 1946 (60 Stat. 812), by which it absorbed the jurisdiction of the former Committee on Coinage, Weights, and Measures (created in 1864) (IV, 4090), except jurisdiction over matters relating to the standardization of weights and measures and the metric system was given to the Committee on Interstate and Foreign Commerce and was later transferred to the Committee on Science and Astronautics (now Science and Technology) in the 85th Congress (H. Res. 580, July 21, 1958, p. 14513). In the 92d Congress jurisdiction over the impact on the economy of tax-exempt foundations and charitable trusts was transferred from the Subcommittee on Foundations of the Select Committee on Small Business, along with all that subcommittee's files, to this committee (H. Res. 320, Apr. 27, 1971, p. 12081). Before the end of the 93d Congress, the committee had legislative jurisdiction over the problems of small business under its general jurisdiction over financial aid to commerce and industry; but with the adoption of the Committee Reform Amendments of 1974, effective January 3, 1975, that jurisdiction was transferred to the standing Committee

on Small Business, the permanent Select Committee on Small Business was abolished, and this committee was specifically given jurisdiction over Federal monetary policy, money and credit, urban development, economic stabilization, defense production, and renegotiation (the latter matter formerly within the jurisdiction of the Committee on Ways and Means), international finance, and international financial and monetary organizations (formerly within the jurisdiction of the Committee on Foreign Affairs), while jurisdiction over the Commodity Credit Corporation was transferred to the Committee on Agriculture, jurisdiction over export controls and international economic policy to the Committee on Foreign Affairs, jurisdiction over construction of nursing home facilities to what is now the Committee on Energy and Commerce, and jurisdiction over urban mass transportation to what is now the Committee on Transportation and Infrastructure (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 104th Congress subparagraphs (2) and (3) were added (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). In the 107th Congress jurisdiction over securities and exchanges was transferred from the Committee on Energy and Commerce to the Committee on Financial Services (sec. 2(d), H. Res. 5, Jan. 3, 2001, p. 25). As a result of the new jurisdiction of the Committee on Financial Services over securities and exchanges, its former jurisdiction over matters relating to bank capital markets activities and depository institutions securities activities were deleted as redundant (sec. 2(d), H. Res. 5, Jan. 3, 2001, p. 25). In the 107th Congress the Committee on Financial Services also received jurisdiction over insurance generally (sec. 2(d), H. Res. 5, Jan. 3, 2001, p. 25). The Speaker inserted in the Congressional Record a Memorandum of Understanding between this committee and the Committee on Energy and Commerce to clarify these jurisdictional changes (Jan. 30, 2001, p. 995), the final two paragraphs of which no longer provide jurisdictional guidance (Jan. 4, 2005, p. ——). A technical change to subparagraph (6) was effected in the 108th Congress (sec. 2(u), H. Res. 5, Jan. 7, 2003, p. 7).

The Committee has reported on subjects relating to the strengthening of public credit, issues of notes, and State taxation and redemption thereof (IV, 4084), propositions to maintain the parity of the money of the United States (IV, 4089; VII, 1792), the issue of silver certificates as currency (IV, 4087, 4088), national banks and current deposits of public money (IV, 4083; VII, 1790), the incorporation of an international bank (IV, 4086), subjects relating to the Freedman's Bank (IV, 4085), and Federal Reserve System, Farm Loan Act, home loan bills, stabilization of the dollar, War Finance Corporation, Federal Reserve bank buildings (VII, 1793, 1795). The Committee has jurisdiction over bills providing consolidation of grant-in-aid programs for urban development (Mar. 18, 1970, p. 7887), bills providing for U.S. participation in the International Development Association (Mar. 9, 1960, p. 5046), bills to authorize GSA to acquire land in D.C.

for transfer to the International Monetary Fund (May 1, 1962, p. 7428), bills relating to flood insurance (Dec. 4, 1975, p. 38701), and over an executive communication proposing regulations for college housing programs (notwithstanding that the requirement for such regulations was contained in higher education legislation reported from the Committee on Education and Labor) (June 15, 1982, p. 13638).

(h) **Committee on Foreign Affairs.**

§ 723. Foreign Affairs.

(1) Relations of the United States with foreign nations generally.

(2) Acquisition of land and buildings for embassies and legations in foreign countries.

(3) Establishment of boundary lines between the United States and foreign nations.

(4) Export controls, including nonproliferation of nuclear technology and nuclear hardware.

(5) Foreign loans.

(6) International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.

(7) International conferences and congresses.

(8) International education.

(9) Intervention abroad and declarations of war.

(10) Diplomatic service.

(11) Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

(12) International economic policy.

(13) Neutrality.

(14) Protection of American citizens abroad and expatriation.

(15) The American National Red Cross.
(16) Trading with the enemy.
(17) United Nations organizations.

This committee was established in 1822 (IV, 4162), and from 1885 to 1920 had authority to report appropriations. In the 94th Congress the name of the committee was changed from Foreign Affairs to International Relations (H. Res. 163, Mar. 19, 1975, p. 7343). In the 96th Congress it was changed back to Foreign Affairs (H. Res. 89, Feb. 5, 1979, p. 1848). In the 104th Congress the name was again changed to International Relations (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). In the 110th Congress it was changed back to Foreign Affairs (sec. 213(a), H. Res. 6, Jan. 4, 2007, p. ——).

In addition to the jurisdiction vested in the committee by the Legislative Reorganization Act of 1946 (60 Stat. 812), the Committee Reform Amendments of 1974, effective January 3, 1975, gave the committee jurisdiction over measures relating to: international economic policy (subpara. (12)) and export controls (subpara. (4)), matters formerly within the jurisdiction of the Committee on Banking and Currency (now Financial Services); international commodity agreements other than those relating to sugar (subpara. (6)), formerly within the jurisdiction of the Committee on Agriculture; trading with the enemy (subpara. (16)), formerly within the jurisdiction of the Committee on Interstate and Foreign Commerce (now Energy and Commerce); and international education (subpara. (8)); while transferring jurisdiction over international financial and monetary organizations to the Committee on Banking and Currency (now Financial Services), and jurisdiction over international fishing agreements to the Committee on Merchant Marine and Fisheries (now Natural Resources) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). When the legislative jurisdiction of the Joint Committee on Atomic Energy in the House was abolished in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), the committee was given jurisdiction over nonproliferation of nuclear technology and hardware (subpara. (4)), and over international agreements on nuclear exports (subpara. (6)). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including the deletion of a redundant undesignated recitation of general and special oversight functions (H. Res. 5, Jan. 6, 1999, p. 47).

It has broad jurisdiction over foreign relations, including bills to establish boundary lines between the United States and foreign nations, to determine naval strengths, and to regulate bridges and dams on international waters (IV, 4166; see also the "General Bridge Act," 33 U.S.C. 525, 533), for the protection of American citizens abroad and expatriation (IV, 4169; VII, 1883), for extradition with foreign nations, for international arbitration, relating to violations of neutrality (IV, 4178a), international conferences and congresses (IV, 4177; VII, 1884), the incorporation of the American National Red Cross and protection of its insignia (IV, 4173),

intervention abroad and declarations of war (IV, 4164; VII 1880), affairs of the consular service, including acquisition of land and buildings for legations in foreign capitals (IV, 4163; VII, 1879), creation of courts of the United States in foreign countries (IV, 4167), treaty regulations as to protection of fur seals (IV, 4170), matters relating to the Philippines (see 60 Stat. 315), and measures establishing a District of Columbia corporation to support private American organizations engaged in communications with foreign nations (June 21, 1971, p. 21062).

The Committee also has considered measures for fostering commercial intercourse with foreign nations and for safeguarding American business interests abroad (IV, 4175), and even the subjects of commercial treaties and reciprocal arrangements (IV, 4174), although in later practice the Committee on Ways and Means has considered such matters (IV, 4021). The Committee has exercised general but not exclusive jurisdiction over legislation relating to claims affecting international relations (IV, 4168; VII, 1882). Pursuant to its jurisdiction over international education, the committee (and not the Committee on Education and Labor) has exercised jurisdiction over bills establishing scholarship programs for foreign students (May 10, 1988, p. 10305). The Committee has jurisdiction over a communication from the President notifying the House, consistent with the War Powers Resolution, of the deployment abroad of U.S. armed forces to participate in an embargo against another nation (Nov. 4, 1993, p. 27393).

The special oversight function of the committee set forth in clause 3(d) of rule X (current clause 3(g) of rule X) was made effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470).

(i) **Committee on Homeland Security.**

(1) Overall homeland security policy.

§ 723a. Homeland Security.

(2) Organization and administration of the Department of Homeland Security.

(3) Functions of the Department of Homeland Security relating to the following:

(A) Border and port security (except immigration policy and non-border enforcement).

(B) Customs (except customs revenue).

(C) Integration, analysis, and dissemination of homeland security information.

(D) Domestic preparedness for and collective response to terrorism.

(E) Research and development.

(F) Transportation security.

This committee was established in the 109th Congress (sec. 2(a), H. Res. 5, Jan. 4, 2005, p. ——). For debate (and material submitted during debate) that may edify the reader on the jurisdictional issues surrounding the new committee, see January 4, 2005, p. ——. The Speaker announced that his referral of measures in the 108th Congress to the Select Committee on Homeland Security would not constitute precedent for referral to this committee (Jan. 4, 2005, p. ——).

§ 723b. Former Select Committees on Homeland Security.

In the 107th Congress the House established a Select Committee on Homeland Security (H. Res. 449, June 19, 2002, p. 10722). Its mission was to develop recommendations on such matters that relate to the establishment of a department of homeland security as may be referred to it by the Speaker and on recommendations submitted to it by standing committees to which the Speaker referred a bill establishing the department and to report its recommendation to the House on such bill. It was terminated after final disposition of the specified bill (Nov. 25, 2002, p. 23433). In the 108th Congress the House reestablished a Select Committee on Homeland Security (sec. 4, H. Res. 5, Jan. 7, 2003, p. 11). Its mission was to develop recommendations on such matters that relate to the Homeland Security Act of 2002 (P.L. 107–296) as may be referred to it by the Speaker; to conduct oversight of laws, programs, and Government activities relating to homeland security; to conduct a study of the operation and implementation of the Rules of the House, including rule X, with respect to homeland security; and to report its recommendations to the House by bill or otherwise on matters referred to it by the Speaker and to report its recommendations on changes to House rules to the Committee on Rules by September 30, 2004.

(j) **Committee on House Administration.**

§ 724. House Administration.

(1) Appropriations from accounts for committee salaries and expenses (except for the Committee on Appropriations); House Information Resources; and allowance and expenses of Members, Delegates, the Resident Commissioner, officers, and administrative offices of the House.

(2) Auditing and settling of all accounts described in subparagraph (1).

(3) Employment of persons by the House, including staff for Members, Delegates, the Resident Commissioner, and committees; and reporters of debates, subject to rule VI.

(4) Except as provided in paragraph (r)(11), the Library of Congress, including management thereof; the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Garden; and purchase of books and manuscripts.

(5) The Smithsonian Institution and the incorporation of similar institutions (except as provided in paragraph (r)(11)).

(6) Expenditure of accounts described in subparagraph (1).

(7) Franking Commission.

(8) Printing and correction of the Congressional Record.

(9) Accounts of the House generally.

(10) Assignment of office space for Members, Delegates, the Resident Commissioner, and committees.

(11) Disposition of useless executive papers.

(12) Election of the President, Vice President, Members, Senators, Delegates, or the Resident Commissioner; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.

(13) Services to the House, including the House Restaurant, parking facilities, and ad-

ministration of the House Office Buildings and of the House wing of the Capitol.

(14) Travel of Members, Delegates, and the Resident Commissioner.

(15) Raising, reporting, and use of campaign contributions for candidates for office of Representative, of Delegate, and of Resident Commissioner.

(16) Compensation, retirement, and other benefits of the Members, Delegates, the Resident Commissioner, officers, and employees of Congress.

This committee was created as the Committee on House Administration on January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), combining the Committees on Accounts (created in 1803) (IV, 4328), Enrolled Bills (created in 1789) (IV, 4350), Disposition of Executive Papers (created in 1889) (IV, 4419), Printing (created in 1846), Elections (created in 1794 and divided into three committees in 1895) (IV, 4019), Election of President, Vice President, and Representatives in Congress (created in 1893) (IV, 4299), and Memorials (created January 3, 1929, VII, 2080).

The Committee was redesignated as the Committee on House Oversight in the 104th Congress, obtaining from the former Committee on Post Office and Civil Service jurisdiction over the Franking Commission (also known as the House Commission on Congressional Mailing Standards) in subparagraph (7), while transferring to the Committee on Natural Resources jurisdiction over erection of monuments to the memory of individuals (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). References in subparagraphs (1) and (2) to the "contingent fund" were eliminated without changing the committee's jurisdiction over the accounts that the fund comprised. In the 105th Congress subparagraph (1) was amended to effect a technical correction (H. Res. 5, Jan. 7, 1997, p. 121). In the 106th Congress the committee was redesignated House Administration, and the House recodified its rules to effect clerical and stylistic changes, including the deletion of a redundant undesignated recitation of general and special oversight functions (H. Res. 5, Jan. 6, 1999, p. 47). In the 107th Congress the committee's responsibilities with respect to enrolled bills (which were set forth in former clause 4(d)(1)(A) of rule X) were transferred to the Clerk (see clause 2(d)(2) of rule II) (sec. 2(b), H. Res. 5, Jan. 3, 2001, p. 25).

§ 725. House facilities.

The Committee has jurisdiction over measures relating to the House Restaurant (2 U.S.C. 2041), which was first under the jurisdiction of the former Committee on Accounts, then under the supervision of the Architect of the Capitol (H. Res. 590, 76th Cong., Sept. 5, 1940, p. 11552, as made permanent law by P.L. 76–812), and then the Select Committee on the House Restaurant (H. Res. 472, 91st Cong., July 10, 1969, p. 19080; H. Res. 111, 93d Cong., Feb. 7, 1973, p. 3680), which was not reestablished after the 93d Congress.

By the Committee Reform Amendments of 1974, effective January 3, 1975, the committee obtained jurisdiction over parking facilities of the House, a matter formerly assigned to a select committee (subpara. (13)) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 94th Congress the committee was given jurisdiction over campaign contributions to candidates for the House, a matter formerly within the jurisdiction of the Committee on Standards of Official Conduct (subpara. (15)), and over compensation, retirement, and other benefits of Members, officers, and employees of Congress (subpara. (16)) (H. Res. 5, Jan. 14, 1975, p. 20).

The Committee has jurisdiction over resolutions authorizing committees to employ additional professional and clerical personnel (Feb. 7, 1966, p. 2373). The Committee has supervisory authority over the House barber shops, beauty shops, and House Information Resources.

§ 727. Library.

Under the Reorganization Act the committee has jurisdiction over some of the subjects formerly within the jurisdiction of the Joint Committee on the Library, such as matters relating to the Library of Congress and the House Library, statuary and pictures, acceptance or purchase of works of art for the Capitol, the Botanic Gardens, management of the Library of Congress, purchase of books and manuscripts, matters relating to the Smithsonian Institution, and the incorporation of similar institutions. Excepted are measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution, which fall under the jurisdiction of the Committee on Transportion (now Transportation and Infrastructure). The House Members of the Joint Committee on the Library, provided for by law (2 U.S.C. 132b), are elected by resolution each Congress.

§ 728. Congressional Record.

The Committee has jurisdiction over matters relating to printing and correction of the Congressional Record, formerly within the jurisdiction of the Committee on Printing. The House Members of the Joint Committee on Printing, provided for by law (44 U.S.C. 101), are elected by resolution each Congress.

The Committee has jurisdiction over measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; Federal elections generally, and the electoral count, which formerly was within the jurisdiction of the Committee on Election of the President, Vice President, and Representatives in Congress (IV, 4303).

The Committee's former responsibility to report on Members' travel was supplanted by the function of providing policy direction to and oversight of the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Inspector General (sec. 10, H. Res. 423, Apr. 9, 1992, p. 9040; sec. 201(e), H. Res. 6, Jan. 4, 1995, p. 463; see rule II and § 752, *infra*). In the 107th Congress the committee retained the responsibility to provide policy direction to and oversight of the Inspector General but retained only oversight of the remaining officers (sec. 2(g), H. Res. 5, Jan. 3, 2001, p. 25).

(k) Committee on the Judiciary.

§ 729. Judiciary.

(1) The judiciary and judicial proceedings, civil and criminal.

(2) Administrative practice and procedure.

(3) Apportionment of Representatives.

(4) Bankruptcy, mutiny, espionage, and counterfeiting.

(5) Civil liberties.

(6) Constitutional amendments.

(7) Criminal law enforcement.

(8) Federal courts and judges, and local courts in the Territories and possessions.

(9) Immigration policy and non-border enforcement.

(10) Interstate compacts generally.

(11) Claims against the United States.

(12) Meetings of Congress; attendance of Members, Delegates, and the Resident Commissioner; and their acceptance of incompatible offices.

(13) National penitentiaries.

(14) Patents, the Patent and Trademark Office, copyrights, and trademarks.

(15) Presidential succession.

(16) Protection of trade and commerce against unlawful restraints and monopolies.

(17) Revision and codification of the Statutes of the United States.

(18) State and territorial boundary lines.

(19) Subversive activities affecting the internal security of the United States.

§ 730. Internal Security.

This committee dates from 1813 (IV, 4054). The essential jurisdiction defined in the rule was made effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and combined the Committees on Revision of Laws (created 1868, IV, 4293), Patents (created in 1837) (IV, 4254), Immigration and Naturalization (created in 1893) (IV, 4309), Claims (created in 1794) (IV, 4262), and War Claims (created in 1883) (IV, 4269). By the Committee Reform Amendments of 1974, effective January 3, 1975, the committee's jurisdiction over holidays and celebrations was transferred to the former Committee on Post Office and Civil Service (now under Oversight and Government Reform) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 94th Congress the Committee on Internal Security was abolished and jurisdiction over communist and other subversive activities affecting the internal security of the United States was transferred to this committee (subpara. (18), now (19)) (H. Res. 5, Jan. 14, 1975, p. 20), though an accompanying provision for the transfer of records and staff of the Internal Security Committee to the Judiciary Committee was deleted as obsolete in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), and the specific reference to communism was deleted as unnecessary in the 104th Congress (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). The 104th Congress also inserted "the judiciary" in subparagraph (1); added subparagraph (2) for clarification; combined former subparagraphs (6) and (9) in a new subparagraph (7) (now (8)); and combined former subparagraphs (13) and (14) in a new subparagraph (13) (now (14)) (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including an update of a reference to the Patent and Trademark Office (H. Res. 5, Jan. 6, 1999, p. 47). In the 109th Congress the House established the Committee on Homeland Security with jurisdiction over certain functions of the Department of Homeland Security that resulted in a conforming change to subparagraph (9) (sec. 2(a)(1), H. Res. 5, Jan. 4, 2005, p. ——). In the 109th Congress the House also added subparagraph (7) (sec. 2(a)(2), H. Res. 5, Jan. 4, 2005, p. ——). For debate (and material submitted during debate) that may edify the reader on the jurisdictional issues surrounding the creation of the new Committee on Homeland Security, see January 4, 2005, p. ——.

Under subparagraph (15) the committee has jurisdiction over Presidential nominations to fill vacancies in the Office of Vice President, submitted pursuant to the 25th amendment to the Constitution (Oct. 13, 1973,

p. 34032; Aug. 20, 1974, p. 29366). The Committee has reported Articles of Impeachment of the President (Aug. 20, 1974, pp. 29219–81; Dec. 17, 1998, p. 27819). Where the House has voted to impeach, members of the committee have been appointed as managers on the part of the House in presenting the charges to the Senate for trial (H. Res. 501, 99th Cong., July 22, 1986, p. 17306; H. Res. 511, 100th Cong., Aug. 3, 1988, p. 20223; H. Res. 12, 101st Cong., Jan. 3, 1989, p. 84; Dec. 19, 1998, p. 28112; Jan. 6, 1999, p. 15).

The Committee on the Judiciary considers charges against judges of the Federal courts (IV, 4062), legislative propositions relating to the service of the Department of Justice (IV, 4067), bills relating to local courts in the District of Columbia, Alaska, and the territories (IV, 4068), the establishment of a court of patent appeals (IV, 4075), relations of labor to courts and corporations (IV, 4072), crimes, penalties, extradition (IV, 4069; VII, 1747), construction and management of national penitentiaries (IV, 4070), matters relating to trusts and corporations (IV, 4057, 4059, 4060; VII, 1764), claims of States against the United States (IV, 4080), general legislation relating to international and other claims (IV, 4078, 4079, 4081), including measures extending the terms of members of the Foreign Claims Settlement Commission (Nov. 14, 1991, p. 32130), bills relating to the Office of President (IV, 4077), to the flag (IV, 4055), bankruptcy (IV, 4065), removal of political disabilities (IV, 4058), prohibition of traffic in intoxicating liquors (IV, 4061; VII, 1773), mutiny and willful destruction of vessels (IV, 4145), counterfeiting (IV, 4071; VII, 1753), settlement of State and territorial boundary lines (VII, 1768), meeting of Congress and attendance of Members and their acceptance of incompatible offices (IV, 4077, VI, 65).

The Committee also has jurisdiction over joint resolutions proposing amendments to the Constitution (IV, 4056; VII, 1779). It also reports on important questions of law relating to subjects naturally within the jurisdiction of other committees (IV, 4063). Although the committee has historically exercised jurisdiction over lobbying activities, the Committee on Standards of Official Conduct was assigned such jurisdiction during a brief period (H. Res. 1031, 91st Cong., July 8, 1970, p. 23141; H. Res. 5, 94th Cong., Jan. 14, 1975, p. 20).

The Committee also has jurisdiction over bills regulating the authority of States to impose taxes on interstate commerce (June 18, 1959, p. 11317), imposing conflict of interest standards and civil and criminal penalties relating thereto on government employees (Feb. 25, 1960, p. 3484), establishing an Academy of Criminal Justice (Apr. 5, 1965, p. 6822), eliminating racketeering in the interstate sale of cigarettes (Feb. 9, 1972, p. 3429), providing worker's compensation for non-Federal firefighters killed during civil disorder (May 6, 1968, p. 11798) or to non-Federal policemen and firemen (Dec. 12, 1975, p. 40204), authorizing the Attorney General to consent to a modification of a certain trust on behalf of the Library of Congress (Aug. 17, 1959, p. 16051), amending an omnibus pension act to

increase the amount of pension granted a certain class of persons (Feb. 15, 1960, p. 2523), and imposing criminal sanctions under the Controlled Substances Act (Nov. 14, 1983, p. 32457). The Committee has exclusive jurisdiction over the Legal Services Corporation (Nov. 19, 1975, p. 37288). The Committee has exercised jurisdiction, with the Committee on Education and Labor, over bills to amend the Walsh-Healey Act regarding hours of work under government contracts (May 15, 1985, p. 11946). This committee, and not the Committee on Public Works and Transportation (now Transportation and Infrastructure), exercised jurisdiction over a bill extending the authority for the Marshal of the Supreme Court and the Supreme Court Police to protect the Chief Justice, Associate Justices, officers, and employees of the Supreme Court beyond its building and grounds (Nov. 22, 1993, p. 32074). The Committee on Oversight and Government Reform, and not this committee, has jurisdiction over pay adjustments for administrative law judges (July 31, 1991, p. 20677; June 10, 1999, p. 12435). The Committee on Natural Resources, and not this committee, has jurisdiction over a bill to designate an immigration museum within a facility of the National Park Service (July 8, 2004, p. ——).

The Committee has the general oversight responsibility set forth in clause 2(b).

(l) Committee on Natural Resources.

§ 731. Natural Resources.

(1) Fisheries and wildlife, including research, restoration, refuges, and conservation.

(2) Forest reserves and national parks created from the public domain.

(3) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

(4) Geological Survey.

(5) International fishing agreements.

(6) Interstate compacts relating to apportionment of waters for irrigation purposes.

(7) Irrigation and reclamation, including water supply for reclamation projects and easements of public lands for irrigation projects; and acquisition of private lands when necessary to complete irrigation projects.

(8) Native Americans generally, including the care and allotment of Native American lands and general and special measures relating to claims that are paid out of Native American funds.

(9) Insular possessions of the United States generally (except those affecting the revenue and appropriations).

(10) Military parks and battlefields, national cemeteries administered by the Secretary of the Interior, parks within the District of Columbia, and the erection of monuments to the memory of individuals.

(11) Mineral land laws and claims and entries thereunder.

(12) Mineral resources of public lands.

(13) Mining interests generally.

(14) Mining schools and experimental stations.

(15) Marine affairs, including coastal zone management (except for measures relating to oil and other pollution of navigable waters).

(16) Oceanography.

(17) Petroleum conservation on public lands and conservation of the radium supply in the United States.

(18) Preservation of prehistoric ruins and objects of interest on the public domain.

(19) Public lands generally, including entry, easements, and grazing thereon.

(20) Relations of the United States with Native Americans and Native American tribes.

(21) Trans-Alaska Oil Pipeline (except rate-making).

The Committee on Public Lands was created in 1805 (IV, 4194). Its name has since been changed to Interior and Insular Affairs (Feb. 2, 1951, p. 883); to Natural Resources (H. Res. 5, Jan. 5, 1993, p. 49); to Resources (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464); and back to Natural Resources (sec. 214(a), H. Res. 6, Jan. 4, 2007, p. ——).

The core of the jurisdiction reflected in this paragraph was assigned to the committee effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), which consolidated in this committee the jurisdictions of the former Committees on Mines and Mining (created in 1865) (IV, 4223), Insular Affairs (created in 1899) (IV, 4213), Irrigation and Reclamation (created in 1893) (IV, 4307), Indian Affairs (created in 1821) (IV, 4204), and territories (created in 1825) (IV, 4208), though vesting the subject of welfare of miners, formerly under the jurisdiction of the Committee on Mines and Mining, in the Committee on Education and Labor. Until the Reorganization Act, military parks, battlefields, and national cemeteries were under the jurisdiction of the Committee on Military Affairs. Jurisdiction over cemeteries of the United States in which veterans may be buried, except those administered by the Secretary of the Interior, was transferred to the Committee on Veterans' Affairs in the 90th Congress (H. Res. 241, Oct. 20, 1967).

In the Committee Reform Amendments of 1974, effective January 3, 1975, the committee gained jurisdiction over parks within the District of Columbia, formerly within the jurisdiction of the Committee on Public Works and Transportation (now Transportation and Infrastructure) (subpara. (10)), and lost specific jurisdiction over Indian education and over Hawaii and Alaska, generally (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). By that same resolution, the committee was given special oversight functions in clause 3.

The 104th Congress expanded the jurisdiction of the committee by: adding subparagraphs (1), (5), (15), and (16) to reflect the transfer of those matters from the former Committee on Merchant Marine and Fisheries; inserting the subject of monuments in memory of individuals in subparagraph (10) to reflect the transfer of that matter from the Committee on House Administration; adding subparagraph (21), an exceptional treatment of pipeline jurisdiction otherwise vested in the Committee on Transportation and Infrastructure; and deleting the subject of regulation of the domestic nuclear energy industry to reflect the transfer of that jurisdiction, which this committee had acquired when the 95th Congress abolished the Joint Committee on Atomic Energy (H. Res. 5, Jan. 4, 1977, pp. 53–70) and which it shared with the Committee on Energy and Commerce, to the Committee on Energy and Commerce (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). At the same time, the statements of special oversight functions formerly found in this paragraph and in former paragraph (e) of this

clause were adjusted to reflect the transfer of nonmilitary nuclear energy and research and development, including disposal of nuclear waste, from this committee to the Committee on Energy and Commerce, though conforming changes in former paragraphs (e) and (h) of clause 3 were inadvertently omitted. Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, (H. Res. 5, Jan. 6, 1999, p. 47).

The Committee reports on subjects relating to the mineral resources of the public lands (IV, 4202), forfeiture of land grants and alien ownership (IV, 4201), validation of certain conveyances of erstwhile public lands by a railway company (July 11, 1995, p. 18397), public lands of Alaska (IV, 4196), forest reserves (IV, 4197), and national parks created out of the public domain (IV, 4199; VII, 1925), including measures relating to criminal trespass provisions applying only within national forests created from the public domain (July 18, 1977, p. 23434); to admission of States (IV, 4208); to preservation of prehistoric ruins and objects of interest on the public domain (IV, 4199); and sometimes to projects of general legislation relating to various classes of land claims (IV, 4203). The Committee also has jurisdiction over the following bills: to dispose of proceeds from oil shale on public lands (other than naval oil shale reserves) (Aug. 3, 1967, p. 21179); to exclude certain lands in the Outer Continental Shelf from mineral leasing provisions of the Outer Continental Shelf Lands Act (May 16, 1963, p. 8777); to reinstate a U.S. oil and gas lease (Aug. 5, 1959, p. 15190); to address U.S. claims to lands along the Colorado River forming State boundaries (June 28, 1967, p. 17738); to designate national forest lands created from the public domain as wilderness (May 6, 1969, p. 11459); to include additional units in the Missouri River Basin project (Sept. 8, 1959, p. 18587); to establish a commission on development of Pennsylvania Avenue in D.C. as a national historic site (Oct. 21, 1965, p. 27803); to authorize the Secretary of the Interior to conduct a feasibility investigation of potential water resource development (May 1, 1975, p. 12764); to establish a commission to consider the creation of a (Hudson) River compact (July 21, 1975, p. 23653); to name a building constructed as part of a Federal recreation area (June 8, 1988, p. 13803); to address the siting on Federal park land of an established national memorial (Sept. 24, 1991, p. 23731); (with the Committee on Agriculture) to exchange a Federal tree nursery for certain State mining patents touching a public domain (western) forest (Sept. 17, 1991, p. 23193); and to transfer interest in a National Oceanic and Atmospheric Administration fisheries research laboratory (Oct. 1, 2002, p. 18796). The Committee on National Security (now Armed Services), and not this committee, has jurisdiction over the transfer of military property to a State to be designated by the State as a wilderness area (Nov. 15, 1995, p. 32627). The Committee on Agriculture, and not this committee, has jurisdiction over the designation of an agricultural research center (May 14, 1996, p. 11070). The Committee on Education and Labor, and not this committee, has jurisdiction over a bill amending the Native American Programs Act of 1974 (an Indian education matter)

(Oct. 30, 1997, p. 23967). This committee, and not the Committee on Agriculture, has jurisdiction over a bill to convey land that is part of a National Forest created from the public domain (Mar. 23, 2004, p. ——). This committee, and not the Committee on the Judiciary, has jurisdiction over a bill to designate an immigration museum within a facility of the National Park Service (July 8, 2004, p. ——).

The authority of the committee to report as privileged bills for the forfeiture of land grants to railroad and other corporations, bills preventing speculation in the public lands, bills for the preservation of the public lands for the benefit of actual and bona fide settlers, and bills for the admission of new States was eliminated in the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470).

(m) **Committee on Oversight and Government Reform.**

§ 732. Oversight and Government Reform.

(1) Federal civil service, including intergovernmental personnel; and the status of officers and employees of the United States, including their compensation, classification, and retirement.

(2) Municipal affairs of the District of Columbia in general (other than appropriations).

(3) Federal paperwork reduction.

(4) Government management and accounting measures generally.

(5) Holidays and celebrations.

(6) Overall economy, efficiency, and management of government operations and activities, including Federal procurement.

(7) National archives.

(8) Population and demography generally, including the Census.

(9) Postal service generally, including transportation of the mails.

(10) Public information and records.

(11) Relationship of the Federal Government to the States and municipalities generally.

(12) Reorganizations in the executive branch of the Government.

In the 82d Congress the name of this committee was changed from Expenditures in the Executive Departments to Government Operations (July 3, 1952, p. 9217). In the 104th Congress it was changed to Government Reform and Oversight (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464), in the 106th Congress it was changed to Government Reform (H. Res. 5, Jan. 6, 1999, p. 47), and in the 110th Congress it was changed to Oversight and Government Reform (sec. 215(a), H. Res. 6, Jan. 4, 2007, p. ——). The former Committee on Expenditures in the Executive Departments was established December 5, 1927 (VII, 2041), and took the place of 11 separate committees on expenditures in the several executive departments. The first of these committees was established in 1816, and others were added as new departments were created (IV, 4315). They reported bills relating to the efficiency and integrity of the public service (IV, 4320), and creation and abolition of offices (IV, 4318).

In addition to the jurisdiction vested in the Committee by the Legislative Reorganization Act of 1946 (60 Stat. 812), the Committee Reform Amendments of 1974, effective January 3, 1975, assigned the committee jurisdiction over measures relating to the overall economy and efficiency of Government operations and activities, including Federal procurement, intergovernmental relationships, and general revenue sharing (the latter from the Committee on Ways and Means was stricken from the jurisdictional statement of this committee in the 104th Congress (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464)), and the National Archives (from the former Committee on Post Office and Civil Service) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 104th Congress (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464), the committee assumed the jurisdictions of the former Committee on the District of Columbia (subparas. (2)) and the former Committee on Post Office and Civil Service except that relating to the Franking Commission (subparas. (1), (5), (8), and (9)); and subparagraphs (3) and (10) were added to clarify existing jurisdiction. At the same time the committee's jurisdiction over measures relating to off-budget treatment of agencies or programs, which had been added by the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177), was transferred to the Committee on the Budget. Three rereferrals from this committee to the Committee on the Budget marked this migration of off-budget treatment jurisdiction: (1) the Committee on the Budget has primary jurisdiction over a bill excluding from the budget the Civil Service Retirement and Disability Fund (although the Committee on Government Reform and Oversight (now Oversight and Government Reform) retains programmatic jurisdiction over that Fund); (2) the Committee on the Budget has primary jurisdiction over a

bill excluding from the budget the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund (although the Committee on Transportation and Infrastructure retains programmatic jurisdiction); and (3) the Committee on the Budget has secondary jurisdiction over a bill amending title 49 of the United States Code and providing off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund (Dec. 6, 1995, p. 35572). The Committee was also released from jurisdiction over measures relating to exemptions from executive orders sequestering budget authority, which had been added by the Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508). In the 105th Congress any residual jurisdiction over budget process was transferred to the Committee on the Budget (H. Res. 5, Jan. 7, 1997, p. 121). The 104th Congress assigned the committee its responsibilities to coordinate committee oversight plans under clause 2(d) (sec. 203(a), H. Res. 6, Jan. 4, 1995, p. 467). In the 104th Congress the committee was also given the responsibility to consider and report recommendations concerning alternatives to commemorative legislation, although no such report was made to the House (sec. 216(b), H. Res. 6, Jan. 4, 1995, p. 468). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including the deletion of a redundant undesignated recitation of general and special oversight functions (H. Res. 5, Jan. 6, 1999, p. 47).

The Committee has exercised jurisdiction over bills: waiving Reorganization Plans to establish the Rural Electrification Administration as an independent agency and transferring certain functions thereto (Mar. 19, 1959, p. 4692); establishing a Commission on Population Growth (Sept. 23, 1969, p. 26568); establishing a Cabinet Committee on Opportunities for Spanish-Speaking Americans (Nov. 24, 1969, p. 35509); providing payment of travel costs for Federal employment applicants (Feb. 15, 1967, p. 3466); and a bill to rename an existing post office building (Aug. 4, 1995, p. 22085; Oct. 1, 1998, p. 22933), even if the post office building also houses a courthouse (Sept. 14, 2000, p. 18054). The Committee on Transportation and Infrastructure, and not this committee, has jurisdiction over a measure redesignating a general-purpose Federal building as a post office (Apr. 24, 1997, p. 22085). The Committee has exercised jurisdiction over countercyclical programs of revenue-sharing grants to State and local governments, such as that contained in Title II of the Public Works Employment Act of 1976 (Feb. 1, 1977, p. 3057). The Committee shares jurisdiction over a bill to facilitate the reorganization of an agency by instituting a separation pay program to encourage eligible employees to voluntarily resign or retire (Aug. 2, 1993, p. 18161). The Committee has jurisdiction over a bill explicitly waiving the Federal Property and Administrative Services Act and directing the Administrator of General Services to convey excess real property (Oct. 2, 1998, p. 23186). This committee, and not the Committee on the Judiciary, has jurisdiction over a bill authorizing a pay

adjustment for administrative law judges (July 31, 1991, p. 20677; June 10, 1999, p. 12435).

The specific subpoena authority conferred upon the committee in the standing rules on February 10, 1947 (p. 942) was superseded by the general conferral of subpoena authority on all committees in clause 2(m) of rule XI. The Committee may authorize the taking of depositions pursuant to subpoena (clause 4(c)(3) of rule X). By the Committee Reform Amendments of 1974, effective January 3, 1975, the committee was given the general function under clause 4(c)(1) of examining and reporting upon reports of the Comptroller General, evaluating laws reorganizing the legislative and executive branches, and studying intergovernmental relationships domestically and with international organizations to which the United States belongs (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Under section 2954 of title 5, United States Code, an executive agency, if so requested by this committee or any seven members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee.

(n) Committee on Rules.

§ 733. Rules.

(1) Rules and joint rules (other than those relating to the Code of Official Conduct) and the order of business of the House.

(2) Recesses and final adjournments of Congress.

This committee, which had existed as a select committee from 1789, became a standing committee in 1880 (IV, 4321; VII, 2047). The jurisdiction defined in this paragraph became effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including the deletion of a redundant undesignated pararaph permitting the committee to sit during sessions of the House (H. Res. 5, Jan. 6, 1999, p. 47). That undesignated paragraph, originally designated as subparagraph (3) (H. Res. 5, Jan. 5, 1993, p. 49), was derived from section 134(c) of the Legislative Reorganization Act of 1946, even though the committee had authority to sit during sessions of the House since 1893 (IV, 4546). Effective January 3, 1975, however, the authority for all committees to sit and act whether the House is in session or has adjourned rendered this provision obsolete (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470).

The Speaker was first made a member of the committee in 1858 (IV, 4321), and ceased to be a member on March 19, 1910 (VII, 2047). However, the Legislative Reorganization Act of 1946 deleted from the former rule the prohibition against the Speaker serving on the committee. The size

of the committee was increased from 12 to 15 members for the 87th Congress (Jan. 31, 1961, p. 1589), and the increase in the committee's size was incorporated as a part of the rules in the 88th Congress (Jan. 9, 1963, p. 14). Effective January 3, 1975, however, the rules were amended to eliminate prescriptions of committee sizes (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), and in the 94th through the 98th Congresses 16 Members were named to the Committee on Nominations from the respective party caucuses (see, *e.g.*, H. Res. 76, Jan. 20, 1975, p. 803; H. Res. 101, Jan. 28, 1975, p. 1611), and in the 99th through 101st Congresses, 13 Members were named to the Committee on Nominations from the respective party caucuses (see, *e.g.*, H. Res. 34, 35, Jan. 30, 1985, pp. 1271, 1273).

The subject of recesses and adjournments was formerly under the jurisdiction of the Committee on Ways and Means. In section 402(b) of the Congressional Budget Act of 1974 (P.L. 93–344, July 12, 1974), the committee was given specific authority to report emergency waivers of the required reporting date for bills and resolutions authorizing new budget authority. That authority was incorporated into this rule, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), but was repealed as obsolete in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. 39). Jurisdiction over rules relating to official conduct and financial disclosure was transferred to the Committee on Standards of Official Conduct on April 3, 1968 (H. Res. 1099, 90th Cong.), but in the 95th Congress, jurisdiction over rules relating to financial disclosure by Members, officers, and employees of the House was returned to this committee (H. Res. 5, Jan. 4, 1977, pp. 53–70).

The jurisdiction of this committee is primarily over propositions to make or change the rules (V, 6770, 6776; VII, 2047), to create committees (IV, 4322; VII, 2048), and to direct them to make investigations (IV, 4322–4324; VII, 2048). Effective January 3, 1975, however, the authority for all committees to conduct investigations and studies was made a part of the standing rules (clause 1(b) of rule XI), as was the authority to issue subpoenas (clause 2(m) of rule XI) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The Committee also reports resolutions relating to the hour of daily meeting and the days on which the House shall sit (IV, 4325), and orders relating to the use of the galleries during the electoral count (IV, 4327). The chairman of the Committee on the Budget inserted in the Congressional Record a Memorandum of Understanding between this committee and the Committee on the Budget to clarify each Committee's jurisdiction over the congressional budget process (Jan. 4, 1995, p. 617). The Committee on the Budget has primary jurisdiction, and this committee has additional jurisdiction, over a bill amending the Budget Act to establish new legislative points of order and directing that the President include a specified matter with his budget (Feb. 13, 2001, p. 1817).

§ 734. Special orders of business.

Since 1883 the Committee on Rules has reported special orders providing times and methods for consideration of individual bills or classes of bills, thereby enabling the House by majority vote to forward particular legislation, instead of being forced to use for this purpose the motion to suspend the rules, which requires a two-thirds vote (IV, 3152; V, 6870; for forms of, IV, 3238–3263).

Special orders may still be made by suspension of the rules (IV, 3154) or by unanimous consent (IV, 3165, 3166; VII, 758); but it is not in order, by motion in the House, to provide that a subject be made a special order by a motion to postpone to a day certain (IV, 3164). Before the adoption of rules, and consequently before there is a rule as to the order of business, the Speaker may recognize a Member to offer for immediate consideration a special order providing for the consideration in the House of a subsequent resolution to adopt rules for the new Congress (H. Res. 5, Jan. 4, 1995, p. 447; H. Res. 5, Jan. 4, 2007, p. ——). A special order reported by the Committee on Rules must be agreed to by a majority vote of the House (IV, 3169).

It is not in order to move to postpone a special order providing for the consideration of a class of bills (V, 4958), but a bill that comes before the House by the terms of a special order merely assigning the day for its consideration may be postponed by a majority vote (IV, 3177–3182). A motion to rescind a special order is not privileged under the rules regulating the order of business (IV, 3173, 3174; V, 5323).

A motion to amend the Rules of the House does not present a question of privilege (VIII, 3377, overruling VIII, 3376; see also rule IX and § 706, *supra*), and it is not in order by raising a question of the privileges of the House under rule IX to move to direct the Committee on Rules to consider a request to report a special order of business (Speaker Albert, June 27, 1974, p. 21599), or to direct the Committee on Rules to meet, to elect a temporary chairman (in the temporary absence of the chairman) and consider special orders of business (Speaker Albert, July 31, 1975, p. 26250).

For further discussion of the Committee on Rules, see §§ 857–859, *infra*.

(o) Committee on Science and Technology.

§ 735. Science and Technology.

(1) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

(2) Astronautical research and development, including resources, personnel, equipment, and facilities.

(3) Civil aviation research and development.

(4) Environmental research and development.

(5) Marine research.

(6) Commercial application of energy technology.

(7) National Institute of Standards and Technology, standardization of weights and measures, and the metric system.

(8) National Aeronautics and Space Administration.

(9) National Space Council.

(10) National Science Foundation.

(11) National Weather Service.

(12) Outer space, including exploration and control thereof.

(13) Science scholarships.

(14) Scientific research, development, and demonstration, and projects therefor.

The standing Committee on Science and Astronautics was established in the 85th Congress and given jurisdiction formerly vested in a Select Committee on Astronautics and Space Exploration established a few months earlier (Mar. 5, 1958, p. 3443), as well as the former jurisdiction of the Committee on Interstate and Foreign Commerce (now Energy and Commerce) over the Bureau of Standards (now the National Institute of Standards and Technology) and science scholarships (July 21, 1958, p. 14513). By the Committee Reform Amendments of 1974, effective January 3, 1975, the committee was redesignated as the Committee on Science and Technology and given additional jurisdiction over civil aviation research and development, environmental research and development, nonnuclear energy research and development, and the National Weather Service (now part of the National Oceanic and Atmospheric Administration) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). At the same time the committee was given the general and special oversight functions set forth in clause 2(b) and former clause 3(f) (current clause 3(k)). When the House abolished the Joint Committee on Atomic Energy in the 95th Congress, this committee was given jurisdiction over nuclear research and development as well (H. Res. 5, Jan. 4, 1977, pp. 53–70). Its jurisdiction over energy research and development (now subpara. (1)) was amended in the 96th Congress, effective January 3, 1981, to specifically include energy

demonstration projects and federally owned nonmilitary energy laboratories (H. Res. 549, Mar. 25, 1980, pp. 6405–10). In the 100th Congress, the committee was redesignated as the Committee on Science, Space, and Technology (H. Res. 5, Jan. 6, 1987, p. 6). In the 103d Congress the jurisdictional statement of the committee was updated to reflect the renaming of executive branch entities (H. Res. 5, Jan. 5, 1993, p. 49). The 104th Congress renamed the committee as the Committee on Science and expanded its jurisdiction by adding subparagraph (5), from the former Committee on Merchant Marine and Fisheries, and subparagraph (6), from the Committee on Energy and Commerce (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including the deletion of a redundant undesignated recitation of general and special oversight functions (H. Res. 5, Jan. 6, 1999, p. 47). The 110th Congress renamed the committee as the Committee on Science and Technology (sec. 216(a), H. Res. 6, Jan. 4, 2007, p. ——).

The Committee has jurisdiction over proposals dealing with U.S. participation in the World Science Pan-Pacific Exposition (June 24, 1959, p. 11810); over a resolution condemning Soviet Union internal exile of an individual, and recommending that Government agencies including NASA, the National Bureau of Standards and the National Science Foundation defer official travel to that country (Jan. 30, 1980, p. 1320); with the Committees on Armed Services and Interior and Insular Affairs (now Natural Resources), over bills to test the commercial viability of oil shale technologies within the naval oil shale reserves or on other public lands (Sept. 26, 1978, p. 31623); and with four other committees over a bill coordinating Federal agencies' research into ground water contamination, including that done by the Environmental Protection Agency (Mar. 15, 1989, p. 4163). The Committee on Natural Resources, and not this committee, has jurisdiction over a bill transferring interest in a National Oceanic and Atmospheric Administration fisheries research laboratory (Oct. 1, 2002, p. 18796).

(p) Committee on Small Business.

§ 736. Small Business.

(1) Assistance to and protection of small business, including financial aid, regulatory flexibility, and paperwork reduction.

(2) Participation of small-business enterprises in Federal procurement and Government contracts.

A Select Committee on Small Business was first established in the 77th Congress (H. Res. 294, pp. 9418–28) and was reconstituted each Congress

thereafter by resolution reported from the Committee on Rules until made permanent in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144).

The Committee Reform Amendments of 1974 established a standing Committee on Small Business, effective January 3, 1975, and vested it with legislative jurisdiction formerly held by the Committee on Banking and Currency (now Financial Services) (subpara. (1)) and the Committee on the Judiciary (subpara. (2)) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). At the same time the general and special oversight functions were set forth in clause 2(b) and in former clause 3(g) (current clause 3(l)). The 104th Congress expanded the jurisdiction of the committee over assistance to and protection of small business by inserting the references to regulatory flexibility and paperwork reduction in subparagraph (1) (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464; see also Feb. 9, 1995, p. 4328) and later effected a technical correction (H. Res. 254, Nov. 30, 1995, p. 35077). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including the deletion of a redundant undesignated recitation of general and special oversight functions (H. Res. 5, Jan. 6, 1999, p. 47).

(q) **Committee on Standards of Official Conduct.**

The Code of Official Conduct.

§ 737. Standards of Official Conduct.

In the 90th Congress the Committee on Standards of Official Conduct was established as a standing committee (H. Res. 418, Apr. 13, 1967, p. 9425). Its precursor was the Select Committee on Standards and Conduct, created in the 89th Congress (H. Res. 1013, Oct. 19, 1966, pp. 27713–30). At various times in its history, the legislative jurisdiction of the committee has included jurisdiction over measures relating to (1) financial disclosure by Members, officers, and employees of the House (H. Res. 1099, 90th Cong., Apr. 3, 1968, p. 8776); (2) the raising, reporting, and use of campaign contributions for candidates for the House (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470); and (3) lobbying activities (H. Res. 1031, 91st Cong., July 8, 1970, p. 23141). However, legislative jurisdiction over measures relating to financial disclosure was transferred to the Committee on Rules in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70); legislative jurisdiction over measures relating to campaign contributions for candidates for the House was transferred to House Administration, and legislative jurisdiction over measures relating to lobbying activities was removed from the committee (thereby devolving on the Committee on the Judiciary) in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including the deletion of a redundant undesignated recitation of general and special functions (H. Res. 5, Jan. 6, 1999, p. 47).

Two rules relating to the official conduct of Members outside the confines of rule XXIII, the "Code of Official Conduct," are as follows: rule XXIV, limitations on use of official funds, and rule XXV, limitations on outside earned income and acceptance of gifts.

Under clause 5(a) of rule XIII, the committee is empowered to report as privileged resolutions recommending action by the House of Representatives with respect to the official conduct of an individual Member, officer, or employee of the House.

In addition to its legislative jurisdiction, the committee has the general oversight responsibility set forth in clause 2(b) and the additional functions of conducting the investigations and making the reports and recommendations required by clause 5 of rule XIII or by resolution of the House (see, *e.g.*, H. Res. 252, 95th Cong., Feb. 9, 1977, pp. 3966–75, directing investigation of gifts from the Korean Government; H. Res. 1042, 94th Cong., Feb. 16, 1976, pp. 3158–61, directing investigation of unauthorized publication of report of Select Committee on Intelligence; and H. Res. 608, 96th Cong., Mar. 27, 1980, pp. 6995–98, relating to "Abscam"). The House referred to the committee a resolution relating to the House Page Program offered as a question of privilege (H. Res. 1065, 109th Cong., Sept. 29, 2006, p. ——).

The Committee has investigated roll call procedures in the House and recommended installation of a modernized voting system (June 19, 1969, p. 16629). In the 95th Congress the committee was authorized by section 515 of Public Law 95–105 to act as the "employing agency" for the House of Representatives under the Foreign Gifts and Decorations Act, and the committee promulgated regulations under that statute concerning acceptance of foreign gifts and decorations by Members and employees (Jan. 23, 1978, p. 452). In the 96th Congress the committee was assigned as additional responsibilities the functions designated in title I of the Ethics in Government Act of 1978 (P.L. 95–521) relating to the administration of government ethics laws as they apply to Members, officers, and employees of the House (H. Res. 5, Jan. 15, 1979, p. 7). In the 102d Congress those responsibilities were enlarged to include the functions designated in title V of the Act and the specified sections of title 5, United States Code (H. Res. 5, Jan. 3, 1991, p. 39).

The Committee has compiled statutory and rule-based ethical standards in the *House Ethics Manual* (102d Cong., 2d Sess.). In the *Manual*, the committee incorporates its advisory opinions issued under clause 3(a)(4) of rule XI, together with advisory opinions issued by the former Select Committee on Ethics, in its discussions of various ethical issues, including gifts, outside income, financial disclosure, staff rights and duties, official allowances and franking, casework considerations, campaign financing and practices, and involvement with official and unofficial organizations. The committee also has compiled a complete statement of the rules on gifts and travel, which supersedes Chapter 2 of the 1992 *House Ethics Manual* (*Gifts and Travel,* 106th Cong., 2d Sess.).

§ 738. Former Select Committees on Ethics.

In the 95th Congress, the House established a Select Committee on Ethics and granted it exclusive legislative jurisdiction over bills that incorporated into permanent law provisions of House rules addressing financial ethics of Members, officers, and employees (H. Res. 383, Mar. 9, 1977, pp. 6811–16). The Select Committee was also granted jurisdiction to promulgate implementing regulations and to issue advisory opinions. The resolution creating the Select Committee provided that it would expire on December 31, 1977, but the committee and its functions ultimately were extended through the completion of its official business (H. Res. 871, Oct. 31, 1977, p. 35957). The advisory opinions compiled by the former Select Committee on Ethics have been incorporated in the *House Ethics Manual* (102d Cong., 2d Sess.).

In the 105th Congress a new subparagraph (3) was added at the end of former clause 4(e) of rule X to establish a Select Committee on Ethics only to resolve an inquiry originally undertaken by the standing Committee on Standards of Official Conduct in the 104th Congress (H. Res. 5, Jan. 7, 1997, p. 121). The Select Committee filed one report to the House (H. Rept. 105–1, H. Res. 31, Jan. 21, 1997, p. 393).

(r) Committee on Transportation and Infrastructure.

§ 739. Transportation and Infrastructure.

(1) Coast Guard, including lifesaving service, lighthouses, lightships, ocean derelicts, and the Coast Guard Academy.

(2) Federal management of emergencies and natural disasters.

(3) Flood control and improvement of rivers and harbors.

(4) Inland waterways.

(5) Inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.

(6) Navigation and laws relating thereto, including pilotage.

(7) Registering and licensing of vessels and small boats.

(8) Rules and international arrangements to prevent collisions at sea.

(9) The Capitol Building and the Senate and House Office Buildings.

(10) Construction or maintenance of roads and post roads (other than appropriations therefor).

(11) Construction or reconstruction, maintenance, and care of buildings and grounds of the Botanic Garden, the Library of Congress, and the Smithsonian Institution.

(12) Merchant marine (except for national security aspects thereof).

(13) Purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.

(14) Oil and other pollution of navigable waters, including inland, coastal, and ocean waters.

(15) Marine affairs, including coastal zone management, as they relate to oil and other pollution of navigable waters.

(16) Public buildings and occupied or improved grounds of the United States generally.

(17) Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).

(18) Related transportation regulatory agencies (except the Transportation Security Administration).

(19) Roads and the safety thereof.

(20) Transportation, including civil aviation, railroads, water transportation, transportation safety (except automobile safety and transpor-

tation security functions of the Department of Homeland Security), transportation infrastructure, transportation labor, and railroad retirement and unemployment (except revenue measures related thereto).

(21) Water power.

The Committee was created effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), combining the Committees on Flood Control (created in 1916) (VII, 2069), Public Buildings and Grounds (created in 1837) (IV, 4231), Rivers and Harbors (created in 1883) (IV, 4118)), and Roads (created in 1913) (VII, 2065). The authority of the committee to report as privileged bills authorizing the improvement of rivers and harbors was eliminated by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). At the same time the committee's jurisdiction over parks in the District of Columbia was transferred to the Committee on Interior and Insular Affairs (now Natural Resources); and it gained jurisdiction over transportation, including civil aviation (except railroads, railroad labor, and railroad pensions), over roads and the safety thereof, over water transportation subject to the jurisdiction of the Interstate Commerce Commission, and over related transportation regulatory agencies with certain exceptions. The 104th Congress changed the name of the Committee from Public Works and Transportation to Transportation and Infrastructure and expanded its jurisdiction by: adding subparagraphs (1), (6)–(8), (12), and (15) to reflect the transfer of those matters from the former Committee on Merchant Marine and Fisheries; adding subparagraph (4) and enlarging subparagraph (20) to reflect the transfer of those mattersfrom the Committee on Energy and Commerce; and adding subparagraph (2) and inserting the reference to inland, coastal, and ocean waters in subparagraph (14), as clarifying consolidations of formerly fractionalized subjects (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress. The 106th Congress also adopted a substantive amendment to this provision deleting the prohibition against including a provision for a specific road in a bill providing for another specific road or in a general road bill (H. Res. 5, Jan. 6, 1999, p. 47). In the 109th Congress the House established the Committee on Homeland Security (sec. 2(a), H. Res. 5, Jan. 4, 2005, p. ——). The new committee was given jurisdiction over certain functions of the Department of Homeland Security that resulted in two conforming changes to this paragraph. For debate (and material submitted during debate) that may edify the reader on the jurisdictional issues surrounding the creation of that committee, see January 4, 2005, p. ——.

The Committee has jurisdiction over proposals establishing Treasury revolving funds for the Southeastern and Southwestern Power Administra-

tions (July 2, 1959, p. 12629); directing the Secretary of the Army to provide school facilities for dependents of Corps of Engineers construction workers (June 17, 1968, p. 17429); conveying Corps of Engineers flood-control project lands (July 15, 1965, p. 17002) or naming reservoirs within such projects (Oct. 3, 1989, p. 22770) or allocating or limiting water use therefrom (Feb. 28, 1990, p. 2893); directing the Secretary of the Army to renew the license of an American Legion Post to use a parcel of land on a Corps of Engineer project (May 10, 1988, p. 10282); authorizing construction of an annex to the National Gallery of Art by the Smithsonian Institution (Apr. 10, 1968, p. 9553); addressing the location and development of the J. F. Kennedy Center for the Performing Arts (Sept. 15, 1965, p. 23927; Oct. 21, 1965, p. 27803); transferring land under the control of the Corps of Engineers to Indian tribes (Jan. 29, 1976, p. 1577); amending the Interstate Commerce Act to regulate truck transportation (Feb. 24, 1976, p. 4109; Mar. 1, 1979, p. 3754); concerning the treatment of a U.S. air freight carrier by the Japanese Ministry of Transport pursuant to an understanding negotiated under the International Air Transportation Competition Act of 1979 (not a Trade Act matter) (July 28, 1988, p. 19536); and over an executive communication amending Public Law 90–553, reported by the committee, to authorize the transfer, conveyance, lease and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for an international organization, as sites for governments of foreign countries (Sept. 10, 1981, p. 20598). The Committee on Government Reform and Oversight (now Oversight and Government Reform), and not this committee, has jurisdiction over a bill renaming an existing post office building (Aug. 4, 1995, p. 22085; Oct. 1, 1998, p. 22933) and renaming an existing post office building that also housed a courthouse (Sept. 14, 2000, p. 18054). However, this committee, and not the Committee on Oversight and Government Reform and Oversight, has jurisdiction over a bill redesignating a general-purpose Federal building as a post office (Apr. 24, 1997, p. 6291). This committee, and not the Committee on Ways and Means, has jurisdiction over a bill designating a customs building (Dec. 12, 1995, p. 36165). The Committee on Natural Resources, and not this committee, has jurisdiction over a bill to validate certain conveyances of erstwhile public lands by a railway company (July 11, 1995, p. 18397). The Committee on Oversight and Government Reform, and not this committee, has jurisdiction over a bill transferring real property administered by the Coast Guard where the bill explicitly waives the Federal Property and Administrative Services Act and directs the Administrator of General Services to convey the property (Oct. 2, 1998, p. 23186).

The Committee has shared jurisdiction: with the Committee on Energy and Commerce over a bill amending the Solid Waste Disposal Act to provide for the cleanup of hazardous waste sites or discharges presenting a threat to human health and the environment, including navigable waters (Mar. 21, 1984, p. 6186); with the Committee on Government Operations (now Oversight and Government Reform) over a bill to require the Administrator

of General Services to convey certain real property (a Federal building) to the Museum for the American Indian and providing for renovation and alteration of the property (Oct. 28, 1987, p. 29685); with the Committee on House Administration over a bill authorizing the Smithsonian Institution to construct, expand, and renovate facilities at the Cooper-Hewitt Museum in New York (July 21, 1987, p. 20309), and over a bill authorizing appropriations to plan, design, construct, and equip museum space for the Smithsonian (July 18, 1991, p. 18830); with several other committees over bills to convert from a defense economy by, *inter alia*, authorizing economic assistance for public works and economic development (June 24, 1991, p. 16021; June 11, 1992, p. 14470); and with the Committee on Education and Labor over bills providing labor protections to workers, including airline employees, in the transportation industry (June 24, 1991, p. 16020; Feb. 24, 1993, p. 3577).

In the 101st Congress, the committee reported a bill requiring a cooling-off period in a labor-management dispute between an airline and its unions under the Railway Labor Act (H.R. 1231, Mar. 13, 1989, p. 4032).

(s) Committee on Veterans' Affairs.

§ 740. Veterans' Affairs.

(1) Veterans' measures generally.

(2) Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad (except cemeteries administered by the Secretary of the Interior).

(3) Compensation, vocational rehabilitation, and education of veterans.

(4) Life insurance issued by the Government on account of service in the Armed Forces.

(5) Pensions of all the wars of the United States, general and special.

(6) Readjustment of servicemembers to civil life.

(7) Servicemembers' civil relief.

(8) Veterans' hospitals, medical care, and treatment of veterans.

This committee was established January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and was vested with jurisdiction formerly exercised by the Committees on World War Veterans' Legisla-

tion (VII, 2077); Invalid Pensions (IV, 4258); and Pensions (IV, 4260). Jurisdiction over veterans' cemeteries administered by the Department of Defense was transferred from the Committee on Interior and Insular Affairs (now Natural Resources) in the 90th Congress (H. Res. 241, Oct. 20, 1967, p. 29560). Vocational rehabilitation, except that pertaining to veterans, is under the jurisdiction of the Committee on Education and Labor. The Committee has jurisdiction over bills to amend the Soldiers and Sailors Civil Relief Act of 1940 to permit certain declarations of fact in lieu of affidavits (Feb. 4, 1959, p. 1812), and over bills to amend the Servicemen's and Veterans' Survivor Benefits Act relating to service-connected deaths of retired members of the uniformed services (May 18, 1959, p. 8273). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). Technical changes to subparagraphs (6) and (7) were effected in the 109th Congress (sec. 2(l), H. Res. 5, Jan. 4, 2005, p. ——).

(t) Committee on Ways and Means.

§ 741. Ways and Means.

(1) Customs revenue, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to insular possessions.

(5) Bonded debt of the United States, subject to the last sentence of clause 4(f).

(6) Deposit of public monies.

(7) Transportation of dutiable goods.

(8) Tax exempt foundations and charitable trusts.

(9) National social security (except health care and facilities programs that are supported from general revenues as opposed to payroll deductions and except work incentive programs).

A select Committee on Ways and Means dates from 1789. It was made a standing committee in 1802. Originally it considered both revenue and appropriations, but in 1865 the appropriation bills were given to the Committee on Appropriations and certain other bills to the Committee on Bank-

ing and Currency (now Financial Services) (IV, 4020). Its jurisdiction was also amended on April 5, 1911 (p. 58), and further defined in the Legislative Reorganization Act of 1946 (60 Stat. 812), which transferred the subject of recesses and final adjournments from this committee to the Committee on Rules.

By the Committee Reform Amendments of 1974, effective January 3, 1975, the committee gained legislative jurisdiction over tax exempt foundations and charitable trusts (subpara. (8)), formerly within the jurisdiction of the Committee on Banking and Currency (now Financial Services) because of their impact on the economy, while it was released from: jurisdiction over health care and facilities programs supported from general revenues to the Committee on Energy and Commerce; jurisdiction over work incentive programs to the Committee on Education and Labor; and jurisdiction over renegotiation to the Committee on Banking, Finance and Urban Affairs (now Financial Services) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The Committee Reform Amendments also transferred jurisdiction over general revenue sharing from this committee to the Committee on Government Operations (now Oversight and Government Reform); however, revenue sharing was stricken from the jurisdictional statement of that committee in the 104th Congress (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464).

The Committee's jurisdiction over the bonded debt of the United States (subpara. (5)) was made subject to the last sentence of clause 4(f) (formerly clause 4(g)) of rule X in the 96th Congress by Public Law 96–78 (93 Stat. 589). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). In the 109th Congress the House established the Committee on Homeland Security (sec. 2(a), H. Res. 5, Jan. 4, 2005, p. ——). The new committee was given jurisdiction over certain functions of the Department of Homeland Security that resulted in a conforming change to this paragraph. For debate (and material submitted during debate) that may edify the reader on the jurisdictional issues surrounding the creation of that committee, see January 4, 2005, p. ——.

The revenue jurisdiction of the committee extends to such subjects as transportation of dutiable goods, collection districts, ports of entry and delivery (IV, 4026), customs unions, reciprocity treaties (IV, 4021), revenue relations of the United States with Puerto Rico (IV, 4025), the revenue bills relating to agricultural products generally, excepting oleomargarine (IV, 4022), and tax on cotton and grain futures. The Committee formerly had jurisdiction as to seal herds and other revenue-producing animals in Alaska but this jurisdiction was changed in the 68th Congress to the former Committee on Merchant Marine and Fisheries (VII, 1725, 1851). As exemplified by sequential referrals in the 96th Congress, the committee has jurisdiction over reported bills creating major oilspill and hazardous waste trust funds in the Treasury, funded by assessments on all quantities of oil, petrochemical feedstocks, and other hazardous substances offered for

sale, where the scope and size of the funds and the method of assessment (similar to an excise tax) represented the collection of general revenue to fund particular Federal activities, a type of financing mechanism over which the Ways and Means Committee has traditionally exercised jurisdiction (May 20, 1980, p. 11862).

The Committee has jurisdiction over subjects relating to the Treasury of the United States and the deposit of the public moneys (IV, 4028), but it failed to make good a claim to the subjects of "national finances" and "preservation of the Government credit" (IV, 4023). The Committee has jurisdiction over bills providing tax incentives for persons investing in Indian property (Feb. 1, 1964, p. 1582), providing unemployment compensation to individuals with military or Federal service (Apr. 28, 1976, p. 11590), providing extended and increased unemployment compensation (Apr. 16, 1975, p. 10346), and over private bills waiving provisions of the Tariff Act to require reliquidation of certain imported materials as duty-free (July 13, 1982, p. 16014). The Committee on Transportation and Infrastructure, and not this committee, has jurisdiction over a bill to designate a customs administrative building (Dec. 12, 1995, p. 36165). The Committee on the Budget, and not this committee, has jurisdiction over a bill establishing a rule of sequestration under the Balanced Budget and Emergency Deficit Control Act (Dec. 15, 2000, p. 27085). The Committee on the Budget has primary jurisdiction, and this committee has additional jurisdiction, over a bill taking Social Security trust funds off budget (Dec. 15, 2000, p. 27085).

The Committee has exercised jurisdiction, with the Committee on Energy and Commerce, over executive communications reporting on inpatient hospital services under title XVIII (medicare) and under title XIX (medicaid) of the Social Security Act (Dec. 21, 1982, p. 33261); with the Committee on Public Works and Transportation (now Transportation and Infrastructure) over executive communications proposing draft legislation reauthorizing the Surface Transportation Act but also containing a revenue title raising taxes to fund surface transportation programs (Mar. 20, 1986, p. 5804); with the former Committee on Merchant Marine and Fisheries (succeeded by the Committee on Natural Resources) over a bill amending the Fishermen's Protective Act to authorize the President to prohibit the importation of any product from a country violating an international fishery conservation program (Mar. 21, 1989, p. 5077); and with three other committees over a bill imposing certain international economic sanctions including tariffs (May 27, 1992, p. 12658).

The Committee in the earlier practice reported resolutions distributing the President's annual message (IV, 4030), but since the first session of the 64th Congress this practice has been discontinued (VIII, 3350).

General oversight responsibilities

§ 742. General oversight.

2. (a) The various standing committees shall have general oversight responsibilities as provided in paragraph (b) in order to assist the House in—

(1) its analysis, appraisal, and evaluation of—

(A) the application, administration, execution, and effectiveness of Federal laws; and

(B) conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation; and

(2) its formulation, consideration, and enactment of changes in Federal laws, and of such additional legislation as may be necessary or appropriate.

(b)(1) In order to determine whether laws and programs addressing subjects within the jurisdiction of a committee are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated, each standing committee (other than the Committee on Appropriations) shall review and study on a continuing basis—

(A) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction;

(B) the organization and operation of Federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction;

(C) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction (whether or not a bill or resolution has been introduced with respect thereto); and

(D) future research and forecasting on subjects within its jurisdiction.

(2) Each committee to which subparagraph (1) applies having more than 20 members shall establish an oversight subcommittee, or require its subcommittees to conduct oversight in their respective jurisdictions, to assist in carrying out its responsibilities under this clause. The establishment of an oversight subcommittee does not limit the responsibility of a subcommittee with legislative jurisdiction in carrying out its oversight responsibilities.

§ 743. Oversight subcommittees.

(c) Each standing committee shall review and study on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.

(d)(1) Not later than February 15 of the first session of a Congress, each standing committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plan for that Congress. Such plan shall be submitted simultaneously to the Committee on Oversight and Government Reform and to the Committee on House Administration. In developing its plan each committee shall, to the maximum extent feasible—

(A) consult with other committees that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction with the objective of ensuring maximum coordination and cooperation among committees when conducting reviews of such laws, programs, or agencies and include in its plan an explanation of steps that have been or will be taken to ensure such coordination and cooperation;

(B) review specific problems with Federal rules, regulations, statutes, and court decisions that are ambiguous, arbitrary, or nonsensical, or that impose severe financial burdens on individuals;

(C) give priority consideration to including in its plan the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority;

(D) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review every 10 years; and

(E) have a view toward insuring against duplication of Federal programs.

(2) Not later than March 31 in the first session of a Congress, after consultation with the Speaker, the Majority Leader, and the Minority Leader, the Committee on Oversight and Government Reform shall report to the House the oversight plans submitted by committees together with any recommendations that it, or the House leadership group described above, may make to ensure the most effective coordination

of oversight plans and otherwise to achieve the objectives of this clause.

(e) The Speaker, with the approval of the House, may appoint special ad hoc oversight committees for the purpose of reviewing specific matters within the jurisdiction of two or more standing committees.

Clause 2(a), and the first requirement of clause 2(b)(1) that each standing committee shall review the application, etc. of all laws within its jurisdiction, was originally contained in section 118(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was made part of the standing rules on January 22, 1971 (H. Res. 5, p. 144). Effective January 3, 1975, general oversight responsibilities set forth in the remainder of the clause were incorporated into the rule (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). On January 14, 1975, the size of those standing committees required by clause 2(b)(2) (formerly clause 2(b)(1)) to establish an oversight subcommittee or to require its subcommittees to conduct oversight was increased from 15 to more than 20 (H. Res. 5, 94th Cong., p. 20). In the 100th Congress the requirement that representatives from the Committee on Government Operations (now Oversight and Government Reform) meet with other committees at the beginning of each Congress to discuss oversight plans and that that Committee report to the House its oversight coordination recommendations within 60 days after the convening of the first session was deleted (H. Res. 5, Jan. 6, 1987, p. 6). The 104th Congress added the requirement that each standing committee adopt by February 15 of the first session of a Congress its oversight plans for that Congress, such plans to be submitted to the Committees on Government Reform and Oversight (now Oversight and Government Reform) and House Oversight (now House Administration). The Committee on Oversight and Government Reform is required to report such plans to the House by March 31, with recommendations to ensure coordination among committees. The 104th Congress also added paragraph (e) to authorize the Speaker to appoint special ad hoc oversight committees to review matters within the jurisdiction of more than one standing committee (sec. 203(a), H. Res. 6, Jan. 4, 1995, p. 467). The 106th Congress deleted a provision added in the 104th Congress making consideration of resolutions funding each committee contingent on submission of its oversight plans to the committees specified; deleted the exception for the Budget Committee from the general oversight responsibilities listed in clause 2(b); effected clerical corrections to conform references to a renamed committee; and effected clerical and stylistic changes when the House recodified its rules (H. Res. 5, Jan. 6, 1999, p. 47). Clause 2(d)(1)(B) was added in the 107th Congress (sec. 2(e), H. Res. 5, Jan. 3, 2001, p. 25). Clause 2(d)(1)(E) was added in the 109th

Congress (sec. 2(b), H. Res. 5, Jan. 4, 2005, p. ——). Paragraph (d) was amended in the 110th Congress to reflect a change in committee name (sec. 215(b), H. Res. 5, Jan. 4, 2007, p. ——).

Special oversight functions

§744. Special oversight.

3. (a) The Committee on Appropriations shall conduct such studies and examinations of the organization and operation of executive departments and other executive agencies (including an agency the majority of the stock of which is owned by the United States) as it considers necessary to assist it in the determination of matters within its jurisdiction.

(b) The Committee on Armed Services shall review and study on a continuing basis laws, programs, and Government activities relating to international arms control and disarmament and the education of military dependents in schools.

(c) The Committee on the Budget shall study on a continuing basis the effect on budget outlays of relevant existing and proposed legislation and report the results of such studies to the House on a recurring basis.

(d) The Committee on Education and Labor shall review, study, and coordinate on a continuing basis laws, programs, and Government activities relating to domestic educational programs and institutions and programs of student assistance within the jurisdiction of other committees.

(e) The Committee on Energy and Commerce shall review and study on a continuing basis laws, programs, and Government activities relat-

ing to nuclear and other energy and nonmilitary nuclear energy research and development including the disposal of nuclear waste.

(f) The Committee on Foreign Affairs shall review and study on a continuing basis laws, programs, and Government activities relating to customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.

(g) The Committee on Homeland Security shall review and study on a continuing basis all Government activities relating to homeland security, including the interaction of all departments and agencies with the Department of Homeland Security.

(h) The Committee on Natural Resources shall review and study on a continuing basis laws, programs, and Government activities relating to Native Americans.

(i) The Committee on Oversight and Government Reform shall review and study on a continuing basis the operation of Government activities at all levels with a view to determining their economy and efficiency.

(j) The Committee on Rules shall review and study on a continuing basis the congressional budget process, and the committee shall report its findings and recommendations to the House from time to time.

(k) The Committee on Science and Technology shall review and study on a continuing basis

laws, programs, and Government activities relating to nonmilitary research and development.

(l) The Committee on Small Business shall study and investigate on a continuing basis the problems of all types of small business.

(m) The Permanent Select Committee on Intelligence shall review and study on a continuing basis laws, programs, and activities of the intelligence community and shall review and study on an exclusive basis the sources and methods of entities described in clause 11(b)(1)(A).

The oversight authority conferred on the Committee on Appropriations was first given that committee on February 11, 1943 (p. 884), continued by resolution of January 9, 1945 (p. 135), and incorporated into permanent law in section 202(b) of the Legislative Reorganization Act of 1946, and made a part of the standing rules on January 3, 1953 (pp. 17, 24). The special oversight responsibilities of the Committee on the Budget were made part of the rules effective July 12, 1974 by section 101(c) of the Congressional Budget Act of 1974 (88 Stat. 300). Paragraph (e) (formerly paragraph (h)) was added on January 4, 1977, upon the abolition of the legislative jurisdiction in the House of the Joint Committee on Atomic Energy (H. Res. 5, 95th Cong., pp. 53–70). The special oversight responsibilities of the Committee on Energy and Commerce over nuclear energy to all energy programs became effective January 3, 1981 (H. Res. 549, Mar. 25, 1980, pp. 6405–10). The oversight authority conferred on the Committee on Oversight and Government Reform was first made effective as part of the Legislative Reorganization Act of 1946 (60 Stat. 812). In the 104th Congress conforming amendments to the special oversight functions of the Committees on Natural Resources and Energy and Commerce were adopted to reflect the transfer of jurisdiction over nonmilitary nuclear energy from the Committee on Natural Resources to the Committee on Energy and Commerce (H. Res. 254, Nov. 30, 1995, p. 35077). Paragraph (j) was added by section 226 of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177). The remainder of the clause (except for paragraphs (g) and (m)) became effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). This clause has been amended several times to conform references to renamed committees (H. Res. 89, Feb. 5, 1979, p. 1848; H. Res. 549, Mar. 25, 1980, pp. 6405–10; H. Res. 5, Jan. 5, 1993, p. 49; sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 464; H. Res. 5, Jan. 7, 1997, p. 121; H. Res. 5, Jan. 6, 1999, p. 47; H. Res. 6, Jan. 4, 2007, p. ——). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including the transfer to this clause

of oversight functions of the Committees on Oversight and Government Reform and Appropriations found in clause 2 (H. Res. 5, Jan. 6, 1999, p. 47). The oversight authority of the Permanent Select Committee on Intelligence in paragraph (m) was added in the 107th Congress (sec. 2(f), H. Res. 5, Jan. 3, 2001, p. 25). The Committee on Homeland Security was established in the 109th Congress and given the oversight authority set forth in paragraph (g) (sec. 2(a), H. Res. 5, Jan. 4, 2005, p. ——).

Section 9 of the House Administrative Reform Resolution of 1992 (H. Res. 423, Apr. 9, 1992, p. 9040) added a paragraph in this clause creating a bipartisan Subcommittee on Administrative Oversight of the Committee on House Administration, to be chaired by the chairman of the Committee on House Administration and to be composed of members of the Committee on House Administration, one-half from the majority party and one-half from the minority party. The paragraph was rewritten in the 103d Congress to provide that the Speaker, the Majority and Minority Leaders, and the chairman and ranking minority member of the Committee on House Administration be informed of tie votes in that subcommittee (H. Res. 5, Jan. 5, 1993, p. 49), but the paragraph was deleted entirely in the 104th Congress (sec. 201(d), H. Res. 6, Jan. 4, 1995, p. 463).

Additional functions of committees

§ 745. Committee on Appropriations; budget hearings.

4. (a)(1)(A) The Committee on Appropriations shall, within 30 days after the transmittal of the Budget to Congress each year, hold hearings on the Budget as a whole with particular reference to—

(i) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and

(ii) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts.

(B) In holding hearings under subdivision (A), the committee shall receive testimony from the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and such other persons as the committee may desire.

§ 746. Procedure for budget hearings.

(C) A hearing under subdivision (A), or any part thereof, shall be held in open session, except when the committee, in open session and with a quorum present, determines by record vote that the testimony to be taken at that hearing on that day may be related to a matter of national security. The committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member, Delegate, and the Resident Commissioner.

(D) A hearing under subdivision (A), or any part thereof, may be held before a joint meeting of the committee and the Committee on Appropriations of the Senate in accordance with such procedures as the two committees jointly may determine.

This part of clause 4 was originally contained in section 242(c)(1) of the Legislative Reorganization Act of 1970 and was made part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Paragraph (a)(1)(C), requiring open hearings, was first adopted in the 93d Congress (H. Res. 259, Mar. 7, 1973, pp. 6713–20) and was amended in the 94th Congress to limit the effect of a vote to close a hearing to that day and one subsequent day (H. Res. 5, Jan. 14, 1975, p. 20). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

§ 747. Budget Act; 15-day referral to Appropriations.

(2) Pursuant to section 401(b)(2) of the Congressional Budget Act of 1974, when a committee reports a bill or joint resolution that provides new entitlement authority as defined in section 3(9) of that Act, and enactment of the bill or joint resolution, as reported, would cause a breach of the committee's pertinent allocation of new

budget authority under section 302(a) of that Act, the bill or joint resolution may be referred to the Committee on Appropriations with instructions to report it with recommendations (which may include an amendment limiting the total amount of new entitlement authority provided in the bill or joint resolution). If the Committee on Appropriations fails to report a bill or joint resolution so referred within 15 calendar days (not counting any day on which the House is not in session), the committee automatically shall be discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

(3) In addition, the Committee on Appropriations shall study on a continuing basis those provisions of law that (on the first day of the first fiscal year for which the congressional budget process is effective) provide spending authority or permanent budget authority and shall report to the House from time to time its recommendations for terminating or modifying such provisions.

(4) In the manner provided by section 302 of the Congressional Budget Act of 1974, the Committee on Appropriations (after consulting with the Committee on Appropriations of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and promptly report the subdivisions to the House as soon as practicable after a concurrent

resolution on the budget for a fiscal year is agreed to.

Subparagraph (2) first became effective on July 12, 1974, by inclusion in section 401(b)(2) of the Congressional Budget Act of 1974 (88 Stat. 317), was incorporated into the rules effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), was amended in the 95th Congress to correct an error in cross-reference (H. Res. 5, Jan. 4, 1977, pp. 53–70), and was again amended in the 105th Congress to reflect the repeal of the collective definition of "new spending authority" and the revision of various remaining parts (Budget Enforcement Act of 1997 (sec. 10116, P.L. 105–33). Subparagraph (3) was also contained in the Congressional Budget Act of 1974 in section 402(f), and was likewise incorporated into the rules effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The requirements of subparagraph (4) (formerly paragraph (h)) was originally contained in section 302(b) of the Congressional Budget Act of 1974 (P.L. 93–344, July 12, 1974) and was incorporated into this rule effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). It was amended by the Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508) to conform to the enactment of title VI of the Budget Act. It was again amended by the Budget Enforcement Act of 1997 (sec. 10118, P.L. 105–33) to conform to the subsequent repeal of title VI. Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including the transfer of former paragraph (h) to this paragraph as new subparagraph (4) (H. Res. 5, Jan. 6, 1999, p. 47).

§ 747a. Select Intelligence Oversight Panel.

(5)(A) There is established a Select Intelligence Oversight Panel of the Committee on Appropriations (hereinafter in this paragraph referred to as the "select panel"). The select panel shall be composed of not more than 13 Members, Delegates, or the Resident Commissioner appointed by the Speaker, of whom not more than eight may be from the same political party. The select panel shall include the chairman and ranking minority member of the Committee on Appropriations, the chairman and ranking minority member of its Subcommittee on Defense, six additional members of the Committee on Appro-

priations, and three members of the Permanent Select Committee on Intelligence.

(B) The Speaker shall designate one member of the select panel as its chairman and one member as its ranking minority member.

(C) Each member on the select panel shall be treated as though a member of the Committee on Appropriations for purposes of the select panel.

(D) The select panel shall review and study on a continuing basis budget requests for and execution of intelligence activities; make recommendations to relevant subcommittees of the Committee on Appropriations; and, on an annual basis, prepare a report to the Defense Subcommittee of the Committee on Appropriations containing budgetary and oversight observations and recommendations for use by such subcommittee in preparation of the classified annex to the bill making appropriations for the Department of Defense.

(E) Rule XI shall apply to the select panel in the same manner as a subcommittee (except for clause 2(m)(1)(B) of that rule).

(F) A subpoena of the Committee on Appropriations or its Subcommittee on Defense may specify terms of return to the select panel.

Subparagraph (5) was added in the 110th Congress (H. Res. 35, Jan. 9, 2007, p. ——).

(b) The Committee on the Budget shall—

§ 748. Budget.

(1) review on a continuing basis the conduct by the Congressional Budget Office of its functions and duties;

(2) hold hearings and receive testimony from Members, Senators, Delegates, the Resident Commissioner, and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as it considers desirable in developing concurrent resolutions on the budget for each fiscal year;

(3) make all reports required of it by the Congressional Budget Act of 1974;

(4) study on a continuing basis those provisions of law that exempt Federal agencies or any of their activities or outlays from inclusion in the Budget of the United States Government, and report to the House from time to time its recommendations for terminating or modifying such provisions;

(5) study on a continuing basis proposals designed to improve and facilitate the congressional budget process, and report to the House from time to time the results of such studies, together with its recommendations; and

(6) request and evaluate continuing studies of tax expenditures, devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and report the results of such studies to the House on a recurring basis.

Paragraph (b)(1) became a part of the rules on July 12, 1974 by enactment of section 101(c) of the Congressional Budget Act of 1974 (88 Stat. 300). Subparagraph (2), contained in section 301(d) of that Act, subparagraph (3), subparagraph (4), contained in section 606 of that Act, and subparagraph (5), contained in section 703 of that Act, all were made part of the rules effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Paragraph (b)(2) was amended in the 99th Congress by

section 232 of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177) to remove reference to the first concurrent resolution on the budget. Before the House recodified its rules in the 106th Congress, subparagraph (6) was found in former clause 1(d)(5)(C) of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

§ 749. Oversight and Government Reform.

(c)(1) The Committee on Oversight and Government Reform shall—

(A) receive and examine reports of the Comptroller General of the United States and submit to the House such recommendations as it considers necessary or desirable in connection with the subject matter of the reports;

(B) evaluate the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(C) study intergovernmental relationships between the United States and the States and municipalities and between the United States and international organizations of which the United States is a member.

(2) In addition to its duties under subparagraph (1), the Committee on Oversight and Government Reform may at any time conduct investigations of any matter without regard to clause 1, 2, 3, or this clause conferring jurisdiction over the matter to another standing committee. The findings and recommendations of the committee in such an investigation shall be made available to any other standing committee having jurisdiction over the matter involved.

(3)(A) The Committee on Oversight and Government Reform may adopt a rule authorizing

and regulating the taking of depositions by a member or counsel of the committee, including pursuant to subpoena under clause 2(m) of rule XI (which hereby is made applicable for such purpose).

(B) A rule adopted by the committee pursuant to this subparagraph—

(i) may provide that a deponent be directed to subscribe an oath or affirmation before a person authorized by law to administer the same; and

(ii) shall ensure that the minority members and staff of the committee are accorded equitable treatment with respect to notice of and a reasonable opportunity to participate in any proceeding conducted thereunder.

(C) Information secured pursuant to the authority described in subdivision (A) shall retain the character of discovery until offered for admission in evidence before the committee, at which time any proper objection shall be timely.

Paragraph (c)(1) became effective January 2, 1947, as part of the Legislative Reorganization Act of 1946 (60 Stat. 812). Paragraph (c)(2) was made a function of the Committee effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Paragraph (c)(2) was amended in the 107th Congress to delete the requirement that committees include oversight findings and recommendations by the Committee on Government Reform in their reports as was required under the former clause 3(c)(4) of rule XIII (sec. 2(l), H. Res. 5, Jan. 3, 2001, p. 24). The Committee was renamed in the 104th, 106th, and 110th Congresses (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 464; H. Res. 5, Jan. 6, 1999, p. 47; sec. 215(a), H. Res. 5, Jan. 4, 2007, p. ——). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). Under section 2954 of title 5, United States Code, an executive agency, if so requested by this committee or any seven members thereof, shall submit any information requested of it relating to any matter within

the jurisdiction of the committee. Paragraph (c)(3) was added in the 110th Congress (sec. 502, H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)).

§ 750. House Administration.

(d)(1) The Committee on House Administration shall—

§ 752. Direction of officers.

(A) provide policy direction for the Inspector General and oversight of the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Inspector General;

§ 753. Acceptance of gifts.

(B) have the function of accepting on behalf of the House a gift, except as otherwise provided by law, if the gift does not involve a duty, burden, or condition, or is not made dependent on some future performance by the House; and

(C) promulgate regulations to carry out subdivision (B).

§ 754. Approval of certain settlements.

(2) An employing office of the House may enter into a settlement of a complaint under the Congressional Accountability Act of 1995 that provides for the payment of funds only after receiving the joint approval of the chairman and ranking minority member of the Committee on House Administration concerning the amount of such payment.

The Committee's duty to arrange for memorial services of Members was eliminated from the rules effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Former paragraph (d)(3) required the committee to provide a committee scheduling service, which was provided through House Information Resources and was made mandatory on all committees and subcommittees in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). The requirement was stricken altogether when two provisions were added by section 10 of the House Administrative Reform Resolution of 1992 (H. Res. 423, 102d Cong., Apr. 9, 1992, p. 9040) to ensure the orderly transfer of functions and entities from elected officers to the Director of Non-legislative and Financial Services and to provide for policy direction and oversight of certain administrative officials and elected officers. How-

ever, the 107th Congress amended clause 4(d)(1) of rule X to remove the requirement that the committee provide policy direction to such officials and officers except the Inspector General (sec. 2(g), H. Res. 5, Jan. 3, 2001, p. 24). The Committee also provides policy review and oversight of the Chief Executive Officer for Visitor Services within the Office of the Architect of the Capitol (sec. 6701, P.L. 110–28). In the 104th Congress the rule was amended (1) to reflect the change in the name of the Committee on House Administration to the Committee on House Oversight and (2) to reflect the abolishment of the Director of Non-legislative and Financial Services (sec. 201, H. Res. 6, Jan. 4, 1995, p. 463). Later in the 104th Congress the provision for the acceptance of gifts was added as paragraph (d)(3) (H. Res. 250, Nov. 16, 1995, p. 33434). In the 105th Congress paragraph (d) was redesignated as (d)(1), its former subparagraphs (1) through (3) were redesignated as (1)(A) through (1)(C), and a new paragraph (d)(2) was added to require approval by the committee for monetary settlements of certain employment claims (H. Res. 5, Jan. 7, 1997, p. 121). The 104th Congress also prohibited the establishment or continuation of any legislative service organization (as that term had been understood in the 103d Congress) and directed the Committee on House Oversight (now House Administration) to take such steps as were necessary to ensure an orderly termination and accounting for funds of any legislative service organization in existence on January 3, 1995 (sec. 222, H. Res. 6, Jan. 4, 1995, p. 469). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). The 107th Congress transferred the committee's responsibilities with respect to enrolled bills (formerly paragraph (d)(1)(A)) to the Clerk (clause 2(d)(2) of rule II) (sec. 2(b), H. Res. 5, Jan. 3, 2001, p. 25).

§ 755. Annual appropriations.

(e)(1) Each standing committee shall, in its consideration of all public bills and public joint resolutions within its jurisdiction, ensure that appropriations for continuing programs and activities of the Federal Government and the government of the District of Columbia will be made annually to the maximum extent feasible and consistent with the nature, requirement, and objective of the programs and activities involved. In this subparagraph programs and activities of the Federal Government and the government of the District of Columbia includes programs and activities of any

department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or of the government of the District of Columbia.

(2) Each standing committee shall review from time to time each continuing program within its jurisdiction for which appropriations are not made annually to ascertain whether the program should be modified to provide for annual appropriations.

The provisions of this paragraph derive from section 253(c) of the Legislative Reorganization Act of 1970 (84 Stat. 1140), and were made part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

Budget Act responsibilities

§ 756. Concurrent resolution on Budget.

(f)(1) Each standing committee shall submit to the Committee on the Budget not later than six weeks after the President submits his budget, or at such time as the Committee on the Budget may request—

(A) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year that are within its jurisdiction or functions; and

(B) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction that it intends to be effective during that fiscal year.

(2) The views and estimates submitted by the Committee on Ways and Means under subparagraph (1) shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt that should be set forth in the concurrent resolution on the budget.

The requirements of paragraph (f)(1) were originally contained in section 301(c) of the Congressional Budget Act of 1974 (P.L. 93–344, July 12, 1974), and were incorporated into this rule effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The requirement of paragraph (f)(2) that the Committee on Ways and Means include a specific recommendation as to the appropriate level of the public debt in its views and estimates submitted to the Committee on the Budget was added in the 96th Congress by Public Law 96–78 (93 Stat. 589) and was originally intended to apply to concurrent resolutions on the budget for fiscal years beginning on or after October 1, 1980. However, in the 96th Congress the provisions of that public law amending the Rules of the House were made applicable to the third concurrent resolution on the budget for fiscal year 1980 as well as the first concurrent resolution on the budget for fiscal year 1981 (H. Res. 642, Apr. 23, 1980, pp. 8789–90). The deadline for submitting views and estimates to the Budget Committee has changed several times (Balanced Budget and Emergency Deficit Control Act of 1985, sec. 232(c), P.L. 99–177; Budget Enforcement Act of 1997, sec. 10104, P.L. 105–33; H. Res. 5, 106th Cong., Jan. 6, 1999, p. 47). A former paragraph directing standing committees to submit reconciliation recommendations to the Budget Committee was deleted in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47), but committees are still required to submit such recommendations under section 310 of the Congressional Budget Act of 1974. Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). Paragraph (f)(2) was amended in the 107th Congress to reflect the repeal of former rule XXIII ("Statutory Limit on Public Debt") (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24), which was reinstated in the 108th Congress as rule XXVII (sec. 2(t), H. Res. 5, Jan. 7, 2003, p. 7).

Election and membership of standing committees

§ 757. Electing committees.

5. (a)(1) The standing committees specified in clause 1 shall be elected by the House within seven calendar days

after the commencement of each Congress, from nominations submitted by the respective party caucus or conference. A resolution proposing to change the composition of a standing committee shall be privileged if offered by direction of the party caucus or conference concerned.

The old rule entrusting the appointment of committees to the Speaker was adopted in 1789 and amended in 1790 and in 1860 (IV, 4448–4476). Committees are now elected on resolution offered from the floor (VIII, 2171) and it is in order to move the previous question on each resolution (VIII, 2174). The resolution is not divisible (clause 5 of rule XVI), and is privileged (VIII, 2179) if offered by direction of the respective party caucus (a requirement that was made part of the rules effective January 3, 1975, by the Committee Reform Amendments of 1974 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470)). That same resolution also eliminated the designations in the rules of the numbers of Members comprising the standing committees, thereby permitting the House to establish committee size by the numbers of Members elected to each committee pursuant to this paragraph. The role of the party caucuses in presenting privileged resolutions to the House electing Members to committees is discussed in detail in Deschler, ch. 17, § 9. In the 99th Congress the requirement for early election of standing committees within the first seven calendar days and the conferral of privileged status on resolutions from the party caucuses to change the composition of standing committees were added by section 227 of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6 of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

§ 758. Budget, composition of.

(2)(A) The Committee on the Budget shall be composed of members as follows:

(i) Members, Delegates, or the Resident Commissioner who are members of other standing committees, including five from the Committee on Appropriations, five from the Committee on Ways and Means, and one from the Committee on Rules;

(ii) one Member designated by the elected leadership of the majority party; and

(iii) one Member designated by the elected leadership of the minority party.

(B) Except as permitted by subdivision (C), a member of the Committee on the Budget other than one described in subdivision (A)(ii) or (A)(iii) may not serve on the committee during more than four Congresses in a period of six successive Congresses (disregarding for this purpose any service for less than a full session in a Congress).

(C) In the case of a Member, Delegate, or Resident Commissioner elected to serve as the chairman or the ranking minority member of the committee, tenure on the committee shall be limited only by paragraph (c)(2) of this clause.

This paragraph (formerly clause 1(d) of rule X) was amended in the 96th Congress to relax the limitation on Members' service on the Budget Committee to three Congresses (from two) in any period of five successive Congresses, to exempt representatives from the party leaderships from the limitation, and to permit an incumbent chairman who had served on the committee for three Congresses and as chairman for not more than one Congress to be eligible for reelection as chairman for one additional Congress (H. Res. 5, Jan. 15, 1979, p. 8). It was again amended in the 100th Congress to eliminate as obsolete the words "beginning after 1974" following "any period of five successive Congresses" as a measure of permissible terms of service on the committee (H. Res. 5, Jan. 6, 1987, p. 6). It was further amended in the 101st Congress to permit, in that Congress only, a minority Member who had served on the committee for three terms to run within his party's caucus for the position of ranking minority member and thus be able to serve on the committee for one additional Congress, and to permit a Member elected as ranking minority member during his third term on the committee to serve one additional term on the committee should he be reelected as the ranking minority member (H. Res. 5, Jan. 3, 1989, p. 72). It was again amended in the 102d Congress to extend the waiver of the tenure restriction for the ranking minority member of the committee (H. Res. 5, Jan. 3, 1991, p. 39), but in the 103d Congress that provision was stricken as obsolete (H. Res. 5, Jan. 5, 1993, p. 49). In the 104th Congress the limitation on a Member's service on the committee was relaxed to four Congresses (from three) in any period of six successive Congresses, with the exception that a Member who has served

as chairman or as ranking minority member during a fourth such Congress may serve in either capacity during a fifth, so long as he would not thereby exceed two consecutive terms as chairman or as ranking minority member (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 464). The tenure limitation of clause 5(a)(2)(B) was suspended during the 106th Congress (sec. 2(b), H. Res. 5, Jan. 6, 1999, p. 47). The special tenure limitation for the chairman and ranking minority member was replaced in the 108th Congress with a provision subjecting the chairman only to the overall tenure limitation that applies to all standing committee chairmen (sec. 2(e–1), H. Res. 5, Jan. 7, 2003, p. 7). In the 109th Congress subdivisions (A)(ii) and (A)(iii) were amended to address a member designated by the elected leadership as opposed to a member of the elected leadership of each party, and a conforming change was made to subdivision (B) (sec. 2(c), H. Res. 5, Jan. 4, 2005, p. ——).

In the 94th Congress the membership of the committee was increased to 25 (from 23), with 13 (rather than 11) members elected from committees other than Appropriations and Ways and Means (H. Res. 5, Jan. 14, 1975, p. 20). The membership was increased again in the 97th Congress to 30, with 28 from other standing committees and two from the respective leaderships (H. Res. 5, Jan. 5, 1981, pp. 98–113), and again in the 98th Congress to 31 (unanimous-consent order, Feb. 7, 1983, p. 1791). The 99th Congress amended this paragraph to remove any numerical limitation on the membership of the committee (H. Res. 7, Jan. 3, 1985, p. 393). In the 108th Congress the composition of the committee was changed to require inclusion of one member from the Committee on Rules (sec. 2(e), H. Res. 5, Jan. 7, 2003, p. 7).

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1(d) of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

§ 759. Committee on Standards of Official Conduct.

(3)(A) The Committee on Standards of Official Conduct shall be composed of 10 members, five from the majority party and five from the minority party.

(B) Except as permitted by subdivision (C), a member of the Committee on Standards of Official Conduct may not serve on the committee during more than three Congresses in a period of five successive Congresses (disregarding for this purpose any service for less than a full session in a Congress).

(C) A member of the Committee on Standards of Official Conduct may serve on the committee during a fourth Congress in a period of five successive Congresses only as either the chairman or the ranking minority member of the committee.

(4)(A) At the beginning of a Congress, the Speaker or his designee and the Minority Leader or his designee each shall name 10 Members, Delegates, or the Resident Commissioner from his respective party who are not members of the Committee on Standards of Official Conduct to be available to serve on investigative subcommittees of that committee during that Congress. The lists of Members, Delegates, or the Resident Commissioner so named shall be announced to the House.

(B) Whenever the chairman and the ranking minority member of the Committee on Standards of Official Conduct jointly determine that Members, Delegates, or the Resident Commissioner named under subdivision (A) should be assigned to serve on an investigative subcommittee of that committee, each of them shall select an equal number of such Members, Delegates, or Resident Commissioner from his respective party to serve on that subcommittee.

Before the 93d Congress, the rule that established the size of the Committee on Standards of Official Conduct at 12 members also required that six members be elected from the majority and six from the minority party. Effective in the 93d Congress, the ratio of the committee was codified in the first sentence of subparagraph (3)(A) (formerly clause 6(a)(2)) (H. Res. 988, Oct. 8, 1974, p. 34470). The Ethics Reform Act of 1989 added a sentence to limit service on the committee (P.L. 101–194, Nov. 30, 1989), which was amended in the 105th and 106th Congresses (sec. 2, H. Res. 168,

Sept. 18, 1997, p. 19336; H. Res. 5, Jan. 6, 1999, p. 47). A requirement that two members from each party rotate off the committee was adopted in the 105th Congress (sec. 2, H. Res. 168, Sept. 18, 1997, p. 19336), but was deleted in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). Subparagraph (4) (formerly clause 6(a)(3)) was adopted in the 105th Congress (sec. 1, H. Res. 168, Sept. 18, 1997, p. 19335). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6(a) of rule X (H. Res. 5, Jan. 6, 1999, p. 47). The 106th Congress also formally reduced the size of the committee to 10 members, which was the de facto size of the committee in the 105th Congress even though the Ethics Reform Act of 1989 required each party caucus to nominate seven Members (sec. 803(b), P.L. 101–194, Nov. 30, 1989; H. Res. 5, Jan. 6, 1999, p. 47).

§ 760. Party membership as basis for election.

(b)(1) Membership on a standing committee during the course of a Congress shall be contingent on continuing membership in the party caucus or conference that nominated the Member, Delegate, or Resident Commissioner concerned for election to such committee. Should a Member, Delegate, or Resident Commissioner cease to be a member of a particular party caucus or conference, that Member, Delegate, or Resident Commissioner shall automatically cease to be a member of each standing committee to which he was elected on the basis of nomination by that caucus or conference. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member, Delegate, or Resident Commissioner ceases to be a member of that caucus or conference. The Speaker shall notify the chairman of each affected committee that the election of such Member, Delegate, or Resident Commissioner to the committee is automatically vacated under this subparagraph.

(2)(A) Except as specified in subdivision (B), a Member, Delegate, or Resident Commissioner

may not serve simultaneously as a member of more than two standing committees or more than four subcommittees of the standing committees.

(B)(i) Ex officio service by a chairman or ranking minority member of a committee on each of its subcommittees under a committee rule does not count against the limitation on subcommittee service.

(ii) Service on an investigative subcommittee of the Committee on Standards of Official Conduct under paragraph (a)(4) does not count against the limitation on subcommittee service.

(iii) Any other exception to the limitations in subdivision (A) may be approved by the House on the recommendation of the relevant party caucus or conference.

(C) In this subparagraph the term "subcommittee" includes a panel (other than a special oversight panel of the Committee on Armed Services), task force, special subcommittee, or other subunit of a standing committee that is established for a cumulative period longer than six months in a Congress.

The requirement that membership on standing committees be contingent on continuing membership in a party caucus or conference, along with the mechanism for the automatic vacating of a Member's election to committee should his party relationship cease, was added to the rules in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). The limitation on full committee and subcommittee assignments was added in the 104th Congress (sec. 204, H. Res. 6, Jan. 4, 1995, p. 467; see H. Res. 11, Jan. 4, 1995, p. 549). The exception for special service on an investigative subcommittee of the Committee on Standards of Official Conduct from the limitation on subcommittee service was added in the 105th Congress (sec. 1, H. Res. 168, Sept. 18, 1997, p. 19335). A technical correction was effected in the 106th Congress to conform references to a renamed committee (H. Res.

5, Jan. 6, 1999, p. 47). A technical correction to paragraph (b)(2)(B)(iii) was effected in the 109th Congress (sec. 2(l), H. Res. 5, Jan. 4, 2005, p. ——).

The Speaker lays before the House communications relative to the removal of a Member from committee pursuant to this clause (see, *e.g.*, Sept. 11, 1984, p. 24790; Feb. 22, 1989, p. 2500; May 10, 1995, p. 12396; July 19, 1999, p. 16586; Feb. 1, 2000, p. 401; Sept. 13, 2000, p. 17832). The Speaker also lays before the House a communication from a Member announcing a change in his party affiliation (Sept. 13, 2000, p. 17832). On one occasion there was a delay in laying the latter communication before the House, and the House by unanimous consent retroactively changed informational voting records from the date on the communication (Sept. 13, 2000, p. 17832). The earlier practice was, and the most recent practice is, for the minority party to handle committee assignments for third-party Members (VIII, 2184–2185; H. Res. 11, Jan. 4, 1995, p. 549). During the 102d and 103d Congresses, the majority leadership took that responsibility by separate resolution for one Member who had joined neither major party caucus (see H. Res. 45, Jan. 24, 1991, p. 2171); and, during the 104th through 109th Congresses the minority leadership had responsibility for the committee assignments of that Member.

§ 761. Committee chairmen.

(c)(1) One of the members of each standing committee shall be elected by the House, on the nomination of the majority party caucus or conference, as chairman thereof. In the temporary absence of the chairman, the member next in rank (and so on, as often as the case shall happen) shall act as chairman. Rank shall be determined by the order members are named in resolutions electing them to the committee. In the case of a permanent vacancy in the elected chairmanship of a committee, the House shall elect another chairman.

(2) Except in the case of the Committee on Rules, a member of a standing committee may not serve as chairman of the same standing committee, or of the same subcommittee of a standing committee, during more than three consecu-

tive Congresses (disregarding for this purpose any service for less than a full session in a Congress).

The requirement that nominations for chairmen be submitted by the majority party caucus was made part of the rules effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The sentence addressing temporary and permanent vacancies in chairmanships was first adopted on April 5, 1911 (VIII, 2201), and was continued in the Legislative Reorganization Act of 1946 (60 Stat. 812). The 104th Congress adopted a limitation on terms for committee and subcommittee chairmen (sec. 103(b), H. Res. 6, Jan. 4, 1995, p. 462), and the 109th Congress excepted the Committee on Rules from that limitation (sec. 2(c), H. Res. 5, Jan. 4, 2005, p. ——). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6(c) of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

In the 102d Congress a resolution included as a matter properly incidental to its election of the chairman of a standing committee a proviso that his powers and duties be exercised by the vice chairman until otherwise ordered by the House (H. Res. 43, Jan. 24, 1991, p. 2169; Feb. 6, 1991, p. 3198). In the 103d Congress a privileged resolution, offered at the direction of the Democratic Caucus, authorized a named acting chairman to exercise the powers and duties of a chairman of a standing committee until otherwise ordered by the House (H. Res. 396, Mar. 23, 1994, p. 6093).

§ 762. Requirement for subcommittees.

(d)(1) Except as permitted by subparagraph (2), a committee may have not more than five subcommittees.

(2) A committee that maintains a subcommittee on oversight may have not more than six subcommittees. The Committee on Appropriations may have not more than 13 subcommittees. The Committee on Oversight and Government Reform may have not more than seven subcommittees.

This paragraph was adopted in the 104th Congress (sec. 101(b), H. Res. 6, Jan. 4, 1995, p. 462), replacing a requirement that all standing committees having more than 20 members (except the Committee on the Budget) establish at least four subcommittees (H. Res. 5, Jan. 14, 1975, p. 20). In the 106th Congress the paragraph was amended to delete the Committee on Transportation and Infrastructure from the list of exceptions to the general rule and to add a new exception for committees that maintain

a subcommittee on oversight (H. Res. 5, Jan. 6, 1999, p. 47). In the 110th Congress it was amended to reflect a change in the name of a committee (sec. 215(e), H. Res. 5, Jan. 4, 2007, p. ——). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6(d) of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

Notwithstanding clause 5(d), the Committee on Oversight and Government Reform was permitted to have not more than eight subcommittees during the 106th and 107th Congresses (sec. 2(d), H. Res. 5, Jan. 6, 1999, p. 47; sec. 3(c), H. Res. 5, Jan. 3, 2001, p. 26); the Committee on Foreign Affairs was permitted to have not more than six during the 107th and 108th Congresses and not more than seven during the 109th and 110th Congresses (sec. 3(c), H. Res. 5, Jan. 3, 2001, p. 26; sec. 3(b), H. Res. 5, Jan. 7, 2003, p. 11; sec. 3(b), H. Res. 5, Jan. 4, 2005, p. ——; sec. 511(b), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)); the Committee on Transportation and Infrastructure was permitted to have not more than six during the 107th, 108th, 109th, and 110th Congresses (sec. 3(c), H. Res. 5, Jan. 3, 2001, p. 26; sec. 3(b), H. Res. 5, Jan. 7, 2003, p. 11; sec. 3(b), H. Res. 5, Jan. 4, 2005, p. ——; sec. 511(b), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)); and the Committee on Armed Services was permitted to have not more than six during the 108th and 109th Congresses and not more than seven during the 110th Congress (sec. 3(b), H. Res. 5, Jan. 7, 2003, p. 11; sec. 3(b), H. Res. 5, Jan. 4, 2005, p. ——; sec. 511(b), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)). In the 108th Congress the Committee on Appropriations reorganized its subcommittees to reflect the creation of the new Department on Homeland Security (P.L 107–296) by creating a new subcommittee on Homeland Security and combining the subcommittees on Transportation and Treasury, Postal Service and General Government. That committee reduced the number of its subcommittees to 10 in the 109th Congress, and increased it to 12 in the 110th Congress. In each case, the committee's reorganization was in compliance with this clause.

(e) The House shall fill a vacancy on a standing committee by election on the nomination of the respective party caucus or conference.

This paragraph was first adopted in the 62d Congress (VIII, 2178). At the beginning of the 80th Congress it was amended to prevent a Member from serving on more than one standing committee, except that Members elected to serve on the Committees on District of Columbia or Un-American Activities (renamed the Committee on Internal Security and jurisdiction redefined on Feb. 19, 1969, p. 3723) could be elected to serve on not more than two standing committees, and that Members of the majority party, serving on the Committee on Expenditures in the Executive Departments (changed to Committee on Government Operations July 3, 1952, p. 9217) or House Administration could be elected to serve on not more than two

standing committees. This limitation was continued through the 80th, 81st, and part of the 82d Congresses until July 3, 1952 (p. 9217) when it was modified so that Members elected to serve on the Committees on the District of Columbia, Government Operations, Un-American Activities, or House Administration could be elected to serve on not more than two standing committees. It was restored to its original form by amendment on January 13, 1953 (p. 368) so that there was no limitation in House rules on the number of committees to which a Member may be elected until the 104th Congress added paragraph (b)(2) (see § 760, *supra*). Party caucuses or conferences have also placed restrictions on committee assignments. The role of the respective party caucus or conference in making nominations to fill vacancies in standing committees was made part of the rule in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6(e) of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

Form of resolution electing a Member to a committee and fixing his rank thereon (Jan. 23, 1947, p. 536; H. Res. 157, May 25, 1995, p. 14424). The House by unanimous consent fixed the relative rank of two Members on a committee where an error had been made on the original appointment (Jan. 20, 1947, p. 481). The House has filled a vacancy on a standing committee (H. Res. 43, Jan. 24, 1991, p. 2169) with a Member subsequently designated by his party caucus as "temporary" (in order to avoid caucus limitations on committee assignments) (Feb. 5, 1991, p. 2814).

Expense resolutions

§ 763. Primary expense resolution.

6. (a) Whenever a committee, commission, or other entity (other than the Committee on Appropriations) is granted authorization for the payment of its expenses (including staff salaries) for a Congress, such authorization initially shall be procured by one primary expense resolution reported by the Committee on House Administration. A primary expense resolution may include a reserve fund for unanticipated expenses of committees. An amount from such a reserve fund may be allocated to a committee only by the approval of the Committee on House Administration. A primary

expense resolution reported to the House may not be considered in the House unless a printed report thereon was available on the previous calendar day. For the information of the House, such report shall—

§ 764. Availability of report.

(1) state the total amount of the funds to be provided to the committee, commission, or other entity under the primary expense resolution for all anticipated activities and programs of the committee, commission, or other entity; and

(2) to the extent practicable, contain such general statements regarding the estimated foreseeable expenditures for the respective anticipated activities and programs of the committee, commission, or other entity as may be appropriate to provide the House with basic estimates of the expenditures contemplated by the primary expense resolution.

§ 765. Additional expense resolution.

(b) After the date of adoption by the House of a primary expense resolution for a committee, commission, or other entity for a Congress, authorization for the payment of additional expenses (including staff salaries) in that Congress may be procured by one or more supplemental expense resolutions reported by the Committee on House Administration, as necessary. A supplemental expense resolution reported to the House may not be considered in the House unless a printed report thereon was available on the previous calendar day. For the information of the House, such report shall—

(1) state the total amount of additional funds to be provided to the committee, commission, or other entity under the supplemental expense resolution and the purposes for which those additional funds are available; and

(2) state the reasons for the failure to procure the additional funds for the committee, commission, or other entity by means of the primary expense resolution.

(c) The preceding provisions of this clause do not apply to—

§ 766. Exception for certain initial funding.

(1) a resolution providing for the payment from committee salary and expense accounts of the House of sums necessary to pay compensation for staff services performed for, or to pay other expenses of, a committee, commission, or other entity at any time after the beginning of an odd-numbered year and before the date of adoption by the House of the primary expense resolution described in paragraph (a) for that year; or

(2) a resolution providing each of the standing committees in a Congress additional office equipment, airmail and special-delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from committee salary and expense accounts of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until

enactment of the provisions of the resolution as permanent law.

Paragraphs (a)–(c) of this clause were contained originally in section 110(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and were added to the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the authority of all committees to incur expenses, including travel expenses, was made contingent upon adoption by the House of resolutions reported pursuant to this clause (clause 1(b) of rule XI). The clause was amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to extend its applicability to all committees, commissions, and entities rather than just to standing committees. Paragraphs (a)–(c) were amended in the 104th Congress to institute biennial funding of committee expenses and to require that all committee staff salaries and expenses (including statutory staff) be authorized by expense resolution (sec. 101(c), H. Res. 6, Jan. 4, 1995, p. 462). In the 105th Congress paragraph (a) was amended to permit a primary expense resolution to include a reserve fund for unanticipated expenses of committees (H. Res. 5, Jan. 7, 1997, p. 121). A technical correction to paragraphs (a) and (b) was effected in the 106th Congress to conform references to a renamed committee (H. Res. 5, Jan. 6, 1999, p. 47). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5 of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

The Committee on Appropriations is not covered by this clause, but is reimbursed by funds in appropriation acts for expenses of examinations of estimates of appropriations in the field (31 U.S.C. 22a). An exemption from this clause for the Committee on the Budget was effective from the enactment of the Congressional Budget Act of 1974 through the 103d Congress.

Based on the exception stated in paragraph (c), a resolution establishing a task force of members of a standing committee and providing for the payment of its expenses from the contingent fund of the House (now referred to as "applicable accounts of the House described in clause 1(j)(1) of rule X") was held not to be subject to a point of order under clause 5(a) for lack of report language detailing the funding provided, since the resolution was called up at the beginning of the session before consideration of a primary expense resolution for all committees for that calendar year (Feb. 5, 1992, p. 1621).

§ 767. Funds for committee staffs; expense resolutions.

(d) From the funds made available for the appointment of committee staff by a primary or additional expense resolution, the chairman of each committee shall ensure that sufficient staff is made

available to each subcommittee to carry out its responsibilities under the rules of the committee and that the minority party is treated fairly in the appointment of such staff.

Paragraph (d) was adopted in the 104th Congress (sec. 101(c)(4), H. Res. 6, Jan. 4, 1995, p. 462). A preceding form of the paragraph, first adopted in the 94th Congress, authorized the chairman and ranking minority member of a subcommittee each to appoint one staff member to the subcommittee (H. Res. 5, Jan. 14, 1975, p. 20). As adopted in the 93d Congress to take effect on the first day of the 94th Congress, the paragraph had required that each standing committee, upon request of a majority of its minority members, devote one-third of its staffing funds to the needs of the minority (H. Res. 988, Oct. 8, 1974, p. 34470). As originally adopted in the 92d Congress, the paragraph had required that the minority be accorded fair consideration in the appointment of committee staff (H. Res. 5, Jan. 22, 1971, p. 144). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5(d) of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

(e) Funds authorized for a committee under this clause and clauses 7 and 8 are for expenses incurred in the activities of the committee.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(n)(1) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

Interim funding

§ 768. Interim funding.

7. (a) For the period beginning at noon on January 3 and ending at midnight on March 31 in each odd-numbered year, such sums as may be necessary shall be paid out of the committee salary and expense accounts of the House for continuance of necessary investigations and studies by—

(1) each standing and select committee established by these rules; and

(2) except as specified in paragraph (b), each select committee established by resolution.

(b) In the case of the first session of a Congress, amounts shall be made available for a select committee established by resolution in the preceding Congress only if—

(1) a resolution proposing to reestablish such select committee is introduced in the present Congress; and

(2) the House has not adopted a resolution of the preceding Congress providing for termination of funding for investigations and studies by such select committee.

(c) Each committee described in paragraph (a) shall be entitled for each month during the period specified in paragraph (a) to 9 percent (or such lesser percentage as may be determined by the Committee on House Administration) of the total annualized amount made available under expense resolutions for such committee in the preceding session of Congress.

(d) Payments under this clause shall be made on vouchers authorized by the committee involved, signed by the chairman of the committee, except as provided in paragraph (e), and approved by the Committee on House Administration.

(e) Notwithstanding any provision of law, rule of the House, or other authority, from noon on January 3 of the first session of a Congress until the election by the House of the committee concerned in that Congress, payments under this clause shall be made on vouchers signed by—

(1) the member of the committee who served as chairman of the committee at the expiration of the preceding Congress; or

(2) if the chairman is not a Member, Delegate, or Resident Commissioner in the present Congress, then the ranking member of the committee as it was constituted at the expiration of the preceding Congress who is a member of the majority party in the present Congress.

(f)(1) The authority of a committee to incur expenses under this clause shall expire upon adoption by the House of a primary expense resolution for the committee.

(2) Amounts made available under this clause shall be expended in accordance with regulations prescribed by the Committee on House Administration.

(3) This clause shall be effective only insofar as it is not inconsistent with a resolution reported by the Committee on House Administration and adopted by the House after the adoption of these rules.

This clause (formerly clause 5(f) of rule XI) was originally adopted in the 99th Congress to provide automatic interim funding for committees at the beginning of a Congress (H. Res. 7, Jan. 3, 1985, p. 393). Resolutions providing such interim funding had been routinely adopted at the convening of Congress before the adoption of this standing authority. In the 100th Congress, the provision was amended to make the automatic committee funding mechanism applicable to the first three months of the second session of a Congress, as well as the first session, and to authorize the Committee on House Administration to establish interim funding for any committee at a percentage lower than 9 percent of the total annualized amount (H. Res. 5, Jan. 6, 1987, p. 6). In the 104th and 106th Congresses technical corrections were effected to conform references to a renamed committee (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 464; H. Res. 5, Jan. 6, 1999, p. 47). Before the House recodified its rules in the 106th Congress, this

provision was found in former clause 5(f) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). Clerical corrections were effected in the 107th Congress (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 24).

At its organization the 104th Congress suspended the operation of paragraph (f) in favor of special provisions for interim funding in light of its abolishment of three standing committees, its reduction in the overall number of committee staff, and its institution of biennial primary expense resolutions (sec. 101(c)(3), H. Res. 6, Jan. 4, 1995, p. 462). The House by unanimous consent has agreed to a resolution providing funding for interim expenses of a new select committee (H. Res. 77, Feb. 13, 2003, p. 3793) and a new standing committee (Jan. 4, 2005, p. ——).

Travel

§ 769. Committee travel.

8. (a) Local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States or its territories or possessions. Appropriated funds, including those authorized under this clause and clauses 6 and 8, may not be expended for the purpose of defraying expenses of members of a committee or its employees in a country where local currencies are available for this purpose.

(b) The following conditions shall apply with respect to travel outside the United States or its territories or possessions:

(1) A member or employee of a committee may not receive or expend local currencies for subsistence in a country for a day at a rate in excess of the maximum per diem set forth in applicable Federal law.

(2) A member or employee shall be reimbursed for his expenses for a day at the lesser of—

(A) the per diem set forth in applicable Federal law; or

(B) the actual, unreimbursed expenses (other than for transportation) he incurred during that day.

§ 770. Travel reports.

(3) Each member or employee of a committee shall make to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and funds expended for any other official purpose and shall summarize in these categories the total foreign currencies or appropriated funds expended. Each report shall be filed with the chairman of the committee not later than 60 days following the completion of travel for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(c)(1) In carrying out the activities of a committee outside the United States in a country where local currencies are unavailable, a member or employee of a committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law.

(2) A member or employee shall be reimbursed for his expenses for a day, at the lesser of—

(A) the per diem set forth in applicable Federal law; or

(B) the actual unreimbursed expenses (other than for transportation) he incurred during that day.

(3) A member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside the United States unless the member or employee actually paid for the transportation.

(d) The restrictions respecting travel outside the United States set forth in paragraph (c) also shall apply to travel outside the United States by a Member, Delegate, Resident Commissioner, officer, or employee of the House authorized under any standing rule.

Before the adoption of this clause (formerly clause 2(n) of rule XI) and of clause 1(b) of rule XI under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), each committee was given separate authority to incur expenses in connection with its investigations and studies, and certain committees were authorized to use local currencies for foreign committee travel, in resolutions reported from the Committee on Rules in each Congress. This clause was amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to clarify the availability of local currencies for travel outside the United States and its territories and possessions, to require reports within 60 days for use in complying with statutory reporting requirements, and to authorize the Committee on House Administration to recommend in expense resolutions expenses for foreign as well as domestic travel. This clause was further amended on March 2, 1977 (H. Res. 287, 95th Cong., pp. 5933–53) to limit all travel expenses to the maximum per diem rate or actual, unreimbursed expenses, whichever is less. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(n) of rule XI, except that the "lame duck" travel prohibitions formerly found in clause 2(n)(5) of rule XI and clause 8 of rule I were transferred to former rule XXV (redesignated as rule XXIV in the 107th Congress) (H. Res. 5, Jan. 6, 1999, p. 47).

Under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)), foreign local currencies owned or purchased by the United States may be used for foreign travel expenses by members or employees of standing or select committees when authorized by the chairman thereof, and by other Members or employees when authorized by the Speaker. Consoli-

dated committee reports prepared on a quarterly basis, and individual reports required within 30 days after the travel involved, must be forwarded to the Clerk of the House and published in the Congressional Record.

Committee staffs

9. (a)(1) Subject to subparagraph (2) and paragraph (f), each standing committee may appoint, by majority vote, not more than 30 professional staff members to be compensated from the funds provided for the appointment of committee staff by primary and additional expense resolutions. Each professional staff member appointed under this subparagraph shall be assigned to the chairman and the ranking minority member of the committee, as the committee considers advisable.

§ 771. Thirty professional staff.

§ 772. Assignment.

(2) Subject to paragraph (f) whenever a majority of the minority party members of a standing committee (other than the Committee on Standards of Official Conduct or the Permanent Select Committee on Intelligence) so request, not more than 10 persons (or one-third of the total professional committee staff appointed under this clause, whichever is fewer) may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members under subparagraph (1). The committee shall appoint persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of a person so selected are unacceptable, a majority of the minor-

§ 773. Minority.

ity party members may select another person for appointment by the committee to the professional staff until such appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.

This clause (formerly clause 6 of rule XI) had its origins in section 202 of the Legislative Reorganization Act of 1946 (60 Stat. 812), which allocated up to four nonpartisan professionals to each committee other than Appropriations and specifically provided for clerical staff, and which was incorporated into the rules on January 3, 1953 (p. 24). Section 302(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140), which increased the authorized maximum for professional staff from four to six and added the concept of minority staffing, was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 93d Congress the maximum was increased from six to 18, the minority entitlement within that number was increased from two to six, a requirement that professional staff be appointed without regard to political affiliation was eliminated, and prohibitions against consideration of race, creed, sex, or age in the appointment of staff were added (H. Res. 988, Oct. 8, 1974, p. 34470). An exemption for the Committee on the Budget was included in section 901 of the Congressional Budget Act of 1974 (88 Stat. 330), was later omitted under the Committee Reform Amendments of 1974 (H. Res. 988, Oct. 8, 1974, p. 34470), and was reinserted by the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). The requirement added in 1975 that staff positions made available to subcommittee chairmen and ranking minority members pursuant to former provisions of clause 5 of rule XI be provided from staff positions available under this clause unless provided in a primary or additional expense resolution was eliminated in the 104th Congress (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. 462). The 98th Congress added the Permanent Select Committee on Intelligence to the exception for the Committee on Standards of Official Conduct (H. Res. 58, Mar. 1, 1983, p. 3241). The 101st Congress added an exemption for the Committee on Rules (H. Res. 5, Jan. 3, 1989, p. 72). The Ethics Reform Act of 1989 struck the antidiscrimination provisions as redundant (P.L. 101–194, Nov. 30, 1989). The 104th Congress eliminated the former distinction between professional and clerical staff, set the authorized maximum for committee staff under expense resolutions at 30, eliminated subcommittee entitlement to staff, and set the entitlement of the full committee minority within that number at one-third (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. 462). The 104th Congress also mandated that the total number of staff of House committees be at least one-third less than the corresponding total in the 103d Congress

(sec. 101(a), H. Res. 6, Jan. 4, 1995, p. 462). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6 of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

Additional staff of committees are authorized by the Committee on House Administration and agreed to by the House. There is no legal power to fill a vacancy in the clerkship of a committee after one Congress has expired and before the next House has been organized (IV, 4539). An assault upon the clerk of a committee within the walls of the Capitol was held to be a breach of privilege (II, 1629). The pay of clerks has been the subject of several decisions (IV, 4536–4538).

§ 774. Consultants and training.

Committees may, with the approval of the Committee on House Administration, procure the temporary or intermittent services of consultants and obtain specialized training for professional staff, subject to expense resolutions, under the Legislative Reorganization Act of 1970, sections 303 and 304 (2 U.S.C. 72a(i) and (j)).

§ 775. Staff duties.

(b)(1) The professional staff members of each standing committee—

(A) may not engage in any work other than committee business during congressional working hours; and

(B) may not be assigned a duty other than one pertaining to committee business.

§ 776. "Associate" or "shared" staff.

(2)(A) Subparagraph (1) does not apply to staff designated by a committee as "associate" or "shared" staff who are not paid exclusively by the committee, provided that the chairman certifies that the compensation paid by the committee for any such staff is commensurate with the work performed for the committee in accordance with clause 8 of rule XXIII.

(B) The use of any "associate" or "shared" staff by a committee other than the Committee on Appropriations shall be subject to the review of, and to any terms, conditions, or limitations established by, the Committee on House Adminis-

tration in connection with the reporting of any primary or additional expense resolution.

The Ethics Reform Act of 1989 prescribed that staff work be confined to committee business during congressional working hours but maintained exceptions for the Committees on the Budget and Rules (P.L. 101–194, Nov. 30, 1989). The 104th Congress eliminated exceptions by committee in favor of exceptions for "associate" or "shared" staff (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. 462). Technical corrections were effected in the 104th Congress (H. Res. 254, Nov. 30, 1995, p. 35077); in the 106th Congress, which conformed references to a renamed committee (H. Res. 5, Jan. 6, 1999, p. 47); in the 107th Congress, which conformed references to a redesignated rule (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24); and in the 108th Congress, which confined the exception for the Committee on Appropriations to subparagraph (B), rather than to the entire paragraph (sec. 2(f), H. Res. 5, Jan. 7, 2003, p. 7). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6 of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

§ 777. Pay.

(c) Each employee on the professional or investigative staff of a standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman and that does not exceed the maximum rate of pay as in effect from time to time under applicable provisions of law.

This provision (formerly clause 6(c) of rule XI) was derived from section 477(c) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the maximum salary was set at level V of the Executive Schedule, rather than at the highest rate of basic pay law (5 U.S.C. 5332(a)(1)), as specified in the 1970 Reorganization Act, and effective in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), the authority for two professional staff to be paid at level IV of the Executive Schedule was added to the clause. Under section 311 of the Legislative Branch Appropriations Act, 1988 (2 U.S.C. 60a–2a), the maximum salary for staff members is now set by pay order of the Speaker. At the beginning of the 101st Congress, references to particular levels of the executive schedule were deleted (H. Res. 5, Jan. 3, 1989, p. 72). In the 104th Congress this paragraph was amended to reflect the elimination of the former distinction between "professional" and "clerical" staff (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. 462). Before the House

recodified its rules in the 106th Congress, this provision was found in former clause 6 of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

§ 778. Staff, Committee on Appropriations.

(d) Subject to appropriations hereby authorized, the Committee on Appropriations may appoint by majority vote such staff as it determines to be necessary (in addition to the clerk of the committee and assistants for the minority). The staff appointed under this paragraph, other than minority assistants, shall possess such qualifications as the committee may prescribe.

This paragraph (formerly clause 6(d) of rule XI) derives from section 202(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812), which was incorporated into the rules on January 3, 1953 (p. 24). The exemption was extended to the Committee on the Budget by section 901 of the Congressional Budget Act of 1974 (88 Stat. 330). The reference to that committee was inadvertently omitted by the 93d Congress (H. Res. 988, Oct. 8, 1974, p. 34470) and reinserted by the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). The 104th Congress deleted the exemption for the Committee on the Budget (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. 462). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6(d) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

§ 779. Detailed employees.

(e) A committee may not appoint to its staff an expert or other personnel detailed or assigned from a department or agency of the Government except with the written permission of the Committee on House Administration.

This paragraph was contained in section 202(f) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was incorporated into the rules on January 3, 1953 (p. 24). In the 104th and 106th Congresses it was amended to conform references to a renamed committee (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 464; H. Res. 5, Jan. 6, 1999, p. 47).

(f) If a request for the appointment of a minority professional staff member under paragraph (a) is made when no vacancy exists for such an appointment, the committee nevertheless may

appoint under paragraph (a) a person selected by the minority and acceptable to the committee. A person so appointed shall serve as an additional member of the professional staff of the committee until such a vacancy occurs (other than a vacancy in the position of head of the professional staff, by whatever title designated), at which time that person is considered as appointed to that vacancy. Such a person shall be paid from the applicable accounts of the House described in clause 1(j)(1) of rule X. If such a vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill the vacancy.

(g) Each staff member appointed pursuant to a request by minority party members under paragraph (a), and each staff member appointed to assist minority members of a committee pursuant to an expense resolution described in clause 6(a), shall be accorded equitable treatment with respect to the fixing of the rate of pay, the assignment of work facilities, and the accessibility of committee records.

(h) Paragraph (a) may not be construed to authorize the appointment of additional professional staff members of a committee pursuant to a request under paragraph (a) by the minority party members of that committee if 10 or more professional staff members provided for in paragraph (a)(1) who are satisfactory to a majority of

the minority party members are otherwise assigned to assist the minority party members.

Paragraphs (f)–(h) (formerly clause 6(f)–(h) of rule XI) are derived from section 302(c) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and were incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), conforming changes were made in paragraphs (f) and (h) to reflect increased minority professional and clerical staff permitted to committees under paragraphs (a) and (b) of this clause. In the 104th Congress paragraphs (f)–(h) were amended to reflect the elimination of the former distinction between "professional" and "clerical" staff (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. 462). The 104th Congress also mandated that the total number of staff of House committees be at least one-third less than the corresponding total in the 103d Congress (sec. 101(a), H. Res. 6, Jan. 4, 1995, p. 462). In the 105th Congress paragraph (f) was amended to update an archaic reference to the "contingent fund" (H. Res. 5, Jan. 7, 1997, p. 121). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6 of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). A clerical correction was effected in the 107th Congress (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 24), and a conforming change to paragraph (f) was effected in the 109th Congress (sec. 2(a), H. Res. 5, Jan. 4, 2005, p. ——).

§ 780. Nonpartisan staff.

(i) Notwithstanding paragraph (a)(2), a committee may employ nonpartisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, by an affirmative vote of a majority of the members of the majority party and of a majority of the members of the minority party.

Section 202(a) of the Legislative Reorganization Act of 1946 (60 Stat. 812), which was incorporated into the rules on January 3, 1953 (p. 24), required committee professional staffs to be appointed on a permanent basis without regard to political affiliation. The concept of minority staffing was added by section 302(b) of the Legislative Reorganization Act of 1970. Under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), paragraph (i) (formerly clause 6(i) of rule XI) was added to permit committees to employ nonpartisan staff upon an affirmative vote of the majority of the members of each party. In the 104th Congress it was amended to reflect the elimination of the former distinction between "professional" and "clerical" staff

(sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. 462). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6(i) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

§ 781. Reports on staff.

Effective in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), former clause 6(j) of rule XI, which was added on January 3, 1953 (p. 24) and which was contained in section 134(b) of the Legislative Reorganization Act of 1945, was deleted; that clause required committees to report semiannually to the Clerk, for printing in the Congressional Record, on the names, professions, and salaries of committee employees.

Select and joint committees

§ 782. Party membership as basis for appointment.

10. (a) Membership on a select or joint committee appointed by the Speaker under clause 11 of rule I during the course of a Congress shall be contingent on continuing membership in the party caucus or conference of which the Member, Delegate, or Resident Commissioner concerned was a member at the time of appointment. Should a Member, Delegate, or Resident Commissioner cease to be a member of that caucus or conference, that Member, Delegate, or Resident Commissioner shall automatically cease to be a member of any select or joint committee to which he is assigned. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member, Delegate, or Resident Commissioner ceases to be a member of a party caucus or conference. The Speaker shall notify the chairman of each affected select or joint committee that the appointment of such Member, Delegate, or Resident Commissioner to the select or joint committee is automatically vacated under this paragraph.

This party membership requirement for select and joint committees, analogous to clause 5(b), was added in the 98th Congress (H. Res. 5, 1983, Jan. 3, 1983, p. 34). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6(g) of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

§ 783. Select and joint committee compliance.

(b) Each select or joint committee, other than a conference committee, shall comply with clause 2(a) of rule XI unless specifically exempted by law.

Before the House recodified its rules in the 106th Congress, paragraph (b) was found in clause 2(a) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). The extension of clause 2(a) requirements to select and joint committees was added to clause 2(a) when that rule was rewritten by the Committee Reform Amendments of 1974 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470).

§ 784. Aging.

A paragraph (i) of former clause 6 of rule X was incorporated into the rules effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), to provide for a permanent Select Committee on Aging. That provision was stricken in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49).

Permanent Select Committee on Intelligence

§ 785. Permanent Select Committee on Intelligence.

11. (a)(1) There is established a Permanent Select Committee on Intelligence (hereafter in this clause referred to as the "select committee"). The select committee shall be composed of not more than 21 Members, Delegates, or the Resident Commissioner, of whom not more than 12 may be from the same party. The select committee shall include at least one Member, Delegate, or the Resident Commissioner from each of the following committees:

(A) the Committee on Appropriations;
(B) the Committee on Armed Services;
(C) the Committee on Foreign Affairs; and
(D) the Committee on the Judiciary.

(2) The Speaker and the Minority Leader shall be ex officio members of the select committee but shall have no vote in the select committee and may not be counted for purposes of determining a quorum thereof.

(3) The Speaker and Minority Leader each may designate a member of his leadership staff to assist him in his capacity as ex officio member, with the same access to committee meetings, hearings, briefings, and materials as employees of the select committee and subject to the same security clearance and confidentiality requirements as employees of the select committee under this clause.

(4)(A) Except as permitted by subdivision (B), a Member, Delegate, or Resident Commissioner, other than the Speaker or the Minority Leader, may not serve as a member of the select committee during more than four Congresses in a period of six successive Congresses (disregarding for this purpose any service for less than a full session in a Congress).

(B) In the case of a Member, Delegate, or Resident Commissioner appointed to serve as the chairman or the ranking minority member of the select committee, tenure on the select committee shall not be limited.

(b)(1) There shall be referred to the select committee proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(A) The Central Intelligence Agency, the Director of National Intelligence, and the Na-

tional Intelligence Program as defined in section 3(6) of the National Security Act of 1947.

(B) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including the tactical intelligence and intelligence-related activities of the Department of Defense.

(C) The organization or reorganization of a department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.

(D) Authorizations for appropriations, both direct and indirect, for the following:

(i) The Central Intelligence Agency, the Director of National Intelligence, and the National Intelligence Program as defined in section 3(6) of the National Security Act of 1947.

(ii) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including the tactical intelligence and intelligence-related activities of the Department of Defense.

(iii) A department, agency, subdivision, or program that is a successor to an agency or program named or referred to in (i) or (ii).

(2) Proposed legislation initially reported by the select committee (other than provisions solely involving matters specified in subparagraph (1)(A) or subparagraph (1)(D)(i)) containing any matter otherwise within the jurisdiction of a standing committee shall be referred by the

Speaker to that standing committee. Proposed legislation initially reported by another committee that contains matter within the jurisdiction of the select committee shall be referred by the Speaker to the select committee if requested by the chairman of the select committee.

(3) Nothing in this clause shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review an intelligence or intelligence-related activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of that committee.

(4) Nothing in this clause shall be construed as amending, limiting, or otherwise changing the authority of a standing committee to obtain full and prompt access to the product of the intelligence and intelligence-related activities of a department or agency of the Government relevant to a matter otherwise within the jurisdiction of that committee.

(c)(1) For purposes of accountability to the House, the select committee shall make regular and periodic reports to the House on the nature and extent of the intelligence and intelligence-related activities of the various departments and agencies of the United States. The select committee shall promptly call to the attention of the House, or to any other appropriate committee, a matter requiring the attention of the House or another committee. In making such report, the select committee shall proceed in a manner con-

sistent with paragraph (g) to protect national security.

(2) The select committee shall obtain annual reports from the Director of National Intelligence, the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence and intelligence-related activities of the agency or department concerned and the intelligence and intelligence-related activities of foreign countries directed at the United States or its interests. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of persons engaged in intelligence or intelligence-related activities for the United States or the divulging of intelligence methods employed or the sources of information on which the reports are based or the amount of funds authorized to be appropriated for intelligence and intelligence-related activities.

(3) Within six weeks after the President submits a budget under section 1105(a) of title 31, United States Code, or at such time as the Committee on the Budget may request, the select committee shall submit to the Committee on the Budget the views and estimates described in section 301(d) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

(d)(1) Except as specified in subparagraph (2), clauses 8(a), (b), and (c) and 9(a), (b), and (c) of this rule, and clauses 1, 2, and 4 of rule XI shall apply to the select committee to the extent not inconsistent with this clause.

(2) Notwithstanding the requirements of the first sentence of clause 2(g)(2) of rule XI, in the presence of the number of members required under the rules of the select committee for the purpose of taking testimony or receiving evidence, the select committee may vote to close a hearing whenever a majority of those present determines that the testimony or evidence would endanger the national security.

(e) An employee of the select committee, or a person engaged by contract or otherwise to perform services for or at the request of the select committee, may not be given access to any classified information by the select committee unless such employee or person has—

(1) agreed in writing and under oath to be bound by the Rules of the House, including the jurisdiction of the Committee on Standards of Official Conduct and of the select committee concerning the security of classified information during and after the period of his employment or contractual agreement with the select committee; and

(2) received an appropriate security clearance, as determined by the select committee in consultation with the Director of National Intelligence, that is commensurate with the sensitivity of the classified information to which

such employee or person will be given access by the select committee.

(f) The select committee shall formulate and carry out such rules and procedures as it considers necessary to prevent the disclosure, without the consent of each person concerned, of information in the possession of the select committee that unduly infringes on the privacy or that violates the constitutional rights of such person. Nothing herein shall be construed to prevent the select committee from publicly disclosing classified information in a case in which it determines that national interest in the disclosure of classified information clearly outweighs any infringement on the privacy of a person.

(g)(1) The select committee may disclose publicly any information in its possession after a determination by the select committee that the public interest would be served by such disclosure. With respect to the disclosure of information for which this paragraph requires action by the select committee—

(A) the select committee shall meet to vote on the matter within five days after a member of the select committee requests a vote; and

(B) a member of the select committee may not make such a disclosure before a vote by the select committee on the matter, or after a vote by the select committee on the matter except in accordance with this paragraph.

(2)(A) In a case in which the select committee votes to disclose publicly any information that has been classified under established security

procedures, that has been submitted to it by the executive branch, and that the executive branch requests be kept secret, the select committee shall notify the President of such vote.

(B) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of the vote to disclose is transmitted to the President unless, before the expiration of the five-day period, the President, personally in writing, notifies the select committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by the disclosure is of such gravity that it outweighs any public interest in the disclosure.

(C) If the President, personally in writing, notifies the select committee of his objections to the disclosure of information as provided in subdivision (B), the select committee may, by majority vote, refer the question of the disclosure of such information, with a recommendation thereon, to the House. The select committee may not publicly disclose such information without leave of the House.

(D) Whenever the select committee votes to refer the question of disclosure of any information to the House under subdivision (C), the chairman shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(E) If the chairman of the select committee does not offer in the House a motion to consider in closed session a matter reported under subdivision (D) within four calendar days on which the House is in session after the recommendation described in subdivision (C) is reported, then such a motion shall be privileged when offered by a Member, Delegate, or Resident Commissioner. In either case such a motion shall be decided without debate or intervening motion except one that the House adjourn.

(F) Upon adoption by the House of a motion to resolve into closed session as described in subdivision (E), the Speaker may declare a recess subject to the call of the Chair. At the expiration of the recess, the pending question, in closed session, shall be, "Shall the House approve the recommendation of the select committee?".

(G) Debate on the question described in subdivision (F) shall be limited to two hours equally divided and controlled by the chairman and ranking minority member of the select committee. After such debate the previous question shall be considered as ordered on the question of approving the recommendation without intervening motion except one motion that the House adjourn. The House shall vote on the question in open session but without divulging the information with respect to which the vote is taken. If the recommendation of the select committee is not approved, then the question is considered as recommitted to the select committee for further recommendation.

(3)(A) Information in the possession of the select committee relating to the lawful intelligence or intelligence-related activities of a department or agency of the United States that has been classified under established security procedures, and that the select committee has determined should not be disclosed under subparagraph (1) or (2), may not be made available to any person by a Member, Delegate, Resident Commissioner, officer, or employee of the House except as provided in subdivision (B).

(B) The select committee shall, under such regulations as it may prescribe, make information described in subdivision (A) available to a committee or a Member, Delegate, or Resident Commissioner, and permit a Member, Delegate, or Resident Commissioner to attend a hearing of the select committee that is closed to the public. Whenever the select committee makes such information available, it shall keep a written record showing, in the case of particular information, which committee or which Member, Delegate, or Resident Commissioner received the information. A Member, Delegate, or Resident Commissioner who, and a committee that, receives information under this subdivision may not disclose the information except in a closed session of the House.

(4) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, Delegate, Resident Commissioner, officer, or employee of the House

in violation of subparagraph (3) and report to the House concerning any allegation that it finds to be substantiated.

(5) Upon the request of a person who is subject to an investigation described in subparagraph (4), the Committee on Standards of Official Conduct shall release to such person at the conclusion of its investigation a summary of its investigation, together with its findings. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, Delegate, Resident Commissioner, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action. Recommendations may include censure, removal from committee membership, or expulsion from the House, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

(h) The select committee may permit a personal representative of the President, designated by the President to serve as a liaison to the select committee, to attend any closed meeting of the select committee.

(i) Subject to the Rules of the House, funds may not be appropriated for a fiscal year, with the exception of a bill or joint resolution continuing appropriations, or an amendment thereto, or a conference report thereon, to, or for use of, a department or agency of the United States

to carry out any of the following activities, unless the funds shall previously have been authorized by a bill or joint resolution passed by the House during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Director of National Intelligence and the Office of the Director of National Intelligence.

(2) The activities of the Central Intelligence Agency.

(3) The activities of the Defense Intelligence Agency.

(4) The activities of the National Security Agency.

(5) The intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense.

(6) The intelligence and intelligence-related activities of the Department of State.

(7) The intelligence and intelligence-related activities of the Federal Bureau of Investigation.

(8) The intelligence and intelligence-related activities of all other departments and agencies of the executive branch.

(j)(1) In this clause the term "intelligence and intelligence-related activities" includes—

(A) the collection, analysis, production, dissemination, or use of information that relates to a foreign country, or a government, political group, party, military force, movement, or other association in a foreign country, and

that relates to the defense, foreign policy, national security, or related policies of the United States and other activity in support of the collection, analysis, production, dissemination, or use of such information;

(B) activities taken to counter similar activities directed against the United States;

(C) covert or clandestine activities affecting the relations of the United States with a foreign government, political group, party, military force, movement, or other association;

(D) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by a department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States; and

(E) covert or clandestine activities directed against persons described in subdivision (D).

(2) In this clause the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(3) For purposes of this clause, reference to a department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that a successor engages in intelligence or intelligence-related activities now conducted by the

department, agency, bureau, or subdivision referred to in this clause.

(k) Clause 12(a) of rule XXII does not apply to meetings of a conference committee respecting legislation (or any part thereof) reported by the Permanent Select Committee on Intelligence.

§ 786. Membership, administration, jurisdiction.

This clause (formerly rule XLVIII) was adopted in the 95th Congress (H. Res. 658, July 14, 1977, pp. 22932–49) and has had several technical amendments: (1) to change the size of the Select Committee from 13 to 14 members (H. Res. 70, 96th Cong., Jan. 25, 1979, p. 1023); (2) to reflect a change in the name of a committee (H. Res. 89, 96th Cong., Feb. 5, 1979, p. 1848); (3) to change the size to not more than 16 members (H. Res. 33, 99th Cong., Jan. 30, 1985, p. 1271); (4) to change the size to not more than 17 members and to change the cross-reference in clause 7(c)(1) to include paragraph (a) or (b) (H. Res. 5, 100th Cong., Jan. 6, 1987, p. 6); (5) to change the size to not more than 19 members (H. Res. 5, 101st Cong., Jan. 3, 1989, p. 73) and to permit the Speaker to attend meetings and have access to information (H. Res. 268, Nov. 14, 1989, p. 28789); (6) to strike obsolete language relating to tenure restrictions in clause 1 and relating to the requirement for authorizations of appropriations in clause 9 (H. Res. 5, 102d Cong., Jan. 3, 1991, p. 39); (7) to limit the size of the panel to 16, with no more than nine members from the same party; to set the tenure limitation at four Congresses within a period of six Congresses, with exceptions for ongoing service as chairman or ranking minority member; to make the Speaker (rather than the Majority Leader) an ex officio member of the panel (as opposed to his former free access to its meetings and information); and to conform references to renamed committees (sec. 221, H. Res. 6, 104th Cong., Jan. 4, 1995, p. 469); (8) to make certain conforming changes (Budget Enforcement Act of 1997, sec. 10104, P.L. 105–33; H. Res. 5, Jan. 6, 1999, p. 47); (9) to increase the size of the committee to not more than 18 members, of whom not more than 10 shall be of the same political party (sec. 2(h), H. Res. 5, 107th Cong., Jan. 3, 2001, p. 25); (10) to make a clerical correction in a cross reference (sec. 2(x), H. Res. 5, 107th Cong., Jan. 3, 2001, p. 26); (11) to remove the tenure limitation for the chairman and ranking minority member (sec. 2(e–1), H. Res. 5, 108th Cong., Jan. 7, 2003, p. 7); (12) to increase the size of the committee to not more than 21 members, of whom not more than 12 shall be of the same political party (H. Res. 51, 109th Cong., Jan. 26, 2005, p. ——); (13) to reflect a change in the name of a committee (sec. 213(c), H. Res. 6, Jan. 4, 2007, p. ——); and (14) to conform jurisdictional statements to changes in the intelligence community (sec. 504, H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XLVIII

(H. Res. 5, Jan. 6, 1999, p. 47). By order of the House, the size of the committee was increased for the 107th Congress to not more than 20 members, of whom not more than 11 shall be of the same political party (Jan. 6, 2001, p. 25). The Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108–458) reorganized the intelligence community.

More substantive amendments have been adopted as follows: (1) clause 4 was amended to make former clause 6(c) of rule XI (current clause 9(c) of rule X) applicable to salaries of the staff of the Select Committee (H. Res. 5, Jan. 15, 1979, pp. 7–16); (2) paragraph (d) (formerly clause 4) was amended to make an exception to the provisions of clause 2(g)(2) of rule XI (requiring a majority of the membership of a committee be present in order to vote to close a hearing) to allow the Select Committee to vote to go into executive session if a majority of the members present, there being in attendance the requisite number under the Select Committee rules for the purpose of taking testimony, determine that it is necessary to do so for national security reasons (but in no event to be determined by less than two members) (H. Res. 165, Mar. 29, 1979, p. 6820); (3) paragraph (d) (formerly clause 4) was amended to provide the Select Committee with permanent professional and clerical staff as provided by former clauses 6(a) and (b) of rule XI (current clauses 9(a) and (b) of rule X) (H. Res. 58, Mar. 1, 1983, p. 3241); (4) paragraph (b)(1) (formerly clause 2(a)) was amended to clarify jurisdiction over the National Foreign Intelligence Program and the tactical intelligence and intelligence-related activities of the Department of Defense and paragraph (a)(3) (formerly clause 1(b)) was added to clarify staffing arrangements for the Speaker and the Minority Leader as ex officio members (sec. 221, H. Res. 6, Jan. 4, 1995, p. 469).

The resolution creating the Select Committee directed the committee to make a study with respect to intelligence and intelligence-related activities of the U.S. and to report thereon, together with appropriate recommendations, not later than the close of the 95th Congress (sec. 3, H. Res. 658; see H. Rept. 95–1795, Oct. 14, 1978), and transferred to the Select Committee all records, files, documents, and other materials of the Select Committee on Intelligence of the 94th Congress in the possession, custody, or control of the Clerk of the House.

The Select Committee has concurrent jurisdiction with the Committee on the Judiciary over bills concerning electronic surveillance of foreign intelligence (Nov. 4, 1977, p. 37070); concurrent jurisdiction with the Committees on Science, Space, and Technology (now Science and Technology) and Foreign Affairs over a bill establishing a satellite monitoring commission (Mar. 15, 1988, p. 3847); and sole jurisdiction over a resolution of inquiry directing the Secretary of Defense to furnish to the House documents and information on Cuban or other foreign military or paramilitary presence in Panama or the Canal Zone (Apr. 6, 1978, p. 9105).

Paragraph (g)(2) places restrictions on the Select Committee only with respect to the public disclosure of classified information in the possession of that committee, and does not prevent the House from determining to

release any matter properly presented to it in secret session pursuant to clause 9 of rule XVII (formerly rule XXIX) (Feb. 25, 1980, p. 3618).

For a discussion of the role of the Permanent Select Committee on Intelligence in regulating access to the classified records of the former Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China, see House Practice, ch. 11, §§ 12, 13.

In the 107th Congress the Select Committee was given oversight authority described in clause 3(m) of rule X (sec. 2(f), H. Res. 5, Jan. 3, 2001, p. 25).

RULE XI

PROCEDURES OF COMMITTEES AND UNFINISHED BUSINESS

In general

§ 787. Committee procedure.

1. (a)(1)(A) The Rules of the House are the rules of its committees and subcommittees so far as applicable.

(B) Each subcommittee is a part of its committee and is subject to the authority and direction of that committee and to its rules, so far as applicable.

(2)(A) In a committee or subcommittee—

(i) a motion to recess from day to day, or to recess subject to the call of the Chair (within 24 hours), shall be privileged; and

(ii) a motion to dispense with the first reading (in full) of a bill or resolution shall be privileged if printed copies are available.

(B) A motion accorded privilege under this subparagraph shall be decided without debate.

This paragraph was first adopted December 8, 1931, to provide that the Rules of the House are the rules of the standing committees (without reference to subcommittees) and to provide for a privileged motion to recess from day to day (VIII, 2215). The paragraph was amended March 23, 1955, when the House adopted rules governing committee investigations that

are now embodied in clause 2 (pp. 3569–3585). In the 92d Congress paragraph (a) was amended in the form contained in the Legislative Reorganization Act of 1970 (84 Stat. 1140) to specifically address subcommittees (H. Res. 5, Jan. 22, 1971, p. 144). It was amended again in the 99th Congress to allow a privileged motion to dispense with the first reading of a measure where printed copies are available (H. Res. 7, Jan. 3, 1985, p. 393). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). In the 109th Congress paragraph (a) was reorganized and amended to provide for a privileged motion to recess subject to the call of the chair (within 24 hours) (sec. 2(d), H. Res. 5, Jan. 4, 2005, p. ——). For the requirement in Jefferson's Manual that a bill or resolution be read in full upon demand, before being read by paragraphs or sections for amendment, see § 412, *supra*.

Each committee may appoint subcommittees (VI, 532), which should include majority and minority representation (IV, 4551), and confer on them powers delegated to the committee itself (VI, 532) except such powers as are reserved to the full committee by the Rules of the House; but express authority also has been given subcommittees by the House (III, 1754–1759, 1801, 2499, 2504, 2508, 2517; IV, 4548).

As indicated in § 369, *supra*, clause 1(a)(1)(A) enables standing and select committees to enforce in committee applicable House rules of decorum, such as clause 2 of rule I and rule XVII.

§ 788. Investigative authority.

(b)(1) Each committee may conduct at any time such investigations and studies as it considers necessary or appropriate in the exercise of its responsibilities under rule X. Subject to the adoption of expense resolutions as required by clause 6 of rule X, each committee may incur expenses, including travel expenses, in connection with such investigations and studies.

(2) A proposed investigative or oversight report shall be considered as read in committee if it has been available to the members for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).

(3) A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.

(4) After an adjournment sine die of the last regular session of a Congress, an investigative or oversight report may be filed with the Clerk at any time, provided that a member who gives timely notice of intention to file supplemental, minority, or additional views shall be entitled to not less than seven calendar days in which to submit such views for inclusion in the report.

Paragraph (b)(1) was incorporated into the rules under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), and, together with clauses 2(m) and 2(n) of rule XI, eliminated the necessity that each committee obtain such authority each Congress by a separate resolution reported from the Committee on Rules. Paragraphs (b)(2), (b)(3), and (b)(4) were added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

§ 789. Printing and binding.

(c) Each committee may have printed and bound such testimony and other data as may be presented at hearings held by the committee or its subcommittees. All costs of stenographic services and transcripts in connection with a meeting or hearing of a committee shall be paid from the applicable accounts of the House described in clause 1(j)(1) of rule X.

Paragraph (c) was made part of the rules by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 105th and 106th Congresses, it was amended to update a reference to the "contingent fund" (H. Res. 5, Jan. 7, 1997, p. 121; H. Res. 5, Jan. 6, 1999, p. 47), and a conforming change was effected

in the 109th Congress (sec. 2(a), H. Res. 5, Jan. 4, 2005, p. ——). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

§ 790. Activity reports.

(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year a report on the activities of that committee under this rule and rule X during the Congress ending at noon on January 3 of such year.

(2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee under clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.

(4) After an adjournment sine die of the last regular session of a Congress, the chairman of a committee may file an activities report under subparagraph (1) with the Clerk at any time and without approval of the committee, provided that—

(A) a copy of the report has been available to each member of the committee for at least seven calendar days; and

(B) the report includes any supplemental, minority, or additional views submitted by a member of the committee.

The provisions of paragraph (d)(1) were first made requirements of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144, incorporating the provisions of sec. 118(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140)), and effective on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), exemptions from the reporting requirements for the Committees on Appropriations, the Budget, House Administration, Rules, and Standards of Official Conduct were removed, so the paragraph from that point applied to all committees. The 104th Congress added paragraphs (d)(2) and (d)(3) to require that activity reports include separate sections on legislative and oversight activities, including a summary comparison of oversight plans and eventual recommendations and actions (sec. 203(b), H. Res. 6, Jan. 4, 1995, p. 467). Paragraph (d)(4) was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

Under the Unfunded Mandates Reform Act of 1995, the Committee on Rules is required to include in its activity report a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and subject matter (sec. 107(b), P.L. 104–4; 109 Stat. 63).

Adoption of written rules

2. (a)(1) Each standing committee shall adopt written rules governing its procedure. Such rules—

§ 791. Committee rules.

(A) shall be adopted in a meeting that is open to the public unless the committee, in open session and with a quorum present, determines by record vote that all or part of the meeting on that day shall be closed to the public;

(B) may not be inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(C) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

(2) Each committee shall submit its rules for publication in the Congressional Record not later than 30 days after the committee is elected in each odd-numbered year.

(3) A committee may adopt a rule providing that the chairman be directed to offer a motion under clause 1 of rule XXII whenever the chairman considers it appropriate.

The requirement that standing committees adopt written rules was first incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), having been included in the Legislative Reorganization Act of 1970 (84 Stat. 1140). Under the Committee Reform Amendments of 1974, clause 2(a) became effective in essentially its present form on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In the 94th Congress it was amended to permit a record vote to close the committee meeting at which committee rules are adopted only on the day of the meeting (H. Res. 5, Jan. 14, 1975, p. 20). In the 102d Congress it was amended to allow a committee 30 days after the election of its members, rather than after the convening of the Congress, to publish its rules in the Congressional Record (H. Res. 5, Jan. 3, 1991, p. 39). The provision requiring publication of committee rules in the Congressional Record derived from statute (2 U.S.C. 190a–2 (repealed 1979)). A court interpreted that statute to be mandatory in a case where a Senate committee failed to publish in the Record a rule regarding a quorum for the purpose of taking sworn testimony. In overturning a perjury conviction, the court held that the unpublished committee rule was not valid. United States *v.* Reinecke, 524 F.2d 435 (D.C. Cir. 1975). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). Subparagraph (3) was added in the 109th Congress (sec. 2(d), H. Res. 5, Jan. 4, 2005, p. ——).

Committees have historically adopted rules under which they function (I, 707; III, 1841, 1842; VIII, 2214). Committee rules are compiled by the Committee on Rules each Congress as a committee print. It is the responsibility of the committees, and not the House, to construe and enforce additional committee rules on the calling of committee meetings (Speaker Albert, July 22, 1974, pp. 24436–47). This provision requires a select committee to publish its adopted rules in the Record (June 25, 1998, p. 14014).

§ 792. Committee procedure generally.

Failure to follow certain procedural requirements imposed on committees by this rule may invalidate committee actions. Violation of the requirements as to open meetings and hearings and other hearing irregularities improperly overruled (see clause 2(g)(5) of rule XI) or the prescribed committee procedures for reporting bills and resolutions (clause 2(h) of rule XI) may in some

instances be the basis for a point of order in the House, resulting in the recommitment of the bill. However, a point of order does not ordinarily lie in the House against consideration of a bill by reason of defective committee procedures occurring before the time the bill is ordered reported to the House (Procedure, ch. 17, § 11.1).

Many of the procedures applicable to committees derive from Jefferson's Manual, which governs the House and its committees in all cases to which it is applicable (clause 1 of rule XXVIII). A committee may act only when together, and not by separate consultation and consent, nothing being the report (or recommendation) of the committee except what has been agreed to in committee actually assembled (see Jefferson's Manual at § 407, *supra*). A measure before a committee for consideration must be read for amendment by section as in the House (see Jefferson's Manual at §§ 412–414, *supra*), and reading of the measure and of amendments thereto must be in full. The procedures applicable in the House as in the Committee of the Whole (see §§ 424, 427, *supra*) generally apply to proceedings in committees of the House of Representatives, except that since a measure considered in committee must be read for amendment, a motion to limit debate under the five-minute rule in committee must be confined to the portion of the bill then pending. The previous question may only be moved on the measure in committee if the entire measure has been read, or considered as read, for amendment.

Committees generally conduct their business under the five-minute rule but may employ the ordinary motions that are in order in the House, such as under clause 4 of rule XVI.

Regular meeting days

§ 793. Committee meetings.

(b) Each standing committee shall establish regular meeting days for the conduct of its business, which shall be not less frequent than monthly. Each such committee shall meet for the consideration of a bill or resolution pending before the committee or the transaction of other committee business on all regular meeting days fixed by the committee unless otherwise provided by written rule adopted by the committee.

Additional and special meetings

(c)(1) The chairman of each standing committee may call and convene, as he considers

necessary, additional and special meetings of the committee for the consideration of a bill or resolution pending before the committee or for the conduct of other committee business, subject to such rules as the committee may adopt. The committee shall meet for such purpose under that call of the chairman.

(2) Three or more members of a standing committee may file in the offices of the committee a written request that the chairman call a special meeting of the committee. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If the chairman does not call the requested special meeting within three calendar days after the filing of the request (to be held within seven calendar days after the filing of the request) a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held. The written notice shall specify the date and hour of the special meeting and the measure or matter to be considered. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered. Only the measure or matter specified in that notice may be considered at that special meeting.

Temporary absence of chairman

(d) A member of the majority party on each standing committee or subcommittee thereof shall be designated by the chairman of the full committee as the vice chairman of the committee or subcommittee, as the case may be, and shall preside during the absence of the chairman from any meeting. If the chairman and vice chairman of a committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking majority member who is present shall preside at that meeting.

Paragraphs (b), (c), and (d) were first adopted on December 8, 1931 (VIII, 2208), were amended on January 3, 1953 (p. 24), and were revised both by the Legislative Reorganization Act of 1970 (84 Stat. 1140) and in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 102d Congress paragraph (d) was amended to provide that the ranking majority Member of each committee and subcommittee be designated as its vice chairman (H. Res. 5, Jan. 3, 1991, p. 39). In the 104th Congress paragraph (d) was amended to permit the chairman of a full committee to designate vice chairmen of the committee and its subcommittees (sec. 223(c), H. Res. 6, Jan. 4, 1995, p. 477). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

A committee scheduled to meet on stated days, when convened on such day with a quorum present, may proceed to the transaction of business regardless of the absence of the chairman (VIII, 2213, 2214). These precedents should be read in light of clause 5(c) of rule X and clause 2(d) or rule XI. A committee meeting being adjourned for lack of a quorum, a majority of the members of the committee may not, without the consent of the chairman, call a meeting of the committee on the same day (VIII, 2213).

Committee records

§ 794. Required records.

(e)(1)(A) Each committee shall keep a complete record of all committee action which shall include—

(i) in the case of a meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings,

subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(ii) a record of the votes on any question on which a record vote is demanded.

§ 795. Public availability.

(B)(i) Except as provided in subdivision (B)(ii) and subject to paragraph (k)(7), the result of each such record vote shall be made available by the committee for inspection by the public at reasonable times in its offices. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition, the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members of the committee present but not voting.

(ii) The result of any record vote taken in executive session in the Committee on Standards of Official Conduct may not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee.

§ 796. Committee files.

(2)(A) Except as provided in subdivision (B), all committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as its chairman. Such records shall be the property of the House, and each Member, Delegate, and the Resident Commissioner shall have access thereto.

(B) A Member, Delegate, or Resident Commissioner, other than members of the Committee on Standards of Official Conduct, may not have access to the records of that committee respecting the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House without the specific prior permission of that committee.

(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule VII. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule VII, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.

(4) Each committee shall make its publications available in electronic form to the maximum extent feasible.

The first sentence of paragraph (e)(1) was rewritten entirely in the 104th Congress (sec. 206, H. Res. 6, Jan. 4, 1995, p. 475). Its predecessor, requiring a complete record of all committee actions, including votes on any question on which a roll call was demanded, was enacted as section 133(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and made part of the standing rules on January 3, 1953 (p. 24). The requirement that committee roll calls be subject to public inspection was added by section 104(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and made a part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). The qualified exception for the Committee on Standards of Official Conduct from the requirement of public availability of record votes was added in the 105th Congress (sec. 8, H. Res. 168, Sept. 18, 1997, p. 19336). Effective on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the requirement that proxy votes in committee be made available for public inspection was eliminated from this paragraph since proxies were prohibited as of that date, but in the 94th Congress clause 2(f) of rule

XI was amended to permit proxies in committee, and this paragraph was likewise amended to reinsert the requirement of availability for public inspection (H. Res. 5, Jan. 14, 1975, p. 20). When proxy voting was again eliminated in the 104th Congress, the reference thereto in the third sentence of paragraph (e)(1) was deleted (sec. 104(b), H. Res. 6, Jan. 4, 1995, p. 463). Paragraph (e)(2) derives from section 202(d) of the Legislative Reorganization Act of 1946 (60 Stat. 812), was made a part of the rules in the 83d Congress (H. Res. 5, Jan. 3, 1953, p. 24), and was amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to restrict the access of Members to certain records of the Committee on Standards of Official Conduct. Paragraph (e)(3) was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). Paragraph (e)(4) was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

Although all Members have access to committee records under this clause, it is not without qualification. For example, this clause: (1) does not give a Member the right to make photostatic copies of such records (Speaker Rayburn, Aug. 14, 1957, pp. 14737–39), and such records may not be brought into the well of the House if the committee has not authorized such action (Speaker Rayburn, June 3, 1960, p. 11820); (2) does not necessarily apply to records within the possession of the executive branch that the members of the committee have been allowed to examine under limited conditions at the discretion of the executive agency in possession of such materials (Speaker O'Neill, July 31, 1980, p. 20765); (3) does not apply to records (an executive communication not yet referred to committee) in the possession of the House (Sept. 9, 1998, p. 19769). In the 105th Congress the House adopted a resolution restricting Members' access to documents received from an independent counsel (said to relate to possible grounds for impeachment of the President) and referred to the Committee on the Judiciary (H. Res. 525, Sept. 11, 1998, p. 20020).

Testimony or evidence taken in executive sessions of a committee is under the control and subject to the regulation of the committee and, under clause 2(k)(7) of rule XI (§ 803, *infra*), cannot be released without the consent of the committee (June 26, 1961, p. 11233; see also Deschler, ch. 17, § 18). Furthermore, such access allows a Member to examine executive session materials only in committee rooms and does not permit a Member to copy or to take personal notes from such materials, to keep such notes or copies in his personal office files, or to release such materials to the public without the consent of the committee or subcommittee under clause 2(k)(7) of rule XI (Speaker O'Neill, Dec. 6, 1977, pp. 38470–73). Compare this clause with clause 11(g)(3) of rule X, which only permits access of nonmembers of the Permanent Select Committee on Intelligence to classified information in the possession of that committee when authorized by that committee. A resolution directing a standing committee to release executive-session material referred to it by special rule of the House was

held to propose a change in the rules and, therefore, not to constitute a question of the privileges of the House under rule IX (Sept. 23, 1998, p. 21562).

In implementing clause 2(e), committees may prescribe regulations to govern the manner of access to their records, such as requiring examination only in committee rooms. See, for example, the rules of the Committees on the Budget, Foreign Affairs, and Armed Services.

Prohibition against proxy voting

§ 797. Ban on proxies.

(f) A vote by a member of a committee or subcommittee with respect to any measure or matter may not be cast by proxy.

The 104th Congress adopted paragraph (f) in this form (sec. 104, H. Res. 6, Jan. 4, 1995, p. 463). An earlier form of the provision was enacted as section 106(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and made part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

The original form of this paragraph permitted committees to adopt written rules permitting proxies in writing, designating the persons to execute them and specifying the measures or matters to which they applied. Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), proxies in committee were prohibited, but in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), the rule was amended to permit proxies in committees with additional restrictions requiring an assertion that the grantor was absent on official business or otherwise unable to attend, requiring the Member to sign and date the proxy, and permitting general proxies for procedural matters.

Open meetings and hearings

§ 798. Open meetings and hearings.

(g)(1) Each meeting for the transaction of business, including the markup of legislation, by a standing committee or subcommittee thereof (other than the Committee on Standards of Official Conduct or its subcommittees) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or sub-

committee, in open session and with a majority present, determines by record vote that all or part of the remainder of the meeting on that day shall be in executive session because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade, or incriminate any person, or otherwise would violate a law or rule of the House. Persons, other than members of the committee and such noncommittee Members, Delegates, Resident Commissioner, congressional staff, or departmental representatives as the committee may authorize, may not be present at a business or markup session that is held in executive session. This subparagraph does not apply to open committee hearings, which are governed by clause 4(a)(1) of rule X or by subparagraph (2).

(2)(A) Each hearing conducted by a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would violate a law or rule of the House.

(B) Notwithstanding the requirements of subdivision (A), in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, a majority of those present may—

(i) agree to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger national security, would compromise sensitive law enforcement information, or would violate clause 2(k)(5); or

(ii) agree to close the hearing as provided in clause 2(k)(5).

(C) A Member, Delegate, or Resident Commissioner may not be excluded from nonparticipatory attendance at a hearing of a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) unless the House by majority vote authorizes a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members, Delegates, and the Resident Commissioner by the same procedures specified in this subparagraph for closing hearings to the public.

(D) The committee or subcommittee may vote by the same procedure described in this subparagraph to close one subsequent day of hearing, except that the Committee on Appropriations, the Committee on Armed Services, and the Permanent Select Committee on Intel-

ligence, and the subcommittees thereof, may vote by the same procedure to close up to five additional, consecutive days of hearings.

(3) The chairman of each committee (other than the Committee on Rules) shall make public announcement of the date, place, and subject matter of a committee hearing at least one week before the commencement of the hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines that there is good cause to begin a hearing sooner, or if the committee so determines by majority vote in the presence of the number of members required under the rules of the committee for the transaction of business, the chairman shall make the announcement at the earliest possible date. An announcement made under this subparagraph shall be published promptly in the Daily Digest and made available in electronic form.

(4) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous

fiscal years by the witness or by an entity represented by the witness.

(5)(A) Except as provided in subdivision (B), a point of order does not lie with respect to a measure reported by a committee on the ground that hearings on such measure were not conducted in accordance with this clause.

(B) A point of order on the ground described in subdivision (A) may be made by a member of the committee that reported the measure if such point of order was timely made and improperly disposed of in the committee.

(6) This paragraph does not apply to hearings of the Committee on Appropriations under clause 4(a)(1) of rule X.

Subparagraphs (1) and (2), relating to open committee meetings and hearings, were first made part of the rules on March 7, 1973 (H. Res. 259, 93d Cong., pp. 6713–20). They were amended in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), to limit to one day (in the case of a meeting) or to one day plus one subsequent day (in the case of a hearing) the period during which a committee may close its session. They were again amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to require that a majority (rather than a quorum) be present when a committee or subcommittee votes to close a meeting or hearing and to provide that a noncommittee Member cannot be excluded from a hearing except by a vote of the House. However, subparagraph (2) was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 8) to permit a majority of those present under the rules of the committee for the purpose of taking testimony (not less than two members as provided in clause 2(h)(2) of rule XI) to vote to close a hearing either to discuss whether the testimony would endanger national security or would violate clause 2(k)(5) of this rule, or to proceed to close the hearing as provided by clause 2(k)(5). In the 98th Congress subparagraph (2) was amended further to permit the Committees on Appropriations and Armed Services, and the Permanent Select Committee on Intelligence, and their subcommittees, when voting in open session with a quorum present, to close a hearing on that particular day and for up to five additional days, for a total of not to exceed six days (H. Res. 5, Jan. 3, 1983, p. 34). In the 104th Congress the paragraph was amended to require that meetings and hearings open to the public also be open to broadcast and photographic media; subparagraph (2) was further amended

to permit closed meetings only on specified conditions and to delete an exception for meetings relating to internal budget or personnel matters and to specify a new condition (sensitive law enforcement information) for closing hearings (sec. 105, H. Res. 6, Jan. 4, 1995, p. 463). The paragraph was also amended to conform references to renamed committees (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 467; H. Res. 5, Jan. 6, 1999, p. 47). In the 105th Congress subparagraphs (1) and (2) were again amended to reflect an amendment to former clause 4(e)(3) of rule X (currently clause 3 of rule XI) requiring meetings of the Committee on Standards of Official Conduct to occur in executive session (except for adjudicatory subcommittee meetings or full committee sanction hearings) unless opened by an affirmative vote of a majority of members (sec. 5, H. Res. 168, Sept. 18, 1997, p. 19336). Subparagraphs (3)–(6) derive from sections 111(b), 113(b), 115(b), and 242(c) respectively of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), these provisions were inadvertently omitted from the rules, and were therefore reinserted in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). Subparagraph (3) was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to add the requirement of prompt entering of public notice of committee meetings into the committee scheduling service of the House Information Resources. Subparagraph (3) was again amended in the 104th Congress to permit the calling of a hearing on less than seven days' notice upon a determination of good cause either by vote of the committee or subcommittee or by its chairman with the concurrence of its ranking minority member (H. Res. 43, Jan. 31, 1995, p. 3028). In the 105th and 106th Congresses subparagraphs (3) and (2) (respectively) were amended to effect a technical correction (H. Res. 5, Jan. 7, 1997, p. 121; H. Res. 5, Jan. 6, 1999, p. 47). Subparagraph (4) was rewritten in the 105th Congress to encourage committees to elicit curricula vitae and disclosures of certain interests from nongovernmental witnesses (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

In the 105th Congress the House adopted a resolution restricting access to meetings and hearings held by the Committee on the Judiciary on a communication received from an independent counsel relating to possible grounds for impeachment of the President (H. Res. 525, Sept. 11, 1998, p. 20020).

Quorum requirements

§ 799. Requirement of quorum.

(h)(1) A measure or recommendation may not be reported by a committee unless a majority of the committee is actually present.

This subparagraph is from section 133(d) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part of the rules on January 3, 1953 (p. 24). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(l)(2)(A) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). The point of order that a bill was reported from a committee without a formal meeting and a quorum present comes too late if debate has started on a bill in the House (VIII, 2223; Feb. 24, 1947, p. 1374). No committee report is valid unless authorized with a quorum of the committee actually present at the time the vote is taken (IV, 4584; VIII, 2211, 2212, 2221, 2222), and while Speakers have indicated that committee members may come and go during the course of the vote if the roll call indicates that a quorum was present (VIII, 2222), where it is admitted that a quorum was not in the room at any time during the vote and the committee transcript does not show a quorum acting as a quorum, the Chair will sustain the point of order (VIII, 2212). In the 103d Congress, this provision was amended to provide that responses to roll calls in committee be deemed contemporaneous and to require that a point of no quorum with respect to a committee report be timely asserted in committee or considered waived (H. Res. 5, Jan. 5, 1993, p. 49), but in the 104th Congress both of those features were deleted from the rule (sec. 207, H. Res. 6, Jan. 4, 1995, p. 467).

Where the committee transcript was not conclusive and the manager of the bill gave absolute assurance that a majority of the full committee was actually present when the bill was ordered reported the Speaker overruled a point of order made under this provision (Oct. 22, 1987, p. 28807). A point of no quorum pending a committee vote on ordering a measure reported may provoke a quorum call requiring a majority of the committee to be present in the committee room. A committee may act only when together, nothing being the report of the committee except what has been agreed to in committee actually assembled (see Jefferson's Manual at § 407, *supra*).

§ 800. Reduced quorum.

(2) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which may not be less than two.

(3) Each committee (other than the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than one for which the presence of a majority of the committee is otherwise required, which may not be less than one-third of the members.

Subparagraphs (2) and (3) (formerly subparagraphs (1) and (2)) were adopted in the 84th Congress and only related to the authority of a committee to fix a quorum of not less than two for taking testimony (H. Res. 151, Mar. 23, 1955, pp. 3569, 3585). In the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) subparagraph (3) (formerly subparagraph (2)) was added to authorize committees to fix a quorum less than a majority for certain other action. Before the House recodified its rules in the 106th Congress, paragraph (h) consisted only of subparagraphs (2) and (3) (H. Res. 5, Jan. 6, 1999, p. 47). Subparagraph (3) was amended in the 107th Congress to preserve all requirements for a majority quorum found in House rules (sec. 2(i), H. Res. 5, Jan. 3, 2001, p. 25).

By unanimous consent the Committee on Standards of Official Conduct was authorized to receive evidence and take testimony before a quorum of one of its members for the remainder of the second session of the 100th Congress (Oct. 13, 1988, p. 30467). Authority for a committee (other than the committee on Oversight and Government Reform under clause 4(c) of rule X) to conduct depositions or interrogatories before one member or staff of the committee must be specifically conferred by the House (see, *e.g.*, H. Res. 167, 105th Cong., June 20, 1997, p. 11677).

§ 800a. Postponing votes in committee.

(4)(A) Each committee may adopt a rule authorizing the chairman of a committee or subcommittee—

(i) to postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment; and

(ii) to resume proceedings on a postponed question at any time after reasonable notice.

(B) A rule adopted pursuant to this subparagraph shall provide that when proceedings re-

sume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

This subpararaph was added in the 108th Congress (sec. 2(g), H. Res. 5, Jan. 7, 2003, p. 7).

Limitation on committee sittings

§ 801. Committees not to sit.

(i) A committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

A clause regulating when committees could sit had its origin in 1794. It was omitted from rule XI in the adoption of rules for the 80th Congress but remained effective as part of the Legislative Reorganization Act of 1946, the applicable provisions of which were continued as a part of the rules of the House. While the rule formerly prohibited committees from sitting at any time when the House was in session, it was narrowed to proscribe sittings during the five-minute rule by the Legislative Reorganization Act of 1970 (sec. 117(b); 84 Stat. 1140) and this revision was made part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the Committees on Appropriations, the Budget, and Rules were exempted from this clause; and in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), the Committee on Standards of Official Conduct was also exempted. The Committee on Ways and Means was traditionally permitted to sit during proceedings under the five-minute rule by unanimous consent granted each Congress (Jan. 29, 1975, p. 1677) until it was exempted from the rule in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). A provision that special leave to sit be granted if ten Members did not object was added to the clause in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70). An exemption for the Committee on House Administration and the prohibition against committee meetings during joint meetings or joint sessions were added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). In the 103d Congress the prohibition against sitting during proceedings under the five-minute rule was stricken altogether (H. Res. 5, Jan. 5, 1993, p. 49), but in the 104th Congress the former rule was reinstated with exemptions for the Committees on Appropriations, the Budget, Rules, Standards of Official Conduct, and Ways and Means, and also with the provision for a privileged motion by the Majority Leader (sec. 208, H. Res. 6, Jan. 4, 1995, p. 467), on which he controlled one hour

of debate (Jan. 23, 1995, p. 2209). In the 105th Congress so much of paragraph (i) as related to proceedings under the five-minute rule was again stricken (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

Calling and questioning of witnesses

§ 802. Witnesses.

(j)(1) Whenever a hearing is conducted by a committee on a measure or matter, the minority members of the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2)(A) Subject to subdivisions (B) and (C), each committee shall apply the five-minute rule during the questioning of witnesses in a hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

(B) A committee may adopt a rule or motion permitting a specified number of its members to question a witness for longer than five minutes. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

(C) A committee may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified periods. The time for extended questioning of a witness under this subdivision shall be equal for the majority party

and the minority party and may not exceed one hour in the aggregate.

Paragraph (j)(1) was contained in section 114(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was made a part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Paragraph (j)(2) was added to the rules on that latter date. While a majority of the minority members of a committee are entitled to call witnesses selected by the minority for at least one day of hearings, no rule of the House requires the calling of witnesses on opposing sides of an issue (Oct. 14, 1987, p. 27921). In the 105th Congress paragraph (j)(2) was redesignated as (2)(A) and two new subparagraphs were added as (2)(B) and (2)(C) to enable committees to permit extended examinations of witnesses (for 30 additional minutes) by designated members or by staff (H. Res. 5, Jan. 7, 1997, p. 121). A technical correction was effected in the 106th Congress to clarify the procedure to extend questioning, and clerical and stylistic changes were effected when the House recodified its rules in the same Congress (H. Res. 5, Jan. 6, 1999, p. 47).

Hearing procedures

§ 803. Hearing procedure.

(k)(1) The chairman at a hearing shall announce in an opening statement the subject of the hearing.

(2) A copy of the committee rules and of this clause shall be made available to each witness on request.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted by a member of the committee that the evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, or it is asserted by a witness

that the evidence or testimony that the witness would give at a hearing may tend to defame, degrade, or incriminate the witness—

(A) notwithstanding paragraph (g)(2), such testimony or evidence shall be presented in executive session if, in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, the committee determines by vote of a majority of those present that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if the committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) Evidence or testimony taken in executive session, and proceedings conducted in executive session, may be released or used in public sessions only when authorized by the committee, a majority being present.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinence of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

The provisions of paragraph (k) were first incorporated into the rules in the 84th Congress (H. Res. 151, Mar. 23, 1955, pp. 3569, 3585). The requirement of paragraph (k)(2) that a copy of committee rules be furnished to each witness was added in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144) and was amended in the 107th Congress to require the committee to furnish such rules only when the witness so requests (sec. 2(j), H. Res. 5, Jan. 3, 2001, p. 25). The former requirement of paragraph (k)(9) that a witness must pay the cost of a transcript copy of his testimony was eliminated under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Paragraph (k)(5) was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to permit a committee or subcommittee to hear testimony asserted to be defamatory in executive session upon a determination by a majority of those present that such testimony is indeed defamatory, degrading, or incriminating. It was amended in the 107th Congress to permit such an assertion to be made by the witness (with respect to himself) or a member of the Committee (with respect to any person) (sec. 2(j), H. Res. 5, Jan. 3, 2001, p. 25). In the 105th Congress subparagraph (5) was amended to clarify a majority of those voting (a full quorum being present) may decide to proceed in open session (H. Res. 5, Jan. 7, 1997, p. 121). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). "Investigative" was removed from the heading and subparagraphs (1), (3), and (5) of paragraph (k) in the 107th Congress to conform the rule to House practice, which is to apply this paragraph to all committee investigative, oversight, or legislative hearings (sec. 2(j), H. Res. 5, Jan. 3, 2001, p. 25).

The requirements of clause 2(g)(1) and (2), and of 2(m)(2)(A), of this rule that a majority of the committee or subcommittee shall constitute a quorum for the purposes of closing meetings or hearings or issuing subpoenas have been construed to require, under clause 2(k)(7) of this rule, that a majority shall likewise constitute a quorum to release or make public any evidence or testimony received in any closed meeting or hearing and

any other executive session record of the committee or subcommittee. See also clauses 11(c) and 11(g) of rule X, which provide that executive session material transmitted by the Permanent Select Committee on Intelligence to another committee of the House becomes the executive session material of the recipient committee by virtue of the nature of the material and the injunction of clause 11(g) of rule X, which prohibits disclosure of information provided to committees or Members of the House except in a secret session. For a discussion of questions of the privileges of the House addressing committee hearing procedure, see § 704, *supra*.

Supplemental, minority, or additional views

§ 804. Minority views.

(l) If at the time of approval of a measure or matter by a committee (other than the Committee on Rules) a member of the committee gives notice of intention to file supplemental, minority, or additional views for inclusion in the report to the House thereon, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) to file such views, in writing and signed by that member, with the clerk of the committee.

This provision was originally included in section 107 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 104th Congress it was amended to count as a "calendar day" any day on which the House is in session (H. Res. 254, Nov. 30, 1995, p. 35077). In the 105th Congress it was further amended to reduce the guaranteed time for composing separate views from three full days to two full days after the day of notice (H. Res. 5, Jan. 7, 1997, p. 121). Before the House recodified its rules in the 106th Congress, paragraph (l) consisted of this paragraph and current clause 2(c) of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47).

Power to sit and act; subpoena power

§ 805. Power to sit and to issue subpoenas; oaths.

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred to it under clause 2 of rule XII), a committee or subcommittee is authorized (subject to subparagraph (3)(A))—

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it considers necessary; and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary.

(2) The chairman of the committee, or a member designated by the chairman, may administer oaths to witnesses.

(3)(A)(i) Except as provided in subdivision (A)(ii), a subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of an investigation or series of investigations or activities only when authorized by the committee or subcommittee, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee under such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman

of the committee or by a member designated by the committee.

(ii) In the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may be authorized and issued only by an affirmative vote of a majority of its members.

(B) A subpoena duces tecum may specify terms of return other than at a meeting or hearing of the committee or subcommittee authorizing the subpoena.

(C) Compliance with a subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

Before the adoption of clause 2(m) under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), only the Committees on Appropriations, the Budget, Government Operations, Internal Security, and Standards of Official Conduct were permitted by the standing rules to perform the functions as specified in subparagraphs (1)(A) and (1)(B), and other standing and select committees were given those authorities by separate resolutions reported from the Committee on Rules each Congress. In the 94th Congress the paragraph was amended to require authorized subpoenas to be signed by the chairman of the full committee or any member designated by the committee (H. Res. 5, Jan. 14, 1975, p. 20). In the 95th Congress the paragraph was amended to permit a subcommittee, as well as a full committee, to authorize subpoenas and to allow a full committee to delegate such authority to the chairman of the full committee (H. Res. 5, Jan. 4, 1977, pp. 53–70). The special rule for authorizing and issuing a subpoena of a subcommittee of the Committee on Standards of Official Conduct was adopted in the 105th Congress (sec. 15, H. Res. 168, Sept. 18, 1997, p. 19319). In the 106th Congress subparagraph (3)(B) was added, and clerical and stylistic changes were effected when the House recodified its rules in the same Congress (H. Res. 5, Jan. 6, 1999, p. 47). A clerical correction was effected to paragraph (m)(1) in the 107th Congress to correct a cross reference (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 26).

A subpoena issued under this clause need only be signed by the chairman of the committee or by any member designated by the committee, whereas when the House issues an order or warrant the Speaker must under clause 4 of rule I issue the summons under his hand and seal, and it must be

attested by the Clerk pursuant to clause 2(c) of rule II (formerly clause 3 of rule III) (III, 1668; see H. Rept. 96–1078, p. 22). Pursuant to 2 U.S.C. 191, the President of the Senate, the Speaker of the House of Representatives, or a chairman of any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or of a committee of the whole, or of any committee of either House of Congress, is empowered to administer oaths to witnesses in any case under their examination, and any Member of either House of Congress may administer oaths to witnesses in any matter depending in either House of Congress of which he is a Member, or any committee thereof.

While under this clause the Committee on Standards of Official Conduct may issue subpoenas in investigating the conduct of a Member, officer, or employee of the House (the extent of the committee's jurisdiction under rule X and functions under clause 3 of rule XI), where the House authorizes an investigation by that committee of other persons not directly associated with the House, the committee's jurisdiction is thereby enlarged and a broader subpoena authority must be conferred on the committee (Mar. 3, 1976, p. 5165). Subparagraph (3)(B) (formerly subparagraph (2)(B)) has been interpreted to require authorization by the full House before a subcommittee chairman could intervene in a lawsuit in order to gain access to documents subpoenaed by the subcommittee. In re Beef Industry Antitrust Litigation, 589 F.2d 786 (5th Cir. 1979). The authority conferred in clause 2(m)(1)(B) to require information "by subpoena or otherwise" has not been interpreted to authorize depositions or interrogatories. Other than the authority of the Committee on Oversight and Government Reform under clause 4(c) of rule X, that authority must be conferred by separate action of the House (see § 800, *supra*).

Committee on Standards of Official Conduct

§ 806. Standards of Official Conduct; additional duties.

3. (a) The Committee on Standards of Official Conduct has the following functions:

(1) The committee may recommend to the House from time to time such administrative actions as it may consider appropriate to establish or enforce standards of official conduct for Members, Delegates, the Resident Commissioner, officers, and employees of the House. A letter of reproval or other administrative action of the committee pursuant to an inves-

tigation under subparagraph (2) shall only be issued or implemented as a part of a report required by such subparagraph.

(2) The committee may investigate, subject to paragraph (b), an alleged violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House of the Code of Official Conduct or of a law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, Delegate, Resident Commissioner, officer, or employee in the performance of his duties or the discharge of his responsibilities. After notice and hearing (unless the right to a hearing is waived by the Member, Delegate, Resident Commissioner, officer, or employee), the committee shall report to the House its findings of fact and recommendations, if any, for the final disposition of any such investigation and such action as the committee may consider appropriate in the circumstances.

(3) The committee may report to the appropriate Federal or State authorities, either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee, any substantial evidence of a violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House, of a law applicable to the performance of his duties or the discharge of his responsibilities that may have been disclosed in a committee investigation.

(4) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, Delegate, Resident Commissioner, officer, or employee. With appropriate deletions to ensure the privacy of the person concerned, the committee may publish such opinion for the guidance of other Members, Delegates, the Resident Commissioner, officers, and employees of the House.

(5) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XXIII.

(6)(A) The committee shall offer annual ethics training to each Member, Delegate, Resident Commissioner, officer, and employee of the House. Such training shall—

(i) involve the classes of employees for whom the committee determines such training to be appropriate; and

(ii) include such knowledge of the Code of Official Conduct and related House rules as may be determined appropriate by the committee.

(B)(i) A new officer or employee of the House shall receive training under this paragraph not later than 60 days after beginning service to the House.

(ii) Not later than January 31 of each year, each officer and employee of the House shall file a certification with the committee that the officer or employee attended ethics training in the last year as established by this subparagraph.

(b)(1)(A) Unless approved by an affirmative vote of a majority of its members, the Committee on Standards of Official Conduct may not report a resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House, or, except as provided in subparagraph (2), undertake an investigation of such conduct.

(B)(i) Upon the receipt of information offered as a complaint that is in compliance with this rule and the rules of the committee, the chairman and ranking minority member jointly may appoint members to serve as an investigative subcommittee.

(ii) The chairman and ranking minority member of the committee jointly may gather additional information concerning alleged conduct that is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or either of them has placed on the agenda of the committee the issue of whether to establish an investigative subcommittee.

(2) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation

relating to the official conduct of an individual Member, Delegate, Resident Commissioner, officer, or employee of the House only—

(A) upon receipt of information offered as a complaint, in writing and under oath, from a Member, Delegate, or Resident Commissioner and transmitted to the committee by such Member, Delegate, or Resident Commissioner; or

(B) upon receipt of information offered as a complaint, in writing and under oath, from a person not a Member, Delegate, or Resident Commissioner provided that a Member, Delegate, or Resident Commissioner certifies in writing to the committee that he believes the information is submitted in good faith and warrants the review and consideration of the committee.

If a complaint is not disposed of within the applicable periods set forth in the rules of the Committee on Standards of Official Conduct, the chairman and ranking minority member shall establish jointly an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if at any time during those periods either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(3) The committee may not undertake an investigation of an alleged violation of a law, rule, regulation, or standard of conduct that was not in effect at the time of the alleged violation. The committee may not undertake an investigation of such an alleged violation that occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(4) A member of the committee shall be ineligible to participate as a member of the committee in a committee proceeding relating to the member's official conduct. Whenever a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker shall designate a Member, Delegate, or Resident Commissioner from the same political party as the ineligible member to act in any proceeding of the committee relating to that conduct.

(5) A member of the committee may disqualify himself from participating in an investigation of the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision in the case in which the member seeks to be disqualified. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member,

Delegate, or Resident Commissioner from the same political party as the disqualifying member to act in any proceeding of the committee relating to that case.

(6) Information or testimony received, or the contents of a complaint or the fact of its filing, may not be publicly disclosed by any committee or staff member unless specifically authorized in each instance by a vote of the full committee.

(7) The committee shall have the functions designated in titles I and V of the Ethics in Government Act of 1978, in sections 7342, 7351, and 7353 of title 5, United States Code, and in clause 11(g)(4) of rule X.

(c)(1) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards of Official Conduct or a subcommittee thereof shall occur in executive session unless the committee or subcommittee, by an affirmative vote of a majority of its members, opens the meeting to the public.

(2) Notwithstanding clause 2(g)(2) of rule XI, each hearing of an adjudicatory subcommittee or sanction hearing of the Committee on Standards of Official Conduct shall be held in open session unless the committee or subcommittee, in open session by an affirmative vote of a majority of its members, closes all or part of the remainder of the hearing on that day to the public.

(d) Before a member, officer, or employee of the Committee on Standards of Official Conduct, including members of a subcommittee of the committee selected under clause 5(a)(4) of rule X

and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed:

> "I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules."

Copies of the executed oath shall be retained by the Clerk as part of the records of the House. This paragraph establishes a standard of conduct within the meaning of paragraph (a)(2). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.

(e)(1) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Standards of Official Conduct, the committee may take such action as it, by an affirmative vote of a majority of its members, considers appropriate in the circumstances.

(2) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Standards of Official Conduct.

The investigative authority contained in this provision (formerly clause 4(e) of rule X) was first conferred upon the committee in the 90th Congress (H. Res. 1099, Apr. 3, 1968, p. 8802). Effective January 3, 1975, the former requirement in paragraph (b)(1)(A) (formerly clause 4(e)(2)(A) of rule X) that not less than seven committee members authorize an investigation was changed to permit a majority of the committee to provide that authorization (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). That provision

was further amended in the 105th Congress to permit the chairman and ranking minority member, with respect to a properly filed complaint, to gather additional information or to establish an investigative subcommittee (sec. 11, H. Res. 168, Sept. 18, 1997, p. 19318). Paragraph (b)(5) (formerly clause 4(e)(2)(E) of rule X) was added in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to provide a mechanism for a committee member to disqualify himself from participating in an investigation, and paragraph (b)(6) (formerly clause 4(e)(2)(F) of rule X) was added in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 8).

This provision was amended in several particulars by the Ethics Reform Act of 1989 (P.L. 101–194): (1) paragraph (a)(1) (formerly clause 4(e)(1)(A) of rule X) was amended to enable a letter of reproval or other administrative action of the committee to be implemented as part of a report to the House, with no action required of the House; (2) paragraph (a)(2) (formerly clause 4(e)(1)(B) of rule X) was amended to require the committee to report to the House its findings of fact and any recommendations respecting the final disposition of a matter in which it votes to undertake an investigation; (3) a new paragraph (a)(4) (formerly clause 4(e)(1)(E) of rule X) was added to empower the committee to consider requests that the rule restricting the acceptance of gifts be waived in exceptional circumstances; and (4) paragraph (b)(3) (formerly clause 4(e)(2)(C) of rule X) was amended to set a general limitation on actions for committee consideration of ethics matters.

In the beginning of the 105th Congress a subparagraph (3) was added at the end of former clause 4(e) of rule X to establish a Select Committee on Ethics only to resolve a specific inquiry originally undertaken by the standing Committee on Standards of Official Conduct in the 104th Congress but not concluded (H. Res. 5, Jan. 7, 1997, p. 121). The select committee filed one report to the House (H. Rept. 105–1, H. Res. 31, Jan. 21, 1997, p. 393). The current form of paragraph (c) (formerly clause 4(e)(3) of rule X) was adopted later in the 105th Congress (sec. 5, H. Res. 168, Sept. 18, 1997, p. 19318).

Additional amendments to this provision were adopted in the 105th Congress as follows: (1) paragraphs (d) and (3) (formerly clauses 4(e)(4) and 4(e)(5)) were adopted (sec. 6 and sec. 19, H. Res. 168, Sept. 18, 1997, pp. 19318, 19320); (2) paragraph (b)(2) (formerly clause 4(e)(2)(B) of rule X) was amended to address the disposition of a complaint after expiration of periods set forth in the committee rules and to specify parameters for the filing of complaints by non-Members (sec. 11, H. Res. 168, Sept. 18, 1997, p. 19318); and (3) paragraph (a)(3) (formerly clause 4(e)(1)(C) of rule X) was amended to permit the committee to report to the appropriate authorities substantial evidence of a violation of law by an affirmative vote of two-thirds of the members of the committee without the approval of the House (sec. 18, H. Res. 168, Sept. 18, 1997, p. 19320). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4(e) of rule X and paragraph (b)(7) was found in former

clause 1(p) of rule X (H. Res. 5, Jan. 6, 1999, p. 47). Clause 3(a)(5) was amended in the 107th Congress to reflect the redesignation of a rule (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24). Paragraph (a)(6) was added in the 110th Congress, effective March 1, 2007 (sec. 211, H. Res. 6, Jan. 4, 2007, p. ——).

In the 110th Congress, the House adopted a resolution directing the Committee to empanel an investigative subcommittee upon a Member being indicted or otherwise formally charged with criminal conduct, or to report to the House if it decides not to so empanel a subcommittee (H. Res. 451, June 5, 2007, p. ——).

Committee agendas

§ 806a. Standards of Official Conduct; committee rules.

(f) The committee shall adopt rules providing that the chairman shall establish the agenda for meetings of the committee, but shall not preclude the ranking minority member from placing any item on the agenda.

Committee staff

(g)(1) The committee shall adopt rules providing that—

(A) the staff be assembled and retained as a professional, nonpartisan staff;

(B) each member of the staff shall be professional and demonstrably qualified for the position for which he is hired;

(C) the staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner;

(D) no member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election;

(E) no member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment

or duties with the committee without specific prior approval from the chairman and ranking minority member; and

(F) no member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the committee.

(2) Only subdivisions (C), (E), and (F) of subparagraph (1) shall apply to shared staff.

(3)(A) All staff members shall be appointed by an affirmative vote of a majority of the members of the committee. Such vote shall occur at the first meeting of the membership of the committee during each Congress and as necessary during the Congress.

(B) Subject to the approval of the Committee on House Administration, the committee may retain counsel not employed by the House of Representatives whenever the committee determines, by an affirmative vote of a majority of the members of the committee, that the retention of outside counsel is necessary and appropriate.

(C) If the committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(D) Outside counsel may be dismissed before the end of a contract between the committee and such counsel only by an affirmative vote of a majority of the members of the committee.

(4) In addition to any other staff provided for by law, rule, or other authority, with respect to the committee, the chairman and ranking minority member each may appoint one individual as a shared staff member from his or her personal staff to perform service for the committee. Such shared staff may assist the chairman or ranking minority member on any subcommittee on which he serves.

Meetings and hearings

(h)(1) The committee shall adopt rules providing that—

(A) all meetings or hearings of the committee or any subcommittee thereof, other than any hearing held by an adjudicatory subcommittee or any sanction hearing held by the committee, shall occur in executive session unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting or hearing to the public; and

(B) any hearing held by an adjudicatory subcommittee or any sanction hearing held by the committee shall be open to the public unless the committee or subcommittee by an affirmative vote of a majority of its members closes the hearing to the public.

Public disclosure

(i) The committee shall adopt rules providing that, unless otherwise determined by a vote of the committee, only the chairman or ranking minority member, after consultation with each other, may make public statements regarding matters before the committee or any subcommittee thereof.

Requirements to constitute a complaint

(j) The committee shall adopt rules regarding complaints to provide that whenever information offered as a complaint is submitted to the committee, the chairman and ranking minority member shall have 14 calendar days or five legislative days, whichever is sooner, to determine whether the information meets the requirements of the rules of the committee for what constitutes a complaint.

Duties of chairman and ranking minority member regarding properly filed complaints

(k)(1) The committee shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the rules of the committee for what constitutes a complaint, they shall have 45 calendar days or five legislative days, whichever is later, after that determination (unless the committee by an affirmative vote of a majority of its members votes otherwise) to—

(A) recommend to the committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(B) establish an investigative subcommittee; or

(C) request that the committee extend the applicable 45-calendar day or five-legislative day period by one additional 45-calendar day period when they determine more time is necessary in order to make a recommendation under subdivision (A).

(2) The committee shall adopt rules providing that if the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the rules of the committee for what constitutes a complaint, and the complaint is not disposed of within the applicable time periods under subparagraph (1), then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an af-

firmative vote of a majority of the members of the committee.

Duties of chairman and ranking minority member regarding information not constituting a complaint

(l) The committee shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee does not meet the requirements of the rules of the committee for what constitutes a complaint, they may—

(1) return the information to the complainant with a statement that it fails to meet the requirements of the rules of the committee for what constitutes a complaint; or

(2) recommend to the committee that it authorize the establishment of an investigative subcommittee.

Investigative and adjudicatory subcommittees

(m) The committee shall adopt rules providing that—

(1)(A) an investigative subcommittee shall be composed of four Members (with equal representation from the majority and minority parties) whenever such a subcommittee is established pursuant to the rules of the committee;

(B) an adjudicatory subcommittee shall be composed of the members of the committee who did not serve on the pertinent investigative subcommittee (with equal representation

from the majority and minority parties) whenever such a subcommittee is established pursuant to the rules of the committee; and

(C) notwithstanding any other provision of this clause, the chairman and ranking minority member of the committee may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to information before a subcommittee with which they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee;

(2) at the time of appointment, the chairman shall designate one member of a subcommittee to serve as chairman and the ranking minority member shall designate one member of the subcommittee to serve as the ranking minority member; and

(3) the chairman and ranking minority member of the committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex officio members.

Standard of proof for adoption of statement of alleged violation

(n) The committee shall adopt rules to provide that an investigative subcommittee may adopt a statement of alleged violation only if it determines by an affirmative vote of a majority of the members of the subcommittee that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regu-

lation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives, has occurred.

Subcommittee powers

(o)(1) The committee shall adopt rules providing that an investigative subcommittee or an adjudicatory subcommittee may authorize and issue subpoenas only when authorized by an affirmative vote of a majority of the members of the subcommittee.

(2) The committee shall adopt rules providing that an investigative subcommittee may, upon an affirmative vote of a majority of its members, expand the scope of its investigation approved by an affirmative vote of a majority of the members of the committee.

(3) The committee shall adopt rules to provide that—

(A) an investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its statement of alleged violation anytime before the statement of alleged violation is transmitted to the committee; and

(B) if an investigative subcommittee amends its statement of alleged violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended statement of alleged violation.

Due process rights of respondents

(p) The committee shall adopt rules to provide that—

(1) not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a statement of alleged violation, the subcommittee shall provide the respondent with a copy of the statement of alleged violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness; but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates;

(2) neither the respondent nor his counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (1) except for the sole purpose of settlement discussions where counsel for the respondent and the subcommittee are present;

(3) if, at any time after the issuance of a statement of alleged violation, the committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (1) to prove the charges contained in the statement of alleged

violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the rules of the committee;

(4) evidence provided pursuant to paragraph (1) or (3) shall be made available to the respondent and his or her counsel only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until—

(A) such time as a statement of alleged violation is made public by the committee if the respondent has waived the adjudicatory hearing; or

(B) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing;

but the failure of respondent and his counsel to so agree in writing, and their consequent failure to receive the evidence, shall not preclude the issuance of a statement of alleged violation at the end of the period referred to in paragraph (1);

(5) a respondent shall receive written notice whenever—

(A) the chairman and ranking minority member determine that information the committee has received constitutes a complaint;

(B) a complaint or allegation is transmitted to an investigative subcommittee;

(C) an investigative subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; or

(D) an investigative subcommittee votes to expand the scope of its investigation;

(6) whenever an investigative subcommittee adopts a statement of alleged violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which that statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and respondent's counsel, the chairman and ranking minority member of the subcommittee, and the outside counsel, if any;

(7) statements or information derived solely from a respondent or his counsel during any settlement discussions between the committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the committee or otherwise publicly disclosed without the consent of the respondent; and

(8) whenever a motion to establish an investigative subcommittee does not prevail, the committee shall promptly send a letter to the respondent informing him of such vote.

Committee reporting requirements

(q) The committee shall adopt rules to provide that—

(1) whenever an investigative subcommittee does not adopt a statement of alleged violation

and transmits a report to that effect to the committee, the committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives;

(2) whenever an investigative subcommittee adopts a statement of alleged violation, the respondent admits to the violations set forth in such statement, the respondent waives his or her right to an adjudicatory hearing, and the respondent's waiver is approved by the committee—

(A) the subcommittee shall prepare a report for transmittal to the committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(B) the respondent may submit views in writing regarding the final draft to the subcommittee within seven calendar days of receipt of that draft;

(C) the subcommittee shall transmit a report to the committee regarding the statement of alleged violation together with any views submitted by the respondent pursuant to subdivision (B), and the committee shall make the report together with the respondent's views available to the public before the commencement of any sanction hearing; and

(D) the committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the re-

spondent's views previously submitted pursuant to subdivision (B) and any additional views respondent may submit for attachment to the final report; and

(3) members of the committee shall have not less than 72 hours to review any report transmitted to the committee by an investigative subcommittee before both the commencement of a sanction hearing and the committee vote on whether to adopt the report.

In the 105th Congress a 12-member bipartisan task force was informally appointed by the Majority and Minority Leaders to conduct a comprehensive review of the House ethics process. At the same time an order of the House was adopted imposing a moratorium on filing or processing ethics complaints and on raising certain questions of privilege under rule IX with respect to official conduct. The moratorium was imposed in the expectation that the recommendations of the task force would include changes relating to the Committee on Standards of Official Conduct and the process by which the House enforces standards of official conduct (Feb. 12, 1997, p. 2058). The moratorium was extended through September 10, 1997 (July 30, 1997, p. 16958). On September 18, 1997, the House adopted the recommendations of the task force with certain amendments (H. Res. 168, 105th Cong., p. 19340), which included not only changes to the standing Rules of the House but also free-standing directives to the Committee on Standards of Official Conduct, which were reaffirmed for the 106th Congress (sec. 2(c), H. Res. 5, Jan. 6, 1999, p. 47) and again for the 107th Congress with an exception to section 13 (sec. 3(a), H. Res. 5, Jan. 3, 2001, p. 24). In the 108th Congress the pertinent free-standing provisions were codified (including the exception to section 13 added in the 107th Congress) as new paragraphs (f) through (q) of clause 3 (sec. 2(h), H. Res. 5, Jan. 7, 2003, p. 7). On the opening day of the 109th Congress, various changes were made to paragraphs (b), (k), (p), and (q) (sec. 2(k), H. Res. 5, Jan. 4, 2005, p. ——). Later in the 109th Congress, those changes were redacted and the affected provisions as they existed at the close of the 108th Congress were reinstated (H. Res. 240, Apr. 27, 2005, p. ——).

Section 803 of the Ethics Reform Act of 1989 (2 U.S.C. 29d) contains several free-standing provisions, which are carried in this annotation. The requirement that the respective party caucuses nominate seven majority and seven minority members should be read in light of clause 5 of rule X, setting the composition of the committee at 10, five from the majority and five from the minority. The requirement that the committee adopt rules establishing investigative and adjudicative subcommittees should be

read in light of clause 3(m), which constitutes the same requirement. The references to clause 5(d) of rule XI applied to a former rule regarding minority staffing requirements, which was eliminated in the 104th Congress (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. 462).

"SEC. 803. REFORMS RESPECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.—

* * *

"(b) COMMITTEE COMPOSITION.—The respective party caucus or conference of the House of Representatives shall each nominate to the House of Representatives at the beginning of each Congress 7 members to serve on the Committee on Standards of Official Conduct.

"(c) INVESTIGATIVE SUBCOMMITTEES.—The Committee on Standards of Official Conduct shall adopt rules providing—

"(1) for the establishment of a 4 or 6-member investigative subcommittee (with equal representation from the majority and minority parties) whenever the committee votes to undertake any investigation;

"(2) that the senior majority and minority members on an investigative subcommittee shall serve as the chairman and ranking minority member of the subcommittee; and

"(3) that the chairman and ranking minority member of the full committee may only serve as non-voting, ex officio members on an investigative subcommittee.

"Clause 5(d) of rule XI of the Rules of the House of Representatives shall not apply to any investigative subcommittee.

"(d) ADJUDICATORY SUBCOMMITTEES.—The Committee on Standards of Official Conduct shall adopt rules providing—

"(1) that upon the completion of an investigation, an investigative subcommittee shall report its findings and recommendations to the committee;

"(2) that, if an investigative subcommittee by majority vote of its membership adopts a statement of alleged violation, the remaining members of the committee shall comprise an adjudicatory subcommittee to hold a disciplinary hearing on the violation alleged in the statement;

"(3) that any statement of alleged violation and any written response thereto shall be made public at the first meeting or hearing on the matter which is open to the public after the respondent has been given full opportunity to respond to the statement in accordance with committee rules, but, if no public hearing or meeting is held on the matter, the statement of alleged violation and any written response thereto shall be included in the committee's final report

to the House of Representatives as required by clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives;

"(4) that a quorum for an adjudicatory subcommittee for the purpose of taking testimony and conducting any business shall consist of a majority of the membership of the subcommittee plus one; and

"(5) that an adjudicatory subcommittee shall determine, after receiving evidence, whether the counts in the statement have been proved and shall report its findings to the committee.

"Clause 5(d) of rule XI of the Rules of the House of Representatives shall not apply to any adjudicatory subcommittee.

* * *

"(i) ADVICE AND EDUCATION.—(1) The Committee on Standards of Official Conduct shall establish within the Committee an Office on Advice and Education (hereinafter in this subsection referred to as the 'Office') under the supervision of the chairman.

"(2) The Office shall be headed by a director who shall be appointed by the chairman, in consultation with the ranking minority member, and shall be comprised of such staff as the chairman determines is necessary to carry out the responsibilities of the Office.

"(3) The primary responsibilities of the Office shall include:

"(A) Providing information and guidance to Members, officers and employees of the House regarding any laws, rules, regulations, and other standards of conduct applicable to such individuals in their official capacities, and any interpretations and advisory opinions of the committee.

"(B) Submitting to the chairman and ranking minority member of the committee any written request from any such Member, officer or employee for an interpretation of applicable laws, rules, regulations, or other standards of conduct, together with any recommendations thereon.

"(C) Recommending to the committee for its consideration formal advisory opinions of general applicability.

"(D) Developing and carrying out, subject to the approval of the chairman, periodic educational briefings for Members, officers and employees of the House on those laws, rules, regulations, or other standards of conduct applicable to them.

"(4) No information provided to the Committee on Standards of Official Conduct by a Member, officer or employee of the House of Representatives when seeking advice regarding prospective conduct of such Member, officer or employee may be used as the basis for initiating an investigation under clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives, if such Member, officer or employee acts in accordance with the written advice of the committee.".

On occasions where the House has directed the committee to conduct specific investigations by separate resolution, it has authorized the committee to take depositions with one member present, notwithstanding clause 2(h) of rule XI, to serve subpoenas within or without the United States, to participate by special counsel in relevant judicial proceedings (see H. Res. 252, 95th Cong., Feb. 9, 1977, pp. 3966–75; H. Res. 608, Mar. 27, 1980, pp. 6995–98; H. Res. 254, June 30, 1983, p. 18279), and to investigate persons other than Members, officers and employees with expanded subpoena authority (see H. Res. 1054, 94th Cong., Mar. 3, 1976, pp. 5165–68). By unanimous consent the committee was authorized to receive evidence and take testimony before a quorum of one of its members for the remainder of the second session of the 100th Congress (Oct. 13, 1988, p. 30467). By resolutions considered as questions of the privileges of the House, the committee has been directed to investigate illegal solicitation of political contributions in the House Office Building by unnamed sitting Members (July 10, 1985, p. 18397); to review GAO audits of the operations of the "bank" in the Office of the Sergeant-at-Arms (Oct. 3, 1991, p. 25435), to disclose the names and pertinent account information of Members and former Members found to have abused the privileges of that entity (Mar. 12, 1992, p. 5519), and to disclose further account information respecting Members and former Members having checks held by that entity (Mar. 12, 1992, p. 5534); and to investigate violations of confidentiality by staff engaged in the investigation of the operation and management of the Office of the Postmaster (July 22, 1992, p. 18786). In compliance with one such direction of the House, the acting chairman of the Committee on Standards of Official Conduct inserted in the Record names and pertinent account information of Members and former Members found to have abused the privileges of the "bank" in the Office of the Sergeant-at-Arms (H. Res. 393, Apr. 1, 1992, p. 7888). In the 106th Congress the chairman of the Committee on Standards of Official Conduct inserted in the Record an explanation of the committee's amendment to committee rule 20(f) to reflect that the full committee retains discretion whether to report to the House that an investigative subcommittee has not adopted a statement of alleged violation (Apr. 13, 2000, p. 5631). In the 106th Congress the committee filed a report issuing a letter of reproval regarding the conduct of a Member (Oct. 16, 2000, p. 22834).

Under clause 3(b)(4) (formerly clause 4(e)(2)(D) of rule X), a member of the Committee on Standards of Official Conduct is ineligible to participate in a committee proceeding relating to that member's official conduct. Upon notification to the Speaker of such ineligibility, the Speaker designates another Member of the same political party as the ineligible member to serve on the committee during proceedings relating to that conduct (Speaker O'Neill, Feb. 5, 1980, p. 1908; July 23, 1996, p. 18596). Under clause 3(b)(5) (formerly clause 4(e)(2)(E) of rule X), a member of the committee may be recused from serving on the committee during proceedings

relating to a pending investigation by submitting an affidavit of disqualification to the committee stating that the member cannot render an impartial and unbiased decision relating to that investigation. If the committee accepts the affidavit, the chairman notifies the Speaker and requests the Speaker to designate another Member from the same political party as the disqualified member to serve on the committee during proceedings relating to that investigation (Speaker O'Neill, Mar. 18, 1980).

The committee has compiled statutory and rule-based ethical standards in the *House Ethics Manual* (102d Cong., 2d Sess.). In the *Manual*, the committee incorporates its advisory opinions issued under clause 3(a)(4) (formerly clause 4(e)(1)(D) of rule X), together with advisory opinions issued by the former Select Committee on Ethics, in its discussions of various ethical issues, including gifts, outside income, financial disclosure, staff rights and duties, official allowances and franking, casework considerations, campaign financing and practices, and involvement with official and unofficial organizations. The committee also has compiled a complete statement of the rules on gifts and travel, which supersedes Chapter 2 of the 1992 *House Ethics Manual* (*Gifts and Travel,* 106th Cong., 2d Sess.) and a complete statement of the rules on campaign funds, which supersedes chapter 8 of such *Manual* (*Campaign Activity,* 107th Cong.).

Audio and visual coverage of committee proceedings

§ 807. Coverage of committee proceedings.

4. (a) The purpose of this clause is to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings or committee meetings that are open to the public may be covered by audio and visual means—

(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body, and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution as an institution of the Federal Government.

(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause may not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

§ 808. Media coverage.

(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered under authority of this clause by audio or visual means, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting, shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations, and may not be such as to—

(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or

(2) cast discredit or dishonor on the House, the committee, or a Member, Delegate, or Resident Commissioner or bring the House, the committee, or a Member, Delegate, or Resident Commissioner into disrepute.

(d) The coverage of committee hearings and meetings by audio and visual means shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

§ 809. When permitted.

(e) Whenever a hearing or meeting conducted by a committee or subcommittee is open to the public, those proceedings shall be open to coverage by audio and visual means. A committee or subcommittee chairman may not limit the number of television or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

§ 810. Committee rules.

(f) Each committee shall adopt written rules to govern its implementation of this clause. Such rules shall contain provisions to the following effect:

(1) If audio or visual coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) The allocation among the television media of the positions or the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meet-

ing room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(3) Television cameras shall be placed so as not to obstruct in any way the space between a witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(4) Television cameras shall operate from fixed positions but may not be placed in positions that obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(5) Equipment necessary for coverage by the television and radio media may not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(6)(A) Except as provided in subdivision (B), floodlights, spotlights, strobelights, and flashguns may not be used in providing any method of coverage of the hearing or meeting.

(B) The television media may install additional lighting in a hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in a hearing or meeting room to the lowest level necessary to provide adequate television coverage of a hearing or meeting at the current state of the art of television coverage.

(7) In the allocation of the number of still photographers permitted by a committee or

subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of a hearing or meeting by still photography, that coverage shall be permitted on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

§ 811. Press photographers.

(8) Photographers may not position themselves between the witness table and the members of the committee at any time during the course of a hearing or meeting.

(9) Photographers may not place themselves in positions that obstruct unnecessarily the coverage of the hearing by the other media.

(10) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

§ 812. Accreditation.

(11) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery.

(12) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

The rule permitting broadcasting of committee hearings was contained in section 116(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). In the 93d Congress (H. Res. 1107, July 22, 1974, p. 24447), the rule was amended to permit committees to adopt rules allowing coverage of committee meetings as well as hearings. Paragraphs (e), (f)(3), (f)(5), and (f)(8) of this clause were amended in the 99th Congress to remove the limit on the number of television cameras (previously four) and press photographers (previously five) covering committee proceedings, and to provide the committee or subcommittee chairman with the discretion to determine the appropriate number (H. Res. 7, Jan. 3, 1985, p. 393). At the beginning of the 104th Congress paragraph (d) was amended to delete the former characterization of broadcast and photographic coverage of committee meetings and hearings as "a privilege made available by the House," and paragraph (e) was amended to eliminate the requirement that a committee vote to permit broadcast and photographic coverage of open hearings and meetings and to prohibit chairmen from limiting coverage to less than two representatives from each medium, except where space or safety considerations warrant pool coverage (sec. 105, H. Res. 6, Jan. 4, 1995, p. 463). Later in the 104th Congress this clause was again amended to make conforming changes in its heading and in paragraph (f) (H. Res. 254, Nov. 30, 1995, p. 35077). Former clause 4(f)(2), permitting a witness to terminate audio and visual (including photographic) coverage, was eliminated in the 105th Congress (H. Res. 301, Nov. 12, 1997, p. 26041). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

Pay of witnesses

§ 813. Fees of witnesses before the House or committees.

5. Witnesses appearing before the House or any of its committees shall be paid the same per diem rate as established, authorized, and regulated by the Committee on House Administration for Members, Delegates, the Resident Commissioner, and employees of the House, plus actual expenses of travel to or from the place of examination. Such per diem may not be paid when a witness has been summoned at the place of examination.

This clause (formerly rule XXXV) was adopted in 1872, with amendments in 1880 (III, 1825), 1930 (VI, 393), April 19, 1955 (p. 4722), August 12,

1969 (H. Res. 495, 91st Cong., p. 23355), and July 28, 1975 (H. Res. 517, 94th Cong. p. 25258). The last amendment eliminated the specific per diem and travel rate of reimbursement and allowed actual travel costs and per diem for witnesses requested or subpoenaed to appear at the same rate as established by the Committee on House Administration for Members and employees. In the 104th and 106th Congresses it was amended to conform references to a renamed committee (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 467; H. Res. 5, Jan. 6, 1999, p. 47). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXXV (H. Res. 5, Jan. 6, 1999, p. 47). For further provisions relating to witnesses, see clauses 2(j) and (k) of rule XI (§§ 802–803, *supra*).

Regulations of the Committee on House Administration do not permit per diem reimbursement for witnesses. Regulations for reimbursement of actual travel costs may be found in the Committees' Congressional Handbook, Committee on House Administration, under the section entitled "Hearings and Meetings."

Unfinished business of the session

§ 814. Resumption of business of a preceding session.

6. All business of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.

At first the Congress attempted to follow the rule of the English Parliament that business unfinished in one session should begin anew at the next; but in 1818, after an investigation of a joint committee in 1816, a rule was adopted that House bills remaining undetermined in the House should be continued at the next session after six days. This rule did not reach House bills sent to the Senate; but in 1848 the two Houses remedied this omission by a joint rule. Business referred to committees of the House was still subject to the old rule of Parliament; but in 1860 the present rule was adopted as a supplement to the rule of 1818. In 1890, desiring to do away with the limitation of the six days and apparently overlooking the main purpose of the rule of 1818, the House rescinded that portion of this provision. Also, in 1876 the joint rules were abrogated, leaving no provision, except the headline of the rule, for the continuance of business not before committees. The practice, however, had become so well established that no question has ever been raised (V, 6727). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXVI (H. Res. 5, Jan. 6, 1999, p. 47).

The business of conferences between the two Houses is not interrupted by an adjournment of a session that does not terminate the Congress (V, 6260–6262), and even where one House asks a conference at one session the other may agree to it in the next session (V, 6286). Where bills were

enrolled and signed by the presiding officers of the two Houses at the close of one session they were sent to the President and approved at the beginning of the next session (IV, 3486–3488).

RULE XII

RECEIPT AND REFERRAL OF MEASURES AND MATTERS

Messages

§ 815. Entry of messages in the Journal and Record.

1. Messages received from the Senate, or from the President, shall be entered on the Journal and published in the Congressional Record of the proceedings of that day.

This provision was adopted in 1867 and amended in 1880 (V, 6593). It was renumbered January 3, 1953 (p. 24). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXXIX (H. Res. 5, Jan. 6, 1999, p. 47).

The House may receive a message from the Senate when the Senate is not in session (VIII, 3338).

Referral

§ 816. Referral procedures.

2. (a) The Speaker shall refer each bill, resolution, or other matter that relates to a subject listed under a standing committee named in clause 1 of rule X in accordance with the provisions of this clause.

(b) The Speaker shall refer matters under paragraph (a) in such manner as to ensure to the maximum extent feasible that each committee that has jurisdiction under clause 1 of rule X over the subject matter of a provision thereof may consider such provision and report to the House thereon. Precedents, rulings, or procedures in effect before the Ninety-Fourth Congress shall be applied to referrals under this

clause only to the extent that they will contribute to the achievement of the objectives of this clause.

(c) In carrying out paragraphs (a) and (b) with respect to the referral of a matter, the Speaker—

(1) shall designate a committee of primary jurisdiction (except where he determines that extraordinary circumstances justify review by more than one committee as though primary);

(2) may refer the matter to one or more additional committees for consideration in sequence, either initially or after the matter has been reported by the committee of primary jurisdiction;

(3) may refer portions of the matter reflecting different subjects and jurisdictions to one or more additional committees;

(4) may refer the matter to a special, ad hoc committee appointed by the Speaker with the approval of the House, and including members of the committees of jurisdiction, for the specific purpose of considering that matter and reporting to the House thereon;

(5) may subject a referral to appropriate time limitations; and

(6) may make such other provision as may be considered appropriate.

This provision became effective as part of the rules on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Before that time a bill or resolution could not be divided for reference among two or more committees, although it contained matter properly within the jurisdiction of several committees (IV, 4361). Paragraph (c) was amended on January 4, 1977 (H. Res. 5, pp. 53–70) to authorize the Speaker to place an appropriate time limit for consideration by the first committee or committees to which

referred. In the 104th Congress paragraph (c) was again amended to require the Speaker to initially designate a committee of primary jurisdiction in each referral of a measure to more than one committee (sec. 205, H. Res. 6, Jan. 4, 1995, p. 467). In the 108th Congress the parenthetical exception in paragraph (c)(1) was added (sec. 2(i), H. Res. 5, Jan. 7, 2003, p. 7). A paragraph (e) was added to the clause on January 4, 1977 (H. Res. 5, pp. 53–70) to abolish the legislative jurisdiction in the House of the Joint Committee on Atomic Energy. The legislative jurisdiction of the Joint Committee was divided among the Committees on Armed Services (military applications of nuclear energy), Interior and Insular Affairs (now Natural Resources) (regulation of the domestic nuclear energy industry, since transferred to the Committee on Energy and Commerce in the 104th Congress), Foreign Affairs (nonproliferation of nuclear energy and international nuclear export agreements), Interstate and Foreign Commerce (now Energy and Commerce) (the same jurisdiction over nuclear energy as exercised over other energy), and Science and Technology (nondefense nuclear research and development). In addition, the Committee on Interstate and Foreign Commerce (now Energy and Commerce) was given oversight jurisdiction over all laws, programs, and government activities affecting nuclear energy. Paragraph (e) was deleted entirely in the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98). At the same time the House deleted former paragraph (d), which required the Congressional Research Service of the Library of Congress to prepare factual descriptions of each bill or resolution introduced in the House to be published in the Congressional Record. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5 of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

An order of the House precluding or limiting the potential for organizational or legislative business on certain days was considered not to deprive Members of the privilege of introducing bills and resolutions during pro forma sessions on those days, such measures being numbered on the day introduced but not noted in the Record or referred to committee until the day on which business was resumed (H. Con. Res. 260, 102d Cong., Nov. 26, 1991, p. 35840, extended by unanimous consent on Jan. 22, 1992, p. 149, and Jan. 28, 1992, p. 745; H. Res. 619, 109th Cong., Dec. 16, 2005, p. ——, amended by H. Res. 640, 109th Cong., Dec. 18, 2005, p. ——).

Under clause 2(c), the Speaker may (1) refer a bill to more than one committee for their respective consideration of such provisions of the bill as fall within their jurisdiction (Speaker Albert, Feb. 25, 1976, p. 4315), (2) divide a matter for initial reference to committees (Speaker Albert, Feb. 4, 1975, p. 2253; Speaker Hastert, Apr. 26, 1999, p. 7354), or (3) refer designated portions of a bill to one committee while referring the entire bill to another committee (Speaker O'Neill, Mar. 3, 1982, p. 3155). The Speaker also may set appropriate time limitations on the initial reference to each committee (Speaker O'Neill, Feb. 16, 1977, p. 4532; Speaker O'Neill, May 2, 1977, p. 13184). For example, the Speaker may refer a bill to two committees, with a time limit on one of the committees ending

within a certain period after the other committee reports to the House (Speaker O'Neill, Jan. 27, 1983, p. 937; Speaker O'Neill, Feb. 2, 1983, p. 1492; Speaker Wright, Apr. 9, 1987, p. 8665) or with a time limit on one committee ending with a date certain (Speaker O'Neill, July 31, 1985, p. 21936; Speaker Hastert, Mar. 13, 2001, p. 3448; Speaker Hastert, July 26, 2002, p. 15146). The Speaker may discharge a committee from further consideration of a bill not reported by it within the time for which the bill was referred and place the bill on the appropriate calendar (Speaker O'Neill, May 8, 1978, p. 12924).

Before paragraph (c) was amended in the 104th Congress to require the Speaker to designate a committee of primary jurisdiction, the Speaker announced at the convening of the 98th Congress that he would exercise his authority, in situations that warranted it, to designate a primary committee among those to which a bill was jointly referred, and to impose time limits on committees having a secondary interest following the report of the primary committee under a joint referral (Speaker O'Neill, Jan. 3, 1983, p. 54; reiterated by Speaker Foley, Jan. 5, 1993, p. 105). The Speaker may refer a bill primarily to one committee while also referring it initially to additional committees for time periods to be subsequently determined when the primary committee reports, in each case for consideration of matters within their respective jurisdictions (Speaker Gingrich, Jan. 4, 1995, p. 123).

Pursuant to the Speaker's authority under clause 2 of rule XIV (formerly clause 2 of rule XXIV), relating to messages from the Senate, he has discretionary authority to refer from the Speaker's table to standing committees, Senate amendments to House-passed bills, under any conditions permitted under this provision for introduced bills; he may for example impose a time limitation for consideration only of a portion of the Senate amendment, not germane to the original House bill, by the standing committee with subject-matter jurisdiction, without referring the remainder of the Senate amendment to the House committee with jurisdiction over the original House bill (Speaker O'Neill, H.R. 31, Mar. 26, 1981, p. 5397). Beginning with the 98th Congress, the Speaker announced a policy of referring nongermane Senate amendments under certain conditions (Speaker O'Neill, Jan. 3, 1983, p. 54; Speaker Foley, Jan. 5, 1993, p. 105).

§816a. Sequential referral procedures.

Under clause 2(c), the Speaker has authority to sequentially refer a bill reported from a committee to other committees for a time certain for consideration of such portions of the bill as fall within their respective jurisdictions (Speaker Albert, Apr. 9, 1976, p. 10265; Speaker Albert, May 17, 1976, p. 14093). Under that authority, the Speaker may limit a sequential referral to matters having a direct effect on subjects within the committee's jurisdiction (Speaker O'Neill, Apr. 5, 1982, p. 6580; Speaker O'Neill, June 7, 1983, p. 14699; Speaker Wright, Sept. 9, 1987, p. 23648). For example, the Speaker sequentially referred a bill reported by the Committee on Energy and Commerce to the Committee on the Judiciary for a specified time for consid-

eration of "such provisions of the bill and amendment recommended by the Committee on Energy and Commerce as propose to narrow the purview of the Attorney General under section 271 of the Communications Act of 1934" (Speaker Hastert, May 24, 2001, p. 9384). The Speaker exercised his authority under this clause to sequentially refer a joint resolution making continuing appropriations, reported as privileged by the Committee on Appropriations, to the committee having legislative jurisdiction over a legislative provision in the resolution, without a time limitation on the sequential referral (Speaker O'Neill, Sept. 22, 1983, p. 25523).

The Speaker has sometimes announced the application of his authority on sequential referrals at the outset of a Congress. For example, in the 97th Congress, the Speaker announced that the sequential referral of a measure would be based on the subject matter of any amendment recommended by the reporting committee, as well as upon the original text of the measure (Speaker O'Neill, Jan. 5, 1981, pp. 115, 116). In the 100th Congress, the Speaker announced that, in certain cases, a sequential referral would be based only upon the text of a reported substitute amendment in lieu of original text (Speaker Wright, Jan. 6, 1987, p. 22). The Speaker has sequentially referred (1) a bill for consideration of the bill and amendment of the previous committee (Speaker O'Neill, Oct. 13, 1977, p. 33716); (2) a bill to two committees for different periods of time, solely for consideration of designated sections of the first committee's recommended amendment (Speaker O'Neill, May 18, 1982, p. 10418; Speaker O'Neill, Aug. 1, 1985, p. 22681); (3) a bill for consideration by a third committee of a portion of an amendment in the nature of a substitute recommended by one of the committees to which the bill had been initially referred (Speaker O'Neill, May 22, 1985, p. 13126); and (4) a bill back to the first-reporting committee when it was reported from the second-reporting committee with a nongermane amendment within the jurisdiction of the first committee and not within the bounds of the initial referral (Speaker Wright, Oct. 4, 1988, p. 28242). The Speaker also may base a sequential referral only on the text of the bill as introduced, even where a bill is reported by the primary committee with an amendment in the nature of a substitute (Speaker Gingrich, Sept. 12, 1995, p. 24791). For example, the Speaker sequentially referred a bill where the amendment recommended by the primary committee would delete portions of the bill within the jurisdiction of the sequential committee (Speaker Hastert, May 10, 1999, p. 8690).

In the 96th Congress, the Speaker followed a more restrictive policy, permitting a sequential committee to review (1) those portions of introduced text within its jurisdiction and (2) those portions of an amendment within its jurisdiction when the introduced version also warranted a sequential referral to the committee (Speaker O'Neill, Apr. 15, 1980, p. 7760). The Speaker first exercised the authority to base referrals on committee amendments by sequentially referring a bill reported from the Committee on Public Works and Transportation (now Transportation and Infrastructure), relating only to Corps of Engineers' water projects as introduced

but amended in committee to address general water resource policy affecting irrigation and reclamation projects and soil conservation programs, to the Committees on Agriculture and Interior and Insular Affairs (now Natural Resources) for consideration of provisions of the committee amendment within their jurisdiction (Speaker O'Neill, May 20, 1981, p. 10361).

The Speaker may (1) discharge a measure from the Union Calendar and sequentially refer it to another committee (Speaker O'Neill, Apr. 27, 1978, p. 11742; Speaker O'Neill, May 21, 1982, p. 11169; Speaker O'Neill, June 19, 1986, p. 14741; Speaker Foley, June 12, 1990, p. 13670; Speaker Hastert, Nov. 30, 2001, p. 23681); (2) sequentially refer a bill that has been initially referred to several committees but reported only by one, for consideration of the reporting committee's amendment (Speaker O'Neill, June 17, 1982, p. 14069; Speaker Foley, Sept. 5, 1990, p. 23477); and (3) sequentially refer a bill referred to more than one committee when the first committee reports, for a period ending a number of days after the next committee reports (Speaker O'Neill, Aug. 1, 1985, p. 22681), or after all committees report (Speaker Wright, June 10, 1988, p. 14079).

The Speaker may (1) extend the time of a sequentially referred bill and may refer the bill to yet another committee under the same sequential referral conditions (Speaker Albert, June 1, 1976, p. 16588); (2) delimit the period for sequential consideration of a bill in terms of legislative days (Speaker Wright, June 30, 1988, p. 16597); or (3) sequentially refer a bill without day (Speaker Wright, Sept. 27, 1988, p. 25827). On the last day of an expiring sequential referral, a committee has until midnight to file its report with the Clerk (Oct. 9, 1991, p. 26045).

§816b. Referral procedures to an ad hoc select committee.

Resolutions authorizing the Speaker to establish an ad hoc committee for the consideration of a particular bill under paragraph (c) of this clause, and extending the reporting date for such a committee, are privileged when offered from the floor at the Speaker's request (Speaker Albert, Apr. 22, 1975, p. 11261; Speaker Albert, Jan. 26, 1976, p. 876; Speaker O'Neill, Jan. 11, 1977, pp. 894–98; Speaker O'Neill, Apr. 21, 1977, pp. 11550–56).

Pursuant to his authority under paragraph (c)(4), the Speaker may refer a bill to a special ad hoc committee appointed by him with the approval of the House (from the members of the committees with legislative jurisdiction) for consideration and report on that particular bill (Speaker Albert, Apr. 22, 1975, p. 11261) or may jointly refer a report of a select committee filed with the Clerk to standing committees of the House for their study (Speaker Albert, Feb. 16, 1976, p. 3158).

The Speaker may refer to an ad hoc committee, established with the approval of the House, bills, resolutions, and other matters (including messages and communications) for the purpose of considering such matters and reporting to the House thereon, and the resolution creating such a committee may specify whether referrals to such a committee shall be by initial or sequential reference or by any of the other methods provided

by this clause (H. Res. 508, Apr. 21, 1977, pp. 11550–56; Speaker O'Neill, July 11, 1977, p. 22183; Speaker O'Neill, July 20, 1977, p. 24167). For a discussion of Speaker's referrals to the former Select Committees on Homeland Security, see § 723b, *supra*.

Clause 7 provides the mechanism for changes of referrals erroneously made.

§ 817. Restriction on the reference of claims.

(d) A bill for the payment or adjudication of a private claim against the Government may not be referred to a committee other than the Committee on Foreign Affairs or the Committee on the Judiciary, except by unanimous consent.

The present form of this paragraph was made effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812). It was amended several times to conform references to renamed committees (H. Res. 163, Mar. 19, 1975, p. 7343; H. Res. 89, Feb. 5, 1979, p. 1848; sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 467; sec. 213(d), H. Res. 6, Jan. 4, 2007, p. ——). The old rule, adopted in 1885 and amended May 29, 1936, provided that private claims bills be referred to a Committee on Invalid Pensions, Claims, War Claims, Public Lands, and Accounts, in addition to the Committees on Foreign Affairs and the Judiciary. Certain private bills, resolutions and amendments are barred (see § 822, *infra*). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4 of rule XXI (H. Res. 5, Jan. 6, 1999, p. 47).

Under this paragraph unanimous consent is required for the reference of a bill for the payment of a private claim to a committee other than the Committee on the Judiciary or the Committee on Foreign Affairs (May 4, 1978, p. 12615). The Committee on the Judiciary, and not the Committee on Ways and Means, has jurisdiction over a private bill specifying that a certain annuity fund is exempt from taxation under provisions of the Internal Revenue Code (Deschler, ch. 17, § 43.22).

Petitions, memorials, and private bills

§ 818. Introduction and reference of petitions, memorials, and private bills.

3. If a Member, Delegate, or Resident Commissioner has a petition, memorial, or private bill to present, he shall endorse his name, deliver it to the Clerk, and may specify the reference or disposition to be made thereof. Such petition, memorial, or private bill (except when judged by the

Speaker to be obscene or insulting) shall be entered on the Journal with the name of the Member, Delegate, or Resident Commissioner presenting it and shall be printed in the Congressional Record.

At the first organization of the House in 1789 the rules then adopted provided for the presentation of petitions to the House by the Speaker and Members, and for the introduction of bills by motion for leave. In 1842 it was found necessary, in order to save time, to provide that petitions and memorials should be filed with the Clerk. In 1870, 1879, and 1887 the practice as to petitions was extended to private bills, at first as to certain classes and later so that all should be filed with the Clerk (IV, 3312, 3365; VII, 1024). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XXII (H. Res. 5, Jan. 6, 1999, p. 47).

§ 819. Duties of Speaker and Members in presenting petitions.

Petitions, memorials, and other papers addressed to the House may be presented by the Speaker as well as by a Member (IV, 3312). Petitions from the country at large are presented by the Speaker in the manner prescribed by the rule (III, 2030; IV, 3318; VII, 1025). A Member may present a petition from the people of a State other than his own (IV, 3315, 3316). The House itself may refer one portion of a petition to one committee and another portion to another committee (IV, 3359, 3360), but ordinarily the reference of a petition does not come before the House itself. A committee may receive a petition only through the House (IV, 4557).

§ 820. As to division of bills for reference.

The parliamentary law provides that the House may commit a portion of a bill, or a part to one committee and part to another (V, 5558), yet under the practice of the House until January 3, 1975, a bill or joint resolution could not be divided for reference, although it might contain matters properly within the jurisdiction of several committees (IV, 4372, 4376). On that date, the Speaker was given authority over referral of bills as prescribed in clause 2 of this rule (formerly clause 5 of rule X). In the 106th Congress the Speaker referred a bill by title to two committees (H.R. 1554, Apr. 26, 1999, p. 7355).

§ 821. Fraudulent introduction of a bill.

The fraudulent introduction of a bill involves a question of privilege, and a bill so introduced was ordered stricken from the files (IV, 3388). As the result of the unauthorized introduction of several bills without the knowledge of the Members listed as sponsors, the Speaker directed that all bills and resolutions must be signed by the prime sponsor thereof in order to be accepted for introduction (Speaker Albert, Feb. 3, 1972, p. 2521).

§ 822. Certain private bills prohibited.

4. A private bill or private resolution (including an omnibus claim or pension bill), or amendment thereto, may not be received or considered in the House if it authorizes or directs—

(a) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Tort Claims Procedure provided in title 28, United States Code, or for a pension (other than to carry out a provision of law or treaty stipulation);

(b) the construction of a bridge across a navigable stream; or

(c) the correction of a military or naval record.

This paragraph derives from section 131 of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part of the standing rules January 3, 1953 (p. 24). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(a) of rule XXII (H. Res. 5, Jan. 6, 1999, p. 47). The prohibition relating to correction of a military record does not apply to a private bill that changes the computation of retired pay for a former member of the armed services (after exhaustion of administrative remedies) but does not directly correct his military record (Sept. 18, 1984, p. 25824).

Prohibition on commemorations

§ 823. Commemoratives prohibited.

5. (a) A bill or resolution, or an amendment thereto, may not be introduced or considered in the House if it establishes or expresses a commemoration.

(b) In this clause the term "commemoration" means a remembrance, celebration, or recognition for any purpose through the designation of a specified period of time.

The 104th Congress added the prohibition against commemorative legislation and directed the Committee on Government Reform and Oversight (now Oversight and Government Reform) to consider alternative means for establishing commemorations, including the creation of an independent or executive branch commission for such purpose, and to report to the House any recommendations thereon (sec. 216, H. Res. 6, Jan. 4, 1995, p. 468). No recommendations were reported. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(b) of rule XXII (H. Res. 5, Jan. 6, 1999, p. 47). The House by unanimous consent waived the prohibition against introduction of a certain joint resolution specified by sponsor and title proposing a commemoration (which was contained in the resolved clause and not merely in the preamble) (Oct. 24, 2001, p. 20545).

Excluded matters

§ 824. Correction of errors in reference; and relation to jurisdiction.

6. A petition, memorial, bill, or resolution excluded under this rule shall be returned to the Member, Delegate, or Resident Commissioner from whom it was received. A petition or private bill that has been inappropriately referred may, by direction of the committee having possession of it, be properly referred in the manner originally presented. An erroneous reference of a petition or private bill under this clause does not confer jurisdiction on a committee to consider or report it.

This clause of the rule was first adopted in 1880, although the portion relating to the return of certain petitions and bills was adapted from an older rule of 1842 (IV, 3312, 3365). In the 104th Congress it was amended to conform to the new prohibition against commemorative legislation (sec. 216, H. Res. 6, Jan. 4, 1995, p. 468). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XXII (H. Res. 5, Jan. 6, 1999, p. 47).

Errors in reference of petitions, memorials, or private bills are corrected at the Clerk's table, without action by the House, at the suggestion of the committee holding possession (IV, 4379). As provided in the rule, the erroneous reference of a private House bill does not confer jurisdiction, and a point of order is good when the bill comes up for consideration either in the House or in the Committee of the Whole (IV, 4382–4389). But in cases wherein the House itself refers a private House or Senate bill a point

of order may not be raised as to jurisdiction (IV, 4390, 4391; VII, 2131). The Speaker may correct the erroneous referral of a bill as private by referring it to the appropriate (Union) calendar as a public bill when reported (June 1, 1988, p. 13184).

Sponsorship

§ 825. Introduction, reference, and change of reference of public bills, memorials, and resolutions.

7. (a) Bills, memorials, petitions, and resolutions, endorsed with the names of Members, Delegates, or the Resident Commissioner introducing them, may be delivered to the Speaker to be referred. The titles and references of all bills, memorials, petitions, resolutions, and other documents referred under this rule shall be entered on the Journal and printed in the Congressional Record. An erroneous reference may be corrected by the House in accordance with rule X on any day immediately after the Pledge of Allegiance to the Flag by unanimous consent or motion. Such a motion shall be privileged if offered by direction of a committee to which the bill has been erroneously referred or by direction of a committee claiming jurisdiction and shall be decided without debate.

(b)(1) The primary sponsor of a public bill or public resolution may name cosponsors. The name of a cosponsor added after the initial printing of a bill or resolution shall appear in the next printing of the bill or resolution on the written request of the primary sponsor. Such a request may be submitted to the Speaker at any time until the last committee authorized to consider and report the bill or resolution reports it

to the House or is discharged from its consideration.

(2) The name of a cosponsor of a bill or resolution may be deleted by unanimous consent. The Speaker may entertain such a request only by the Member, Delegate, or Resident Commissioner whose name is to be deleted or by the primary sponsor of the bill or resolution, and only until the last committee authorized to consider and report the bill or resolution reports it to the House or is discharged from its consideration. The Speaker may not entertain a request to delete the name of the primary sponsor of a bill or resolution. A deletion shall be indicated by date in the next printing of the bill or resolution.

(3) The addition or deletion of the name of a cosponsor of a bill or resolution shall be entered on the Journal and printed in the Congressional Record of that day.

(4) A bill or resolution shall be reprinted on the written request of the primary sponsor. Such a request may be submitted to the Speaker only when 20 or more cosponsors have been added since the last printing of the bill or resolution.

The rule of 1789 provided that all bills should be introduced on report of a committee or by motion for leave. By various modifications it was first provided that all classes of private bills should be introduced by filing them with the Clerk, and in 1890 this system was by this rule extended to all public bills (IV, 3365). In the 105th and 107th Congresses paragraph (a) was amended to effect technical corrections (H. Res. 5, Jan. 7, 1997, p. 121; sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 26). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4 of rule XXII (H. Res. 5, Jan. 6, 1999, p. 47).

At its organization for the 106th Congress the House adopted an order of the House that the first 10 bill numbers be reserved for assignment by the Speaker during a specified period (sec. 2(g), H. Res. 5, Jan. 6, 1999,

p. 47). In the 107th and 108th Congresses the House adopted the same order, but extended the applicable time to the entire first session (sec. 3(d), H. Res. 5, Jan. 3, 2001, p. 24; sec. 3(c), H. Res. 5, Jan. 7, 2003, p. 7). In the 108th Congress, the House by unanimous consent extended such authority through the remainder of the Congress (Oct. 4, 2004, p. ——). In the 109th and 110th Congresses the House adopted the same initial order but for the entire Congress (sec. 3(c), H. Res. 5, Jan. 4, 2005, p. ——; sec. 217, H. Res. 6, Jan. 4, 2007, p. ——).

The motion for a change of reference and subsidiary motions take precedence over motions to go into the Committee of the Whole for the consideration of appropriation bills and the consideration of conference reports (VII, 2124), and may not be debated (VII, 2126–2128). But the motion is not in order on Calendar Wednesday (VII, 2117), and is not privileged under the rule if the original reference was not erroneous (VII, 2125). The motion may be amended, but the amendment, like the original motion, is subject to the requirement that it be authorized by the committee (VII, 2127). The motion must apply to a single bill and not to a class of bills (VII, 2125).

According to the later practice the erroneous reference of a public bill, if it remain uncorrected, in effect gives jurisdiction to the committee receiving it (IV, 4365–4371; VII, 1489, 2108–2113; VIII, 2312). It is too late to move a change of reference after such committee has reported the bill (VII, 2110; VIII, 2312), but the Speaker may, pursuant to authority granted him by clause 2 (formerly clause 5 of rule X) effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), refer a bill sequentially to other committees. All bills and resolutions must be signed by the primary sponsor thereof (Speaker Albert, Feb. 3, 1972, p. 2521).

Joint sponsorship of public bills by not more than 25 Members was authorized in the 90th Congress (H. Res. 42, Apr. 25, 1967, p. 10712). Prior thereto a special committee had reported against this practice and the report had been adopted by the House (VII, 1029). Effective January 3, 1979 (H. Res. 86, 95th Cong., Oct. 10, 1978, p. 34929), paragraph (b) was added to allow unlimited cosponsorship and to provide a mechanism for Members to add their names as cosponsors to bills or resolutions that have already been introduced, up until the bill is finally reported from committee, and on January 15, 1979, the Speaker announced his directive for the processing of lists of cosponsors pursuant to the new clause (Speaker O'Neill, Jan. 15, 1979, p. 19).

Although, before the 106th Congress, paragraph (b)(2) only permitted a cosponsoring Member himself to request unanimous consent for his deletion as a cosponsor, the primary sponsor of a measure was permitted to request unanimous consent to delete from the permanent Record the name of a cosponsor he had inadvertently or erroneously listed (Feb. 9, 1982). This practice was codified in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). Unanimous-consent requests to delete Members' names as cosponsors are not entertained after the last committee authorized to consider

the bill has reported to the House (or has been discharged from further consideration) (Oct. 8, 1985, p. 26668; Feb. 10, 2000, p. 982), and the Speaker has vacated unanimous-consent orders of the House to delete cosponsors when advised that the bill had already been reported (Aug. 5, 1987, p. 22458). A Member may request unanimous consent that his name be deleted as a cosponsor of an unreported bill during its consideration under suspension of the rules and before a final vote thereon (June 9, 1986, p. 12979).

By unanimous consent a Member may add his own name as a cosponsor of an unreported bill where the primary sponsor is no longer a Member of the House (Aug. 4, 1983, p. 23188), and a designated Member may be authorized to sign and submit lists of additional cosponsors where the actual primary sponsor is no longer a Member (*e.g.*, June 23, 1989, p. 13271; Apr. 5, 2000, p. 4487; June 20, 2001, p. 11196; Sept. 21, 2004, p. ——), but the Chair will not otherwise entertain a request to add cosponsors by a Member other than the primary sponsor (Mar. 5, 1991, p. 5026). In fact, the Chair will not entertain any unanimous-consent request to add a cosponsor (July 24, 2000, p. 15878), whether such request includes only the Member making the request (Oct. 25, 1995, p. 29352), includes all Members (Dec. 18, 1985, p. 37765), or includes a specified additional sponsor (Jan. 28, 1985, p. 1141; May 23, 1985, p. 13421). Such requests must be made by a primary sponsor through the hopper not later than the last day on which any committee is authorized to consider and report the measure to the House (Nov. 4, 1997, p. 24413).

The Chair does not entertain a unanimous-consent request to designate a co-offeror of an amendment (May 20, 2004, p. ——; Sept. 4, 2004, p. ——).

At its organization for the 104th Congress the House resolved that each of the first 20 bills and each of the first two joint resolutions introduced in the House in that Congress could have more than one Member reflected as a primary sponsor (sec. 223(g), H. Res. 6, Jan. 4, 1995, p. 469); and the Speaker stated that all signatures of "primary" sponsors would be required on the bills (Speaker Gingrich, Jan. 4, 1995, p. 551). A Member was subsequently added as a "primary" sponsor by unanimous consent (Jan. 18, 1995, p. 1447).

(5) When a bill or resolution is introduced "by request," those words shall be entered on the Journal and printed in the Congressional Record.

§ 826. Introduction of bills, resolutions, or memorials by request.

This provision was adopted in 1888 (IV, 3366). Before the House recodified its rules in the 106th Congress, it was found in former clause 6 of rule XXII (H. Res. 5, Jan. 6, 1999, p. 47). It has never been the practice of the House to permit the names of the persons requesting the introduction of the bill to be printed in the Record.

Executive communications

§ 827. Reception and reference of executive communications, including estimates.

8. Estimates of appropriations and all other communications from the executive departments intended for the consideration of any committees of the House shall be addressed to the Speaker for referral as provided in clause 2 of rule XIV.

This rule was adopted in 1867 and amended in 1880 (V, 6593). It was renumbered January 3, 1953 (p. 24). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XL (H. Res. 5, Jan. 6, 1999, p. 47). Formerly estimates of appropriations were transmitted through the Secretary of the Treasury (IV, 3573–3576, 4045), but under the Budget Act they are transmitted by the President.

RULE XIII

CALENDARS AND COMMITTEE REPORTS

Calendars

§ 828. Calendar for reports of committees.

1. (a) All business reported by committees shall be referred to one of the following three calendars:

(1) A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred public bills and public resolutions raising revenue, involving a tax or charge on the people, directly or indirectly making appropriations of money or property or requiring such appropriations to be made, authorizing payments out of appropriations already made, releasing any liability to the United States for money or property, or referring a claim to the Court of Claims.

(2) A House Calendar, to which shall be referred all public bills and public resolutions

not requiring referral to the Calendar of the Committee of the Whole House on the state of the Union.

(3) A Private Calendar as provided in clause 5 of rule XV, to which shall be referred all private bills and private resolutions.

This provision was adopted in 1880 and amended in 1911 (VI, 742); but as early as 1820 a rule was adopted creating calendars for the Committees of the Whole. Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47), including a change in subparagraph (3) from the "Calendar of the Committee of the Whole House" to the "Private Calendar." Bills not requiring consideration in Committee of the Whole were considered when reported, but in 1880 the House Calendar was created to remedy the delays in making reports caused by such consideration (IV, 3115). Reference of a bill to a calendar is governed by the text of the bill as referred to committee, and amendments reported by committees are not considered (VIII, 2392).

A motion to correct an error in referring a bill to the proper calendar presents a question of privilege (III, 2614, 2615); but a mere clerical error in the calendar does not give rise to such question (III, 2616). A bill improperly reported is not entitled to a place on the calendar (IV, 3117).

A bill on the wrong calendar may be transferred to the proper calendar as of date of original reference by direction of the Speaker (VI, 744–748; VII, 859, 2406; Dec. 7, 1950, p. 16307; Apr. 26, 1984, p. 10242; Sept. 10, 1990, p. 23677). But the Speaker has no authority to change calendar reference made by the House (VI, 749; VII, 859). Reports from the Court of Claims did not remain on the calendar from Congress to Congress, even when a law seemed so to provide (IV, 3298–3302). In determining whether a bill should be placed on the House or Union Calendar, clause 3 of rule XVIII should be consulted. The Speaker may correct the erroneous referral of a bill as private by referring it to the appropriate (Union) calendar as a public bill when reported (June 1, 1988, p. 13184).

Although the Speaker has no general authority to remove a reported bill from the Union Calendar (other than to correct the erroneous reference of a reported bill between calendars), he may discharge a bill therefrom for reference to another committee when required (1) by section 401(b) of the Congressional Budget Act of 1974, permitting 15-day referral to the Committee on Appropriations of reported bills providing new entitlement authority in excess of that allocated to the reporting committee in connection with the most recently agreed-to concurrent resolution on the budget (Speaker O'Neill, Sept. 8, 1977, p. 28153), or (2) by clause 2 of rule XII (formerly clause 5 of rule X), authorizing and directing the Speaker to assure that each committee has responsibility to consider legislation

within its jurisdiction by fashioning sequential referrals where appropriate (Speaker O'Neill, Apr. 27, 1978, p. 11742; June 19, 1986, p. 14741).

§ 830. Motion to discharge.

(b) There is established a Calendar of Motions to Discharge Committees as provided in clause 2 of rule XV.

From the 106th Congress through the 108th Congress, paragraph (b) was occupied by a cross reference to the Corrections Calendar. The provision was added when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47) and was stricken when the Corrections Calendar was abolished in the 109th Congress (sec. 2(f), H. Res. 5, Jan. 4, 2005, p. ——). Before the House recodified its rules in the 106th Congress, the current paragraph (b) was found in former clause 5 of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47).

Filing and printing of reports

§ 831. Nonprivileged reports filed with the Clerk.

2. (a)(1) Except as provided in subparagraph (2), all reports of committees (other than those filed from the floor as privileged) shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker in accordance with clause 1. The title or subject of each report shall be entered on the Journal and printed in the Congressional Record.

§ 832. Adverse reports.

(2) A bill or resolution reported adversely shall be laid on the table unless a committee to which the bill or resolution was referred requests at the time of the report its referral to an appropriate calendar under clause 1 or unless, within three days thereafter, a Member, Delegate, or Resident Commissioner makes such a request.

A technical amendment was effected by the 93d Congress (H. Res. 988, Oct. 8, 1974, p. 34470). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). An erstwhile form of paragraph (a)(2) advisedly applied to

nonprivileged reports only (contrast the 1999 codification with its predecessor in form; VI, 411).

Even when reported adversely, a resolution of inquiry is privileged, is presented from the floor (unless filed with the Clerk under clause 2(c)), and is referred to the House Calendar (*e.g.*, June 16, 2004, p. ——).

§ 833. Requirement that reports of committees be in writing and be printed.

When the House codified its rules in the 106th Congress, it deleted the portion of clause 2 of rule XVIII that required the printing of reports. That provision was redundant because this provision carries the same requirement (H. Res. 5, Jan. 6, 1999, p. 47). Former clause 2 of rule XVIII was adopted in 1880 (V, 5647).

The House insists on its requirement that all reports be in writing (IV, 4655) and does not receive verbal reports as to bills (IV, 4654). But the sufficiency of a report is passed on by the House and not by the Speaker (II, 1339; IV, 4653). A report is not necessarily signed by all those concurring (II, 1274) or even by any of those concurring, but minority, supplemental, and additional views are signed by those submitting them (IV, 4671; VIII, 2229; see clause 2(l)(5) of rule XI). Under this rule, the printing requirement is not a condition precedent to consideration of the matter reported (VIII, 2307–2309). However, for various availability and layover requirements in the rules, see clause 6 of rule X (§ 764, *supra*), clauses 4, 5, and 6 of rule XIII (§§ 850–852, § 853, § 857, *infra*, respectively), and clause 8 of rule XXII (§ 1082, *infra*). See also clause 3(a)(2) of rule XIII (§ 838, *infra*), which excepts from the availability requirements of clause 4 supplemental reports to correct a technical error in the depiction of record votes in a committee report.

Unless filed with the report, minority, supplemental, or additional views may be presented only with the consent of the House (IV, 4600; VIII, 2231, 2248). See clause 2(c) of rule XIII for the procedure by which such views may be filed as part of the committee report.

It has been held that the fact that a report was not printed by the Public Printer as originally made to the House does not prevent the consideration of the matter reported (VIII, 2307). A committee may not file its report on a bill after the House has passed the bill (Sept. 30, 1985, p. 25270).

§ 834. Chairman's duty.

(b)(1) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House a measure or matter approved by the committee and to take or cause to be taken steps necessary to bring the measure or matter to a vote.

§ 835. Filing by majority of committee.

(2) In any event, the report of a committee on a measure that has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which a written request for the filing of the report, signed by a majority of the members of the committee, has been filed with the clerk of the committee. The clerk of the committee shall immediately notify the chairman of the filing of such a request. This subparagraph does not apply to a report of the Committee on Rules with respect to a rule, joint rule, or order of business of the House, or to the reporting of a resolution of inquiry addressed to the head of an executive department.

Subparagraph (1) (formerly clause 2(l)(1)(A) of rule XI) is derived from section 133(c) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part of the standing rules on January 3, 1953 (p. 24). It is sufficient authority for the chairman to call up a bill on Calendar Wednesday (Speaker Rayburn, Feb. 22, 1950, p. 2162). Subparagraph (2) (formerly clause 2(l)(1)(B) of rule XI) is derived from section 105 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was made part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Former clause 2(l)(1)(C) of rule XI was added by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), to incorporate section 307 of the Congressional Budget Act of 1974 (88 Stat. 313), requiring the Committee on Appropriations to strive to complete committee action on all regular appropriation bills before reporting any of them to the House, and to submit a report comparing specified spending levels, but was repealed by section 232(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177). An obsolete reference in former subdivision (B) to the former subdivision (C) was deleted in the 104th Congress (sec. 223(f), H. Res. 6, Jan. 4, 1995, p. 469). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(l)(1) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

Absent a special order of the House, committee reports must be submitted while the House is in session, except as permitted under clause

2(c) of rule XIII with respect to the guaranteed time for composing separate views (see § 836, *infra*) (Dec. 17, 1982, p. 31951).

§ 836. Filing with minority views.

(c) All supplemental, minority, or additional views filed under clause 2(l) of rule XI by one or more members of a committee shall be included in, and shall be a part of, the report filed by the committee with respect to a measure or matter. When time guaranteed by clause 2(l) of rule XI has expired (or, if sooner, when all separate views have been received), the committee may arrange to file its report with the Clerk not later than one hour after the expiration of such time. This clause and provisions of clause 2(l) of rule XI do not preclude the immediate filing or printing of a committee report in the absence of a timely request for the opportunity to file supplemental, minority, or additional views as provided in clause 2(l) of rule XI.

The first sentence of this paragraph was originally included in section 107 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was made a part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). The remainder of the paragraph (establishing standing authority for committees to file reports with the Clerk after honoring the guarantee of the rule) was adopted in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(l)(5) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

Content of reports

§ 837. Single volume.

3. (a)(1) Except as provided in subparagraph (2), the report of a committee on a measure or matter shall be printed in a single volume that—

(A) shall include all supplemental, minority, or additional views that have been submitted by the time of the filing of the report; and

(B) shall bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under paragraph (c)(3)) are included as part of the report.

§ 838. Technical error.

(2) A committee may file a supplemental report for the correction of a technical error in its previous report on a measure or matter. A supplemental report only correcting errors in the depiction of record votes under paragraph (b) may be filed under this subparagraph and shall not be subject to the requirement in clause 4 or clause 6 concerning the availability of reports.

Clause 3 (formerly clause 2(l)(5) of rule XI) was originally included in section 107 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). This paragraph permits the filing of a supplemental report to correct a technical error in a previous report. A supplemental report filed under this clause is subject to the three-day availability under clause 4 of this rule (Deschler, ch. 17, § 64.1). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(l)(5) of rule XI, and the former companion provision of clause 2(l)(5) of rule XI entitling members to supplemental, minority, or additional views was transferred to new clause 2(l) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). The last sentence of subparagraph (2) was added in the 107th Congress (sec. 2(k), H. Res. 5, Jan. 3, 2001, p. 25). A technical correction to subparagraph (1)(B) was effected in the 108th Congress (sec. 2(u), H. Res. 5, Jan. 7, 2003, p. 7).

§ 839. Vote on reporting.

(b) With respect to each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against,

and the names of members voting for and against, shall be included in the committee report. The preceding sentence does not apply to a report by the Committee on Rules on a rule, joint rule, or the order of business or to votes taken in executive session by the Committee on Standards of Official Conduct.

The requirement of subparagraph (b) (formerly clause 2(l)(2)(B) of rule XI) was contained in section 104(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140), was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), and was expanded in the 104th Congress to require that reports also reflect the total number of votes cast for and against any public measure or matter and any amendment thereto and the names of those voting for and against (sec. 209, H. Res. 6, Jan. 4, 1995, p. 468). An exception for the Committee on Standards of Official Conduct was adopted in the 105th Congress (sec. 8, H. Res. 168, Sept. 18, 1997, p. 19318) and expanded to include the Committee on Rules in the 110th Congress (sec. 503, H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(l)(2)(B) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). If the accompanying report erroneously reflects information required by this paragraph, a bill would be subject to a point of order against its consideration, unless corrected pursuant to clause 3(a)(2) by a supplemental report; however, a point of order would not lie if the error was introduced by the Government Printing Office (Jan. 19, 1995, p. 1613). A question alleging that a committee report contained descriptions of recorded votes (as required by this clause) that deliberately mischaracterized certain amendments and directing the chairman of the committee to file a supplemental report to change those descriptions was held to constitute a question of the privileges of the House (May 3, 2005, p. ——).

§ 840. Content of reports.

(c) The report of a committee on a measure that has been approved by the committee shall include, separately set out and clearly identified, the following:

(1) Oversight findings and recommendations under clause 2(b)(1) of rule X.

(2) The statement required by section 308(a) of the Congressional Budget Act of 1974, ex-

cept that an estimate of new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant programs to the appropriate levels under current law.

(3) An estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 if timely submitted to the committee before the filing of the report.

(4) A statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding.

This provision (formerly clause 2(l)(3) of rule XI) became effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). It was amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), to correct a cross-reference, and in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49) to correct the typographical transposition of a phrase. Subparagraphs (2) and (3) (formerly clauses 2(l)(3)(B) and 2(l)(3)(C) of rule XI) are requirements of sections 308(a) and 402 of the Congressional Budget Act of 1974 (88 Stat. 297). Subparagraph (2) (formerly clause 2(l)(3)(B) of rule XI) was amended in the 99th Congress by section 232(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177) to include new entitlement and credit authority in conformity with section 308(a)(1) of the Congressional Budget Act of 1974, as amended by that law. It was again amended in the 104th Congress to require estimates of new budget authority, when practicable, to compare the total estimated funding for the program to the appropriate level under current law (sec. 102(a), H. Res. 6, Jan. 4, 1995, p. 462). In the 104th and 106th Congresses, it was amended to conform references to a renamed committee (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 467; H. Res. 5, Jan. 6, 1999, p. 47). This provision was amended in the 105th Congress to reflect the repeal of the collective definition of "new spending authority" and the revision of various remaining parts and to effect a technical and conforming change (Budget Enforcement Act of 1997 (sec. 10116, P.L. 105–33)). Subparagraph (4) was amended to replace a requirement that committees include in their reports oversight findings and recommendations by the Committee on Government Reform with a requirement that they include a statement of performance goals and objectives (sec. 2(l), H. Res. 5, Jan. 3, 2001, p. 25).

§ 841. Constitutional authority.

(d) Each report of a committee on a public bill or public joint resolution shall contain the following:

(1) A statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.

This reporting requirement replaced former clause 2(l)(4) of rule XI, which became a part of the rules under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). In its original form the provision required an analytical statement of inflationary impact, but in the 105th Congress it was converted to require a statement of constitutional authority (H. Res. 5, Jan. 7, 1997, p. 121). If a point of order were sustained under this subparagraph, the measure would be "recommitted" to await possible return to the Calendar by the filing of a supplemental report pursuant to clause 3(a)(2) correcting the technical error (Feb. 13, 1995, p. 4591).

§ 842. Application of laws to legislative branch.

Under the Congressional Accountability Act of 1995, each report accompanying a bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations must describe the manner in which the provisions apply to the legislative branch or a statement of the reasons the provisions do not apply; and any Member may raise a point of order against the consideration of a bill or joint resolution not complying with this requirement, which may be waived in the House by majority vote (sec. 102(b)(3), P.L. 104–1; 109 Stat. 6).

§ 843. Unfunded mandates.

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4; 109 Stat. 48) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658–658g) that imposes several requirements on committees with respect to measures effecting "Federal mandates" (secs. 423–424; 2 U.S.C. 658b–c) and establishes points of order to permit separate votes on whether to enforce those requirements (sec. 425; 2 U.S.C. 658d). See § 1127, *infra*.

§ 844. Estimate of cost.

(2)(A) An estimate by the committee of the costs that would be incurred in carrying out the bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following that fiscal year (or for the authorized duration

of any program authorized by the bill or joint resolution if less than five years);

(B) a comparison of the estimate of costs described in subdivision (A) made by the committee with any estimate of such costs made by a Government agency and submitted to such committee; and

(C) when practicable, a comparison of the total estimated funding level for the relevant programs with the appropriate levels under current law.

(3)(A) In subparagraph (2) the term "Government agency" includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(B) Subparagraph (2) does not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, or the Committee on Standards of Official Conduct, and does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been included in the report under paragraph (c)(3).

This provision was adopted in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144) as part of the implementation of section 252(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) to remove references to the Joint Committee on Atomic Energy. Subparagraph (3)(B) (formerly clause 7(d)) was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to render committee cost estimates optional where an estimate by the Congressional Budget Office is included in the report. It was amend-

ed by the Budget Enforcement Act of 1990 (2 U.S.C. 900 note) to require five-year estimates of revenue changes in legislative reports. In the 104th Congress it was amended to require estimates of new budget authority, when practicable, to compare the total estimated funding for the program to the appropriate level under current law (sec. 102(b), H. Res. 6, Jan. 4, 1995, p. 462). In the 104th and 106th Congresses subparagraph (3)(B) (formerly clause 7(d)) was amended to conform references to a renamed committee (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 467; H. Res. 5, Jan. 6, 1999, p. 47). In the 105th Congress it was again amended to effect a technical change (Budget Enforcement Act of 1997 (sec. 10116, P.L. 105–33)). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 7 of this rule (H. Res. 5, Jan. 6, 1999, p. 47).

A committee cost estimate identifying certain spending authority as recurring annually and indefinitely was held necessarily to address the five-year period required by section 308 of the Congressional Budget Act of 1974 (Nov. 20, 1993, p. 31354).

§ 845. Unfunded mandates.

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4; 109 Stat. 48) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658–658b–c) that imposes several requirements on the Director of the Congressional Budget Office and on committees of the House with respect to measures effecting "Federal mandates" (secs. 423–424; 2 U.S.C. 658b–c) and establishes points of order to permit separate votes on whether to enforce those requirements (sec. 425; 2 U.S.C. 658d). See § 1127, *infra*, and § 843, *supra*.

§ 846. "Ramseyer Rule."

(e)(1) Whenever a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof, it shall include in its report or in an accompanying document—

(A) the text of a statute or part thereof that is proposed to be repealed; and

(B) a comparative print of any part of the bill or joint resolution proposing to amend the statute and of the statute or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed.

(2) If a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof with a recommendation that the bill or joint resolution be amended, the comparative print required by subparagraph (1) shall reflect the changes in existing law proposed to be made by the bill or joint resolution as proposed to be amended.

The first part of this paragraph (formerly clause 3) was adopted January 28, 1929 (VIII, 2234), was redesignated January 3, 1953 (p. 24), and subparagraph (2) (formerly a proviso in clause 3(2)) was added September 22, 1961 (p. 20823). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of this rule (H. Res. 5, Jan. 6, 1999, p. 47).

Technical failure of a committee report to comply with the "Ramseyer" rule may be remedied by a supplemental report (VIII, 2247). While the filing of such a corrective report formerly required the consent of the House (VIII, 2248), it may now be filed with the Clerk pursuant to clause 3(a)(2). Reports held to violate the rule because they are not susceptible to correction by the filing of a supplemental report under clause 3(a)(2), as in the case of a substantial violation, are automatically recommitted to the respective committees reporting them (VIII, 2237, 2245, 2250). When a bill is so recommitted, further proceedings are de novo and the bill is considered again and reported by the committee as if no previous report had been made (VIII, 2249).

Although a bill proposes but one minor and obvious change in existing law, the failure of the report to indicate the change is in violation of the rule (VIII, 2236). The statute proposed to be amended must be quoted in the report and it is not sufficient that it is incorporated in the bill (VIII, 2238). Under the rule the committee report on a bill amending existing law by the addition of a proviso should quote in full the section immediately preceding the proposed amendment (VIII, 2237). The rule applies to appropriation bills where such bills include legislative provisions (VIII, 2241) and reports on appropriation bills are also subject to the requirements of clause 3(f) of rule XIII, requiring a concise statement of the effect of any direct or indirect changes in the application of existing law. In order to fall within the purview of the rule the bill must seek to repeal or amend specifically an existing law (VIII, 2235, 2239, 2240).

Special orders providing for consideration of bills, unless specifically waiving points of order, do not preclude the point of order that reports on such bills fail to indicate proposed changes in existing law (VIII, 2245). The point of order that a report fails to comply with the rule is properly made when the bill is called up in the House and comes too late after

the House has resolved into the Committee of the Whole for its consideration (VIII, 2243–2245).

Where the comparative print contained certain errors in punctuation and capitalization and utilized abbreviations not appearing in existing provisions of law, the Speaker held that the committee report was in substantial compliance with the rule and overruled a point of order against the report (Deschler, ch. 17, §§ 60.13, 60.14).

§ 847. Content of reports on appropriation bills.

(f)(1) A report of the Committee on Appropriations on a general appropriation bill shall include—

(A) a concise statement describing the effect of any provision of the accompanying bill that directly or indirectly changes the application of existing law; and

(B) a list of all appropriations contained in the bill for expenditures not currently authorized by law for the period concerned (excepting classified intelligence or national security programs, projects, or activities), along with a statement of the last year for which such expenditures were authorized, the level of expenditures authorized for that year, the actual level of expenditures for that year, and the level of appropriations in the bill for such expenditures.

This provision (formerly clause 3 of rule XXI) became a part of the rules under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). This provision was amended on January 14, 1975 (H. Res. 5, 94th Cong., p. 32) to confine its applicability to general appropriation bills, and again in the 104th Congress to add subparagraph (1)(B) concerning unauthorized items (sec. 215(d), H. Res. 6, Jan. 4, 1995, p. 468). Subparagraph (1)(B) was amended in the 107th Congress to require more detail on the status of unauthorized appropriations (sec. 2(m), H. Res. 5, Jan. 3, 2001, p. 25). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XXI (H. Res. 5, Jan. 6, 1999, p. 47).

(2) Whenever the Committee on Appropriations reports a bill or joint resolution including matter specified in clause 1(b)(2) or (3) of rule X, it shall include—

(A) in the bill or joint resolution, separate headings for "Rescissions" and "Transfers of Unexpended Balances"; and

(B) in the report of the committee, a separate section listing such rescissions and transfers.

This provision (formerly clause 1(b) of rule X) was added by the Committee Reform Amendments of 1974 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1(b) of rule X (H. Res. 5, Jan. 6, 1999, p. 47).

§ 848. Comparative print.

(g) Whenever the Committee on Rules reports a resolution proposing to repeal or amend a standing rule of the House, it shall include in its report or in an accompanying document—

(1) the text of any rule or part thereof that is proposed to be repealed; and

(2) a comparative print of any part of the resolution proposing to amend the rule and of the rule or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed.

This provision (formerly clause 4(d) of rule XI) was added to the rules under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), and is similar to the "Ramseyer Rule" requirements of paragraph (e) relating to bills and joint resolutions repealing or amending existing law. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4(d) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). This clause is applicable to resolutions reported from the Committee on Rules that propose direct permanent repeal or amendment of a rule of the House,

but does not apply to resolutions providing temporary waivers of rules during the consideration of particular legislative business (Speaker Albert, Mar. 20, 1975, p. 7676; Mar. 24, 1975, p. 8418), or to a special order of business resolution providing for the consideration of a bill with textual modifications that would effect certain changes in House rules on enactment of the bill into law, but not itself repealing or amending any rule (May 27, 1993, p. 11597).

§ 849. Tax complexity analysis.

(h)(1) It shall not be in order to consider a bill or joint resolution reported by the Committee on Ways and Means that proposes to amend the Internal Revenue Code of 1986 unless—

(A) the report includes a tax complexity analysis prepared by the Joint Committee on Internal Revenue Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or

(B) the chairman of the Committee on Ways and Means causes such a tax complexity analysis to be printed in the Congressional Record before consideration of the bill or joint resolution.

This provision was added by the Internal Revenue Service Restructuring and Reform Act of 1998 as a new clause 2(l)(8) of rule XI, effective January 1, 1999 (sec. 4022, P.L. 105–206). It was transferred to this paragraph when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

(2)(A) It shall not be in order to consider a bill or joint resolution reported by the Committee on Ways and Means that proposes to amend the Internal Revenue Code of 1986 unless—

(i) the report includes a macroeconomic impact analysis;

(ii) the report includes a statement from the Joint Committee on Internal Revenue Tax-

ation explaining why a macroeconomic impact analysis is not calculable; or

(iii) the chairman of the Committee on Ways and Means causes a macroeconomic impact analysis to be printed in the Congressional Record before consideration of the bill or joint resolution.

(B) In subdivision (A), the term 'macroeconomic impact analysis' means—

(i) an estimate prepared by the Joint Committee on Internal Revenue Taxation of the changes in economic output, employment, capital stock, and tax revenues expected to result from enactment of the proposal; and

(ii) a statement from the Joint Committee on Internal Revenue Taxation identifying the critical assumptions and the source of data underlying that estimate.

This requirement of a macroeconomic analysis of any tax proposal replaced a provision that authorized the chairman of the Committee on Ways and Means to request the Joint Committee on Internal Revenue Taxation to prepare a dynamic estimate of revenue changes proposed in a measure designated by the Majority Leader as major tax legislation (sec. 2(j), H. Res. 5, Jan. 7, 2003, p. 7). The former provision was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121); but, before the House recodified its rules in the 106th Congress, it was found in former clause 7(e) of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47).

Availability of reports

§ 850. Three-day layover.

4. (a)(1) Except as specified in subparagraph (2), it shall not be in order to consider in the House a measure or matter reported by a committee until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which each report of a

committee on that measure or matter has been available to Members, Delegates, and the Resident Commissioner.

(2) Subparagraph (1) does not apply to—

(A) a resolution providing a rule, joint rule, or order of business reported by the Committee on Rules considered under clause 6;

(B) a resolution providing amounts from the applicable accounts described in clause 1(j)(1) of rule X reported by the Committee on House Administration considered under clause 6 of rule X;

(C) a resolution presenting a question of the privileges of the House reported by any committee;

(D) a measure for the declaration of war, or the declaration of a national emergency, by Congress; and

(E) a measure providing for the disapproval of a decision, determination, or action by a Government agency that would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress. In this subdivision the term "Government agency" includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or of the government of the District of Columbia.

(b) A committee that reports a measure or matter shall make every reasonable effort to have its hearings thereon (if any) printed and available for distribution to Members, Delegates,

and the Resident Commissioner before the consideration of the measure or matter in the House.

This provision (formerly clause 2(l)(6) of rule XI) was originally contained in section 108 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was incorporated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). It was amended in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), and in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 8). In the 102d Congress it was amended to clarify the availability requirements for reported measures, including concurrent resolutions on the budget (H. Res. 5, Jan. 3, 1991, p. 39). It was amended in the 104th Congress to count as a "calendar day" any day on which the House is in session (H. Res. 254, Nov. 30, 1995, p. 35077), and again in the 105th Congress to achieve like treatment in the case of a concurrent resolution on the budget (H. Res. 5, Jan. 7, 1997, p. 121). The rule was later amended in the 105th Congress to conform to a change in the layover requirement for a concurrent resolution on the budget (Budget Enforcement Act of 1997 (sec. 10109, P.L. 105–33)). In the 106th Congress two technical and conforming corrections were effected. The 106th Congress also recodified the rules, transferring this provision from former clause 2(l)(6) of rule XI, which consisted of this provision and current clause 6(a)(2) of this rule (H. Res. 5, Jan. 6, 1999, p. 47). Subparagraph (2)(C) was added in the 107th Congress (sec. 2(n), H. Res. 5, Jan. 3, 2001, p. 25). In the 109th Congress a conforming change to subparagraph (2)(B) was effected and a subdivision was deleted as obsolete upon the repeal of the Corrections Calendar (sec. 2(a), H. Res. 5, Jan. 4, 2005, p. ——).

The availability requirement is not applicable to privileged reports from the Committee on Rules or to bills before the House that have not been reported from committee (Speaker Albert, Aug. 10, 1976, p. 26793). The Committee on Rules has the authority under clause 5(a) of rule XIII (formerly clause 4(a) of rule XI) to report a special order making in order the text of an introduced bill as a substitute original text for a reported bill, and no point of order lies that such introduced text has not been available for three days under this rule, which only applies to the consideration of reported measures themselves (Oct. 9, 1986, p. 29973). The exceptions from the three-day layover requirement were expanded in the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98) to include resolutions called up pursuant to legislative veto provisions in laws having the effect of approving or invalidating the actions of any government agency (and not just agencies of the executive branch). That exception allows the consideration of a measure disapproving an executive branch decision pursuant to statute within three days of the expiration of the congressional review period, notwithstanding the three-day availability requirement (concurrent resolution disapproving a regulation of the Federal Trade Commission pursuant to the

Federal Trade Commission Improvements Act, P.L. 96–252) (May 26, 1982, pp. 12027–30). A report from a committee raising a question of the privileges of the House, such as a report relating to the contemptuous conduct of a witness before the committee, may be considered notwithstanding the availability requirements of this clause (Speaker Albert, July 13, 1971, pp. 24720–23; see also VI, 48; Deschler, ch. 14, § 7.4, fn. 10, and Oct. 8, 1998, p. 24680, with respect to impeachment reports; and Feb. 12, 1998, p. 1323, with respect to a resolution dismissing an election contest reported as privileged under clause 5(a)(3) of rule XIII). Clause 3(a)(2) of rule XIII was amended in the 107th Congress to except from the three-day layover requirement a supplemental report only correcting errors in the depiction of record votes under clause 3(b) (sec. 2(k), H. Res. 5, Jan. 3, 2001, p. 25).

§ 851. One-day layover.

A committee expense resolution reported by the Committee on House Administration pursuant to clause 5 of rule XIII need only be available for one day. However, other resolutions reported from that committee that are privileged (such as a resolution authorizing the printing of material as a House document), but that do not constitute questions of the privileges of the House, are subject to this clause (Speaker Albert, Mar. 6, 1975, p. 5537).

§ 852. Printed hearings on appropriation bills.

(c) A general appropriation bill reported by the Committee on Appropriations may not be considered in the House until the third calendar day (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) on which printed hearings of the Committee on Appropriations thereon have been available to Members, Delegates, and the Resident Commissioner.

This provision from section 139(a) of the Legislative Reorganization Act of 1946 was made a part of the standing rules January 3, 1953 (p. 24), and was amended (by the addition of the parenthetical clause) on January 22, 1971 (p. 144). In the 104th Congress it was amended to count as a "calendar day" any day on which the House is in session (H. Res. 254, Nov. 30, 1995, p. 35077). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 7 of rule XXI; and a requirement that the report also be available for three days was deleted as redundant because reports on general appropriation bills are covered under the availability requirements of paragraph (a) (H. Res. 5, Jan. 6, 1999, p. 47). In counting the "three calendar days" specified in the clause, either the date the bill is filed or the date on which it is to be called up for consideration are counted, but not both (May 26, 1969, p. 13720).

Privileged reports, generally

§ 853. Privileged reports.

5. (a) The following committees shall have leave to report at any time on the following matters, respectively:

(1) The Committee on Appropriations, on general appropriation bills and on joint resolutions continuing appropriations for a fiscal year after September 15 in the preceding fiscal year.

(2) The Committee on the Budget, on the matters required to be reported by such committee under titles III and IV of the Congressional Budget Act of 1974.

(3) The Committee on House Administration, on enrolled bills, on contested elections, on matters referred to it concerning printing for the use of the House or the two Houses, on expenditure of the applicable accounts of the House described in clause 1(j)(1) of rule X, and on matters relating to preservation and availability of noncurrent records of the House under rule VII.

(4) The Committee on Rules, on rules, joint rules, and the order of business.

(5) The Committee on Standards of Official Conduct, on resolutions recommending action by the House with respect to a Member, Delegate, Resident Commissioner, officer, or employee of the House as a result of an investigation by the committee relating to the official conduct of such Member, Delegate, Resident Commissioner, officer, or employee.

(b) A report filed from the floor as privileged under paragraph (a) may be called up as a privileged question by direction of the reporting committee, subject to any requirement concerning its availability to Members, Delegates, and the Resident Commissioner under clause 4 or concerning the timing of its consideration under clause 6.

The origins of this provision appear as early as 1812, but it was in 1886 that the various provisions were consolidated in one rule. The rule was amended by the Legislative Reorganization Act of 1946 (60 Stat. 812), again on February 2, 1951 (p. 883), and yet again by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). On the latter date the privileges given to the Committee on Interior and Insular Affairs (now Natural Resources) on bills for the forfeiture of land grants to railroad and other corporations, preventing speculation in the public lands and reserving public lands for the benefit of actual and bona fide settlers, and for the admission of new States, to the Committee on Public Works (now Transportation and Infrastructure) on bills authorizing the improvement of rivers and harbors, to the Committee on Veterans' Affairs on general pension bills, and to the Committee on Ways and Means on bills raising revenue, were eliminated from the rule. In the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), the rule was further amended to reinsert "contested elections" under the authority of the Committee on House Administration, a matter inadvertently omitted by the 93d Congress (H. Res. 988, Oct. 8, 1974, p. 34470). The rule was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to permit joint resolutions continuing appropriations to be privileged if reported after a certain date. In the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72), the rule was amended to include under the authority of the Committee on House Administration all matters relating to preservation and availability of noncurrent House records. In the 104th and 106th Congresses, it was amended to conform references to a renamed committee (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. 467; H. Res. 5, Jan. 6, 1999, p. 47). In the 105th Congress it was amended to update an archaic reference to the "contingent fund" (H. Res. 5, Jan. 7, 1997, p. 121). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4 of rule XI; as part of that recodification, former clause 9 of rule XVI (restating the privilege of general appropriation bills) was deleted as obsolete (H. Res. 5, Jan. 6, 1999, p. 47). A conforming change to subparagraph (3) was effected in the 109th Congress (sec. 2(a) H. Res. 5, Jan. 4, 2005, p. ——).

At the time these privileges originated all reports were made on the floor, and often with great difficulty because of the pressure of business (IV, 4621), and by giving this privilege the most important matters of business were greatly expedited. In 1890 a rule was adopted providing that reports should be made by filing with the Clerk, but privileged reports must still be made from the floor (IV, 3146; VIII, 2230). A privileged report from the Committee on Rules may be filed at any time when the House is in session, including during special-order speeches (Oct. 14, 1986, p. 30861). Before the original adoption of the provisions contained in former clause 2(l)(6) of rule XI in the 92d Congress (current clause 4 of rule XIII) (H. Res. 5, Jan. 22, 1971, p. 144), the right of reporting at any time was held to give the right of immediate consideration by the House (IV, 3131, 3132, 3142–3147; VIII, 2291, 2312). However, from that date until the effective date of the provision of former clause 2(l)(6) (current clause 4 of this rule) on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), only the Committees on House Administration, Rules (subject to the two-thirds vote requirement of clause 6 of this rule), and Standards of Official Conduct could call up a matter in the House for immediate consideration as soon as the report was filed. Now only reports from the Committee on Rules on rules, joint rules, and the order of business under clause 6 of this rule; reports from the Committee on House Administration on committee expense resolutions under clause 5(a) of this rule; reports constituting questions of privilege (see generally Deschler, ch. 14, § 7.4, fn. 10, discussing ruling of Speaker Albert, July 13, 1971, on a reported contempt); and reports on the official conduct of a Member (*e.g.*, H. Res. 31, Jan. 21, 1997, p. 393) are exempt from the requirements of former clause 2(l)(6) (current clause 4 of this rule) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Other committees enumerated in this clause may still utilize the privilege after the report on the bill or resolution has been available for at least three calendar days (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day). Once called up for consideration, the matter so reported remains privileged until disposed of (IV, 3145). The House proceeds to the consideration of privileged questions only on motion directed to be made by the several committees reporting such questions (VIII, 2310). Privileged questions reported adversely have the same status so far as their privilege is concerned as those reported favorably (VI, 413; VIII, 2310).

§ 854. Privileged reports defined.

The matters reported under the provisions of this clause are denominated "privileged reports" or "privileged questions," and since the privilege relates merely to the order of business under the rules, they must be distinguished from "questions of privilege" that relate to the safety or dignity of the House itself defined in rule IX (III, 2718). Therefore, "questions of privilege" take precedence over these matters that are privileged under the rules (III, 2426–2530; V, 6454; VIII, 3465).

Privileged questions interrupt the regular order of business as established by former rule XXIV (current rule XIV), but when they are disposed of the regular order continues on from the point of interruption (IV, 3070, 3071). But the Speaker has declined to allow a call of committees to be interrupted by a privileged report (IV, 3132). The presence of matter not privileged with privileged matter destroys the privileged character of a bill (IV, 4622, 4624, 4633, 4640, 4643; VIII, 2289; Speaker Rayburn, May 21, 1958, pp. 9212–16), or resolution (VIII, 2300), and when the text of a bill contains nonprivileged matter, privilege may not be created by a committee amendment in the nature of a substitute not containing the nonprivileged matter (IV, 4623).

§ 855. The privilege of individual committees for reports.

The privilege given by this clause to the Committee on Rules is confined to "action touching rules, joint rules, and order of business" and this committee may not report as privileged a concurrent resolution providing for a Senate investigating committee (VIII, 2255), or provide for the appointment of a clerk (VIII, 2256); but the privilege has been held to include the right to report special orders for the consideration of individual bills or classes of bills (V, 6774), or the consideration of a specified amendment to a bill and prescribing a mode of considering such amendment (VIII, 2258). A special rule providing for the consideration of a bill is not invalidated by the fact that at the time the rule was reported, the bill was not on the calendar (VIII, 2259; Speaker McCormack, Aug. 19, 1964, p. 20212). The authority to report special orders of business includes authority to recommend consideration of measures and amendments thereto the subject of which might be separately pending before a standing committee (Apr. 15, 1986, p. 7531); to make in order the consideration of the text of an introduced bill as original text in a reported bill (Oct. 9, 1986, p. 29973); to permit consideration of a previously unnumbered and unsponsored measure that comes into existence by virtue of adoption by the House of the special order (Speaker O'Neill, Apr. 16, 1986, p. 7610); to recommend a "hereby" resolution, for example, that a concurrent resolution correcting the enrollment of a bill be considered as adopted by the House upon the adoption of the special order (Speaker Wright, May 4, 1988, p. 9865), or that a Senate amendment pending at the Speaker's table and otherwise requiring consideration in Committee of the Whole under clause 3 of rule XXII (formerly clause 1 of rule XX) be "hereby" considered as adopted upon adoption of the special order (Deschler, ch. 21, § 16.11; Feb. 4, 1993, p. 2500); to provide that an amendment containing an appropriation in violation of clause 4 of rule XXI (formerly clause 5(a)) be considered as adopted in the House when the reported bill is under consideration (Feb. 24, 1993, p. 3542); to provide that an amendment containing an appropriation in violation of clause 2 of rule XXI be considered as adopted in the House when the reported bill is under consideration (July 27, 1993, p. 17129); and to provide that a nongermane amendment otherwise in violation of clause 7 of rule XVI be considered as adopted in the House when the bill

is under consideration (Feb. 24, 1993, p. 3542; July 27, 1993, p. 17129). The Committee on Rules also has reported as privileged a joint resolution repealing a statutory joint rule (mandatory July adjournment, sec. 132 of the Legislative Reorganization Act of 1946) (July 27, 1990, p. 20178). The Committee on Rules has reported as privileged a special order of business nearly identical to one previously rejected by the House, but held not to constitute "another of the same substance" within the meaning of the provisions in Jefferson's Manual on reconsideration (§ 513, *supra*) because it provided a different scheme for general debate (July 27, 1993, p. 17115).

A resolution consisting solely of privileged matter, albeit in two separate jurisdictions empowered to report at any time under clause 4(a), has been referred to a primary committee, reported therefrom as privileged, referred sequentially, and reported as privileged from the sequential committee as well (H. Res. 258, 102d Cong., Nov. 8, 1991, p. 30979; Nov. 19, 1991, p. 32903).

The right of the Committee on Appropriations to report at any time is confined strictly to general appropriation bills (IV, 4629–4632; VIII, 2282–2284) and does not include appropriations for specific purposes (VIII, 2285). Before privilege was extended to continuing appropriation bills (in 1981), the rule was construed not to apply to resolutions extending appropriations (VIII, 2282–2284).

Reports from the Committee on House Administration authorizing appropriations from the Treasury directly for compensation of employees (IV, 4645) or fixing the salaries of employees are not privileged (VIII, 2302).

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

As early as 1835 the necessity of giving appropriation bills precedence became apparent, and in 1837 former clause 9 of rule XVI was adopted to establish that principle, but was deleted in recodification as redundant to this rule. Former clause 4(a) of rule XI was amended by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470) to eliminate the authority of the Committee on Ways and Means to report as privileged bills raising revenue, and former clause 9 of rule XVI was amended in the 104th Congress (H. Res. 254, Nov. 30, 1995, p. 35077) to delete as obsolete the reference to bills raising revenue (see § 853, *supra*). However, the privilege to call up general appropriation bills in both rules was retained. When both types of reports were privileged under the rule before the 94th Congress, motions to consider revenue bills and appropriation bills were of equal privilege (IV, 3075, 3076).

The motion may designate the particular appropriation bill to be considered (IV, 3074). The motion is privileged at any time after the approval of the Journal (subject to relevant report and hearing availability requirements), but only if offered at the direction of the committee (July 23, 1993, p. 16820). The motion is in order on District Mondays (VI, 716–718; VII, 876, 1123) and takes precedence over the motion to resolve into Committee

of the Whole House to consider the Private Calendar (IV, 3082–3085; VI, 719, 720). The motion could be made on a "suspension day" as on other days (IV, 3080); and on consent days the call of the former Consent Calendar (abolished in the 104th Congress) took precedence of the motion (VII, 986). On Wednesdays the privilege of the motion is limited by clause 6 of rule XV. It may not be amended (VI, 52, 723), debated (VI, 716), laid on the table, or indefinitely postponed (VI, 726), and the previous question may not be demanded on it (IV, 3077–3079). Although highly privileged, it may not take precedence over a motion to reconsider (IV, 3087), or a motion to change the reference of a bill (VII, 2124). The motion is less highly privileged than the motion to discharge a committee from further consideration of a bill under former clause 3 of rule XXVII (current clause 2 of rule XV) (VII, 1011, 1016).

Privileged reports by the Committee on Rules

§ 857. Reports from Committee on Rules.

6. (a) A report by the Committee on Rules on a rule, joint rule, or the order of business may not be called up for consideration on the same day it is presented to the House except—

(1) when so determined by a vote of two-thirds of the Members voting, a quorum being present;

(2) in the case of a resolution proposing only to waive a requirement of clause 4 or of clause 8 of rule XXII concerning the availability of reports; or

(3) during the last three days of a session of Congress.

(b) Pending the consideration of a report by the Committee on Rules on a rule, joint rule, or the order of business, the Speaker may entertain one motion that the House adjourn but may not entertain any other dilatory motion until the report shall have been disposed of.

(c) The Committee on Rules may not report—

(1) a rule or order proposing that business under clause 6 of rule XV be set aside by a vote of less than two-thirds of the Members voting, a quorum being present; or

(2) a rule or order that would prevent the motion to recommit a bill or joint resolution from being made as provided in clause 2(b) of rule XIX, including a motion to recommit with instructions to report back an amendment otherwise in order, if offered by the Minority Leader or a designee, except with respect to a Senate bill or resolution for which the text of a House-passed measure has been substituted.

The Committee on Rules, "by uniform practice of the House," exercised the privilege of reporting at any time as early as 1888. The right to report at any time is confined to privileged matters (VIII, 2255). This was probably the survival of a practice that existed as early as 1853 of giving the privilege of reporting at any time to this committee for a session (IV, 4650). In 1890 the committee was included among the committees whose reports were privileged by rule. The present rule (formerly clause 4(b) of rule XI) was adopted in 1892 (IV, 4621) and was amended on March 15, 1909. Clause 6(a)(1) (former matter found in parentheses in clause 4(b) of rule XI) was adopted January 18, 1924 (pp. 1139, 1141), and the rule was further amended by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), to limit its application to reports from the Committee on Rules on rules, joint rules, and orders of business. In the 94th Congress it was amended to permit the immediate consideration of a resolution reported from the Committee on Rules waiving the two-hour layover requirement (H. Res. 868, Feb. 26, 1976, p. 4625). In the 104th Congress the provision was amended to prohibit the Committee on Rules from recommending a rule or order that would prevent a motion by the Minority Leader or his designee to recommit a bill or joint resolution with instructions to report back an amendment otherwise in order except in the case of a Senate bill or resolution for which the text of a House-passed measure is being substituted (sec. 210, H. Res. 6, Jan. 4, 1995, p. 468). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4(b) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). A conforming change to paragraph (c)(1) was effected in the 109th Congress (sec. 2(f), H. Res. 5, Jan. 4, 2005, p. ——) and a technical change to paragraph (b) was effected in the 110th

Congress (sec. 505(b), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)). For rulings under the earlier form of the rule, see § 859, *infra*.

Pursuant to this clause, a privileged report from the Committee on Rules may be considered on the same legislative day only by a two-thirds vote, but a report properly filed by the committee at any time before the convening of the House on the next legislative day may be called up for immediate consideration without the two-thirds vote requirement (Speaker Albert, July 31, 1975, p. 26243), including a report filed during special-order speeches after legislative business on that prior legislative day (Oct. 14, 1986, p. 30861), and if the House continues in session into a second calendar day and then meets again that day, or convenes for two legislative days on the same calendar day, any report filed on the first legislative day may be called up on the second without the question of consideration being raised (Speaker O'Neill, Dec. 16, 1985, p. 36755; Speaker Wright, Oct. 29, 1987, p. 29937). This clause does not require that a privileged resolution, and the report thereon, from the Committee on Rules be printed before it is called up for consideration (Speaker O'Neill, Feb. 2, 1977, p. 3344).

In the case of certain resolutions reported from the Committee on Rules, the two-thirds vote requirement for consideration on the same day reported does not apply. This clause provides for the immediate consideration of a resolution from the Rules Committee waiving the requirement that copies of reports and reported measures be available for three days before their consideration, and waiving the requirement that copies of conference reports or amendments reported from conference in disagreement be available for two hours before their consideration (see Aug. 10, 1984, p. 23978).

Although highly privileged, a report from the Committee on Rules yields to questions of privilege (VIII, 3491; Mar. 11, 1987, p. 5403), and is not in order after the House has voted to go into Committee of the Whole (V, 6781). Also a conference report has precedence over it, even when the previous question and the yeas and nays have been ordered (V, 6449). Formerly if a report from the Committee on Rules contained substantive propositions, a separate vote could be had on each proposition (VIII, 2271, 2272, 2274, 3167); but these decisions were nullified by the adoption of clause 5(b)(2) of rule XVI (formerly clause 6). A report from the Committee on Rules takes precedence over a motion to consider a measure that is "highly privileged" pursuant to a statute enacted as an exercise in the rulemaking authority of the House, acknowledging the constitutional authority of the House to change its rules at any time (Speaker Wright, Mar. 11, 1987, p. 5403). Before the House adopts rules, the Speaker may recognize a Member to offer for immediate consideration a special order providing for the consideration of a resolution adopting the rules (H. Res. 5, Jan. 4, 1995, p. 447).

The Committee on Rules may report and call up as privileged resolutions temporarily waiving or altering any rule of the House, including statutory provisions enacted as an exercise of the House's rulemaking authority that

would otherwise prohibit the consideration of a bill being made in order by the resolution (Speaker Albert, Mar. 20, 1975, p. 7676; Mar. 24, 1975, p. 8418), or that would otherwise establish an exclusive procedure for consideration of a particular type of measure (Speaker O'Neill, Apr. 16, 1986, p. 7610; Speaker Wright, Mar. 11, 1987, p. 5403). No rule of the House precludes the Committee on Rules from reporting a special order making in order specified amendments that have not been preprinted as otherwise required by an announced policy of that committee (Oct. 23, 1991, p. 28097). No point of order lies against a resolution reported from the Committee on Rules that waives points of order against a measure or provides special procedures for its consideration, where no law constituting a rule of the House prohibits consideration of such a resolution (resolution providing for consideration of a budget resolution, where a statute (P.L. 96–389) reaffirmed congressional commitment to balanced Federal budgets but did not dictate what legislation could be considered or otherwise constitute a rule of the House) (June 10, 1982, p. 13353).

For a discussion of the Speaker's announced policy with respect to his entertaining unanimous-consent requests in the House to alter a special order previously adopted by the House, see § 956, *infra*. For a discussion of the unanimous-consent requests that may not be entertained in the Committee of the Whole if their effect is to materially modify procedures required by a special order adopted by the House, see § 993, *infra*.

§ 858. Dilatory motions not permitted.

In the later practice it has been held that the question of consideration may not be raised against a report from the Committee on Rules (V, 4961–4963; VIII, 2440, 2441). The clause forbidding dilatory motions has been construed strictly (V, 5740–5742), and in the later practice the following have been excluded: (1) the motion to commit after the ordering of the previous question (V, 5593–5601; VIII, 2270, 2750; Feb. 22, 1984, p. 2965); (2) an appeal from the Chair's decision not to entertain the question of consideration or a motion to lay the pending resolution on the table (V, 5739); and (3) the motion to postpone to a day certain (Oct. 9, 1986, p. 29972). A motion to reconsider the vote on ordering the previous question has been held not dilatory (V, 5739). Before debate has begun on a report from the Committee on Rules, a question of the privileges of the House takes precedence (VIII, 3491; Mar. 11, 1987, p. 5403). In the event that the previous question is rejected on a privileged resolution from the Committee on Rules, the provisions of clause 6(b) prohibiting "dilatory" motions no longer strictly apply; the resolution is subject to proper amendment, further debate, or a motion to table or refer, and the Member who led the opposition to the previous question has the prior right to recognition (Oct. 19, 1966, pp. 27713, 27725–29; May 29, 1980, pp. 12667–78), subject to being preempted by a preferential motion offered by another Member (Aug. 13, 1982, pp. 20969, 20975–78). The member of the Committee on Rules calling up a privileged resolution on behalf of the committee may offer an amendment, and House rules do not require a specific authorization from the committee

(Sept. 25, 1990, p. 25575). A motion to table such a pending amendment is dilatory and not in order under this provision, but the motion to reconsider the vote on ordering the previous question on the rule and amendment thereto is not (see V, 5739; Sept. 25, 1990, p. 25575), and may be laid on the table without carrying with it the resolution itself (Sept. 25, 1990, p. 25575). Only one motion to adjourn is admissible during the consideration of a report from the Committee on Rules (July 23, 1997, pp. 15366, 15374) and may be offered immediately after the reading of the resolution (Mar. 20, 2002, pp. 3671–72) but may not be made when another Member has the floor (Sept. 27, 1993, p. 22608). Where the House adjourns during the consideration of a report from the Committee on Rules, further consideration of the report becomes the unfinished business on the following day, and debate resumes from the point where interrupted (Sept. 27, 1993, p. 22609; Sept. 28, 1993, p. 22719). The Chair has held that a virtually consecutive invocation of former rule XXX (current clause 6 of rule XVII), resulting in a second pair of votes on use of a chart and on reconsideration thereof, was not dilatory under this clause (or former clause 10 of rule XVI (current clause 1 of rule XVI)) (July 31, 1996, p. 20693). In the 107th Congress clause 6 of rule XVII was amended to render the Chair's recognition for a motion on the use of charts completely discretionary (see § 963, *infra*).

A motion to recommit a special rule from the Committee on Rules is not in order (VIII, 2270, 2753).

§ 859. Restrictions on authority of Committee on Rules.

From 1934 until the amendment to this provision in the 104th Congress (sec. 210, H. Res. 6, Jan. 4, 1995, p. 468), it was consistently held that the Committee on Rules could recommend a special order that limited, but did not totally prohibit, a motion to recommit pending passage of a bill or joint resolution, as by precluding the motion from containing instructions relating to specified amendments (Speaker Rainey, Jan. 11, 1934, pp. 479–83 (sustained on appeal)); or by omitting to preserve the availability of amendatory instructions in the case that the bill is entirely rewritten by the adoption of a substitute made in order as original text (Speaker Foley, June 4, 1991, p. 13170; Speaker Foley, Nov. 25, 1991, p. 34460); or by expressly allowing only a simple ("straight") motion to recommit (without instructions) (Oct. 16, 1990, p. 29657 (sustained by tabling of appeal); Feb. 26, 1992, p. 3441 (sustained by tabling of appeal); May 7, 1992, p. 10586 (sustained by tabling of appeal); June 16, 1992, p. 14973 (sustained by tabling of appeal); Nov. 21, 1993, p. 31544; Nov. 22, 1993, p. 31815). A special order providing for consideration of a bill under suspension of the rules does not prevent a motion to recommit from being made "as provided in clause 4 of rule XVI," *i.e.*, after the previous question is ordered on passage, a procedure not applicable to a motion to suspend the rules (VIII, 2267; Speaker Foley, June 21, 1990, p. 15229). See Deschler, ch. 21, § 26.11; see generally Deschler, ch. 23, § 25.

The caveat against including in a special order matter privileged to be reported by another committee (Deschler, ch. 21, § 17.13) does not extend to a "hereby" resolution (*e.g.*, a special order providing that a concurrent resolution correcting the enrollment of a bill within the jurisdiction of another committee be considered as adopted by the House upon the adoption of the special order), so long as not precluding the motion to recommit a bill or joint resolution (Speaker Wright, May 4, 1988, p. 9865).

The Committee on Rules has reported special rules to dispose of Senate amendments that have ordered the previous question to adoption without intervening motion. At this stage the special order need not preserve (under clause 6(c) of rule XIII) the motion to recommit (as provided in clause 2(b) of rule XIX) because the bill is not at the stage of initial passage. For an illustrative list of such rules, see House Practice, ch. 51, § 11. For an exchange of correspondence between the chairman and ranking minority member of the Rules Committee regarding this practice, see January 24, 1996, pp. 1228, 1229.

§ 860. Unfunded mandates.

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4; 109 Stat. 48) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658–658g) that, effective on January 1, 1996, or 90 days after appropriations are made available to the Congressional Budget Office pursuant to the 1995 Act (whichever is earlier), imposes several requirements on committees with respect to "Federal mandates" (secs. 423, 424; 2 U.S.C. 658b, 658c), establishes points of order to permit separate votes on whether to enforce those requirements (sec. 425; 2 U.S.C. 658d), and permits a vote on the consideration of a rule or order waiving such points of order in the House (sec. 426(a); 2 U.S.C. 658e(a)). See § 1127, *infra*.

§ 861. Filing reports.

(d) The Committee on Rules shall present to the House reports concerning rules, joint rules, and the order of business, within three legislative days of the time when they are ordered. If such a report is not considered immediately, it shall be referred to the calendar. If such a report on the calendar is not called up by the member of the committee who filed the report within seven legislative days, any member of the committee may call it up as a privileged question on the day after the calendar day on which the member announces to the House his intention to do so. The Speaker

shall recognize a member of the committee who rises for that purpose.

(e) An adverse report by the Committee on Rules on a resolution proposing a special order of business for the consideration of a public bill or public joint resolution may be called up as a privileged question by a Member, Delegate, or Resident Commissioner on a day when it is in order to consider a motion to discharge committees under clause 2 of rule XV.

Before the House recodified its rules in the 106th Congress, this provision was found in one paragraph, former paragraph (c) of clause 4 of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). What is now paragraph (d) was initially adopted January 18, 1924, and was amended on January 6, 1987 (H. Res. 5, p. 6) (requiring one calendar day's notice before calling up a special order eligible under the rule). What is now paragraph (e) was amended December 8, 1931 (VIII, 2268), January 3, 1949 (p. 16) (establishing the so-called "21-day rule"), January 3, 1951 (p. 18) (abolishing the "21-day rule"), January 4, 1965 (p. 24) (reestablishing the "21-day rule"), January 10, 1967 (H. Res. 7, p. 28) (abolishing the "21-day rule"). Technical changes to this provision were effected on January 3, 1975 (H. Res. 988, Oct. 8, 1974, p. 34470). A special order reported from the Committee on Rules and not called up within seven legislative days may be called up by any member of that committee, including a minority member (Nov. 13, 1979, p. 32185; May 6, 1982, p. 8905).

§ 862. Privileged motion.

(f) If the House has adopted a resolution making in order a motion to consider a bill or resolution, and such a motion has not been offered within seven calendar days thereafter, such a motion shall be privileged if offered by direction of all reporting committees having initial jurisdiction of the bill or resolution.

This provision was contained in section 109 of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(l)(7) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47). In modern practice, this

subparagraph is normally inapplicable in light of clause 2(b) of rule XVIII, which provides for the House resolving into the Committee of the Whole by declaration of the Speaker pursuant to a special order of business rather than by adoption of a motion.

§ 863. Specifying waivers.

(g) Whenever the Committee on Rules reports a resolution providing for the consideration of a measure, it shall (to the maximum extent possible) specify in the resolution the object of any waiver of a point of order against the measure or against its consideration.

This provision (formerly clause 4(e) of rule XI) was adopted in this form in the 104th Congress (sec. 211, H. Res. 6, Jan. 4, 1995, p. 468). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4(e) of rule XI (H. Res. 5, Jan. 6, 1999, p. 47).

Resolutions of inquiry

§ 864. Resolution of inquiry.

7. A report on a resolution of inquiry addressed to the head of an executive department may be filed from the floor as privileged. If such a resolution is not reported to the House within 14 legislative days after its introduction, a motion to discharge a committee from its consideration shall be privileged.

The House has exercised the right, from its earliest days, to call on the President and heads of departments for information. The first rule on the subject was adopted in 1820 for the purpose of securing greater care and deliberation in the making of requests. The present form of rule, in its essential features, dates from 1879 (III, 1856), while the time period for a committee to report was extended from one week to 14 legislative days in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5 of rule XXII (H. Res. 5, Jan. 6, 1999, p. 47).

§ 865. Forms of resolutions of inquiry and delivery thereof.

Resolutions of inquiry are usually simple rather than concurrent in form (III, 1875), and are never joint resolutions (III, 1860). A resolution authorizing a committee to request information has been treated as a resolution of inquiry (III, 1860). It has been considered proper to use the word

"request" in asking for information from the President and "direct" in addressing the heads of departments (III, 1856, footnote, 1895). It is usual for the House in calling on the President for information, especially with relation to foreign affairs, to use the qualifying clause "if not incompatible with the public interest" (II, 1547; III, 1896–1901; V, 5759; VI, 436). But in some instances the House has made its inquiries of the President without condition, and has even made the inquiry imperative (III, 1896–1901). Resolutions of inquiry are delivered under direction of the Clerk (III, 1879) and are answered by subordinate officers of the Government either directly or through the President (III, 1908–1910).

§ 866. Privileged status of resolutions of inquiry.

The practice of the House gives to resolutions of inquiry a privileged status. Thus, they are privileged for report and consideration at any time after their reference to a committee (III, 1870; VI, 413, 414), but not before (III, 1857), and are in order for consideration only on motion directed to be made by the committee reporting the same (VI, 413; VIII, 2310). They are privileged for consideration on "Suspension days" (except on Calendar Wednesday (VII, 896–898)) and took precedence of the former Consent Calendar (VI, 409) before its abolishment in the 104th Congress (H. Res. 168, June 20, 1995, p. 16574). Only resolutions addressed to the President and the heads of the executive departments have the privilege (III, 1861–1864; VI, 406). To enjoy the privilege a resolution should call for facts rather than opinions (III, 1872, 1873; VI, 413, 418–432; July 7, 1971, pp. 23810–11), should not require investigations (III, 1872–1874; VI, 422, 427, 429, 432), and should not present a preamble (III, 1877, 1878; VI, 422, 427); but if a resolution on its face calls for facts, the Chair will not investigate the probability of the existence of the facts called for (VI, 422). However, a resolution inquiring for such facts as would inevitably require the statement of an opinion to answer such inquiry is not privileged (Speaker Longworth, Feb. 11, 1926, p. 3805).

Questions of privilege (as distinguished from privileged questions) have sometimes arisen in cases wherein the head of a department has declined to respond to an inquiry and the House has desired to demand a further answer (III, 1891; VI, 435); but a demand for a more complete reply (III, 1892) or a proposition to investigate as to whether or not there has been a failure to respond may not be presented as involving the privileges of the House (III, 1893).

§ 867. Discharge of a committee from a resolution of inquiry.

Committees are required to report resolutions of inquiry back to the House within one week (now 14 days) of the reference, and this time is construed to be legislative days (VIII, 3368; Speaker Rayburn, Feb. 9, 1950, p. 1755) exclusive of the day of introduction and the day of discharge (III, 1858, 1859). If a committee refuses or neglects to report the resolution back, the House may reach the resolution only by a motion to discharge the committee (III, 1865). The ordinary motion to discharge a committee is not privileged (VIII, 2316); but the practice of the House has given privi-

lege to the motion in cases of resolutions of inquiry (III, 1866–1870). And this motion to discharge is privileged at the end of the time period, though the resolution may have been delayed in reaching the committee (III, 1871). The motion to discharge is not debatable (III, 1868; VI, 415). However, if the motion is agreed to, the resolution is debatable under the hour rule unless the previous question is ordered (VI, 416, 417). If a committee reports a privileged resolution of inquiry (favorably or adversely), it may then be called up only by an authorized member of the reporting committee and not by another Member of the House (VI, 413; VIII, 2310). The Member calling up a privileged resolution of inquiry reported from committee is recognized to control one hour of debate and may move to lay the resolution on the table before or after that time (July 7, 1971, pp. 23807–10; Oct. 20, 1971, pp. 37055–57).

§ 868. Resolutions of inquiry as related to the Executive.

The President having failed to respond to a resolution of inquiry, the House respectfully reminded him of the fact (III, 1890). In 1796 the House declared that its constitutional requests of the Executive for information need not be accompanied by a statement of purposes (II, 1509). As to the kind of information that may be required, especially as to the papers that may be demanded, there has been much discussion (III, 1700, 1738, 1888, 1902, 1903; VI, 402, 435). There have been several conflicts with the Executive (II, 1534, 1561; III, 1884, 1885–1889, 1894) over demands for papers and information, especially when the resolutions have called for papers relating to foreign affairs (II, 1509–1513, 1518, 1519).

RULE XIV

ORDER AND PRIORITY OF BUSINESS

1. The daily order of business (unless varied by the application of other rules and except for the disposition of matters of higher precedence) shall be as follows:

§ 869. The rule for the order of business in the House.

First. Prayer by the Chaplain.

Second. Reading and approval of the Journal, unless postponed under clause 8 of rule XX.

Third. The Pledge of Allegiance to the Flag.

Fourth. Correction of reference of public bills.

Fifth. Disposal of business on the Speaker's table as provided in clause 2.

Sixth. Unfinished business as provided in clause 3.

Seventh. The morning hour for the consideration of bills called up by committees as provided in clause 4.

Eighth. Motions that the House resolve into the Committee of the Whole House on the state of the Union subject to clause 5.

Ninth. Orders of the day.

Originally the House had no rule prescribing an order of business, but certain simple usages were gradually established by practice before the first rule on the subject was adopted in 1811. The rule was amended frequently to arrange the business to give the House as much freedom as possible in selecting for consideration and completing the consideration of the bills that it deems most important. The basic form of the rule has been in place since 1890 (IV, 3056). The 98th Congress made a conforming change to the second order of business relating to the postponement of the vote on approval of the Journal (H. Res. 5, Jan. 3, 1983, p. 34). The 104th Congress added the present third order of business respecting the Pledge of Allegiance (sec. 218, H. Res. 6, Jan. 4, 1995, p. 468). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XXIV (H. Res. 5, Jan. 6, 1999, p. 47). A correction to a cross reference was effected in the 107th Congress (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 26).

The Speaker does not entertain a point of no quorum before the prayer is offered (VI, 663). Under clause 7 of rule XX, a point of no quorum may not be entertained unless a question is pending (see § 1027, *infra*).

In response to serial parliamentary inquiries regarding the pledge of allegiance to the flag, the Chair advised that (1) under clause 1 of rule XIV, the third element of the daily order of business is the Pledge of Allegiance; (2) section 4 of title 4, United States Code, prescribes the text of the pledge; (3) when the pledge is delivered as the third element of the daily order of business, the Record reflects the pledge in its statutory form; and (4) the statute prescribes the manner of delivery of the pledge (Apr. 27, 2004, p. ——).

§ 870. Privileged interruptions of the order of business in the House.

This rule does not, however, bind the House to a daily routine, since the system of making certain important subjects privileged (see clause 5 of rule XIII and rule XXII) permits the interruption of the order of business by matters that, in fact, often supplant it entirely for days at a time. In the 106th Congress the recodification acknowledged in the parenthetical of this clause that the prescribed daily order

of business could be superseded by operation of other rules (H. Res. 5, Jan. 6, 1999, p. 47). But when the order of business is interrupted by a privileged matter, the business in order proceeds from the place of interruption (IV, 3070, 3071) unless the House adjourns. After an adjournment, the House begins again at the beginning. While privileged matters may interrupt the order of business, they may do so only with the consent of a majority of the House, expressed as to appropriation bills by the vote on resolving into Committee of the Whole to consider such bills, and as to matters like conference reports, questions of privilege, etc., by raising and voting on the question of consideration. The only exceptions to the principle that a majority may prevent interruption are contained in clauses 5 and 7 of rule XV, providing for a call of the Private Calendar on the first Tuesday of each month and a call of committees on Wednesdays. By this combination of an order of business with privileged interruptions the House gives precedence to its most important business without at the same time losing the power by majority vote to go to any other bills on its calendars.

§ 871. The privileged matters that may interrupt the order of business.

The privileged matters that may interrupt the order of business include:

(1) General appropriation bills (clause 5 of rule XIII; IV, 3072).

(2) Conference reports (clause 7(a) of rule XXII; V, 6443) and motions to discharge or instruct conferees (clause 7(c) of rule XXII).

(3) Special orders reported by the Committee on Rules for consideration by the House (clause 5 of rule XIII; IV, 3070–3076, 4621).

(4) Consideration of amendments between the Houses after disagreement (IV, 3149, 3150).

(5) Questions of privilege (rule IX; III, 2521).

(6) Privileged bills reported under the right to report at any time (clauses 5 and 7 of rule XIII; IV, 3142–3144, 4621).

(7) Call of committees on Wednesdays for bills on House and Union Calendars (clause 6 of rule XV).

(8) Private business on Tuesday (clause 5 of rule XV).

(9) Motions on the second and fourth Mondays of the month to discharge committees on public bills and resolutions (clause 2 of rule XV), and consideration of District of Columbia business (clause 4 of rule XV; IV, 3304).

(10) Motions to suspend the rules and pass bills out of the regular order (clause 1 of rule XV; V, 6790).

(11) Bills coming over from a previous day with the previous question ordered (V, 5510–5517).

(12) Bills returned with the objections of the President (IV, 3534–3536).

(13) Motions to send a bill to conference (under clause 1 of rule XXII; Aug. 1, 1972, p. 26153).

In addition to these matters, the House by practice permits its order of business to be interrupted, at the discretion of the Speaker, for the

reception of messages (V, 6602). Before the 104th Congress, addressing the House out of order by unanimous consent, the Speaker announced that on at least two subsequent days he would recognize designated Members after approval of the Journal to lead the House in the Pledge of Allegiance to the Flag (Speaker Wright, Sept. 9, 1988, p. 23310). Requests of Members for leaves of absence are in practice put before the House at the time of adjournment (IV, 3151).

§ 872. The interruption of the order of business by the request for unanimous consent.

When the House has no rule establishing an order of business, as at the beginning of a session before the adoption of rules, it is in order for any Member who is recognized by the Chair to offer a proposition relating to the order of business without asking consent of the House (IV, 3060). But after the adoption of the rule for the order of business, interruptions are confined to matters privileged to interrupt or to cases wherein the House gives unanimous consent for an interruption. A request for unanimous consent to consider a bill is in effect a request to suspend the order of business temporarily (IV, 3059). Therefore any Member, including the Chair, may object, or reserve the right to object and inquire, for example, about the reasons for the request, or demand the "regular order" (IV, 3058). Debate under a reservation of objection proceeds at the sufferance of the House and may not continue after a demand for the regular order (see, *e.g.*, Speaker Foley, Nov. 14, 1991, p. 32128; Dec. 15, 1995, p. 37142). A Member objecting to a unanimous-consent request or demanding the regular order when another has reserved the right to object must stand to be observed by the Chair (Nov. 7, 1991, p. 30633; June 23, 1992, p. 15703). The Speaker, however, usually signifies his objection by declining to put the request of the Member, thus saving the time of the House. The Speaker's guidelines for recognition for unanimous-consent requests for consideration of unreported measures are issued pursuant to clause 2 of rule XVII and are discussed in § 956, *infra*. The request for unanimous consent began to be used about 1832 when the House first felt a pressure of business and the necessity of adhering to a fixed order (IV, 3155–3159). In 1909, by the adoption of former clause 4 of rule XIII, a Consent Calendar was established, which was abolished in the 104th Congress (H. Res. 168, June 20, 1995, p. 16574). For discussion of unanimous-consent requests and reservations of objections, see § 956, *infra*. Unanimous consent for the immediate consideration of a measure in the House does not preclude a demand for a record vote when the Chair puts the question on final passage, since it merely permits consideration of a matter not otherwise privileged (Dec. 16, 1987, p. 35816).

2. Business on the Speaker's table shall be disposed of as follows:

§ 873. Disposal of business on the Speaker's table.

(a) Messages from the President shall be referred to the appropriate committees without debate.

(b) Communications addressed to the House, including reports and communications from heads of departments and bills, resolutions, and messages from the Senate, may be referred to the appropriate committees in the same manner and with the same right of correction as public bills and public resolutions presented by Members, Delegates, or the Resident Commissioner.

(c) Motions to dispose of Senate amendments on the Speaker's table may be entertained as provided in clauses 1, 2, and 4 of rule XXII.

(d) Senate bills and resolutions substantially the same as House measures already favorably reported and not required to be considered in the Committee of the Whole House on the state of the Union may be disposed of by motion. Such a motion shall be privileged if offered by direction of all reporting committees having initial jurisdiction of the House measure.

A rule to govern disposition of business on the Speaker's table (to be distinguished from the table of the House, which is the Clerk's table) was adopted in 1832. In 1880 and 1885 efforts were made to so modify the rule as to prevent delays in business on the Speaker's table, but it was not until 1890 that the present rule was adopted (IV, 3089). Before the House recodified its rules in the 106th Congress, this provision and clause 2 of rule XXII occupied a single clause (formerly clause 2 of rule XXIV) (H. Res. 5, Jan. 6, 1999, p. 47).

§ 874. Matters on Speaker's table for action by the House or by the Speaker alone.

Such portions of messages from the Senate as require action by the House, all messages from the President except those transmitting his objections to bills (IV, 3534–3536), and all communications and reports from the heads of departments go to the Speaker's table when received, to be disposed of under this rule. Simple resolutions of the Senate that do not require any action by the House are not referred (VII, 1048). All of the President's messages are referred. Such portions of Senate messages (House bills with Senate amendments) that do not require consideration in Committee of the Whole may be laid before the House for action. Communications from the President, other than messages; all portions of Senate messages requiring consideration in Committee of the Whole (IV, 3101); and Senate bills of all kinds (with the exception noted in the rule) may be referred to the appropriate standing committees under direction of the Speaker without action by the House (IV, 3107, 3111; VI, 727). Under clause 2 of former rule XXIV (current rule XIV), the Speaker may temporarily retain custody of an executive communication addressed to him (or may pursuant to former clause 1 of rule IV (current clause 3(a) of rule II) order the Sergeant-at-Arms to assume custody) pending House disposition of a special order reported from the Committee on Rules relating to a referral of the communication to committee (Sept. 9, 1998, p. 19769).

A House bill returned with Senate amendments involving a new matter of appropriation, whether with or without a request for a conference, may be referred directly to a standing committee (VI, 731), and on being reported therefrom is referred directly to the Committee of the Whole (IV, 3094, 3095, 3108–3110). However, the usual practice is to take the bill from the Speaker's table and concur, concur with an amendment, or send to conference by unanimous consent, special rule, or suspension of the rules (VI, 732) (although a motion to send to conference may be privileged under clause 1 of rule XXII). The Speaker's authority under this clause includes the discretionary authority to refer from the Speaker's table Senate amendments to House-passed bills, to standing committees, under any conditions permitted under current clause 2 of rule XII (formerly clause 5 of rule X) for referral of introduced bills; he may for example impose a time limitation for consideration only of a portion of the Senate amendment, not germane to the original House bill, by the standing committee with subject-matter jurisdiction, without referring the remainder of the Senate amendment to the House committee with jurisdiction over the original House bill (Speaker O'Neill, H.R. 31, Mar. 26, 1981, p. 5397). The Speaker announced his policy regarding referral of nongermane Senate amendments to committee (Jan. 3, 1983, p. 54; Jan. 6, 1987, p. 21); and his policy regarding recognition for unanimous-consent requests to dispose of Senate amendments at the Speaker's table (Apr. 26, 1984, p. 10194; Feb. 4, 1987, p. 2676) discussed in § 956, *infra*. A Senate bill to come before the House directly from the table must conform to the conditions prescribed by the

rule (IV, 3098, 3099; VI, 727, 734, 737), and must have come to the House after and not before the House bill "substantially the same" and not involving an expenditure (IV, 3103) has been placed on the House Calendar (IV, 3096; VI, 727, 736, 738) or Private Calendar (IV, 3102). In the event the House bill has passed before the Senate bill is received, the Senate bill may nevertheless be disposed of on motion directed by the committee (VI, 734, 735). The House bill must be correctly on the House Calendar (VI, 736). In determining whether the House bill is substantially the same as the Senate bill, amendments recommended by the House committee must be considered (VI, 734, 736). The rule applies to private as well as to public Senate bills (IV, 3101), and to concurrent resolutions as well as to bills (IV, 3097). Although a committee must authorize the calling up of the Senate bill (VI, 739), the actual motion need not be made by a member of the committee (IV, 3100). The authority of a committee to call up a bill must be given at a formal meeting of the committee (VIII, 2211, 2212, 2222).

§ 875. Reference of President's messages from the Speaker's table.

A message of the President on the Speaker's table is regularly laid before the House only at the time prescribed by the order of business (V, 6635–6638). While it is always read in full and entered on the Journal and the Congressional Record (V, 6963), the accompanying documents are not read on demand of a Member or entered in the Journal or Record (V, 5267–5271; VII, 1108). The annual message of the President is usually referred to the Committee of the Whole House on the state of the Union by the House on motion (V, 6631). In the earlier practice it was distributed to appropriate standing committees by resolutions reported from the Committee on Ways and Means (V, 6621, 6622) but since the first session of the 64th Congress the practice has been discontinued (VIII, 3350). A portion of the annual message has been referred directly to a select committee (V, 6628). A message other than an annual message is usually referred directly to a standing committee by direction of the Speaker (IV, 4053; VIII, 3346), but may be referred by the House itself on motion by a Member (V, 6631; VIII, 3348), and such motion is privileged (VIII, 3348). This reference may be to a select as well as to a standing committee (V, 6633, 6634).

§ 876. Unfinished business.

3. Consideration of unfinished business in which the House may have been engaged at an adjournment, except business in the morning hour and proceedings postponed under clause 8 of rule XX, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of. The consideration of

all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

The first rule relating to unfinished business was adopted in 1794. Changes were made in 1860 and 1880, but the rule finally became unsatisfactory, because of delays caused by it, and in 1890 the present form was adopted (IV, 3112). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XXIV (H. Res. 5, Jan. 6, 1999, p. 47). A clerical correction to a cross reference was effected in the 107th Congress (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 26).

§ 877. Construction of rule as to unfinished business.

This clause should be understood in light of clause 8 of rule XX, which permits the Chair to postpone record votes on certain questions to a designated time within two legislative days (see § 1030, *infra*). The "business in which the House may be engaged at an adjournment" means, literally, business in the House, as distinguished from the Committee of the Whole; and it further means business in which the House is engaged in its general legislative time, as distinguished from the special periods set aside for classes of business, like the morning hour for calls of committee, Tuesdays for private bills, etc. In general, all business unfinished in the general legislative time goes over as unfinished business under the rule, but there are a few exceptions. Thus, a motion relating to the order of business does not recur as unfinished business on a succeeding day, even though the yeas and nays may have been ordered on it (IV, 3114). The question of consideration, also, when not disposed of at an adjournment, does not recur as unfinished business on a succeeding day (V, 4947, 4948), but may be again raised on a subsequent day when the matter is again called up as unfinished business (VIII, 2438). Where the House adjourns during the consideration of a report from the Committee on Rules, further consideration of the report becomes the unfinished business on the following day, and debate resumes from the point where interrupted (Sept. 27, 1993, p. 22609; Sept. 28, 1993, p. 22719). When the House adjourns on the second legislative day after postponement of a question under clause 8 of rule XX without resuming proceedings thereon, the question remains unfinished business on the next legislative day (Oct. 1, 1997, p. 20922; Oct. 2, 1997, p. 20991). When the House adjourns while a motion to instruct under clause 7(c) of rule XXII is pending, the motion to instruct becomes unfinished business on the next day and does not need to be renoticed (Oct. 1, 1997, p. 20894).

§ 878. Effect of previous question.

When the House adjourns before voting on a proposition on which the previous question has been ordered, either directly or by the terms of a special order (IV, 3185), the matter comes up the next day as unfinished business (V, 5510–5517; VIII, 2691; Aug. 2, 1989, p. 18187). If several bills come over in this situation, they have precedence in the order in which the several mo-

tions for the previous question were made (V, 5518). When the previous question is ordered on a bill undisposed of at adjournment on Friday, the bill comes up for disposition on the next legislative day (VIII, 2694). A bill going over from Calendar Wednesday with the previous question ordered on it should be disposed of on the next legislative day (VII, 967), but when the previous question is ordered on a bill undisposed of when the House adjourns Tuesday, the bill goes over until Thursday (VII, 890–894; VIII, 2674, 2691). A bill coming over from a preceding day with the previous question ordered was of equal privilege with business on the former Consent Calendar (VII, 990).

§ 879. Business unfinished in periods set apart for classes of business.

The rule excepts by its terms certain classes of business that are considered in periods set apart for classes of business, viz:

(*a*) Bills considered in the morning hour and on Calendar Wednesday for the call of committees.

(*b*) Bills in Committee of the Whole.

(*c*) Private bills considered on Tuesdays.

(*d*) District of Columbia bills.

(*e*) Bills brought up under the rule setting apart days for motions to suspend the rules, motions to discharge committees, and bills under consideration after a committee has been discharged.

A bill brought up in the morning hour and undisposed of when the call ceases for the day remains as unfinished business in the morning hour (IV, 3113, 3120), *i.e.*, it is considered when the House next goes to a call of committees. Business unfinished when the Committee of the Whole rises remains unfinished, to be considered first in order when the House next goes into Committee of the Whole to consider that business (IV, 4735, 4736).

On District of Columbia day business unfinished on the preceding District day is in order for consideration, but does not come before the House unless called up (IV, 3307; VII, 879). Unless postponed under clause 8 of rule XX, a motion to suspend the rules that is undisposed of on one suspension day goes over as unfinished business to the next suspension day, individual motions going over to a committee day, and vice versa (V, 6814–6816; VII, 1005; VIII, 3411, 3412).

§ 880. The morning hour for the call of committees.

4. After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order and then select committees. Each committee when named may call up for consideration a bill or resolution reported by it on a previous day and on the House Calendar. If the Speaker does not complete the call of the com-

mittees before the House passes to other business, the next call shall resume at the point it left off, giving preference to the last bill or resolution under consideration. A committee that has occupied the call for two days may not call up another bill or resolution until the other committees have been called in their turn.

The morning hour is one of the oldest devices of the rules for devoting an early portion of the session to a specific class of business. Until 1885 it was the hour for the reception of reports from committees. In 1890 it was provided that reports should be filed with the Clerk, and the morning hour was by this rule devoted to a call of committees for the consideration of House Calendar bills (IV, 3181). Since the adoption of the Calendar Wednesday rule (clause 6 of rule XV), the morning hour has been used but rarely. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4 of rule XXIV (H. Res. 5, Jan. 6, 1999, p. 47).

§ 881. Procedure in the morning hour.

Originally the morning hour was a fixed period of 60 minutes (IV, 3118); but under the present rule it does not terminate until the call is exhausted or until the House adjourns (IV, 3119), unless the House on motion made at the end of 60 minutes votes to go into Committee of the Whole House on the state of the Union (clause 5 of rule XIV; IV, 3134), or unless other privileged matter intervenes (IV, 3131, 3132). Before the expiration of the 60 minutes the Speaker has declined to permit the call to be interrupted by a privileged report (IV, 3132) or by unanimous consent (IV, 3130). Where the business for which the call was interrupted is concluded, the call is resumed unless there be other interrupting business or the House adjourns (IV, 3133). A bill once brought up on the call continues before the House in that order of business until disposed of (IV, 3120), unless withdrawn by authority of the committee before action that puts it in possession of the House (IV, 3129); and may not be made a special order for a future day by a motion to postpone to a day certain (IV, 3164). In order to be called up in this order a bill must properly be on the House Calendar (IV, 3122–3126), and a bill on the Union Calendar may not be brought up on call of committees under this clause (VI, 753). If the authority of the committee to call up a bill is disputed, the Chair does not consider it his duty to decide the question (IV, 3127), but the Chair may base his decision on statements from the chairman and other members of the committee (IV, 3128).

5. After consideration of bills or resolutions under clause 4 for one hour, it shall be in order, pending consideration thereof, to entertain a motion that the House resolve into the Committee of the Whole House on the state of the Union or, when authorized by a committee, that the House resolve into the Committee of the Whole House on the state of the Union to consider a particular bill. Such a motion shall be subject to only one amendment designating another bill. If such a motion is decided in the negative, another such motion may not be considered until the matter that was pending when such motion was offered is disposed of.

§ 882. Interruption of the call of committees by motion to go into Committee of the Whole House on the state of the Union.

This portion of the rule was adopted in 1890 as part of the plan for enabling the House at will to go at any time to any public bill on its calendars (IV, 3134). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5 of rule XXIV (H. Res. 5, Jan. 6, 1999, p. 47).

§ 883. Conditions of the motion to go into Committee of the Whole at the end of one hour.

The phrase "one hour" has been interpreted to include a shorter time in the case that the call of committees shall have exhausted itself before the expiration of one hour (IV, 3135); but not otherwise (IV, 3141). After the House has been in Committee of the Whole under this order and has risen and reported, and the report has been acted on by the House, other motions to go into Committee to consider other bills are in order (IV, 3136). The motion to go into Committee generally may be made by the individual Member (IV, 3138), but when it is proposed to designate a particular bill he must have the authority of a committee (IV, 3138). The amendment to the motion to consider a particular bill must refer to a bill on the Union Calendar (IV, 3139). This order of business is used entirely for nonprivileged bills and is not used in the House for consideration of bills in Committee of the Whole House on the state of the Union if otherwise privileged under clause 5 of rule XIII.

6. All questions relating to the priority of business shall be decided by a majority without debate.

§ 884. Decision of questions as to priority of business without debate.

This provision was adopted in 1803 to prevent obstructive debate (IV, 3061). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXV (H. Res. 5, Jan. 6, 1999, p. 47). The question of consideration under clause 3 of rule XVI and the motion that the House resolve itself into the Committee of the Whole are not debatable (VIII, 2447; IV, 3062, 3063).

This rule may not be invoked to establish an order of business or to inhibit the Speaker's power of recognition (Speaker Albert, July 31, 1975, p. 26249). It has been held that appeals from decisions of the Chair as to priority of business are not debatable under this rule (V, 6952).

RULE XV

BUSINESS IN ORDER ON SPECIAL DAYS

Suspensions

1. (a) A rule may not be suspended except by a vote of two-thirds of the Members voting, a quorum being present. The Speaker may not entertain a motion that the House suspend the rules except on Mondays, Tuesdays, and Wednesdays and during the last six days of a session of Congress.

§ 885. Motions to suspend the rules.

This provision (formerly clause 1 of rule XXVII) developed from a rule adopted in 1794, which provided that no rule should be rescinded without one day's notice. In 1822 a paragraph was added that no rule should be suspended except by a two-thirds vote. In 1828 it was amended to provide that the order of business, as established by the rules, should not be changed except by a two-thirds vote. Originally contemplating motions to suspend the rules on any day, the rule was amended in 1847 to restrict the motion to Mondays of each week, and, in 1880, to the first and third Mondays of each month. In 1874 the old limit of 10 days at the end of the session was reduced to six days. In the 93d Congress, the rule was amended to permit motions to suspend the rules on the first and third Mondays and on the Tuesdays immediately following those days and to eliminate the distinction between days on which committees and individuals had preference (H. Res. 6, Jan. 3, 1973, pp. 26, 27). In the 95th Con-

gress, the rule was amended to permit such motions on every Monday and Tuesday (H. Res. 5, Jan. 4, 1977, 95th Cong., pp. 53–70). During the first session of the 108th Congress, the House authorized the Speaker to entertain motions that the House suspend the rules on Wednesdays through the second Wednesday in April as though under this clause (sec. 3(d), H. Res. 5, Jan. 7, 2003, p. 11). That authority was extended by unanimous consent through the last Wednesday in June (Apr. 30, 2003, p. 10063) and by resolution through the entire 108th Congress (H. Res. 297, June 26, 2003, p. ——). The 109th Congress amended the rule to permit motions to suspend the rules every Wednesday (sec. 2(e), H. Res. 5, Jan. 4, 2005, p. ——). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XXVII (H. Res. 5, Jan. 6, 1999, p. 47).

§ 886. Nature of the motion to suspend the rules.

Originally, when the House was operating under the older rules for the order of business, the motion was used to establish a special order of business for the consideration of a particular measure (IV, 3152, 3162; V, 6852). In 1890, the House adopted rules for the order of business that enabled the House on any day to consider public bills on its calendars. About the same time, the House perfected the process of establishing a special order of business by a majority vote through a report from the Committee on Rules (IV, 3169). As a result of these changes, the use of the motion to suspend gradually changed from one that established a special order of business to one that passes or adopts a measure (V, 6790, 6846, 6847). The latter motion suspends all rules inconsistent with its purposes, including a rule requiring that a recess be taken (V, 5752) or that a quorum be present when a bill is reported from committee (Sept. 22, 1992, p. 26932).

Although the normal use of the motion is to pass or adopt a noncontroversial measure, the motion may also be used to change or suspend a rule or order that is susceptible to suspension or to suspend the parliamentary law of Jefferson's Manual (V, 6796, 6862). The rules forbid the Speaker to entertain a motion to suspend the rules relating to the privilege of the floor (clause 2(b) of rule IV; V, 7283; VIII, 3634), the use of the Hall of the House (clause 1 of rule IV; V, 7270), or prohibiting the introduction of persons in the galleries (clause 7 of rule XVII; VI, 197).

The motion to suspend may include a series of actions, such as the discharge of a committee from consideration of a bill and the passage of it (V, 6850), the reconsideration of the vote passing a bill, amendment of it, and passage again (V, 6849), the permission for a committee to report several bills (V, 6857), an order to the Clerk to incorporate in the engrossment of a general appropriation bill a provision not otherwise in order (IV, 3845), an authorization to the House to entertain a specified motion to suspend the rules on a future day not a suspension day (IV, 3845), a motion to take a bill (V, 6288; VIII, 3425) or a motion to reconsider, from the table (V, 5640). A motion to suspend may provide for agreeing to a conference report that has been ruled out of order by the Speaker

(Dec. 20, 1974, p. 41860) or may provide for passage of a bill that consists of the text of two bills previously passed by the House (Sept. 19, 2000, p. 18510). One motion to suspend the rules having been rejected, the Speaker may recognize for a similar motion (Dec. 21, 1973, pp. 43270–81).

A motion to suspend the rules may provide for the passage of a bill regardless of whether it has been reported by committee, referred to a calendar, or even previously introduced (VIII, 3421; July 16, 1996, p. 17228). It may include an amendment without the formality of committee approval (June 22, 1992, p. 15617). Copies of reports on bills considered under suspension are not required to be available in advance. No advance notice to Members of bills to be called up under suspension of the rules is required (Mar. 20, 1978, p. 7535; Jan. 22, 2007, p. ——). However, where a special rule requires that the object of a motion to suspend the rules be announced on the floor at least one hour before the Chair's entertaining the motion, unanimous consent is required to permit the Chair to entertain the motion before that time (Sept. 28, 1996, p. 25765, 25774).

§886a. Consideration of the motion to suspend the rules.

The motion that the House "suspend the rules and pass [or adopt]" a measure is not subject to the demand for a division of the question, either as to the two branches of the motion or as to distinct substantive propositions in the subject of the motion (V, 6141–6143). The motion may not be amended (V, 5322, 5405, 6858; Deschler, ch. 21, §14.6; Apr. 11, 2000, p. 5206), and the power to withdraw and modify the motion rests with its proponent (May 10, 2006, p. ——). The motion may not be postponed (V, 5322) or laid on the table (V, 5405). The motion to reconsider may not be applied to a negative vote on the motion (V, 5645, 5646; VIII, 2781; Sept. 28, 1996, p. 25797), although it may be applied to an affirmative vote (Sept. 28, 1996, p. 25796). The motion to refer may not be applied to the bill that it is proposed to pass under suspension of the rules (V, 6860). Pursuant to clause 1(b) of rule XV, the Speaker may entertain one motion to adjourn pending a motion to suspend the rules but may not entertain any other motion until the vote is taken on the motion to suspend the rules.

Some older precedents indicate that the right of a Member to have read the paper on which he is called to vote is not changed by the fact that the procedure is by suspension of the rules (V, 5277; VIII, 3400), and in earlier instances the separate motion to suspend the rules and dispense with reading of pending measures was held in order (V, 5278–84). However, under the modern practice, only the motion to suspend the rules is itself read, and the Clerk reports the title of the bill only. Amendments included in the motion are not reported separately. Where a motion to suspend the rules and agree to a resolution that provided for concurring in a Senate amendment with an amendment consisting of the text of a bill introduced in the House, the Speaker ruled that the reading of the resolution itself was sufficient and that it could be re-read to the House only by unanimous consent (Dec. 21, 1973, pp. 43251–63).

For a discussion of debate on the motion and the Chair's recognition of a Member to control time in opposition to the motion, see § 891, *infra*.

§ 887. Precedence of the motion to suspend the rules.

In the early practice, when the motion to suspend the rules was used to enable a matter to be taken up for consideration out of order, it was not admitted when a subject was already before the House (V, 5278, 6836, 6837, 6852, 6853). However, a motion to suspend the rules was in order to dispense with the reading of a pending measure (V, 5278). A bill taken up under this early practice might be amended by the House (V, 6842, 6856) or withdrawn by the mover, in which case another Member might not present it (V, 6854, 6855).

In the later practice, where the motion includes both suspension of the rules and action on the subject, it is admitted even though another matter is pending (V, 6834), the yeas and nays are demanded on another privileged motion (V, 6835), or the previous question has been ordered or moved on another matter (V, 6827, 6831–6833; VIII, 3418; Sept. 17, 1990, p. 24695). Earlier rulings did not permit a motion to suspend the rules to permit a vote to be taken in gross on a series of pending Senate amendments (V, 6828, 6830). The motion to suspend the rules has been ruled out of order when the House is considering a bill under a special order (V, 6838) or when a question of privilege under rule IX is before the House (V, 6825, 6826; VI, 553, 565), and yields to such questions of privilege (III, 2553; VI, 565). The motion to suspend the rules has been held of equal privilege with the motion to instruct conferees under former clause 1(c) of rule XXVIII (current clause 7(c) of rule XXII), which is of the highest privilege (Mar. 1, 1988, pp. 2749, 2751, 2754). A motion to suspend the rules and approve the Journal was held in order, although the Journal had not been read and the highly privileged motion to fix the day to which the House should adjourn was pending (IV, 2758). Moreover, in the absence of a motion to suspend, the ordinary motions relating to business of the House may be made on suspension days as on other days (IV, 3080).

The motion to suspend the rules may be made on days other than suspension days by unanimous consent (V, 6795) or by adoption of a resolution reported by the Committee on Rules. On suspension days the motion to suspend the rules has been admitted at the discretion of the Speaker since 1881 (V, 6791–6794, 6845; VIII, 3402–3404), and no appeal may be taken from the Speaker's denial of recognition (II, 1425).

§ 888. Individual and committee motions to suspend the rules.

Authorization by a committee is not required for the Speaker to recognize for a motion to suspend the rules (VIII, 3410), including a motion to suspend the rules and pass a measure "as amended" (June 22, 1992, p. 15617).

the 93d Congress, the rule gave to individuals preference on the first Monday of the month for making motions to suspend the rules, and preference on the third Mondays for committees to make the motion (V, 6790). If on a committee day an individual motion was made and seconded, it was then too late to make a point of order (V, 6809). In rare instances, under

earlier House practice, the Speaker called the committees in regular order for motions to suspend the rules, but this method was not required (V, 6810, 6811). The earlier practice also required a motion to be formally and specifically authorized by a committee (V, 6805–6807), including specific authorization to include an amendment (V, 6812); but after the motion was seconded and debate had begun it was too late to raise a question as to the authorization (V, 6808). The committee could not present a bill that had not been referred to it (V, 6813) or was not within its jurisdiction (V, 6848).

§ 889. The second of the motion to suspend the rules.

Before the 102d Congress, certain motions to suspend the rules were required to be seconded, if demanded, by a majority by tellers, but this requirement was eliminated from the rule (H. Res. 5, Jan. 3, 1991, p. 39). The requirement for a second was adopted in 1874, was rescinded two years later, but was again adopted in 1880. The object of it was to prevent consumption of the time of the House by forcing consideration of undesirable propositions (V, 6797). The requirement (formerly clause 2 of rule XXVII) was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) so that a second was not required where printed copies of the proposed measure were available. The constitutional right of a Member to demand the yeas and nays, or the right of a Member under clause 1(b) of rule XX to demand a recorded vote, did not exist on the question of ordering a second under the former clause 2 of rule XXVII, which only permitted the ordering of a second by tellers if a quorum was present (V, 6032–6036; VIII, 3109; Dec. 16, 1981, p. 31851). The fact that a majority of the Members of the House did not pass between the tellers on the question of ordering a second did not conclusively show that a quorum was not present in the Chamber, and the Speaker could count the House to determine whether a quorum was actually present (Dec. 16, 1981, p. 31851). However, where a quorum failed on the vote for a second, under clause 6 of rule XX the yeas and nays were ordered (IV, 3053–3055; Dec. 21, 1973, pp. 43251–63).

§ 889a. Withdrawal of motion.

A motion to suspend the rules may be withdrawn at any time before the Chair puts the question and a voice vote is taken thereon (V, 6840, 6844; VIII, 3405, 3419). The motion may be withdrawn by unanimous consent, even after the Speaker has put the question on its adoption and postponed further proceedings (Deschler, ch 21 § 13.23).

§ 890. Dilatory motions pending motions to suspend rules.

(b) Pending a motion that the House suspend the rules, the Speaker may entertain one motion that the House adjourn but may not entertain any other motion until the vote is taken on the suspension.

This provision (formerly clause 8 of rule XVI) was adopted in 1868 (V, 5743), and amended in 1911 (VIII, 2823). A technical change was effected in the 110th Congress (sec. 505(c), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)). A motion for a recess (V, 5748–5751) and for a call of the House when there was no doubt of the presence of a quorum (V, 5747) were held to be dilatory motions within the meaning of the rule. But where a motion to suspend the rules has been made and, after one motion to adjourn has been acted on, a quorum has failed, another motion to adjourn has been admitted (V, 5744–5746).

§ 891. The 40 minutes of debate on motion to suspend the rules.

(c) A motion that the House suspend the rules is debatable for 40 minutes, one-half in favor of the motion and one-half in opposition thereto.

This provision (formerly clause 2 of rule XXVII) was adopted in 1880 (V, 6821). It was amended and redesignated from clause 3 to clause 2 of rule XXVII in the 102d Congress to conform to the repeal of the former clause 2, relating to the requirement of a second (H. Res. 5, Jan. 3, 1991, p. 39). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XXVII. Former clause 2 consisted of paragraph (b) and another provision currently found in clause 1(a) of rule XIX permitting 40 minutes debate on an otherwise debatable question on which the previous question has been ordered without debate (H. Res. 5, Jan. 6, 1999, p. 47). Before the adoption of this provision in 1880 (V, 6821) the motion to suspend the rules was not debatable (V, 5405, 6820). The 40 minutes of debate is divided between the mover and a Member opposed to the bill, unless it develops that the mover is opposed to the bill, in which event some Member in favor is recognized for debate (VIII, 3416; Oct. 5, 2004, p. ——). When the mover and the opponent divide their time with others, the practice as to alternation of recognitions is not insisted on so rigidly as in other debate (II, 1442). Debate should be confined to the object of the motion and may not range to the merits of a bill not scheduled for suspension on that day (Nov. 23, 1991, p. 34189).

Where recognition for the 20 minutes in opposition is contested, the Speaker will accord priority first on the basis of true opposition, then on the basis of committee membership, and only then on the basis of party affiliation, the latter preference inuring to the minority party (VIII, 3415; Nov. 18, 1991, p. 32510). The Chair will not examine the degree of opposition to the motion by a member of the committee who seeks the time in opposition (Aug. 3, 1999, p. 19275). Any challenge to the Member recognized to control the time in opposition to the motion must be made when the time is allocated by the Chair (May 15, 1984, p. 12215; Speaker Wright, June 2, 1987, p. 14223).

This paragraph formerly included a provision dealing with the Speaker's authority to postpone further proceedings on motions to suspend the rules.

It was added in the 93d Congress (H. Res. 998, Apr. 9, 1974, pp. 10195–99), amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), and amended further in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). It was deleted entirely in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) when all of the Speaker's postponing authorities were consolidated into clause 5 of rule I (current clause 8 of rule XX).

Discharge motions, second and fourth Mondays

§ 892. Motion to discharge a committee.

2. (a) Motions to discharge committees shall be in order on the second and fourth Mondays of a month.

(b)(1) A Member may present to the Clerk a motion in writing to discharge—

(A) a committee from consideration of a public bill or public resolution that has been referred to it for 30 legislative days; or

(B) the Committee on Rules from consideration of a resolution that has been referred to it for seven legislative days and that proposes a special order of business for the consideration of a public bill or public resolution that has been reported by a standing committee or has been referred to a standing committee for 30 legislative days.

(2) Only one motion may be presented for a bill or resolution. A Member may not file a motion to discharge the Committee on Rules from consideration of a resolution providing for the consideration of more than one public bill or public resolution or admitting or effecting a nongermane amendment to a public bill or public resolution.

(c) A motion presented under paragraph (b) shall be placed in the custody of the Clerk, who

shall arrange a convenient place for the signatures of Members. A signature may be withdrawn by a Member in writing at any time before a motion is entered on the Journal. The Clerk shall make signatures a matter of public record, causing the names of the Members who have signed a discharge motion during a week to be published in a portion of the Congressional Record designated for that purpose on the last legislative day of the week and making cumulative lists of such names available each day for public inspection in an appropriate office of the House. The Clerk shall devise a means for making such lists available to offices of the House and to the public in electronic form. When a majority of the total membership of the House shall have signed the motion, it shall be entered on the Journal, published with the signatures thereto in the Record, and referred to the Calendar of Motions to Discharge Committees.

(d)(1) On the second and fourth Mondays of a month (except during the last six days of a session of Congress), immediately after the Pledge of Allegiance to the Flag, a motion to discharge that has been on the calendar for at least seven legislative days shall be privileged if called up by a Member whose signature appears thereon. When such a motion is called up, the House shall proceed to its consideration under this paragraph without intervening motion except one motion to adjourn. Privileged motions to discharge shall have precedence in the order of their entry on the Journal.

(2) When a motion to discharge is called up, the bill or resolution to which it relates shall be read by title only. The motion is debatable for 20 minutes, one-half in favor of the motion and one-half in opposition thereto.

(e)(1) If a motion prevails to discharge the Committee on Rules from consideration of a resolution, the House shall immediately consider the resolution, pending which the Speaker may entertain one motion that the House adjourn but may not entertain any other dilatory motion until the resolution has been disposed of. If the resolution is adopted, the House shall immediately proceed to its execution.

(2) If a motion prevails to discharge a standing committee from consideration of a public bill or public resolution, a motion that the House proceed to the immediate consideration of such bill or resolution shall be privileged if offered by a Member whose signature appeared on the motion to discharge. The motion to proceed is not debatable. If the motion to proceed is adopted, the bill or resolution shall be considered immediately under the general rules of the House. If unfinished before adjournment of the day on which it is called up, the bill or resolution shall remain the unfinished business until it is disposed of. If the motion to proceed is rejected, the bill or resolution shall be referred to the appropriate calendar, where it shall have the same status as if the committee from which it was discharged had duly reported it to the House.

(f)(1) When a motion to discharge originated under this clause has once been acted on by the House, it shall not be in order to entertain during the same session of Congress—

(A) a motion to discharge a committee from consideration of that bill or resolution or of any other bill or resolution that, by relating in substance to or dealing with the same subject matter, is substantially the same; or

(B) a motion to discharge the Committee on Rules from consideration of a resolution providing a special order of business for the consideration of that bill or resolution or of any other bill or resolution that, by relating in substance to or dealing with the same subject matter, is substantially the same.

(2) A motion to discharge on the Calendar of Motions to Discharge Committees that is rendered out of order under subparagraph (1) shall be stricken from that calendar.

This clause (formerly clause 3 of rule XXVII) was adopted December 8, 1931, and amended January 3, 1935 (VII, 1007). It displaced a rule providing for a motion to instruct a committee to report a public bill or resolution. The first discharge rule was adopted in the 61st Congress (June 17, 1910, pp. 8439, 8445). It was amended during the 62d Congress (Apr. 4–5, 1911, pp. 18, 80). It was further amended in the 62d Congress (H. Res. 407, Feb. 3, 1912, p. 1685), the 68th Congress (H. Res. 146, Jan. 18, 1924, p. 1143), and the 69th Congress (H. Res. 6, Dec. 7, 1925, p. 383). This provision was redesignated from clause 4 to clause 3 in the 102d Congress to conform to the repeal of the former clause 2 of rule XXVII, relating to the requirement of a second; it was at the same time amended to enable debate on a resolution discharged from the Committee on Rules (H. Res. 5, Jan. 3, 1991, p. 39). Under the previous form of the rule, where the Committee on Rules was discharged from further consideration of a resolution the House immediately voted on adoption of the resolution (Speaker Rayburn, Jan. 24, 1944, p. 631).

In the 103d Congress, after a successful petition under this clause placed on the calendar a motion to discharge the Committee on Rules from further

consideration of a resolution to require publication of the names of Members who had signed pending discharge petitions, the clause was so amended (H. Res. 134, Sept. 28, 1993, p. 22698). In the 104th Congress the clause was amended to ensure the periodic publication of such names (sec. 219, H. Res. 6, Jan. 4, 1995, p. 468). Before the 103d Congress signatures on a motion to discharge a committee were not made public until the requisite number had signed the motion (VII, 1008; Apr. 12, 1934, p. 6489). In the 105th Congress the clause was amended to clarify that, to be a proper object of a discharge petition, a resolution providing a special rule must address the consideration of only one measure and must not propose to admit or effect a nongermane amendment (H. Res. 5, Jan. 7, 1997, p. 121). A clerical correction was effected in the 107th Congress (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 26) and a technical correction was effected in the 110th Congress (sec. 505(d), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)).

The phrase "a majority of the total membership of the House" was construed to mean 218 Members (Speaker Byrns, Apr. 15, 1936, p. 5509), not including Delegates or the Resident Commissioner; and a Delegate or the Resident Commissioner may not sign a discharge petition even by unanimous consent (Oct. 1, 2003, p. ——). The rule does not authorize signature of discharge motions by proxy (VII, 1014). When a Member withdraws his signature from a discharge petition at any time before it garners 218 signatures and is entered on the Journal, the withdrawal is printed in the Record (Apr. 23, 1998, p. 6590).

The rule does not apply to a bill that has been reported by a committee during the interval between the placing of a motion to discharge on the calendar and the day when such motion is called up for action in the House (Apr. 23, 1934, p. 7156). The Committee on Rules may not be discharged from further consideration of a resolution providing for an investigating committee (Apr. 23, 1934, p. 7161).

The death or resignation of a Member who has signed a motion does not invalidate his signature because a majority of the whole House is necessary for a discharge motion (May 31, 1934, p. 10159). It may be withdrawn by his successor (Dec. 7, 1943, p. 10388; Jan. 17, 1946, p. 96; Mar. 5, 1946, p. 1968; July 30, 1946, pp. 10464, 10491; Mar. 2, 1948, pp. 1993, 2001; Jan. 16, 1950, p. 436). The seven days that the motion must be on the calendar before it may be called up begins to run as of the day the motion is placed on the calendar (Dec. 14, 1937, p. 1517). A discharge petition in the 102d Congress received the requisite number of signatures on the same day it was filed (May 20, 1992, p. 12222), and subsequently by unanimous consent the House dispensed with the motion to discharge and agreed to consider the object of the petition (a special order of business resolution) on a date certain under the same terms as if discharged by motion (June 4, 1992, p. 13618). In the 103d Congress a discharge petition also received the requisite number of signatures on the same day it was filed (Feb. 24, 1994, p. 2999). In the 107th Congress a petition received

the requisite signatures to enable a motion to discharge a rule providing for the consideration of a measure to provide campaign finance reform (Jan. 24, 2002, pp. 145–56).

The right to close debate on a motion to discharge a committee is reserved to the proponent of the motion (VII, 1010a); and the chairman of the committee being discharged, if opposed to the motion, has been recognized to control the 10 minutes in opposition (Aug. 10, 1970, p. 27999).

Where a measure not requiring consideration in the Committee of the Whole House on the state of the Union is brought before the House by a successful motion to discharge, the Member moving its consideration is recognized in the House under the hour rule (Aug. 10, 1970, p. 28004).

The point of order provided in clause 4 of rule XXI (formerly clause 5(a) of rule XXI) does not apply to an appropriation in a bill taken away from a committee by the motion to discharge (VII, 1019a).

Under Jefferson's Manual (§ 364, *supra*) a line of Members waiting to sign a discharge petition should proceed to the rostrum from the far right-hand aisle and should not stand between the Chair and Members engaging in debate (Oct. 24, 1997, p. 23293).

Adverse report by the Committee on Rules, second and fourth Mondays

§ 893. Adverse report by Rules Committee.

3. An adverse report by the Committee on Rules on a resolution proposing a special order of business for the consideration of a public bill or public joint resolution may be called up under clause 6(e) of rule XIII as a privileged question by a Member, Delegate, or Resident Commissioner on a day when it is in order to consider a motion to discharge committees under clause 2.

This provision was initially adopted January 18, 1924, amended December 8, 1931 (VIII, 2268), January 3, 1949 (p. 16), January 3, 1951 (p. 18), January 4, 1965 (p. 24) (inserting the so-called "21-day rule"), January 10, 1967 (H. Res. 7, p. 28) (deleting the "21-day rule" in effect in the 89th Congress), January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Before the House recodified its rules in the 106th Congress, this provision was found only in former clause 4(c) of rule XI. It is currently found in both this provision and clause 6(e) of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47).

District of Columbia business, second and fourth Mondays

§ 894. District of Columbia.

4. The second and fourth Mondays of a month shall be set apart for the consideration of such District of Columbia business as may be called up by the Committee on Oversight and Government Reform after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only.

The first rule allocating a fixed day for District of Columbia business was adopted in 1870. In 1890 the rule (formerly clause 8 of rule XXIV) was amended (IV, 3304). It was again amended December 8, 1931 (VII, 872). In the 104th Congress it was amended to reflect that the jurisdiction of the former Committee on the District of Columbia had been subsumed within the amalgamated jurisdiction of the newly designated Committee on Government Reform and Oversight (and in the 106th and 110th Congresses to reflect a change in the name of a committee) (sec. 202, H. Res. 6, Jan. 4, 1995, p. 465; H. Res. 5, Jan. 6, 1999, p. 47; sec. 215(f), H. Res. 6, Jan. 4, 2007, p. ——). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 8 of rule XXIV (H. Res. 5, Jan. 6, 1999, p. 47).

The Committee on Government Reform and Oversight (now Oversight and Government Reform) may not, on a District day, call up a bill reported from another committee (IV, 3311). If certain of the committee's bills are on one of the calendars of the Committees of the Whole, a motion to go into committee to consider them is in order (IV, 3310). Bills reported from the District Committee (now Oversight and Government Reform) are not so privileged as to prevent their being taken up under call of committees on Wednesday (VII, 937). Business unfinished on one District day does not come up on the next unless called up (IV, 3307; VII, 879, 880). The question of consideration may not be demanded against District business generally, but may be demanded against any bill as it is presented (IV, 3308, 3309).

On District days it is in order to go into the Committee of the Whole to consider revenue or general appropriation bills (VI, 716–718; VII, 876, 1123). Consideration of conference reports is in order on District Monday (VIII, 3202). District of Columbia business is in order on the second and fourth Mondays of the month before or after other business (such as motions to suspend the rules), and the fact that the House has considered some District of Columbia business before motions to suspend the rules

does not affect the eligibility of further such business after suspensions have been completed (Sept. 17, 1984, p. 25523).

Private Calendar, first and third Tuesdays

§ 895. Interruption of the regular order on Tuesdays for consideration of the Private Calendar.

5. (a) On the first Tuesday of a month, the Speaker shall direct the Clerk to call the bills and resolutions on the Private Calendar after disposal of such business on the Speaker's table as requires reference only. If two or more Members, Delegates, or the Resident Commissioner object to the consideration of a bill or resolution so called, it shall be recommitted to the committee that reported it. No other business shall be in order before completion of the call of the Private Calendar on this day unless two-thirds of the Members voting, a quorum being present, agree to a motion that the House dispense with the call.

(b)(1) On the third Tuesday of a month, after the disposal of such business on the Speaker's table as requires reference only, the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar. Preference shall be given to omnibus bills containing the texts of bills or resolutions that have previously been objected to on a call of the Private Calendar. If two or more Members, Delegates, or the Resident Commissioner object to the consideration of a bill or resolution so called (other than an omnibus bill), it shall be recommitted to the committee that reported it. Two-thirds of the Members voting, a quorum being present, may adopt

a motion that the House dispense with the call on this day.

(2) Omnibus bills shall be read for amendment by paragraph. No amendment shall be in order except to strike or to reduce amounts of money or to provide limitations. An item or matter stricken from an omnibus bill may not thereafter during the same session of Congress be included in an omnibus bill. Upon passage such an omnibus bill shall be resolved into the several bills and resolutions of which it is composed. The several bills and resolutions, with any amendments adopted by the House, shall be engrossed, when necessary, and otherwise considered as passed severally by the House as distinct bills and resolutions.

(c) The Speaker may not entertain a reservation of the right to object to the consideration of a bill or resolution under this clause. A bill or resolution considered under this clause shall be considered in the House as in the Committee of the Whole. A motion to dispense with the call of the Private Calendar under this clause shall be privileged. Debate on such a motion shall be limited to five minutes in support and five minutes in opposition.

§ 896. Tuesday as a day for private business.

This provision (formerly clause 6 of rule XXIV) was adopted in the 62d Congress in lieu of special orders under which pension and private business formerly had been considered. The rule was amended on April 23, 1932 (VII, 846) and was adopted in its present form on March 27, 1935 (pp. 4480–89, 4538). When the House recodified its rules in the 106th Congress, this provision was transferred from former clause 6 of rule XXIV and the archaic reference to the "Calendar of the Committee of the Whole House" was changed to the "Private Calendar" (H. Res. 5, Jan. 6, 1999, p. 47).

A Member serving as an "official objector" for the Private Calendar has periodically included in the Record an explanation of how bills on the Private Calendar are considered (see, *e.g.*, Dec. 5, 1995, p. 35354; June 17, 1997, p. 11015; Nov. 17, 2003, p. ——). Clause 4 of rule XII prohibits consideration of certain private bills. Under former clause 6(e)(2) of rule XV (current clause 7(b) of rule XX), the Speaker may in his discretion recognize a Member to move a call of the House before the call of the Private Calendar (July 8, 1987, p. 18972).

§ 897. Methods of considering omnibus bills.

During the consideration of omnibus bills the Chair declines to recognize Members for unanimous-consent requests to address the House (May 7, 1935, p. 7100); motions to strike out the last word are not in order, and requests for extension of time under the five-minute rule are not entertained (Speaker Byrns, Mar. 17, 1936, pp. 3890, 3894).

An omnibus private bill is normally passed over by the Clerk when the Private Calendar is called on the first Tuesday of the month, but the House may prescribe, by special order, that such omnibus bills shall be passed over (June 27, 1968, p. 19106). During the consideration of the First Omnibus Bill of 1968, seven roll calls occurred and seven of the 15 bills carried therein were stricken by motion (Sept. 17, 1968, pp. 27165–84). Amendments to the bill were strictly limited by the rule to those striking out or reducing amounts of money carried in the bill or to provide limitations, and debate on those permissible motions was under the five-minute rule. After the passage of an omnibus bill, it is resolved into the various private bills of which it is composed and each is engrossed and messaged to the Senate as if individually passed; thus it is possible, after passage of the omnibus bill, to lay on the table a private House or Senate bill that was included therein (by unanimous consent) (Sept. 17, 1968, p. 27184).

On the third Tuesday of the month, the calendar is not called unless the Speaker so directs (Oct. 16, 1990, p. 29646); and when he does direct the Clerk to call the Private Calendar, omnibus bills on the Calendar are called before individual bills thereon (Feb. 17, 1970, pp. 3605–13). A motion to dispense with the call of the Private Calendar on the third Tuesday of each month is likewise in order in the discretion of the Chair because no rule or precedent prohibits the motion, and it is consistent with the discretionary authority of the Chair to dispense with the call of the entire Calendar (Nov. 17, 1981, p. 27770 (sustained by tabling of appeal)).

§ 898. Former Corrections Calendar.

In the 109th Congress the Corrections Calendar (formerly clause 6 of rule XV) was abolished (sec. 2(f), H. Res. 5, Jan. 4, 2005, p. ——). The Corrections Calendar was established in the 104th Congress as a replacement for the Consent Calendar (H. Res. 168, June 20, 1995, p. 16574). Later in the 104th Congress several technical changes were effected to admit amendments by a designee of the chairman of the primary committee (H. Res. 254, Nov. 30, 1995, p. 14974). In the 105th Congress it was amended to permit bills to be called from the Calendar at any time on a "corrections day" and

in any order (H. Res. 5, Jan. 7, 1997, p. 121). In the 107th Congress it was amended to delete the requirement that a bill be on the Corrections Calendar for three days before being called therefrom (sec. 2(n), H. Res. 5, Jan. 3, 2001, p. 25). Before the House recodified its rules in the 106th Congress, the provision was found in former clause 4 of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47). The House could by unanimous consent direct the call of the Corrections Calendar on a day other than a "corrections day" (June 24, 1996, p. 14974). In the 105th Congress the House established a Corrections Calendar Office to assist the Speaker in management of the Calendar (H. Res. 7, Jan. 7, 1997, p. 142; 2 U.S.C. 74d; see § 1124, *infra*). Section 106 of the Legislative Branch Appropriations Act, 2004, transferred the positions, and associated funding, of the Corrections Calendar Office to the Speaker and the Minority Leader (117 Stat. 1041).

§ 899. Former Consent Calendar.

Former clause 4 of rule XIII, providing for the former Consent Calendar, was adopted March 15, 1909, amended January 18, 1924; December 7, 1925; December 8, 1931; and April 23, 1932 (VII, 972). Bills must have been on the printed calendar three legislative days in order to be eligible for consideration (VII, 992, 994). When a House bill was on the Consent Calendar, by unanimous consent the House committee could have been discharged from the consideration of a Senate bill on the same subject, and the Senate bill considered in lieu of the House bill (VII, 1004). The status of bills on the Consent Calendar was not affected by their prior placement on another calendar and such bills could have been called up for consideration from the Consent Calendar while pending as unfinished business in the House or Committee of the Whole (VII, 1006).

The former rule did not preclude the Speaker from recognizing Members to suspend the rules before completion of the Consent Calendar (decided by the House, VIII, 3405; also held by Speaker Clark, Oct. 5, 1914, p. 16182, and by Speaker Gillett, Sept. 4, 1919, p. 5128). Recognition to suspend the rules did not preclude the continuation of the call of the calendar later in the day (VII, 991). The call of the Consent Calendar on days devoted to its consideration took precedence of the motion to go into the Committee of the Whole to consider revenue or appropriation bills (VII, 986), and a contested-election case could not supplant the call of the Calendar (VII, 988), but the Speaker could recognize a Member to call up a conference report before directing the call of the Consent Calendar (May 4, 1970, pp. 13991–95).

Calendar Call of Committees, Wednesdays

§ 900. Calendar Wednesday business.

6. (a) On Wednesday of each week, business shall not be in order before completion of the call of the committees (except as provided by clause 4 of rule XIV) un-

less two-thirds of the Members voting, a quorum being present, agree to a motion that the House dispense with the call. Such a motion shall be privileged. Debate on such a motion shall be limited to five minutes in support and five minutes in opposition.

(b) A bill or resolution on either the House or the Union Calendar, except bills or resolutions that are privileged under the Rules of the House, may be called under this clause. A bill or resolution called up from the Union Calendar shall be considered in the Committee of the Whole House on the state of the Union without motion, subject to clause 3 of rule XVI. General debate on a measure considered under this clause shall be confined to the measure and may not exceed two hours equally divided between a proponent and an opponent.

(c) When a committee has occupied the call under this clause on one Wednesday, it shall not be in order on a succeeding Wednesday to consider unfinished business previously called up by that committee until the other committees have been called in their turn unless—

(1) the previous question has been ordered on such unfinished business; or

(2) the House adopts a motion to dispense with the call under paragraph (a).

(d) If any committee has not been called under this clause during a session of a Congress, then at the next session of that Congress the call shall resume where it left off at the end of the preceding session.

(e) This clause does not apply during the last two weeks of a session of Congress.

(f) The Speaker may not entertain a motion that the Speaker be authorized to declare a recess on a Wednesday except during the last two weeks of a session of Congress.

The first portion of this rule (formerly clause 7 of rule XXIV) was adopted March 1, 1909, and amended March 15, 1909. The last sentence of paragraph (b) (first proviso of former clause 7 of rule XXIV) and paragraph (c) (second proviso of former clause 7 of rule XXIV) were adopted January 18, 1916. Paragraph (d) (the last proviso of former clause 7 of rule XXIV) was adopted December 8, 1931 (VII, 881), and was amended in the 102d Congress to specify that the alphabetical call of the committees under Calendar Wednesday resumes where left off between sessions within a Congress (H. Res. 5, Jan. 3, 1991, p. 39). Technical corrections to paragraphs (e) and (f) were effected in the 109th Congress (sec. 2(l), H. Res. 5, Jan. 4, 2005, p. ——).

§ 901. Decisions on Calendar Wednesday.

The rule applies to unprivileged bills only, and when a bill otherwise unprivileged is given a privileged status by unanimous consent or by rule it is automatically rendered ineligible for consideration on Calendar Wednesday (VII, 932–935). House Calendar bills have no preference over Union Calendar bills (VII, 938). The motion to dispense with a call of committees under this rule is privileged and may be made before the consideration of District of Columbia business under clause 4 of this rule (June 11, 1973, pp. 19028–30).

When a bill on the Union Calendar is called up on Calendar Wednesday the House automatically resolves itself into the Committee of the Whole House on the state of the Union (VII, 939; Jan. 25, 1984, p. 358), and when a Union Calendar bill is the unfinished business the Speaker declares the House in Committee of the Whole without motion (VII, 940, 942).

The question of consideration may be raised on a bill on the House Calendar on Calendar Wednesday, even after one Wednesday has been devoted to its consideration (VIII, 2447), and the question of consideration is properly raised on Union Calendar bills before automatically resolving into Committee of the Whole House on the state of the Union (VII, 952).

During the 61st and 62d Congresses it was held that the call of committees rested where the call left off on the preceding day, whether the last call was on a Wednesday or during the morning hour on another day, thus making but one committee call under the two rules. But under the later practice there have been two distinct calls of committees, one under clause 4 of rule XIV (formerly clause 4 of rule XXIV), the morning hour, and another under Calendar Wednesday (VII, 944). Before the adoption of paragraph (c) (the second proviso of former clause 7 of rule XXIV), it

was held that one committee could not occupy more than two Calendar Wednesdays (except for unfinished business) until other committees were called, notwithstanding the fact that the call rested on said committee (VII, 944), but the adoption of the second proviso of the rule has defined the status of debate and unfinished business more explicitly. It was formerly held that a bill undisposed of on Calendar Wednesday became the unfinished business on the following Calendar Wednesday (VII, 965), but since the adoption of paragraph (c) (the second proviso of former clause 7 of rule XXIV), a committee may occupy but one Calendar Wednesday for the consideration of its business (unless the House by two-thirds vote shall otherwise determine).

The same rule of debate applies to House Calendar bills called up on Calendar Wednesday as on other days, and the Member in charge of the bill may move the previous question at any time (VII, 955).

The previous question having been ordered on a bill undisposed of when the House adjourns Tuesday, the bill goes over as unfinished business until Thursday, and is not in order for consideration on Calendar Wednesday (VII, 890–894). The previous question having been ordered on a bill on Calendar Wednesday, the bill becomes the unfinished business on Thursday (VII, 895, 967).

It is in order to consider a vetoed bill on Calendar Wednesday, since such a question is privileged under the Constitution of the United States (VII, 912), but a bill privileged by reason of the Rules of the House cannot be called up on Calendar Wednesday (VII, 932); for example, a general appropriation bill (VII, 904), or a bill under consideration by reason of a special order, unless the special order expressly sets aside Calendar Wednesday (VII, 773), or a conference report (VII, 899). A motion to reconsider an action taken on a bill on Tuesday may be entered, but may not be considered on Calendar Wednesday (VII, 905). Privileged bills may be reported but not considered on Calendar Wednesday (VII, 907), except by unanimous consent (Jan. 25, 1984, p. 357). The Speaker has entertained a unanimous-consent request for business (to send a bill to conference) before the call of committees on Calendar Wednesday (Mar. 28, 1984, p. 6869). District of Columbia business is eligible for consideration on Calendar Wednesday (VII, 937). Once the call of committees on Calendar Wednesday is completed, other business may be conducted (VII, 921).

The Committee on Rules cannot report a rule that is aimed strictly or directly toward setting aside Calendar Wednesday, but the committee is not thereby prevented from reporting a resolution couched in general terms that may indirectly accomplish that ultimate result, such as a resolution providing for six days' suspension of the rules (VIII, 2267).

The motion to grant a committee an additional Wednesday under paragraph (c) (the second proviso of former clause 7 of rule XXIV) is in order before the Wednesday on which the committee is called (VII, 946).

It has been held that if no Member opposed to the bill desires to claim the hour specified in the rule for general debate against the bill, the time

may be claimed by some Member who is in favor of the bill (VII, 962), but this principle has been questioned (VII, 961).

Clause 2(b) of rule XIII (formerly clause 2(l)(1) of rule XI), requiring the chairman of each committee to report or cause to be reported promptly measures approved by his committee and to take such necessary steps to bring the matter to a vote, is sufficient authority for the chairman to call up a bill on Calendar Wednesday, but any other committee member must obtain specific authority of his committee to call up a reported bill on Calendar Wednesday (VII, 928, 929; Feb. 22, 1950, p. 2162; Feb. 1, 1984, p. 1193; Sept. 12, 1984, p. 25100; Apr. 18, 2007, p. ——). Before the Legislative Reorganization Act of 1946 and the subsequent adoption of former clause 2(l)(1)(A) of rule XI, authority to call up a bill on Calendar Wednesday must have been given to a chairman by his committee (IV, 3127).

RULE XVI

MOTIONS AND AMENDMENTS

Motions

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

1. Every motion entertained by the Speaker shall be reduced to writing on the demand of a Member, Delegate, or Resident Commissioner and, unless it is withdrawn the same day, shall be entered on the Journal with the name of the Member, Delegate, or Resident Commissioner offering it. A dilatory motion may not be entertained by the Speaker.

In 1880 the first sentence of this clause was composed of language adopted in 1789 and 1806 (V, 5300). The last sentence of this clause (formerly clause 10 of rule XVI) was adopted in 1890 (V, 5706) to make permanent a principle already enunciated in a ruling of the Speaker, who had declared that the "object of a parliamentary body is action, and not stoppage of action" (V, 5713). When the House recodified its rules, it consolidated clause 1 and former clause 10 of rule XVI under this clause (H. Res. 5, Jan. 6, 1999, p. 47).

Because of this provision it has been held not in order to amend or strike a Journal entry setting forth a motion exactly as made (IV, 2783, 2789). A motion not entertained is not entered on the Journal (IV, 2813, 2844–2846). See § 71, *supra*, for discussion of Journal entries. Any Member may

demand that a motion be reduced to writing and in the proper form, including the motion to adjourn (Sept. 27, 1993, p. 22608; Jan. 4, 1995, p. 509), and the demand may be initiated by the Chair (July 24, 1986, p. 17641). Consistent with this clause, the chairman of the Committee of the Whole requires that each amendment be reduced to writing (July 22, 1994, p. 17617). Although a motion to recommit is properly presented in writing, no rule requires that the proponent distribute copies on the floor (June 28, 2000, p. 12749).

§ 903. Dilatory motions.

The Speaker has declined to entertain debate or appeal on a question as to the dilatoriness of a motion, as to do so would be to nullify the rule (V, 5731); but has recognized that the authority conferred by the rule should not be exercised until the object of the dilatory motion "becomes apparent to the House" (V, 5713, 5714). For example, the Chair has held that a virtually consecutive invocation of former rule XXX (current clause 6 of rule XVII), resulting in a second pair of votes on use of a chart and on reconsideration thereof, was not dilatory under this provision (or former clause 4(b) of rule XI (current clause 6(b) of rule XIII)) (July 31, 1996, p. 20700). Usually, but not always, the Speaker awaits a point of order from the floor before acting (V, 5715–5722). The rule has been applied to the motions to adjourn (V, 5721, 5731–5733; VIII, 2796, 2813), to reconsider (V, 5735; VIII, 2797, 2815, 2822), to fix the time of five-minute debate in Committee of the Whole (V, 5734; VIII, 2817), to lay on the table (VIII, 2816), and to the question of consideration (V, 5731–5733). The point of "no quorum" also has been ruled out (V, 5724–5730; VIII, 2801, 2808), and former clause 6 of rule XV (current clause 7 of rule XX), as adopted in the 93d Congress and as amended in the 95th Congress prevents the making of a point of no quorum under certain circumstances. A demand for tellers has been held dilatory (V, 5735, 5736; VIII, 2436, 2818–2821), but the constitutional right of the Member to demand the yeas and nays may not be overruled (V, 5737; VIII, 3107). For ruling by Speaker Gillett construing dilatory motions, see VIII, 2804. For discussion of dilatory motions pending consideration of a report from the Committee on Rules, see §§ 857–858, *supra*.

Withdrawal

§ 904. Stating and withdrawing of motions.

2. When a motion is entertained, the Speaker shall state it or cause it to be read aloud by the Clerk before it is debated. The motion then shall be in the possession of the House but may be withdrawn at any time before a decision or amendment thereon.

The provisions of this clause were adopted first in 1789. At that time a second was required for every motion, but in practice this requirement became obsolete very early, and it was dropped from the rule in 1880 (V, 5304). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

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

Under certain circumstances (such as the practice of extinguishing reconsideration by laying a motion to reconsider on the table), a Member may offer a double motion (V, 5637).

§ 905. Conditions of withdrawal of motions.

A motion may be withdrawn at any time before a decision thereon, including a motion to instruct conferees (Oct. 31, 2000, p. 25737) and a contempt resolution (Oct. 27, 2000, p. 25200). Unanimous consent is not required to withdraw a pending unanimous-consent request (Dec. 16, 1985, p. 36575).

While the House was dividing on a second of the previous question (this second is no longer required) on a motion to refer a resolution, the Member was permitted to withdraw the resolution (V, 5350). A motion was withdrawn after the previous question had been ordered on an appeal from a decision on a point of order as to the motion (V, 5356).

A motion to suspend the rules could be withdrawn at any time before a second was ordered (a second is no longer required) (V, 6844; VIII, 3405, 3419), even on another suspension day (V, 6844). However, the motion could not be withdrawn if a second were ordered, except by unanimous consent (VIII, 3420). In the modern practice, where a second is not required on a motion to suspend the rules, the motion may be withdrawn at any time before action is taken thereon (July 27, 1981, p. 17563).

A motion may be withdrawn although an amendment has been offered and is pending (V, 5347; VI, 373; VIII, 2639). In the House an amendment, whether simple or in the nature of a substitute, may be withdrawn at any time before an amendment is adopted thereto or a decision is had thereon (VI, 587; VIII, 2332, 2764). The same right to withdraw an amendment exists in the House as in Committee of the Whole (IV, 4935; June 26, 1973, p. 21315) and in standing committees where general procedures of the House as in the Committee of the Whole apply (§ 427, *supra*). However, unanimous consent to withdraw an amendment is required in Committee of the Whole (V, 5221, 5753; VI, 570; VIII, 2465, 2859, 3405), unless withdrawal authority has been conferred by the House (July 22, 1999, p. 17291; Apr. 3, 2003, pp. 8490, 8491). An amendment disposed of in the

Committee of the Whole by voice vote may not be withdrawn (June 17, 2004, p. ——).

A motion may be withdrawn after the affirmative side has been taken on a division (V, 5348). Withdrawal of a pending resolution is not in order when the absence of a quorum has been announced by the Chair (Oct. 14, 1970, pp. 36665–69). A motion that the House resolve into the Committee of the Whole for the consideration of a bill may be withdrawn pending a point of order against consideration of the bill. If the motion is withdrawn, the Chair is not obligated to rule on the point of order (VIII, 3405; Dec. 3, 1979, p. 34385).

A decision that prevents withdrawal may consist of the following: (1) the ordering of the yeas and nays (V, 5353), either directly on the motion or on a motion to lay it on the table (V, 5354); (2) the ordering of the previous question (V, 5355; June 29, 1995, p. 17967), or the demand therefor (V, 5489), or (3) the refusal to lay on the table (V, 5351, 5352; VIII, 2640).

Where the Speaker has put the question on adoption of a resolution to a voice vote without the ordering of the previous question, and the yeas and nays have not been ordered, the resolution may be withdrawn (V, 5349; Feb. 26, 1985, p. 3501). A privileged resolution called up in the House is debated under the hour rule; and the Member calling up such a resolution is recognized for an hour notwithstanding the fact that the resolution has been previously considered, debated, and then withdrawn before action thereon (Apr. 8, 1964, pp. 7303–08).

Where proceedings are postponed on a motion for the previous question pending a point of no quorum on a voice vote thereon (pursuant to former clause 5 of rule I (current clause 8 of rule XX)), the manager may withdraw the motion when it is again before the House as unfinished business (July 24, 1989, p. 15818).

A Member having the right to withdraw a motion before a decision thereon has the resulting power to modify the motion (V, 5358; Oct. 23, 1990, p. 32667), and a Member having the right to withdraw a motion to instruct conferees before a decision thereon has the resulting power to modify the motion by offering a different motion at the same stage of proceedings (July 14, 1993, p. 15661). A motion being withdrawn, all proceedings on an appeal arising from a point of order related to it fell thereby (V, 5356).

Question of consideration

§ 906. The question of consideration.

3. When a motion or proposition is entertained, the question, "Will the House now consider it?" may not be put unless demanded by a Member, Delegate, or Resident Commissioner.

The question of consideration is an outgrowth of the practice of the House, and was in use as early as 1808. The rule was adopted in 1817 in order to limit its use. Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). It is the means by which the House protects itself from business that it does not wish to consider (V, 4936; VIII, 2436). The refusal to consider does not amount to the rejection of a bill or prevent its being brought before the House again (V, 4940), and an affirmative vote does not prevent the question of consideration from being raised on a subsequent day when the bill is again called up as unfinished business (VIII, 2438). It has once been held that a question of privilege that the House has refused to consider may be brought up again on the same day (V, 4942). The question of consideration is not debatable (VIII, 2447), and thus not subject to the motion to lay on the table (Oct. 4, 1994, p. 27643). See also clause 6 of rule XIV (§ 884, *supra*), which provides that questions relating to the priority of business are not debatable.

§ 907. Raising the question of consideration.

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

The intervention of an adjournment does not destroy the right to raise the question of consideration (V, 4946), but this right did not hold good in a case where the yeas and nays had been ordered and the House had adjourned pending the failure of a quorum on the roll call (V, 4949). A question of consideration undisposed of at an adjournment does not recur as unfinished business on a succeeding day (V, 4947, 4948). It is not in order to reconsider the vote whereby the House refuses to consider a bill (V, 5626, 5627), although it is in order to reconsider an affirmative vote on the question of consideration (Oct. 4, 1994, p. 27644).

§ 908. Questions subject to the question of consideration.

The question of consideration may be demanded against a matter of the highest privilege, such as the right of a Member to his seat (V, 4941), a question involving the privilege of the House (VI, 560), against the motion to reconsider (VIII, 2437), but not against a bill returned with the President's objection (V, 4960, 4970). It may not be raised against a proposition before the House merely for reference, as a petition (V, 4964). It may not be demanded against a class of business in order under a special order or rule, but may be demanded against each bill individually (IV, 3308, 3309; V, 4958, 4959). It may be raised against

a bill the consideration of which has been provided by a special order of business (IV, 3175; V, 4953–4957; June 22, 2006, p. ——; Jan. 24, 2007, p. ——; Jan. 31, 2007, p. ——), unless the order provides for immediate consideration (V, 4960) or provides for the Speaker's declaration that the House resolve into the Committee of the Whole under clause 2 of rule XVIII. The question may be raised against a bill on the Union Calendar on Calendar Wednesday before resolving into the Committee of the Whole even after one Wednesday has been devoted to it (VIII, 2447); but it may not be raised against a report from the Committee on Rules relating to the order of considering individual bills (V, 4961–4963; VIII, 2440, 2441, see § 858, *supra*).

The question of consideration may not be raised on a motion relating to the order of business (V, 4971–4976; VIII, 2442; May 21, 1958, p. 9216); to a motion to discharge a committee (V, 4977); or against a motion to take from the Speaker's table Senate bills substantially the same as House bills already favorably reported and on the House Calendar (VIII, 2443). On a motion to go into Committee of the Whole to consider a bill the House expresses its wish as to consideration by its vote on this motion (V, 4973–4976; VI, 51; VIII, 2442; May 21, 1958, p. 9216), and the question of consideration is not available after the House has resolved into the Committee of the Whole (May 10, 2007, p. ——).

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

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

§ 910. Unfunded mandates; congressional earmarks.

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4; 109 Stat. 48) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658–658g) that imposes several requirements on committees with respect to "Federal mandates" (secs. 423–424; 2 U.S.C. 658b–c), establishes points of order to permit votes on whether to enforce those requirements (sec. 425; 2 U.S.C. 658d), and permits a vote on the question of consideration of a rule or order waiving such points of order in the House (sec. 426(a); 2 U.S.C. 658e(a)). The latter provision also prescribes that such points of order be disposed of by the question of consideration with respect to the proposition against which they are lodged (after 20 minutes of debate) (sec. 426(b); 2 U.S.C. 658e(b)). See § 1127, *infra*.

Clause 9of rule XXI establishes a point of order against consideration of certain measures for failure to disclose (or disclaim the presence of) certain earmarks, tax benefits, and tariff benefits (paragraph (a)), and permits a vote on the question of consideration of a rule or order waiving such points of order (paragraph (b)). Certain cognizability thresholds are established for points of order under the rule (paragraph (c)). See § 1068d, *infra*.

Precedence of motions

§ 911. Precedence of privileged motions.

4. (a) When a question is under debate, only the following motions may be entertained (which shall have precedence in the following order):

(1) To adjourn.

(2) To lay on the table.

(3) For the previous question.

(4) To postpone to a day certain.

(5) To refer.

(6) To amend.

(7) To postpone indefinitely.

(b) A motion to adjourn, to lay on the table, or for the previous question shall be decided without debate. A motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, may not be allowed again on the same day at the same stage of the question.

(c)(1) It shall be in order at any time for the Speaker, in his discretion, to entertain a motion—

(A) that the Speaker be authorized to declare a recess; or

(B) that when the House adjourns it stand adjourned to a day and time certain.

(2) Either motion shall be of equal privilege with the motion to adjourn and shall be decided without debate.

The first form of this clause appears in 1789, but amendments have been made at various times (V, 5301; VIII, 2757). Paragraph (c) (former final two sentences of the clause) were added in the 93d Congress to enable a privileged, nondebatable motion to fix the adjournment (H. Res. 6, Jan. 3, 1973, pp. 26–27), and amended in the 102d Congress to enable a privileged, nondebatable motion for recess authority (H. Res. 5, Jan. 3, 1991, p. 39). When the House recodified its rules in the 106th Congress, the provision of this clause addressing the motion for the previous question was transferred to clause 2 of rule XIX (H. Res. 5, Jan. 6, 1999, p. 47).

The application of the first sentence of the clause is confined to cases wherein a question is "under debate" (V, 5379). It has been held that a question ceases to be "under debate" after the previous question has been ordered (V, 5415). For a discussion of the motion for the previous question, see §§ 994–1000, *infra*.

§ 912. The motion to adjourn.

The motion to adjourn not only has the highest precedence when a question is under debate, but, with certain restrictions, it has the highest privilege under all other conditions. Even the following yield to it: (1) a question of privilege (III, 2521), including a resolution considered to be a "question of high constitutional privilege" such as one declaring the office of Speaker vacant and to direct the House to proceed at once to the election of a new Speaker (VIII, 2641); (2) the filing of a privileged report pursuant to former clause 4(a) of rule XI (current clause 5 of rule XIII) (Apr. 29, 1985, p. 9699); (3) a motion to suspend the rules (Aug. 11, 1992, p. 23086); (4) a motion to reconsider (V, 5605; see also clause 3 of rule XIX); (5) in the absence of a quorum, the motion for a call of the House (VIII, 2642); (6) a motion to dispense with further proceedings under the call (VIII, 2643); (7) a motion directing the Sergeant-at-Arms to arrest absentees during a call of the House (June 6, 1973, p. 18403). A conference report may defer it only until the report is before the House (V, 6451–6453).

Pursuant to clause 6(b) of rule XIII or clause 1(b) of rule XV, only one motion to adjourn is in order pending consideration of a privileged report from the Committee on Rules or a motion that the House suspend the rules, respectively. The motion may be made: (1) after the yeas and nays are ordered and before the roll call has begun (V, 5366); (2) before the reading of the Journal (IV, 2757) or the Speaker's approval thereof (Speaker Wright, Nov. 2, 1987, p. 30386); (3) pending a motion to reconsider (Sept. 20, 1979, p. 25512); (4) after the House rejects a motion to table a motion to instruct conferees and before the vote occurs on the motion to instruct (May 29, 1980, pp. 12717–19); or (5) when the Speaker is absent and the Clerk is presiding (I, 228). The motion to adjourn may not interrupt a Member who has the floor (V, 5369, 5370; VIII, 2646; Mar. 25, 1993,

p. 6373; Oct. 1, 1997, p. 20902) as, for example, by virtue of unanimous-consent permission to announce to the House the legislative program (Dec. 14, 1982, p. 30549), or a call of the yeas and nays (V, 6053), or the actual act of voting by other means (V, 5360), or be made after the House has voted to go into Committee of the Whole (IV, 4728; V, 5367, 5368), or defer the right of a Member to take the oath (I, 622) and may not be repeated in the absence of intervening business (Speaker Albert, July 31, 1975, p. 26243); and when no question is under debate it may not displace a motion to fix the day to which the House shall adjourn (V, 5381). The motion to adjourn is not available when the previous question has been ordered by special rule to final passage without intervening motion (IV, 3211–3213, June 14, 2001, p. 10725; Apr. 18, 2002, p. ——). A Member's mere revelation that he seeks to offer a motion to adjourn does not suffice to make that motion "pending," and thus the Chair remains able to declare a short recess under clause 12 of rule I (Oct. 28, 1997, p. 23524; June 25, 2003, p. ——).

When the House has fixed the hour of daily meeting, the simple motion to adjourn may not be amended (V, 5754), whether by specifying a particular day (V, 5360) or hour (V, 5364) (but see § 913, *infra*, for a discussion of the equally privileged motion to fix the day and time to which the House shall adjourn); or by stating the purposes of adjournment (V, 5371, 5372; VIII, 2647). However, when the hour of daily meeting is not fixed, the motion to adjourn may fix it (V, 5362, 5363). A motion to adjourn is in order in simple form only (VIII, 2647), is not debatable (V, 5359; Feb. 13, 2002, p. 1291), may not be laid on the table (Aug. 3, 1990, p. 22195), is not in order in Committee of the Whole (IV, 4716), and is not entertained when the Committee of the Whole rises to report proceedings incident to securing a quorum (VI, 673; VIII, 2436). After the motion is made neither another motion nor an appeal may intervene before the taking of the vote (V, 5361). When the House adopts the motion to adjourn, it must adjourn immediately; and a unanimous-consent request that the House proceed to the calling of special-order speeches is not in order (Sept. 27, 1993, p. 22608).

§ 913. Motion to fix the day to which the House shall adjourn and motion to authorize the Speaker to declare a recess.

The motion to fix the day and time to which the House shall adjourn, in its present form, was included in this clause and given privileged status in the 93d Congress (H. Res. 6, Jan. 3, 1973, p. 26). At several times during the 19th Century, the motion to fix the day to which the House should adjourn was included within the rule as to the precedence of motions but was dropped because of its use in obstructive tactics (V, 5301, 5379). The following precedent relates to the use of the motion in its earlier form: No question being under debate, a motion to fix the day to which the House should adjourn, already made, was held not to give way to a motion to adjourn (V, 5381). But if the motion to adjourn be made first, the motion to fix the day or for a recess is not entertained (V, 5302). The motion to fix the day is not debatable

(V, 5379, 5380; VIII, 2648, 3367), requires a quorum for adoption (IV, 2954; June 19, 1975, p. 19789; June 22, 1976, p. 19755), and is only in order if offered on the day on which the adjournment applies (Sept. 23, 1976, p. 32104). The House may convene and adjourn twice on the same calendar day pursuant to a motion under this clause that when the House adjourn it adjourn to a time certain later in the day, thereby meeting for two legislative days on the same calendar day (Nov. 17, 1981, p. 27771; Oct. 29, 1987, p. 29933; June 29, 1995, p. 17716). When the Speaker exercises his discretion to entertain at any time a motion that when the House adjourn it stand adjourned to a day and time certain, the motion is of equal privilege with the simple motion to adjourn and takes precedence over a pending question on which the vote has been objected to for lack of a quorum (Nov. 17, 1981, p. 27770). The motion is not subject to the motion to lay on the table since it is not debatable and the precedence conferred on the motion to table only applies to a question that is "under debate" (Nov. 17, 1981, p. 27770).

Under the express terms of clause 4, the motion to authorize the Speaker to declare a recess is nondebatable and has equal privilege with the motion to adjourn. The House (without the consent of the Senate) may authorize the Speaker to declare a recess for up to three days (Dec. 15, 1995, p. 37102).

§ 914. Motion to lay on the table.

The motion to lay on the table is used in the House for a final, adverse disposition of a matter without debate (V, 5389), and is in order before the Member entitled to prior recognition for debate has begun his remarks (V, 5391–5395; VIII, 2649, 2650). Under the explicit terms of this clause, the motion is not debatable (Oct. 17, 1991, p. 26749). The motion is applicable to a motion to reconsider (VIII, 2652, 2659), a motion to postpone to a day certain (VIII, 2654, 2657), a resolution presenting a question of privilege (VI, 560), a privileged resolution offered at the direction of a party caucus electing Members to committees (Feb. 5, 1997, p. 1541), an appeal from a decision of the Chair (VIII, 3453; June 22, 2006, p. ——), a motion to discharge a committee from a resolution of inquiry (VI, 415), a proposal to investigate with a view to impeachment (VI, 541), a concurrent resolution to adjourn sine die (Mar. 27, 1936, p. 4512), and a resolution to expel a Member (Oct. 1, 1976, p. 35111). But a question of privilege (affecting the right of a Member to a seat) that has been laid on the table may be taken therefrom on motion made and agreed to by the House (V, 5438). The motion to lay on the table has the precedence given it by the rule, but may not be made after the previous question is ordered (V, 5415–5422; VIII, 2655), or even after the yeas and nays have been ordered on the demand for the previous question (V, 5408, 5409); but pending the demand for the previous question on a motion that is under debate, the motion to lay the primary motion on the table is preferential and is voted on first (Speaker Albert, Sept. 22, 1976, pp. 31876–82; Speaker O'Neill, July 10, 1985, pp. 18397–18400). The previous question having been ordered on a bill

to final passage, the motion to lay the bill on the table may not then be offered pending a motion to reconsider the vote whereby the bill had been passed or rejected (Sept. 20, 1979, p. 25512).

When a bill is laid on the table, pending motions connected therewith go to the table also (V, 5426, 5427); and when a proposed amendment is laid on the table the pending bill goes there also (V, 5423; VIII, 2656), and if a pending amendment to a special order reported from the Committee on Rules were tabled, it would carry the resolution with it and is thus considered dilatory under former clause 4(b) of rule XI (current clause 6(b) of rule XIII) (Sept. 25, 1990, p. 25575). This rule holds good as to a House bill with Senate amendments (V, 5424, 6201–6203; Sept. 28, 1978, p. 32334), but laying on the table the motion to postpone consideration of Senate amendments was held not to carry to the table pending motions for their disposition (VIII, 2657). The Journal does not accompany a proposed amendment to the table (V, 5435, 5436); the original question does not accompany an appeal (V, 5434); a resolution does not accompany a preamble or another resolution with which it is connected (V, 5428, 5430); a petition does not accompany the motion to receive it when the latter is laid on the table (V, 5431–5433); and a bill does not accompany a motion to instruct conferees that is laid on the table (VIII, 2658).

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

The motion is not in order in Committee of the Whole (IV, 4719, 4720; VIII, 2330, 2556a, 3455; Mar. 16, 1995, p. 8112; July 21, 1999, p. 17054) and does not apply to motions to resolve into the Committee of the Whole (VI, 726). It may not be amended (V, 5754), for example, to operate for a specified time (Oct. 17, 1991, p. 26749).

The motion to lay on the table generally is not applicable to motions that are neither debatable nor amendable. As such, it is not applicable to the following motions: (1) to adjourn (Aug. 3, 1990, p. 22195); (2) that when the House adjourn it stand adjourned to a day and time certain (Nov. 17, 1981, p. 27770); (3) to dispense with further proceedings under a call of the House (Speaker McCormack, Aug. 27, 1962, pp. 17651–54); (4) to order the previous question (V, 5410, 5411; Oct. 4, 1994, p. 27649). Furthermore, the motion may not be applied to a motion: (1) to suspend the rules (V, 5405); (2) to commit after the previous question is ordered (V, 5412–5414; VIII, 2653, 2655); (3) to any motion relating to the order of business (V, 5403, 5404). It may not be applied to a motion to discharge a committee under former clause 3 of rule XXVII (current clause 2 of rule XV) (June 11, 1945, p. 5892) but may be applied to the motion to discharge a committee from consideration of a resolution of inquiry (V, 5407).

The motion to lay on the table is applicable to debatable secondary or privileged motions for disposal of another matter; thus a motion to refer (V, 5433; Aug. 13, 1982, pp. 20969, 20975–78) or a motion to recede and concur in a Senate amendment in disagreement may be laid on the table

(Speaker O'Neill, Feb. 22, 1978, p. 4072) without carrying the pending matter to the table. The motion is not applicable to a conference report (V, 6540).

The precedents relating to the motion for the previous question are annotated in §§ 994–1000.

§ 914a. The motion for the previous question.

§ 915. The motions to postpone.

As indicated in the rule, the motions to postpone are two in number and distinct. The first one is to postpone to a day certain, and the second one is to postpone indefinitely. Each must apply to the whole and not a part of the pending proposition (V, 5306). Neither may be entertained after the previous question is ordered (V, 5319–5321; VIII, 2616, 2617), or be applied to a special order providing for the consideration of a class of bills (V, 4958); but when a bill comes before the House under the terms of a special order that assigns a day merely, a motion to postpone may be applied to the bill (IV, 3177–3182). Business postponed to a day certain is in order on that day immediately after the approval of the Journal and disposition of business on the Speaker's table, unless displaced by more highly privileged business (VIII, 2614). Where consideration of a measure postponed to a day certain resumes as unfinished business in the House, recognition for debate does not begin anew but recommences from the point where it was interrupted (June 10, 1980, p. 13801). It is not in order to postpone pending business to Calendar Wednesday (VIII, 2614), but if so postponed by consent, when consideration is concluded on that Wednesday, proceedings under the Calendar Wednesday rule are in order (VII, 970). The motion is not available in Committee of the Whole (July 14, 1998, p. 15305), but a motion that a bill be reported with the recommendation that it be postponed is in order in the Committee of the Whole proceeding under the general rules of the House (IV, 4765; VIII, 2372), is debatable (VIII, 2372), and is a preferential motion (VIII, 2372, 2615), but debate is confined to the advisability of postponement only (VIII, 2372). It has been held in order to postpone an appeal (VIII, 2613). A bill under consideration in the morning hour may not be made a special order by a motion to postpone to a day certain (IV, 3164).

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

The motion to postpone indefinitely opens to debate all the merits of the proposition to which it is applied (V, 5316). It may not be applied to the motion to refer (V, 5317), the motion to suspend the rules (V, 5322), or the motion to resolve into the Committee of the Whole (VI, 726), and it is reasonable to infer that it is equally inapplicable to the other motions enumerated in the rule and to motions relating to the order of business. However, the motion to postpone indefinitely may be applied to the motion

that the House resolve itself into the Committee of the Whole pursuant to the provisions of a statute, enacted under the rulemaking power of the House of Representatives, that specifically allows such a motion in the consideration of a resolution disapproving a certain executive action (Mar. 10, 1977, p. 7021; Aug. 3, 1977, p. 26528).

§916. The motions to refer.

The parliamentary motion to refer is explicitly recognized and given status in four different situations under House rules: the ordinary motion provided for in this clause; the motion to recommit (or commit, as the case may be), with or without instructions, pending the motion for or after ordering of the previous question as provided in clause 2(a) of rule XIX (V, 5569); the motion to recommit (or commit, as the case may be), with or without instructions, after the previous question has been ordered on a bill or joint resolution to final passage, provided in clause 2(b) of rule XIX; and the motion to refer, with or without instructions, pending a vote in the House to strike out the enacting clause as provided in clause 9 of rule XVIII. The terms "refer," "commit," and "recommit" are sometimes used interchangeably (V, 5521; VIII, 2736), but when used in the precise manner and situation contemplated in each rule reflect certain differences based upon whether the question to which applied is "under debate," whether the motion itself is debatable, whether a minority Member or a Member opposed to the question to which the motion is applied is entitled to a priority of recognition, and whether the prohibition against a special order reported from the Committee on Rules denying a motion to recommit a bill or joint resolution pending final passage is applicable. For a discussion of the motion to recommit, see the annotations under clause 2 of rule XIX. The motion may not be used in direct form in Committee of the Whole (IV, 4721; VIII, 2326); and where a bill is being considered under the provisions of a resolution stating that "at the conclusion of the consideration of the bill for amendment under the five-minute rule the Committee shall rise and report the bill back to the House with such amendments as may have been adopted," a motion that the Committee rise and report to the House with the recommendation that the bill be recommitted to the legislative committee reporting it is not in order (Aug. 10, 1950, p. 12219). It may be made after the engrossment and third reading of a bill, even though the previous question may not have been ordered (V, 5562, 5563).

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

The simple motion to refer under the first sentence of this clause is debatable within narrow limits (V, 5054) and may be offered by any Mem-

ber (who need not qualify as being in opposition to the pending question) when that question is "under debate," *i.e.*, when the previous question has not been moved or ordered, but the merits of the proposition sought to be referred may not be brought into the debate (V, 5564–5568; VI, 65, 549; VIII, 2740). The motion to refer with instructions is also debatable (V, 5561); but the previous question is preferential (Mar. 22, 1990, p. 4997).

§ 917. Instructions with the motion to refer.

The motion to refer may specify that the reference shall be to a select as well as a standing committee (IV, 4401) without regard for rules of jurisdiction (IV, 4375; V, 5527) and may provide for reference to another committee than that reporting the bill (VIII, 2696, 2736), or to the Committee of the Whole (V, 5552, 5553), and even that the committee be endowed with power to send for persons and papers (IV, 4402). Unless the previous question is ordered the motion may be amended (VIII, 2712, 2738), in part (V, 5754); by substitute (VIII, 2698, 2738, 2759); or by adding instructions (V, 5521, 5570, 5582–5584; VIII, 2695, 2762; Aug. 13, 1982, pp. 20969, 20975–78).

§ 918. Repetition of motions.

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

Divisibility

§ 919. Division of the question.

5. (a) Except as provided in paragraph (b), a question shall be divided on the demand of a Member, Delegate, or Resident Commissioner before the question is put if it includes propositions so distinct in substance that, one being taken away, a substantive proposition remains.

(b)(1) A motion or resolution to elect members to a standing committee of the House, or to a joint standing committee, is not divisible.

(2) A resolution or order reported by the Committee on Rules providing a special order of business is not divisible.

(c) A motion to strike and insert is not divisible, but rejection of a motion to strike does not preclude another motion to amend.

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

Paragraphs (a) and (b) (former clause 6) were first adopted in 1789, and were amended in 1837 (V, 6107). Paragraph (b)(1) (first part of the former proviso) was adopted April 2, 1917 (VIII, 2175), and paragraph (b)(2) (last part of the former proviso) was adopted May 3, 1933 (VIII, 3164). Paragraph (c) (first part of former clause 7) was adopted in 1811, and amended in 1822 (V, 5767). When the House recodified its rules in the 106th Congress, former clause 5 of this rule (requiring time of adjournment to be entered on the Journal) was transferred to clause 2(c)(2) of rule II, paragraphs (a) and (b) were found in former clause 6, and paragraph (c) was found in the first part of former clause 7 (H. Res. 5, Jan. 6, 1999, p. 47).

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

§ 921. Principles governing the division of the question.

The principle that there must be at least two substantive propositions in order to justify division is insisted on rigidly (V, 6108–6113), as failure to do so produces difficulties (III, 1725). The question may not be divided after it has been put (V, 6162), or after the yeas and nays have been ordered (V, 6160, 6161); but division of the question may be demanded after the previous question is ordered (V, 5468, 6149; VIII, 3173). In passing on a demand for division the Chair considers only substantive propositions and not the merits of the question presented (V, 6122). It seems to be most proper, also, that the division should depend on grammatical structure rather than on the legislative propositions involved (I, 394; V, 6119), but a question presenting two propositions grammatically is not divisible if either does not constitute a substantive proposition when considered alone (VII, 3165). Thus a resolution censuring a Member and adopting a report of a committee thereon, which recommends censure on the basis of the committee's findings, is not divisible since those questions are substantially equivalent (Speaker O'Neill, Oct. 13, 1978, p. 37016); and an adjournment resolution that also authorizes the receipt of veto messages from the President during the adjournment is not subject to a division of the question, as the receipt authority would be nonsensical standing alone (June 30, 1976, p. 21702). However, a concurrent resolution on the budget is subject to a demand for a division of the question if, for example,

the resolution grammatically and substantively relates to different fiscal years (May 7, 1980, pp. 10185–87), or includes a separate, hortatory section having its own grammatical and substantive meaning (Speaker Foley, Mar. 5, 1992, p. 4657).

Decisions have been made that a resolution affecting two individuals may be divided, although such division may involve a reconstruction of the text (I, 623; V, 6119–6121). The better practice seems to be, however, that this reconstruction of the text should be made by the adoption of a substitute amendment of two branches, rather than by interpretation of the Chair (II, 1621). But merely formal words, such as "resolved," may be supplied by interpretation of the Chair (V, 6114–6118). A resolution with two resolve clauses separately certifying the contemptuous conduct of two individuals is divisible (Feb. 27, 1986, p. 3040); as is a resolution with one resolve clause certifying contemptuous conduct of several individuals (Oct. 27, 2000, p. 25200; *contrast*, Deschler-Brown, ch. 30, § 49.1). A measure containing a series of simple resolutions (V, 6149), and a resolution confirming several nominations (Speaker Albert, Mar. 19, 1975, p. 7344) may be divided. A resolution of impeachment presenting discrete articles may be divided (VI, 545; Dec. 18, 1998, p. 11064).

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

The question on engrossment and third reading under former clause 1 of rule XXI (current clause 8(c) of rule XVI) is not divisible (Speaker Foley, Aug. 3, 1989, p. 18544); and in voting on the engrossment or passage of a bill or joint resolution, a separate vote may not be demanded on the various portions (V, 6144–6146; VIII, 3172), or on the preamble (V, 6147).

Where an amendment is offered to an appropriation bill providing that no part of the appropriation may be paid to named individuals, the amendment may be divided for a separate vote on each name (Feb. 5, 1943, p. 645). An amendment (to a joint resolution making continuing appropriations) containing separate paragraphs appropriating funds for different programs may be substantively and grammatically divisible although preceded by the same prefatory language applicable to all the paragraphs, and the Clerk will read each paragraph as including the prefatory language before the Chair puts the question thereon (Nov. 8, 1983, p. 31495). A division may be demanded on an amendment to strike out various unre-

lated phrases (VIII, 3166; Mar. 28, 1984, p. 6898). An amendment proposing to change a figure in one paragraph of an appropriation bill and also to insert a new ("fetch-back") paragraph at another point in the bill is divisible (July 15, 1993, p. 15843). Absent a contrary order, the question may be divided on amendments en bloc comprising discrete instructions to amend, even though unanimous consent has just been granted for the en bloc consideration (July 25, 1990, p. 19174; July 18, 1991, p. 18851).

A division of the question may not be demanded on a motion to strike and insert (V, 5767, 6123; VIII, 3169), including substitutes for pending amendments (V, 6127; VIII, 3168; Aug. 17, 1972, pp. 28887–90; July 2, 1980, pp. 18288–92), although an amendment comprising two discrete instructions to strike and insert may be divided (June 4, 1998, p. 5418) and a perfecting amendment to an amendment may be divided if not in the form of a motion to strike and insert (V, 6131). When it is proposed to strike out and insert not one but several connected matters, it is not in order to demand a separate vote on each of those matters (V, 6124, 6125), as when an amendment in the nature of a substitute containing several resolutions is proposed; but after this amendment has been agreed to, it is in order to demand a division of the original resolution as amended (V, 6127, 6128). When, however, an amendment simply adding or inserting is proposed, it is in order to divide the amendment (V, 6129–6133). To a motion to strike certain words and insert others, a simple motion to strike the words may not be offered as a substitute, as it would have the effect of dividing the motion to strike and insert (June 29, 1939, pp. 8282, 8284; June 19, 1979, pp. 15566–68).

A division may be demanded on the motion to recede from disagreement to a Senate amendment and concur therein (see § 525, *supra*; V, 6209; VIII, 3197–3199, 3203), but may not be demanded on Senate amendments when sending to conference (V, 6151–6156; VIII, 3175). A division of the question may not be demanded, with respect to a motion to concur in a Senate amendment with an amendment, between concurring and amending (VIII, 3176), and may not be demanded on separate parts of the proposed amendment if it is not properly divisible under the same tests that apply to any other amendment (Aug. 3, 1973, pp. 28124–26; Oct. 11, 1984, p. 32188). Thus a proposed amendment to a Senate amendment is not divisible if in the form of a motion to strike out and insert (Oct. 15, 1986, p. 32135). Each Senate amendment must be voted on as a whole (VIII, 3175) but the Committee of the Whole having reported a Senate amendment with the recommendation that it be agreed to with an amendment, a separate vote was had on the amendment to the Senate amendment (VIII, 2420). When Senate amendments to a House bill are considered in the House, a separate vote may be had on each amendment (VIII, 2383, 2400, 3191), and separate votes may be had on nongermane portions of Senate amendments as provided in clause 10 of rule XXII.

It is not in order to divide a motion to lay several connected propositions on the table (V, 6138–6140). Similarly, it is not in order to divide a motion

for the previous question on two related propositions, as on a spe'cial order reported from the Committee on Rules and a pending amendment thereto (Sept. 25, 1990, p. 25575). An appeal from a decision of the Speaker involving two distinct questions may be divided (V, 6157).

On a motion to commit with instructions it is not in order to demand a separate vote on the instructions or various branches thereof (V, 6134–6137; VIII, 2737, 3170; Speaker Rayburn, Apr. 11, 1956, p. 6157; June 29, 1993, p. 14618). However, an amendment reported forthwith pursuant to instructions contained in a successful motion to recommit may be divided on the question of its adoption if composed of substantively and grammatically distinct propositions (June 29, 1993, p. 14618). A motion to recommit a bill to conference with various instructions may not be divided (Sept. 29, 1994, p. 27681). However, a motion to instruct conferees under clause 7(c) of rule XXII (when multiple motions are in order) may be divided (Speaker Byrns, May 26, 1936, p. 7951; Sept. 20, 2000, p. 18622), provided that separate substantive propositions are presented (Speaker Rayburn, May 9, 1946, p. 4750).

A division of the question may not be demanded on bills or joint resolutions for reference (IV, 4376) or change of reference (VII, 2125), a motion to elect Members to committees of the House (VIII, 2175, 3164), a question against which a point of order is pending (VIII, 3432), or a proposition under a motion to suspend the rules (V, 6141–6143; VIII, 3171). A proposition reported from the Committee of the Whole as an entire and distinct amendment may not be divided (IV, 4883–4892). A separate vote may not be demanded in the House on an amendment adopted in the Committee of the Whole to an amendment (VIII, 2422, 2426, 2427).

After the vote on the first portion of the question, the second is open to debate and amendment, unless the previous question is ordered (see § 482, *supra*). Where a motion to concur in a Senate amendment is divided pursuant to a special rule, the Chair puts the question first on the first portion of the Senate amendment, and then on the remaining portion (Mar. 4, 1993, p. 4163). Where a division of the question is demanded on a portion of an amendment, the Chair puts the question first on the remaining portions of the amendment, and that portion on which the division is demanded remains open for further debate and amendment (Oct. 21, 1981, pp. 24785–89). However, where no further debate or amendment is in order on the divided portion, the Chair may put the question first on the divided portion(s) and then immediately on the remaining portion (Aug. 17, 1972, Deschler, ch. 27, § 22.14; June 8, 1995, p. 15302). Where a division of the question is demanded on more than one portion of an amendment, the Chair may put the question first on the remaining portions of the amendment (if any), then (after further debate) on the first part on which a division is demanded, and then (after further debate) on the last part on which a division is demanded (Oct. 21, 1981, pp. 24785–89). Where the question on adopting an amendment is divided by special rule (rather than on de-

mand from the floor), the Chair puts the question on each divided portion of the amendment in the order in which it appears (May 23, 1996, p. 12316).

A demand for a division of the question on a separate portion of an amendment may be withdrawn before the question is put on the first portion thereof (July 15, 1993, p. 15843), but once the Chair has put the question on the first portion of the amendment, a demand for a division may be withdrawn only by unanimous consent (Sept. 9, 1976, pp. 29538–40).

Amendments

§ 922. Amendments to text and to title.

6. When an amendable proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order, and it also shall be in order to offer a further amendment by way of substitute for the original motion to amend, to which one amendment may be offered but which may not be voted on until the original amendment is perfected. An amendment may be withdrawn in the House at any time before a decision or amendment thereon. An amendment to the title of a bill or resolution shall not be in order until after its passage or adoption and shall be decided without debate.

This provision (formerly rule XIX) was adopted in 1880, with an amendment adding the portion in relation to the title in 1893. The rule of 1880, however, merely stated in form of rule what had been the practice of the House for many years (V, 5753). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XIX (H. Res. 5, Jan. 6, 1999, p. 47). For further discussion see Deschler, ch. 27, §§ 15–19.

§ 923. Conditions of the motion to amend.

It is not in order to offer more than one motion to amend of the same nature at a time (V, 5755; VIII, 2831), but the four motions specified by the rule may be pending at the same time (V, 5793; VIII, 2883, 2887). Where, pursuant to a special rule, a committee amendment in the nature of a substitute is being read as original text for purpose of amendment, there may be pending to that text the four stages of amendment permitted by this rule (Apr. 23, 1969, p. 10066). When a request for a recorded vote in the Committee of the Whole is postponed under authority of a special order of the House (such authority now found in clause 6(g) of rule XVIII), the amendment

becomes unfinished business and is no longer pending, thereby permitting the offering of another amendment (May 10, 2000, p. 7513). An amendment in the third degree is not specified by the rule and is not permissible (V, 5754; VIII, 2580, 2888, 2891), even when the third degree is in the nature of a substitute for an amendment to a substitute (V, 5791; VIII, 2889).

An amendment must contain instructions to the Clerk as to the portion of the bill it seeks to amend and is subject to a point of order if not in proper form (Oct. 3, 1985, p. 25970). An amendment may not propose to change portions of a measure not yet read for amendment (Mar. 24, 1999, p. 5418). Under a "modified-closed" rule permitting only amendments printed in the report accompanying the rule, the Chair will permit an amendment to be offered in the form actually submitted for printing rather than requiring that it be offered in the erroneous form printed (Mar. 10, 1994, p. 4405). The Chair does not entertain a unanimous-consent request to designate a co-offeror of an amendment (May 20, 2004, p. ——; Sept. 14, 2004, p. ——).

A Member may not amend or modify his own amendment except by unanimous consent (Oct. 1, 1985, p. 25453); and where the Chair recognizes the proponent of an amendment to propound such a unanimous-consent request before commencing debate, the Chair does not charge time consumed under a reservation of objection against the proponent's time for debate on the amendment (Feb. 3, 1993, p. 1978; May 27, 1993, p. 11849). Under the five-minute rule, the proponent of an amendment may not yield to another to offer an amendment to the amendment; rather an amendment to the amendment may be offered after the proponent of the pending amendment has explained it (Sept. 7, 1995, p. 24071).

Two independent amendments may be voted on at once only by unanimous consent of the House (V, 5979). Amendments en bloc, once pending, are open to perfecting amendment at any point (June 12, 1991, p. 14337). If a point of order is sustained against a discrete portion of an en bloc amendment, the entire en bloc amendment may not be considered; however, each constituent amendment may be offered separately if otherwise in order (Sept. 16, 1981, pp. 20735–38). An amendment considered with others en bloc and rejected may be offered separately at a subsequent time (Deschler, ch. 27, § 35.15; Nov. 4, 1991, p. 29932).

The substitute provided for in this rule has been construed as a substitute for the amendment and not as a substitute for the original text (VIII, 2883). A substitute amendment may be amended by striking out all after its first word and inserting a new text (V, 5793, 5794). While this is in effect a substitute, it is not technically so. A substitute always proposes to replace all the words of a pending amendment. The amendatory instructions contained in a substitute direct changes to be made in the original language rather than to the pending amendment. Although a substitute may change parts of a bill not changed by the pending amendment, the substitute must be germane to the pending amendment (VIII, 2879, 2880; Deschler, ch. 27, § 18.6). A substitute may result in similar language

to the original text proposed to be changed by the pending amendment, but may not result in identical language (Deschler, ch. 27, § 18.15). To an amendment adding a new section, an amendment making perfecting changes in the bill rather than in the amendment is not a proper perfecting amendment, but may, if germane, be offered as a substitute for the amendment (Deschler, ch. 27, § 18.7). The Chair will not look behind the form of the amendment in determining whether it is perfecting or a substitute (June 13, 1994, p. 12731). Once a perfecting amendment to an amendment is disposed of, the original amendment, as amended or not, remains open to further perfecting amendment (June 20, 1991, p. 15610); and all such amendments are disposed of before voting on substitutes for the original amendment and amendments thereto (July 26, 1984, p. 21253).

An amendment offered as a substitute and rejected may again be offered as an original amendment without presenting an equivalent question. In the first case the question is the relationship between the substitute and the amendment to which offered, and in the second case the question is the relationship between the original amendment and the text of the bill (V, 5797; VIII, 2843). An amendment that is adopted as amended by a substitute may not be reoffered in its original form if it would directly change the amended portion of the bill. However, it may be reoffered if the original amendment amends a different part of the bill (as in the case where the amendatory instructions of the substitute displace the language of the original amendment). In such a case the vote on the amendment as amended by the substitute is not equivalent to a direct vote on the original amendment (June 25, 1987, p. 17416). An amendment considered with others en bloc and rejected may be offered separately at a subsequent time (Deschler, ch. 27, § 35.15; Nov. 4, 1991, p. 29932).

An amendment in the nature of a substitute always proposes to strike out all after the enacting or resolving words in order to insert a new text (V, 5785, footnote). An amendment in the nature of a substitute may be proposed before amendments to the pending portion of original text have been acted on, but may not be voted on until such amendments have been disposed of (V, 5787). When a bill is considered by sections or paragraphs an amendment in the nature of a substitute is properly offered after the reading for amendment is concluded (V, 5788). However, when it is proposed to offer a single substitute for several paragraphs of a bill that is being considered by paragraph, the substitute may be moved to the first paragraph, with notice that, if agreed to, motions will be made to strike out the remaining paragraphs (V, 5795; VIII, 2898, 2900–2903; July 29, 1969, p. 21218). An amendment in the nature of a substitute, as well as the original proposition, may be perfected by amendments before the vote on it is taken (V, 5786). Where there is pending an amendment in the nature of a substitute, it is in order to offer a perfecting amendment to the pending portion of original text (VIII, 2861; Apr. 27, 1976, p. 11411; see also Deschler, ch. 27, § 5.34). An amendment in the nature of a substitute having been agreed to, the vote is then taken on the original propo-

sition as amended (II, 983; V, 5799, 5800), and no further amendment is in order (Speaker O'Neill, Mar. 26, 1985, p. 6274). If a perfecting amendment to an amendment in the nature of a substitute, striking out all after the short title and inserting a new text, is agreed to, further amendments to the text so perfected are not in order, but amendments are in order to add new language at the end of the amendment in the nature of a substitute as amended (May 16, 1979, p. 11420).

§ 924. Relation of point of order to motion to amend.

Except as provided in clauses 4 and 5(a) of rule XXI, a point of order against an amendment is timely if made or reserved before formal recognition of the proponent to commence debate thereon (July 16, 1991, p. 18391; July 15, 1997, pp. 14492, 14493), but thereafter comes too late (V, 6894, 6898–6899) unless the Member was on his feet seeking recognition for that purpose at the time the amendment was offered (May 25, 2006, p. ——). To preclude a point of order, debate should be on the merits of the proposition (V, 6901). The mere making of a unanimous-consent request to dispense with the reading of an amendment and to revise and extend remarks thereon is not such intervening business as would render a point of order untimely under this clause, where the Member making the point of order is on his feet seeking recognition (July 16, 1991, p. 18391; see Deschler-Brown, ch. 31, §§ 6.39, 6.41). When enough of an amendment has been read to show that it is out of order, a point of order may be raised without waiting for the reading to be completed (V, 6886–6887; VIII, 2912, 3437), though the Chair may decline to rule until the entire proposition has been read (Dec. 14, 1973, pp. 41716–18). A timely reservation of a point of order by one Member inures to the benefit of any other Member who desires to raise a point of order (V, 6906; July 18, 1990, p. 17930).

§ 925. Withdrawal of the motion to amend.

While the rule provides that either an ordinary or substitute amendment may be withdrawn in the House (V, 5753) or "in the House as in Committee of the Whole" (IV, 4935; June 26, 1973, p. 21315), it may not be withdrawn or modified in Committee of the Whole except by unanimous consent (clause 5 of rule XVIII; V, 5221; VIII, 2564, 2859).

§ 926. Precedence of the motion to amend.

Pursuant to clause 4 of rule XVI, the motion for the previous question takes precedence of a motion to amend (Nov. 8, 1971, p. 39944); and if the previous question is not ordered, the motion to refer also has precedence of the motion to amend (V, 5555; VI, 373). Amendments reported by a committee are acted on before those offered from the floor (V, 5773; VIII, 2862, 2863), but a floor amendment to the text of a pending section is considered before a committee amendment adding a new section at the end of the pending section (Oct. 4, 1972, pp. 33779–82), and there is a question as to the extent to which the chairman of the committee reporting a bill should be recognized preferentially to offer amendments to perfect it over other Members (II, 1450). Amendments may not be offered by proxy (VIII, 2830). The motion to strike out the enacting clause has precedence of the motion

to amend, and may be offered while an amendment is pending (V, 5328–5331; VIII, 2622–2624); but the motion to amend takes precedence over a motion that the Committee of the Whole rise and report the bill with the recommendation that it pass (July 27, 1937, p. 7699).

§ 927. Relation of the motion to amend to other motions.

With some exceptions an amendment may attach itself to secondary and privileged motions (V, 5754). Thus, the motions to postpone, refer, amend, for a recess, and to fix the day to which the House shall adjourn may be amended (V, 5754; VIII, 2824). But the motions for the previous question, to lay on the table, to adjourn (V, 5754) and to go into Committee of the Whole to consider a privileged bill may not be amended (IV, 3078, 3079; VI, 723–725).

An amendment to the title of a bill is not in order in Committee of the Whole (Jan. 29, 1986, p. 682).

Germaneness

§ 928. Germane amendments.

7. No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

This clause was adopted in 1789, and amended in 1822 (V, 5767, 5825). Before the House recodified its rules in the 106th Congress, this clause and clause 5(c) occupied a single former clause 7 (H. Res. 5, Jan. 6, 1999, p. 47).

It introduced a principle not then known to the general parliamentary law (V, 5825), but of high value in the procedure of the House (V, 5866). Before the adoption of rules, when the House is operating under general parliamentary law, as modified by the usage and practice of the House, an amendment may be subject to the point of order that it is not germane to the proposition to which offered (Jan. 3, 1969, p. 23). The principle of the rule applies to a proposition by which it is proposed to modify the pending bill, and not to a portion of the bill itself (V, 6929); thus a point of order will not lie that an appropriation in a general appropriation bill is not germane to the rest of the bill (Dec. 16, 1963, p. 24753). In general, an amendment simply striking out words already in a bill may not be ruled out as not germane (V, 5805; VIII, 2918) unless such action would change the scope and meaning of the text (VIII, 2917–2921; Mar. 23, 1960, p. 6381); and a pro forma amendment "to strike out the last word" has been considered germane (July 28, 1965, p. 18639). While a committee may report a bill or resolution embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment (V, 5825). The rule that amendments should be germane applies to amendments reported by committees (V, 5806), but a resolution providing for consideration of the bill with committee amendments

may waive points of order (Oct. 10, 1967, p. 28406), and the point of order under this rule does not apply to a special order reported from the Committee on Rules "self-executing" the adoption in the House of a nongermane amendment to a bill, since the amendment is not separately before the House during consideration of the special order (Feb. 24, 1993, p. 3542; July 27, 1993, p. 17117). A resolution reported from the Committee on Rules providing for the consideration of a bill relating to a certain subject may be amended neither by an amendment that would substitute the consideration of a different proposition (V, 5834–5836; VIII, 2956; Sept. 14, 1950, p. 14844) nor by an amendment that would permit the additional consideration of a nongermane amendment to the bill (May 29, 1980, pp. 12667–73; Aug. 13, 1982, p. 20972). The Chair will not interpret as a point of order under a specific rule of the House an objection to a substitute as narrowing the scope of a pending amendment, absent some stated or necessarily implied reference to germaneness or other rule (June 25, 1987, p. 17415). The burden of proof is on the proponent of an amendment to establish its germaneness (VIII, 2995; July 10, 2000, p. 13605), and where an amendment is equally susceptible to more than one interpretation, one of which will render it not germane, the Chair will rule it out of order (June 20, 1975, p. 19967).

§ 929. Proposition to which amendment must be germane.

Under the later practice an amendment should be germane to the particular paragraph or section to which it is offered (V, 5811–5820; VIII, 2922, 2936; Oct. 14, 1971, pp. 36194, 36211; Sept. 19, 1986, p. 24729), without reference to subject matter of other titles not yet read (July 31, 1990, p. 20816), and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered (V, 5822; VIII, 2927, 2931; July 14, 1970, pp. 24033–35), though it may be germane to more than one portion of a bill (Mar. 27, 1974, p. 8508), and when offered as a separate paragraph is not required to be germane to the paragraph immediately preceding or following it (VII, 1162; VIII, 2932–2935).

The test of germaneness in the case of a motion to recommit with instructions is the relationship of the instructions to the bill taken as a whole (and not merely to the separate portion of the bill specifically proposed to be amended in the instructions) (Mar. 28, 1996, p. 6932).

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

p. 19436). Similarly, an amendment to a general appropriation bill in the form of a limitation on funds therein but extending to activities prescribed by laws unrelated to the functions of departments and agencies addressed by the bill is not germane (July 10, 2000, p. 13605).

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

An amendment adding a new section to a bill being read by titles must be germane to the pending title (Sept. 17, 1975, p. 28925), but where a bill is considered as read and open to amendment at any point, an amendment must be germane to the bill as a whole and not to a particular section (Sept. 29, 1975, p. 30761; Jan. 30, 1986, p. 1052). Where a title of a bill is open to amendment at any point, the germaneness of an amendment perfecting one section therein depends on its relationship to the title as a whole and not merely on its relationship to the one section (June 25, 1991, p. 16152). An amendment in the form of a new title, when offered at the end of a bill containing several diverse titles on a general subject, need not be germane to the portion of the bill to which offered, it being sufficient that the amendment be germane to the bill as a whole in its modified form (Nov. 4, 1971, p. 39267; July 2, 1974, p. 22029; Sept. 18, 1975, p. 29322; July 11, 1985, p. 18601; Oct. 8, 1985, pp. 26548–51). While the heading of the final title of a bill as "miscellaneous" does not thereby permit amendments to that title that are not germane thereto, the inclusion of sufficiently diverse provisions in such title affecting various provisions in the bill may permit further amendments that need only be germane to the bill as a whole (Apr. 10, 1979, pp. 8034–37).

Under clause 10 of rule XXII, a portion of a conference report incorporating part of a Senate amendment in the nature of a substitute to a House bill, or incorporating part of a Senate bill that the House has amended, must be germane to the bill in the form passed by the House; thus where a House-passed bill contained several sections and titles amending diverse portions of the Internal Revenue Code relating to tax credits, a modified Senate provision adding a new section dealing with another tax credit was held germane to the House-passed measure as a whole (Speaker Albert, Mar. 26, 1975, p. 8900); but a Senate provision in a conference report on a Senate bill with a House amendment in the nature of a substitute which authorized appointment of a special prosecutor for any criminal offenses committed by certain Federal officials was held not germane to the House-passed bill, which related to offenses directly related to official duties and responsibilities of Federal officials (Oct. 12, 1978, pp. 36459–61).

The test of germaneness of an amendment to or a substitute for an amendment in the nature of a substitute is its relationship to the substitute and not its relationship to the bill to which the amendment in the nature of a substitute has been offered (July 19, 1973, p. 24958; July 22, 1975, p. 23990; June 1, 1976, pp. 16051–56; July 28, 1982, pp. 18355–58, 18361),

and an amendment to a substitute is not required to affect the same page and line numbers as the substitute in order to be germane, it being sufficient that the amendment is germane to the subject matter of the substitute (Aug. 1, 1979, pp. 21944–47). When an amendment in the nature of a substitute is offered at the end of the first section of a bill, the test of germaneness is the relationship between the amendment and the entire bill, and the germaneness of an amendment in the nature of a substitute for a bill is not necessarily determined by an incidental portion of the amendment that, if offered separately, might not be germane to the portion of the bill to which offered (July 8, 1975, p. 21633).

The test of germaneness of an amendment offered as a substitute for a pending amendment is its relationship to the pending amendment and not its relationship to the underlying bill (Feb. 14, 1995, p. 4714).

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

§ 930. Instructions to committees and amendments thereto.

The rule that amendments must be germane applies to amendments to the instructions in a motion to instruct conferees (VIII, 3230, 3235), and the test of germaneness of an amendment to a motion to instruct conferees, in addition to the measurement of scope of conference, is the relationship of the amendment to the subject matter of the House or Senate version of the bill (Deschler-Brown, ch. 28, § 28.2). The rule of germaneness similarly applies to the instructions in a motion to recommit a bill to a committee of the House, as it is not in order to propose as part of a motion to recommit any proposition that would not have been germane if proposed as an amendment to the bill in the House (V, 5529–5541; VIII, 2708–2712; Mar. 2, 1967, p. 5155), and the instructions must be germane to the bill as perfected in the House (Nov. 19, 1993, p. 30513), even where the instructions do not propose a direct amendment to the bill but merely direct the committee to pursue an unrelated approach (Speaker O'Neill, Mar. 2, 1978, p. 5272; July 16, 1991, p. 18397) or direct the committee not to report the bill back to the House until an unrelated contingency occurs (VIII, 2704). Under the same rationale as amendments to a motion to instruct conferees, amendments to a motion to recommit to a standing committee with instructions must be germane to the subject matter of the bill (see V, 6888; VIII, 2711).

The fact that an amendment is offered in conjunction with a motion to recommit a bill with instructions to a standing committee does not affect the requirement that the subject matter of the amendment be germane and within the jurisdiction of the committee reporting the bill (Mar. 2, 1967, p. 5155; July 16, 1991, p. 18397).

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

In the consideration of Senate amendments to a House bill an amendment must be germane to the particular Senate amendment to which it is offered (V, 6188–6191; VIII, 2936; May 14, 1963, p. 8506; Dec. 13, 1980, p. 34097), and it is not sufficient that an amendment to a Senate amendment is germane to the original House bill if it is not germane to the subject matter of a Senate amendment that merely inserts new matter and does not strike out House provisions (V, 6188; VIII, 2936). But where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken, as well as those to be inserted, by the Senate amendment (June 8, 1943, p. 5511; June 15, 1943, p. 5899; Dec. 12, 1974, p. 39272). The test of the germaneness of an amendment to a motion to concur in a Senate amendment with an amendment is the relationship between the amendment and the motion, and not between the amendment and the Senate amendment to which the motion has been offered (Aug. 3, 1973, Deschler-Brown, ch. 28, § 27.6). Formerly, a Senate amendment was not subject to the point of order that it was not germane to the House bill (VIII, 3425), but under changes in the rules points of order may be made and separate votes demanded on portions of Senate amendments and conference reports containing language that would not have been germane if offered in the House. Clause 10 of rule XXII permits points of order against language in a conference report that was originally in the Senate bill or amendment and that would not have been germane if offered to the House-passed version, and permits a separate motion to reject such portion of the conference report if found nongermane (Oct. 15, 1986, p. 31498). For purposes of that rule, the House-passed version, against which Senate provisions are compared, is that finally committed to conference, taking into consideration all amendments adopted by the House, including House amendments to Senate amendments (July 28, 1983, p. 21401). Clause 10 of rule XXII permits points of order against motions to concur or concur with amendment in nongermane Senate amendments, the stage of disagreement having been reached, and, if such points of order are sustained, permits separate motions to reject such nongermane matter. Clause 10 of rule XXII is not applicable to a provision contained in a motion to recede and concur with an amendment (the stage of disagreement having been reached) that is not contained in any form in the Senate version, the only requirement in such circumstances being that the motion as a whole be germane to the Senate amendment as a whole under clause 7 of rule XVI (Oct. 4, 1978, pp. 33502–06; June 30, 1987, p. 18294).

§ 932. Subject matter as test of germaneness.

An amendment must relate to the subject matter under consideration. Thus, the following are not germane: to a bill seeking to eliminate wage discrimination based on the sex of the employee, an amendment to make the provisions of the bill applicable to discrimination based on race (July 25, 1962, p. 14778); to a bill establishing an office in the Department of the Interior to manage biological information, an amendment addressing socioeconomic matters (Oct. 26, 1993, p. 26082); to a bill authorizing military assistance to Israel and funds for the United Nations emergency force in the Middle East, an amendment expressing the sense of Congress that the President conduct negotiations to obtain a peace treaty in the Middle East and the resumption of diplomatic and trade relations between Arab nations and the United States and Israel (Dec. 11, 1973, p. 40842); to a concurrent resolution expressing congressional concern over certain domestic policies of a foreign government and urging that government to improve those internal problems in order to enhance better relations with the United States, amendments expressing the necessity for United States diplomatic initiatives as a consequence of that foreign government's policies (July 12, 1978, pp. 20500–05); to a resolution amending several clauses of a rule of the House but confined in its scope to the issue of access to committee hearings and meetings, an amendment to another clause of that rule relating to committee staffing (Mar. 7, 1973, p. 6714); to a title of a bill that only addresses the administrative structure of a new department and not its authority to carry out transferred programs, an amendment prohibiting the department from withholding funds to carry out certain objectives (June 12, 1979, p. 14485); to an amendment authorizing the use of funds for a specific study, an amendment naming any program established in the bill for an unrelated purpose for a specified Senator (Aug. 15, 1986, p. 22075); to one of two reconciliation bills reported by the Budget Committee, an amendment making a prospective indirect change to the other reconciliation bill not then pending before the House (June 25, 1997, p. 12488); to a joint resolution continuing appropriations for the current fiscal year, a motion to recommit with instructions to revise the reconciliation instructions in the concurrent resolution on the budget (Sept. 29, 2005, p.——); to a general appropriation bill, an amendment in the form of a limitation on funds therein for activities unrelated to the functions of departments and agencies addressed by the bill (July 10, 2000, p. 13605); to a bill reauthorizing the National Sea Grant College Program, a proposal to amend existing law to provide for automatic continuation of appropriations in the absence of timely enactment of a regular appropriation bill (June 18, 1997, p. 11333); to a bill regulating immigration, an amendment reaffirming an agreement with Japan (VIII, 3050); to a bill opposing concessional loans to a country and outlining principles governing the conduct of industrial cooperation projects of U.S. nationals in that country, an amendment waiving provisions of other law by requiring changes in tariff schedules to achieve overall trade reciprocity between that country

and the United States (Nov. 6, 1997, p. 24824); to a resolution authorizing the deployment of troops to implement a peace agreement, an amendment expressing support for the armed forces in carrying out such mission (Mar. 11, 1999, p. 4301); to a bill addessing enforcement of State liquor laws, an amendment addressing enforcement of State firearm laws (Aug. 3, 1999, p. 19213); to a bill addressing taxation under the Internal Revenue Code, an amendment extending unemployment insurance benefits (May 9, 2003, p. 11110 (sustained by tabling of appeal)); to a bill reauthorizing the National Transportation Safety Board, an amendment extending unemployment insurance benefits (May 15, 2003, p. 11955 (sustained on appeal)); to an immigration bill addressing (1) issues of admissibility, detention, removal, and deportation of various classes of aliens (Sept. 21, 2006, p. —— (sustained by tabling of appeal)) or (2) improvements in enforcement and judicial proceedings (Sept. 21, 2006, p. ——), a motion to recommit with instructions proposing an increase in the number of U.S. Marshals; to a bill confined to housing-related matters, an amendment providing funding for various infrastructure projects (May 17, 2007, p. ——).

An amendment that is germane, not being "on a subject different from that under consideration," belongs to a class illustrated by the following: to a bill providing for an interoceanic canal by one route, an amendment providing for a different route (V, 5909); to a bill providing for the reorganization of the Army, an amendment providing for the encouragement of marksmanship by enlisted personnel (V, 5910); to a proposition to create a board of inquiry, an amendment specifying when it shall report (V, 5915); to a bill relating to "oleomargarine and other imitation dairy products," an amendment on the subject of "renovated butter" (V, 5919); to a resolution rescinding an order for final adjournment, an amendment fixing a new date therefor (V, 5920); to a proposition directing a feasibility investigation, an amendment requiring the submission of legislation to implement that investigation (Dec. 14, 1973, p. 41747); and to a section of a bill prescribing the functions of a new Federal Energy Administration by conferring wide discretionary powers upon the Administrator, an amendment directing the Administrator to issue preliminary summer guidelines for citizen fuel use (as a further delineation of those functions) (Mar. 6, 1974, p. 5436).

A bill comprehensively addressing a subject requires careful analysis to determine whether an amendment addresses a different subject. For example, to an amendment in the nature of a substitute comprehensively amending several sections of the Clean Air Act with respect to the impact of shortages of energy resources on standards imposed under that Act, an amendment to another section of the Act suspending temporarily the authority of the Administrator of the EPA to control automobile emissions was held germane (Dec. 14, 1973, p. 41688). On the other hand, to a bill comprehensively restructuring the production and distribution of food, an amendment proposed in a motion to recommit to provide nutrition assist-

ance, including food stamps and soup kitchen programs, was held not germane (Feb. 29, 1996, p. 3257).

§ 933. Fundamental purpose as test of germaneness.

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII, 2911). The Chair discerns the fundamental purpose of a bill by examining the text of the bill and its report language (Deschler-Brown, ch. 28, § 5.6; Aug. 3, 1999, p. 19213), rather than the motives that circumstances may suggest (V, 5783, 5803; Dec. 13, 1973, pp. 41267–69; Aug. 15, 1974, p. 28438). To a bill that comprehensively addresses a subject, an amendment that relates to that subject matter may not be ruled out as nongermane merely because the amendment may be characterized as private legislation benefitting certain individuals offered to a public bill (May 30, 1984, p. 14495). Similarly, to a bill proposing to accomplish a result by methods comprehensive in scope, an amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that additional provisions not contained in the original bill were merely incidental conditions or exceptions that were related to the fundamental purpose of the bill (Aug. 2, 1973, pp. 27673–75; July 8, 1975, p. 21633; Sept. 29, 1980, pp. 27832–52). On the other hand, an amendment may relate to the same subject matter yet still stray from adherence to a common fundamental purpose. For example, an amendment singling out one constituent element of a larger subject for specific and unrelated scrutiny is not germane. Thus, to a bill authorizing a State attorney general to bring a civil action in Federal court against a person who has violated a State law regulating intoxicating liquor, an amendment singling out certain violations of liquor laws on the basis of their regard for any and all firearms issues (Aug. 3, 1999, p. 19213). Similarly, to a bill appropriating for only one fiscal year (and containing no provisions extending beyond that fiscal year), an amendment to extend an appropriation to another fiscal year is not germane (June 20, 2001, pp. 11233, 11234).

In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter sought to be amended (Aug. 11, 1970, p. 28165). Thus the following are germane: to a bill raising revenue by several methods of taxation, an amendment proposing a tax on undistributed profits (the Committee of the Whole overruling the Chair) (VII, 3042); to a proposition to accomplish a result through regulation by a governmental agency, an amendment to accomplish the same fundamental purpose through regulation by another governmental agency (Dec. 15, 1937, pp. 1572–89; June 9, 1941, p. 4905; Dec. 19, 1973, p. 42618); to a bill to achieve a certain purpose by conferring discretionary authority to set fair labor standards upon an independent agency, an amendment in the nature of a substitute to attain that purpose by a more inflexible method (prescribing fair labor standards) (Dec. 15, 1937, pp. 1590–94; Oct. 14, 1987, p. 27885); to a propo-

sition to accomplish the broad purpose of settling land claims of Alaska natives by a method general in scope, an amendment accomplishing the same purpose by a method more detailed in its provisions (Oct. 20, 1971, p. 37079); to an amendment comprehensively amending the Natural Gas Act to deregulate interstate sales of new natural gas and regulate aspects of intrastate gas use, a substitute providing regulatory authority for interstate and intrastate gas sales of large producers (Feb. 4, 1976, p. 2387); to a bill providing a temporary extension of existing authority, an amendment achieving the same purpose by providing a nominally permanent authority was held germane where both the bill and the amendment were based on reported economic projections under which either would achieve the same, necessarily temporary result by method of direct or indirect amendment to the same existing law (May 13, 1987, p. 12344); to a bill subjecting employers who fail to apprise their workers of health risks to penalties under other laws and regulations, a substitute subjecting such employers to penalties prescribed in the substitute itself (Oct. 14, 1987, p. 27885); to an amendment freezing the obligation of funds for fiscal year 1996 for missile defense until the Secretary of Defense rendered a specified readiness certification, an amendment permitting an increase in the obligation of such funds on the basis of legislative findings concerning readiness, as each proposition addressed the relationship between 1996 funding levels for missile defense and readiness (Feb. 15, 1995, p. 5026).

However, an amendment to accomplish a similar purpose by an unrelated method not contemplated by the bill is not germane. Thus, the following are not germane: to a bill providing relief to foreign countries through government agencies, an amendment providing for relief to be made through the International Red Cross (Dec. 10, 1947, pp. 11242–44); to a bill to aid in the control of crime through research and training, an amendment to accomplish that result through regulation of the sale of firearms (Aug. 8, 1967, pp. 21846–50); to a bill providing assistance to Vietnam war victims, amendments containing foreign policy declarations as to culpability in the war (Apr. 23, 1975, p. 11510); to a bill conserving energy by civil penalties on manufacturers of autos with low gas mileage, an amendment conserving energy by tax rebates to purchasers of high-mileage autos (June 12, 1975, p. 18695); to a proposition whose fundamental purpose was registration and public disclosure by, but not regulation of the activities of, lobbyists, amendments prohibiting lobbying in certain places, restricting monetary contributions by lobbyists, and providing civil penalties for violating Rules of the House in relation to floor privileges (Sept. 28, 1976, p. 33070) (but to a similar bill, an amendment requiring disclosure of any lobbying communication made on the floor of the House or Senate or in adjoining rooms, but not regulating such conduct, was held germane (Apr. 26, 1978, p. 11641)); to a bill seeking to accomplish a purpose by one method (creation of an executive branch agency), an amendment accomplishing that result by a method not contemplated in the bill (creation of office within legislative branch as function of committee oversight)

(Nov. 5, 1975, p. 35041); to a bill authorizing foreign military assistance programs, an amendment authorizing contributions to an international agency for nuclear missile inspections (Mar. 3, 1976, p. 5226); to a joint resolution proposing a constitutional amendment for representation of the District of Columbia in Congress, a motion to recommit with instructions that the Committee on the Judiciary consider a resolution retroceding populated portions of the District to Maryland (Speaker O'Neill, Mar. 2, 1978, p. 5272, implicitly overruling V, 5582); to a bill prohibiting poll taxes, a motion to recommit the bill with instructions that the committee report it back in the form of a joint resolution amending the Constitution to accomplish the purpose of the bill (Deschler-Brown, ch. 28, § 23.8); to an amendment to achieve a national production goal for synthetic fuels for national defense needs by loans and grants and development of demonstration synthetic fuel plants, a substitute to require by regulation that any fuel sold in commerce require a certain percentage of synthetic fuels (also broader in scope) (June 26, 1979, pp. 16663–74); to a bill to provide financial assistance to domestic agriculture through price support payments, an amendment to protect domestic agriculture by restricting imports in competition therewith (also within the jurisdiction of another committee) (Oct. 14, 1981, p. 23899); to a bill authorizing financial assistance to unemployed individuals for employment opportunities, an amendment providing instead for tax incentives to stimulate employment (also within the jurisdiction of a different committee) (Sept. 21, 1983, p. 25145); to a bill relating to one government agency, an amendment having as its fundamental purpose a change in the law relating to another agency, even though it contemplated a consultative role for the agency covered by the bill (July 8, 1987, p. 19014); to a proposition changing congressional budget procedures to require consideration of balanced budgets, an amendment changing concurrent resolutions on the budget to joint resolutions, thereby bringing executive enforcement mechanisms into play (July 18, 1990, p. 17920); to a bill to promote technological advancement by fostering Federal research and development, and amendment exhorting to do so by changes in tax and antitrust laws (July 16, 1991, p. 18397); to a bill extending unemployment compensation benefits during a period of economic recession, an amendment to stimulate economic growth by tax incentives and regulatory reform (Sept. 17, 1991, p. 23156); to a bill providing new budget authority, a motion to recommit with instructions to change a direct appropriation of new budget authority from the general fund into a reappropriation (in effect a rescission) of funds previously appropriated for an entirely different purpose in a special reserve account (Feb. 28, 1985, p. 4146); to a bill addressing substance abuse through prevention and treatment, an amendment imposing civil penalties on drug dealers (Sept. 16, 1998, p. 20587); to a resolution impeaching the President, an amendment censuring the President (Dec. 19, 1998, p. 28107); to the same bill, an amendment creating new Federal laws to regulate intoxicating liquor (Aug. 3, 1999, p. 19216); to a bill addressing persons convicted of sex offenses against children with criminal punishment, an

amendment addressing such perpetrators by treatment and rehabilitation (Mar. 14, 2002, p. 3203).

§ 934. Committee jurisdiction as test of germaneness.

An amendment when considered as a whole should be within the jurisdiction of the committee reporting the bill (Jan. 29, 1976, p. 1582; July 25, 1979, pp. 20601–03; June 27, 1985, pp. 17417–19), although committee jurisdiction over the subject of an amendment and of the original bill is not the exclusive test of germaneness (Aug. 2, 1973, pp. 27673–75), and the Chair relates the amendment to the bill in its perfected form (Aug. 17, 1972, p. 28913). Thus, the following are not germane: to a bill reported from the Committee on Agriculture providing price support programs for various agricultural commodities, an amendment repealing price control authority for all commodities under an act reported from the Committee on Banking and Currency (July 19, 1973, p. 24950); to a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that Act and also affecting budget and appropriation procedures (matters within the jurisdiction of other House committees) (Nov. 7, 1973, p. 36240); to a bill relating to intelligence activities of the executive branch, an amendment effecting a change in the Rules of the House by directing a committee to impose an oath of secrecy on its members and staff (May 1, 1991, p. 9669); to a joint resolution continuing appropriations for the current fiscal year, a motion to recommit with instructions to revise the reconciliation instructions in the concurrent resolution on the budget (Sept. 29, 2005, p.——); to a bill reported by the Committee on Government Operations creating an executive agency to protect consumers, an amendment conferring on congressional committees with oversight over consumer protection the authority to intervene in judicial or administrative proceedings (a rulemaking provision within the jurisdiction of the Committee on Rules) (Nov. 6, 1975, p. 35373); to a proposition reported from the Committee on Public Works and Transportation authorizing funds for local public works employment, an amendment to mandate expenditure of already appropriated funds (as a purported disapproval of deferral of such funds under the Impoundment Control Act of 1974) and to set discount rates for reclamation and public works projects, subjects within the jurisdictions of the Committees on Appropriations and Interior and Insular Affairs (May 3, 1977, p. 13242); to a bill reported from the Committee on Armed Services authorizing military procurement and personnel strengths for one fiscal year, an amendment imposing permanent prohibitions and conditions on troop withdrawals from the Republic of Korea since including statements of policy within the jurisdiction of the Committee on Foreign Affairs (May 24, 1978, pp. 15293–95); to a bill reported from the Committee on Government Operations creating a new department, transferring the administration of existing laws to it, and authorizing appropriations to carry out the Act subject to provisions in existing law, an amendment prohibiting the

use of funds so authorized to carry out a designated funding program transferred to the department, where the purpose of the authorization is to allow appropriations in general appropriation bills for the department to carry out its functions but where changes in the laws to be administered by the department remain within the jurisdiction of other committees of the House (June 19, 1979, p. 15570); to a bill reported by the Committee on Public Works authorizing funds for highway construction and mass transportation systems using motor vehicles, an amendment relating to urban mass transit (then within the jurisdiction of the Committee on Banking and Currency) and the railroad industry (then within the jurisdiction of the Committee on Interstate and Foreign Commerce) (Oct. 5, 1972, p. 34115); to a bill reported from the Committee on Interior and Insular Affairs designating certain areas in a State as wilderness, an amendment providing unemployment benefits to workers displaced by the designation (Mar. 21, 1983, p. 6347); to a bill reported from the Committee on Science and Technology authorizing environmental research and development activities of an agency, an amendment expressing the sense of Congress with respect to that agency's regulatory and enforcement authority, within the jurisdiction of the Committee on Energy and Commerce (Feb. 9, 1984, p. 2423); to a bill authorizing environmental research and development activities of an agency for two years, an amendment adding permanent regulatory authority for that agency by amending a law not within the jurisdiction of the committee reporting the bill (June 4, 1987, p. 14757); to a bill reported from the Committee on Education and Labor dealing with education, an amendment regulating telephone communications (a matter within the jurisdiction of the Committee on Energy and Commerce) (Apr. 19, 1988, p. 7355); to a bill addressing various research programs and authorities, an amendment addressing matters of fiscal and economic policy and regulation (July 16, 1991, p. 18391; Sept. 22, 1992, pp. 26734, 26741); to a bill reported from the Committee on Ways and Means addressing unemployment compensation, an amendment addressing stimuli for economic growth involving the jurisdictions of the Committees on Banking, Finance, and Urban Affairs and the Judiciary (Sept. 17, 1991, p. 23177); to a bill reported from the Committee on Armed Services amending several laws within that committee's jurisdiction on military procurement and policy, an amendment to the Renegotiation Act, a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs and not solely related to military contracts (June 26, 1985, pp. 17417–19) and an amendment requiring reports on Soviet Union compliance with arms control commitments, a matter exclusively within the jurisdiction of the Committee on Foreign Affairs (Deschler-Brown, ch. 28, § 4.26); to a bill reported from the Committee on Energy and Commerce relating to mentally ill individuals, an amendment prohibiting the use of general revenue sharing funds (within the jurisdiction of the Committee on Government Operations) (Jan. 30, 1986, p. 1053); to a bill reported from the Committee on Merchant Marine and Fisheries authorizing various activities of the Coast Guard,

an amendment urging the Secretary of State in consultation with the Coast Guard to elicit cooperation from other nations concerning certain Coast Guard and military operations (a matter within the jurisdiction of the Committee on Foreign Affairs) (July 8, 1987, p. 19013); to a bill reported by the Committee on Banking, Finance and Urban Affairs dealing with housing and community development grant and credit programs, an amendment expressing the sense of Congress on tax policy (the deductibility of mortgage interest), a matter within the jurisdiction of the Committee on Ways and Means (Aug. 1, 1990, p. 21256); to a bill reported from the Committee on Education and Labor authorizing a variety of civilian national service programs, an amendment establishing a contingent military service obligation (a matter within the selective service jurisdiction of the Committee on Armed Services) (July 28, 1993, p. 17398); to a bill reauthorizing programs administered by two agencies within one committee's jurisdiction, an amendment more general in scope affecting agencies within the jurisdiction of other committees (May 12, 1994, p. 10024); to a bill reported by the Committee on Transportation and Infrastructure reforming and privatizing Amtrak, an amendment rescinding previously appropriated funds for certain administrative expenses, a matter within the jurisdiction of the Committee on Appropriations (Nov. 30, 1995, p. 35071); to a measure expressing a sense of Congress with respect to the availability of public funds for expenses incurred in the evaluation of a problem, an amendment addressing legislative responses to that problem, within the jurisdiction of other committees (Feb. 4, 1998, p. 794); to a bill reported from Government Reform and Oversight proposing to alter responsibilities of executive branch agencies under an existing law, an amendment proposing to extend the application of that law to entities of the legislative branch, a matter within the jurisdiction of the Committee on House Administration (Mar. 12, 1998, p. 3389); to a resolution authorizing the deployment of troops to implement a peace agreement within the jurisdiction of the Committee on Foreign Affairs, an amendment expressing support for the armed forces carrying such mission within the jurisdiction of both the Committees on Armed Services and Foreign Affairs (Mar. 11, 1999, p. 4301); to a bill addressing certain diplomatic efforts to curb alleged price-fixing in the global oil market within the jurisdiction of the Committee on Foreign Affairs, an amendment proposing to suspend oil exportation through changes to the Mineral Leasing Act within the jurisdiction of the Committee on Natural Resources and an amendment proposing to change the Energy Policy and Conservation Act to reauthorize Presidential authority to draw down the strategic petroleum reserve, a matter within the jurisdiction of the Committee on Energy and Commerce (Mar. 22, 2000, p. 3281); to a bill confined to tax issues within the jurisdiction of the Committee on Ways and Means, a motion to recommit with instructions to report an amendment addressing the minimum wage, a matter within the jurisdiction of the Committee on Education and the Workforce (now Education and Labor)

(June 22, 2006, p. —— (sustained by tabling of appeal)), or vice versa (Jan. 10, 2007, p. —— (sustained by tabling of appeal)).

Committee jurisdiction is not the sole test of germaneness where: (1) the proposition to which the amendment is offered is so comprehensive (overlapping several committees' jurisdictions) as to diminish the pertinency of that test; (2) the amendment does not demonstrably affect a law within another committee's jurisdiction (July 21, 1976, p. 23167; Oct. 8, 1985, pp. 26548–51); (3) the portion of the bill also contains language, related to the amendment, not within the jurisdiction of the committee reporting the bill (Apr. 2, 1976, p. 9254; Aug. 10, 1984, p. 23975); or (4) the bill has been amended to include matter within the jurisdiction of another committee thus rendering further similar amendments germane (July 11, 1985, p. 18601; Sept. 19, 1986, p. 24769). Thus, to a bill reported from the Committee on Agriculture relating to the food stamp program, an amendment requiring the Secretary of the Treasury, after consultation with the Secretary of Agriculture, to collect from certain recipients the monetary value of food stamps received was held germane since the performance of new duties by the Secretary of the Treasury and by the Internal Revenue Service not affecting the application of the Internal Revenue Code is not a matter solely within the jurisdiction of the Committee on Ways and Means (July 27, 1977, pp. 25249–52). On the other hand, to a comprehensive farm bill authorizing a variety of programs within the jurisdiction of the Committees on Agriculture and Foreign Affairs, and amended to include matter within the jurisdiction of the Committee on Energy and Commerce (but not amending laws within the jurisdiction of other committees), an amendment proposing to alter an existing interstate dairy compact and grant consent to additional compacts, matters within the jurisdiction of the Committee on the Judiciary, is not germane (Oct. 4, 2001, pp. 18797, 18809).

To a bill amending an existing law to grant to merchant mariners benefits substantially equivalent to those granted to veterans in a separate law in the jurisdiction of another committee, an amendment directly changing the separate law to extend its benefits to merchant mariners was held not germane (Sept. 9, 1992, p. 23951); but where the pending bill incorporates by reference provisions of a law from another committee and conditions the bill's effectiveness upon actions taken pursuant to a section of that law, an amendment to alter that section of the law may be germane (Apr. 8, 1974, pp. 10108–10).

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

(May 23, 1978, pp. 15094–96; May 24, 1978, pp. 15293–95; Aug. 11, 1978, p. 25705).

The fact that an amendment is offered in conjunction with a motion to recommit a bill with instructions does not affect the requirement that the subject matter of the amendment be germane and within the jurisdiction of the committee reporting the bill (Mar. 2, 1967, p. 5155). Thus the following are not germane: to a bill reported from the Committee on Foreign Affairs addressing U.S. claims against Iraq, a motion to recommit with instructions to prohibit the admission of former members of Iraq's armed forces to the United States as refugees (a matter within the jurisdiction of the Committee on the Judiciary) (Apr. 28, 1994, p. 8803); and to a bill amending a law reported by the Committee on Banking and Financial Services opposing concessional loans to a country and outlining principles governing the conduct of industrial cooperation projects of U.S. nationals in that country, an amendment proposed in a motion to recommit waiving provisions of other law by requiring changes in tariff schedules to achieve overall trade reciprocity between that country and the United States (a subject within the jurisdiction of the Committee on Ways and Means) (Nov. 6, 1997, p. 24824).

§ 935. Various tests of germaneness are not exclusive.

The standards by which the germaneness of an amendment may be measured, as set forth in §§ 932–934, *supra*, are not exclusive; an amendment and the matter to which offered may be related to some degree under the tests of subject matter, purpose, and jurisdiction, and still not be considered germane under the precedents. Thus, the following have been held not to be germane: to a proposition relating to terms of Senators, an amendment changing the manner of their election (V, 5882); to a bill relating to commerce between the States, an amendment relating to commerce within the several States (V, 5841); to a proposition to relieve destitute citizens of the United States in Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality (V, 5897); to a proposition for the appointment of a select committee to investigate a certain subject, an amendment proposing an inquiry of the executive on that subject (V, 5891); to a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the Government (V, 5887); to a provision for the erection of a building for a mint, an amendment to change the coinage laws (V, 5884); to a resolution proposing expulsion, an amendment proposing censure (VI, 236); to a resolution authorizing the administration of the oath to a Member-elect, an amendment authorizing such oath administration but adding several conditions of punishment predicated on acts committed in a prior Congress (Jan. 3, 1969, pp. 23–25); to a general tariff bill, an amendment creating a tariff board (May 6, 1913, p. 1234; Speaker Clark, May 8, 1913, p. 1381); to a proposition to sell two battleships and build a new battleship with the proceeds, a proposition to devote the proceeds to building wagon roads (VIII, 2973); to a bill authorizing a State attorney general to bring a civil action in

Federal court against a person who has violated a State law regulating intoxicating liquor, an amendment singling out certain violations of liquor laws on the basis of their regard for any and all firearms issues (Aug. 3, 1999, p. 19213).

§ 936. One individual proposition not germane to another.

One individual proposition may not be amended by another individual proposition even though the two belong to the same class (VIII, 2951–2953, 2963–2966, 3047; Jan. 29, 1986, p. 684; Oct. 22, 1990, p. 32346; Oct. 24, 1991, p. 28561). Thus, the following are not germane: to a bill proposing the admission of one territory into the Union, an amendment for admission of another territory (V, 5529); to a bill amending a law in one particular, amending the law in another particular (VIII, 2949); to a proposition to appropriate or to authorize appropriations for only one year (and containing no provisions extending beyond that year), an amendment to extend the authorization or appropriation to another year (VIII, 2913; Nov. 13, 1980, pp. 29523–28; see also May 2, 1979, p. 9564; Oct. 12, 1979, pp. 28097–99; June 20, 2001, pp. 11233, 11234); to a measure earmarking funds in an appropriation bill, an amendment authorizing the program for which the appropriation is made (Nov. 15, 1989, p. 29019); to a bill for the relief of one individual, an amendment proposing similar relief for another (V, 5826–5829); to a resolution providing a special order for one bill, an amendment to include another bill (V, 5834–5836); to a provision for extermination of the cotton-boll weevil, an amendment including the gypsy moth (V, 5832); to a provision for a clerk for one committee, an amendment for a clerk to another committee (V, 5833); to a Senate amendment dealing with use of its contingent fund for art restoration in that body, a proposed House amendment for use of the House contingent fund for a similar but broader purpose (May 24, 1990, p. 12203); to a bill prohibiting transportation of messages relative to dealing in cotton futures, an amendment adding wheat, corn, etc. (VIII, 3001); to a bill prohibiting cotton futures, an amendment prohibiting wheat futures (VIII, 3001); to a bill for the relief of certain aliens, an amendment for the relief of other persons who are not aliens (May 14, 1975, p. 14360); to a bill providing relief for agricultural producers, an amendment extending such relief to commercial fishermen (also in the jurisdiction of another committee) (Apr. 24, 1978, p. 11080); to a bill governing the political activities of Federal civilian employees, an amendment to cover members of the uniformed services (June 7, 1977, p. 17713); to a bill covering the civil service system for Federal civilian employees, an amendment bringing other classes of employees (postal and District of Columbia employees) within the scope of the bill (Sept. 7, 1978, pp. 28437–39; Oct. 9, 1985, pp. 26951–54); to a portion of an appropriation bill containing funds for a certain purpose to be expended by one agency, an amendment containing funds for another agency for the same purpose (July 24, 1981, p. 17226); to an amendment exempting national defense budget authority from the reach of a proposed Presidential rescission authority, an amendment exempting social security (Feb. 2, 1995, p.

5501); to a Senate amendment striking an earmark from an appropriation bill, a House amendment reinserting part of the amount but adding other earmarks for unrelated programs (Nov. 15, 1989, p. 29019); to a Senate amendment relating to a feasibility study of a land transfer in one State, a House amendment requiring an environmental study of land in another State (Nov. 15, 1989, p. 29035); to a bill prohibiting certain uses of polygraphy in the private sector, an amendment applying the terms of the bill to the Congress (Nov. 4, 1987, p. 30870); to a bill to determine the equitability of Federal pay practices under statutory systems applicable to agencies of the executive branch, an amendment to extend the scope of the determination to pay practices in the legislative branch (ruling sustained by Committee of Whole, Sept. 28, 1988, p. 26422); to a special appropriation bill providing funds and authority for agricultural credit programs but containing no transfers of funds, reappropriations, or rescissions, an amendment (contained in a motion to recommit) deriving funds for the bill by transfer of unobligated balances in the Energy Security Reserve and thus decreasing and transferring funds provided for a program unrelated to the subject matter or method of funding provided in the bill (Feb. 28, 1985, p. 4146); to a bill prohibiting importation of goods made in whole or in part by convict, pauper, or detained labor, or made in whole or in part from materials that have been made in whole or in part in any manner manipulated by convict or prison labor, an amendment prohibiting importation of goods produced by child labor, a second discrete class (VIII, 2963); similarly, to an amendment authorizing grants to States for purchase of one class of equipment (photographic and fingerprint equipment) for law enforcement purposes, an amendment including assistance for the purchase of a different class of equipment (bulletproof vests) (Oct. 12, 1979, pp. 28121–24); to a bill repealing section 14(b) of the National Labor Relations Act and making conforming changes in two related sections of labor law, all pertaining solely to the so-called "right-to-work" issue, an amendment excluding from the applicability of certain labor-management agreements members of religious groups (July 28, 1965, p. 18633); to a bill relating to the design of certain coin currency, an amendment specifying the metal content of other coin currency (Sept. 12, 1973, p. 29376); to a proposition to accomplish a single purpose without amending a certain law, an amendment to accomplish another purpose by amending that law (Dec. 14, 1973, pp. 41723–25); to a bill regulating poll closing time in Presidential general elections, an amendment extending its provisions to Presidential primary elections (Jan. 29, 1986, p. 684); to a bill authorizing grants to private entities furnishing health care to underserved populations, an amendment authorizing grants to States to control a public health hazard (a different category of recipient) (Mar. 5, 1986, p. 3604); to a bill siting a certain type of repository for a specified kind of nuclear waste, an amendment prohibiting the construction at another site of another type of repository for another kind of nuclear waste (July 21, 1992, p. 18718); to a bill addressing violent crimes, an amendment addressing nonviolent crimes,

such as crimes of fraud and deception or crimes against the environment (May 7, 1996, pp. 10342, 10343); to a bill naming a facility after a specific person, an amendment proposing to substitute the name of a different person (VIII, 2955) where it could not be shown that the amendment intended a return to the facility's existing designation (Feb. 4, 1998, p. 792); to a joint resolution addressing whether public funds should be available for specified endeavors of one group, an amendment addressing the same question for unrelated endeavors of another group (Feb. 4, 1998, p. 819); to a bill proposing to alter responsibilities of executive branch agencies under an existing law, an amendment proposing to extend the application of that law to entities of the legislative branch (Mar. 12, 1998, p. 3389); to a joint resolution proposing an amendment to the Constitution authorizing Congress to prohibit physical desecration of the flag, a motion to recommit with instructions proposing an amendment to the Constitution requiring a balanced budget (June 22, 2005, p. —— (sustained by tabling of appeal)) or requiring that Social Security receipts and outlays be counted as receipts or outlays of the United States (June 22, 2005, p. —— (sustained by tabling of appeal)); to a joint resolution proposing an amendment to the Constitution to afford equal rights on the basis of sex, an amendment to add "race, creed, or color" (Oct. 12, 1971, pp. 35813, 35814).

§ 937. A general provision not germane to a specific subject.

A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject (V, 5843–5846; VIII, 2997, 2998; July 31, 1985, pp. 21832–34; see also Deschler-Brown, ch. 28, § 9). Thus the following are not germane: to a bill for the admission of one territory into the Union, an amendment providing for the admission of several other territories (V, 5837); to a bill relating to all corporations engaged in interstate commerce, an amendment relating to all corporations (V, 5842); to a bill proscribing certain picketing in the District of Columbia, an amendment making the provisions thereof applicable throughout the United States (Aug. 22, 1966, p. 20113); to a joint resolution proposing an amendment to the Constitution prohibiting the United States or any State from denying persons 18 years of age or older the right to vote, an amendment requiring the United States and all States to treat persons 18 years and older as having reached the age of majority for all purposes under the law (Mar. 23, 1971, p. 7567); to a bill dealing with enforcement of United Nations sanctions against one country in relation to a specific trade commodity, an amendment imposing United States sanctions against all countries for all commodities and communications (Mar. 14, 1977, p. 7446); to a bill to enable a department to investigate and prosecute fraud and abuse in medicare and medicaid health programs, an amendment to prohibit any officer or employee from disclosing any identifiable medical record absent patient approval (Sept. 23, 1977, pp. 30534–35); to an amendment to a budget resolution changing one functional category only, an amendment changing several other categories and covering an additional fiscal year (May 2, 1979, pp. 9556–64); to a bill authorizing funds for radio

broadcasting to Cuba, an amendment to include broadcasting to all dictatorships in the Caribbean Basin (Aug. 10, 1982, p. 20256); to a bill relating to aircraft altitude over units of the National Park System, an amendment relating to aircraft collision avoidance generally (Sept. 18, 1986, p. 24084); to a proposition prohibiting the use of funds appropriated for a fiscal year for a specified purpose, an amendment prohibiting the use of funds appropriated for that or any prior fiscal year for an unrelated purpose is not germane (June 30, 1987, p. 18294); to a proposition providing for a training vessel for one state maritime academy, an amendment relating to training vessels for all state maritime academies is not germane (June 30, 1987, p. 18296); to a proposition waiving a requirement in existing law that an authorizing law be enacted before the obligation of certain funds, an amendment affirmatively enacting bills containing not only that authorization but also other policy matters (Sept. 28, 1988, p. 26108); to a proposition pertaining only to a certain appropriation account in a bill, an amendment relating not only to that account but also to funds in other acts (Sept. 30, 1988, p. 27148); to a proposition raising an employment ceiling for one year, an amendment addressing in permanent law a hiring preference system for such employees (Oct. 11, 1989, p. 24089); to an omnibus farm bill with myriad programs to improve agricultural economy, an amendment to the Animal Welfare Act not limited to agricultural pursuits (Aug. 1, 1990, p. 21573); to a bill authorizing Federal funding for qualifying State national service programs, an amendment conditioning a portion of such funding on the enactment of State laws immunizing volunteers in nonprofit or public programs, generally, from certain legal liabilities (July 28, 1993, p. 17401); to an amendment addressing particular educational requirements imposed on educational agencies by the underlying bill, an amendment addressing any requirements imposed on educational agencies by the underlying bill (Mar. 21, 1994, p. 5771); to a bill reauthorizing programs administered by the Economic Development Administration and the Appalachian Regional Commission, an amendment providing for the waiver of any Federal regulation that would interfere with economic development (May 12, 1994, p. 10024); to a bill prohibiting a certain class of abortion procedures, an amendment prohibiting any or all abortion procedures (Mar. 20, 1997, p. 4425); to a bill addressing one class of imported goods (those produced by forced labor), an amendment addressing all imported goods from a specified country (Nov. 5, 1997, p. 24643).

To a bill limited in its applicability to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane (Sept. 27, 1967, p. 26957). Thus, the following are not germane: to a bill establishing an office without regulatory authority in the Department of the Interior to manage biological information, an amendment addressing requirements of compensation for constitutional takings by other regulatory agencies (Oct. 26, 1993, p. 26076); to a bill amending an authority of an agency under an existing law, an amendment independently expressing the sense of Congress on regulatory agencies generally

(May 14, 1992, p. 11287); to a proposition authorizing activities of certain government agencies for a temporary period, an amendment permanently changing existing law to cover a broader range of government activities (May 5, 1988, p. 9938); and to a joint resolution continuing funding within one executive department, an amendment addressing funding for other departments as well as one addressing the compensation of Federal employees on a government-wide basis (Dec. 20, 1995, pp. 37886, 37888).

To a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law other than those dealt with by the bill is not germane (V, 5806–5808). Thus, the following are not germane: to a bill amending the war-time prohibition act in one particular, an amendment repealing that act (VIII, 2949); to a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment temporarily suspending other requirements of all other environmental protection laws (Dec. 14, 1973, p. 41751); to an amendment striking from a bill one activity from those covered by the law being amended, a substitute striking out the entire subsection of the bill, thereby eliminating the applicability of existing law to a number of activities (Sept. 23, 1982, p. 24963); to a bill amending an existing law to authorize a program, an amendment restricting authorizations under that or any other act (Dec. 10, 1987, p. 34676); to a bill proposing a temporary change in law, an amendment making permanent changes in that law (Nov. 19, 1991, p. 32893); and to a bill amending an existing law in one particular, an amendment amending other laws and more comprehensive in scope (Nov. 19, 1993, pp. 30513, 30515, 30517).

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

§ 938. Specific subjects germane to general propositions of the class.

A general subject may be amended by specific propositions of the same class (VIII, 3002, 3009, 3012; see also Deschler-Brown, ch. 28, § 11). Thus, the following have been held to be germane: to a bill admitting several territories into the Union, an amendment adding another territory (V, 5838); to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities (V, 5840); to a resolution embodying two distinct phases of international relationship, an amendment embodying a third (V, 5839); to an amendment prohibiting indirect assistance to several countries, an amendment to include additional countries within that prohibition (Aug. 3, 1978, p. 24244); to a portion of a bill providing two categories of economic assistance to foreign countries, an amendment adding a further specific category (Apr. 9, 1979, pp. 7755–57); to a bill bringing two new

categories within the coverage of existing law, an amendment to include a third category of the same class (Nov. 27, 1967, p. 33769); to a proposition providing for prepayment of loans by those within a certain class of borrowers who meet a specified criterion, a proposed House amendment eliminating the criterion to broaden the applicability of the Senate amendment to additional borrowers within the same class (June 30, 1987, p. 18308); to an amendment addressing a range of criminal prohibitions, an amendment addressing another criminal prohibition within that range (Oct. 17, 1991, p. 26767); to a bill addressing violent crimes, an amendment addressing violent crimes involving the environment (May 7, 1996, p. 10344).

Where a bill seeks to accomplish a general purpose (support of arts and humanities) by diverse methods, an amendment that adds a specific method to accomplish that result (artist employment through the National Endowment for the Arts) may be germane (Apr. 26, 1976, p. 11101; see also June 12, 1979, p. 14460). However, to a resolution authorizing a class of employees in the service of the House, an amendment providing for the employment of a specified individual was held not to be germane (V, 5848–5849). Other examples of amendments that have been held to be germane under this theory include: to a proposition relating in many diverse respects to the political rights of the people of the District of Columbia, an amendment conferring upon that electorate the additional right of electing a nonvoting Delegate to the Senate (Oct. 10, 1973, p. 33656); to a bill containing definitions of several of the terms used therein, an amendment modifying one of the definitions and adding another (Sept. 26, 1967, p. 26878); to a bill authorizing a broad program of research and development, an amendment directing specific emphasis in the administration of the program (Dec. 19, 1973, p. 42607); to a bill providing for investigation of relationships between environmental pollution and cancer, an amendment to investigate the impact of personal health habits, such as cigarette smoking, on that relationship (Sept. 15, 1976, pp. 30496–98); to a supplemental appropriation bill containing funds for several departments and agencies, an amendment in the form of a new chapter providing funds for capital outlays for subway construction in the District of Columbia (May 11, 1971, p. 14437); to a proposal authorizing military procurement, including purchase of food supplies, an amendment authorizing establishment that fiscal year of a military preparedness grain reserve (July 20, 1982, pp. 17073, 17074, 17092, 17093).

§ 939. Amendments to bills amending existing law.

To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was ruled not to be germane (V, 5808; VIII, 2707, 2708). Thus a bill amending several sections of one title of the United States Code does not necessarily bring the entire title under consideration so as to permit an amendment to any portion thereof (Oct. 11, 1967, p. 28649), and where a bill amends existing law in one narrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not

germane (Aug. 16, 1967, p. 22768; VIII, 2709, 2839, 3013, 3031; May 12, 1976, p. 13532). To a bill narrowly amending an anti-discrimination provision in the Education Amendments of 1972 only to clarify the definition of a discriminating entity subject to denial of Federal funding, amendments re-defining a class of discrimination (sex), expanding the definition of persons who are the subject of discrimination (to include the unborn), and deeming a new entity (Congress) to be a recipient of Federal assistance (a class not necessarily included in the class covered by the bill), were ruled not to be germane (June 26, 1984, pp. 18847, 18857, 18861). But to the same bill, an amendment merely defining a word used in the bill was held germane (June 26, 1984, p. 18865). Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends on its relationship to the subject of the bill and not to the entire law being amended (Oct. 28, 1975, p. 34031). But a bill amending several sections of an existing law may be sufficiently broad to permit amendments to other sections of that law not mentioned in the bill (Feb. 19, 1975, p. 3596; Sept. 14, 1978, p. 29487). To a bill continuing and re-enacting an existing law, amendments germane to the existing act sought to be continued have been held germane to the pending bill (VIII, 2940, 2941, 2950, 3028; Oct. 31, 1963, p. 20728; June 1, 1976, p. 16045); but where a bill merely extends an official's authority under existing law, an amendment permanently amending that law has been held not in order (Sept. 29, 1969, pp. 27341–43). Thus where a bill authorized appropriations to an agency for one year but did not amend the organic law by extending the existence of that agency, an amendment extending the life of another entity mentioned in the organic law was held not germane (May 20, 1976, p. 14912). An amendment making permanent changes in the law relating to organization of an agency is not germane to a title of a bill only authorizing appropriations for such agency for one fiscal year (Nov. 29, 1979, p. 34090). To a general appropriation bill providing funds for one fiscal year, an amendment changing a permanent appropriation in existing law and changing congressional procedures for consideration of that general appropriation bill in future years is more general in scope (and in part within the jurisdiction of the Committee on Rules) and therefore is not germane (June 29, 1987, p. 18083); and to a temporary authorization bill prescribing the use of an agency's funds for two years but not amending permanent law, an amendment permanently changing the organic law governing that agency's operations is not germane (Dec. 2, 1982, p. 28537, concerning Sept. 28, 1982, p. 25465). However, to a bill authorizing appropriations for a department for one fiscal year, where the effect of the department's activities pursuant to that authorization may extend beyond such year, an amendment directing a specific use of those funds to perform an activity that may not be completed within the fiscal year was nevertheless germane, since limited to funds in the bill (Oct. 18, 1979, p. 28763). Similarly, to a one-year authorization bill containing diverse limitations and directions to the agency in question

during such year, an amendment further directing the agency to obtain information from the private sector, and to make such information public during such year, was held germane (Oct. 18, 1979, pp. 28815–17). While an amendment making a permanent change in existing law has been held not germane to a bill proposing a temporary change in that law, where it is apparent that the fundamental purpose of the amendment is to have only temporary effect and to accomplish the same result as the bill, it may be germane. Thus to a bill providing a temporary extension of existing authority, an amendment achieving the same purpose by providing a nominally permanent authority was held germane where both the bill and the amendment were based on reported economic projections under which either would achieve the same, necessarily temporary result by method of direct or indirect amendment to the same existing law (May 13, 1987, p. 12344). However, to a proposal continuing the availability of appropriated funds and imposing diverse legislative conditions upon the availability of appropriations, an amendment directly and permanently changing existing law as to the eligibility of recipients of funds was held to be nongermane (Dec. 10, 1981, pp. 30536–38). To a bill extending an existing law in modified form, an amendment proposing further modification of that law may be germane (Apr. 23, 1969, p. 10067; Feb. 19, 1975, p. 3596). But to a bill amending a law in one particular, an amendment repealing the law is not germane (Jan. 14, 1964, p. 423). To a bill amending a general law in several particulars, an amendment providing for the repeal of the whole law may be germane (V, 5824), but the bill amending the law must so vitally affect the whole law as to bring the entire act under consideration before the Chair will hold an amendment repealing the law or amending any section of the law germane to the bill (VIII, 2944; Apr. 2, 1924, p. 5437). Where a bill repeals a provision of law, an amendment modifying that provision rather than repealing it may be germane (Oct. 30, 1969, p. 32466); but the modification must relate to the provision of law being repealed (July 28, 1965, p. 18636). Generally to a bill amending one law, an amendment changing the provisions of another law or prohibiting assistance under any other law is not germane (May 11, 1976, p. 13419; Aug. 12, 1992, p. 23238). To a bill amending the Bretton Woods Act in relation to the International Monetary Fund, an amendment prohibiting the alienation of gold to the IMF or to any other international organization or its agents was held not germane (July 27, 1976, p. 24040). However, to a bill comprehensively amending several laws within the same class, an amendment further amending one of those laws on a subject within that class is germane (May 12, 1976, p. 13530); and to a bill authorizing funding for the intelligence community for one fiscal year and making diverse changes in permanent laws relating thereto, an amendment changing another permanent law to address accountability for intelligence activities was held germane (Oct. 17, 1990, p. 30171). To a title of a bill dealing with a number of unrelated authorities of the Secretary of Agriculture, an amendment amending another act within the jurisdiction of the Com-

mittee on Agriculture to require the adoption of a minimum standard for the contents of ice cream was held germane, since it was restricted to the authority of the Secretary of Agriculture (July 22, 1977, pp. 24558–70). But to a section of a bill amending a section of the National Labor Relations Act dealing with procedural rules governing labor elections and organizations, an amendment changing the same section of law to require promulgation of rules defining certain conduct as an unfair labor practice was held not germane, where neither the pending section nor the bill itself addressed the subject of unfair labor practices dealt with in another section of the law (Oct. 5, 1977, p. 32507). To a bill narrowly amending one subsection of existing law dealing with one specific criminal activity, an amendment postponing the effective date of the entire section, affecting other criminal provisions and classes of persons as well as the one amended by the bill, or an amendment to another subsection of the law dealing with a related but separate prohibition, was held not germane (May 16, 1979, pp. 11470–72), but to an amendment adding sundry punitive sections to the Federal criminal code, an amendment creating an exception to the prohibition of another such section was held germane (Oct. 17, 1991, p. 26767).

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

Restrictions, qualifications, and limitations sought to be added by way of amendment must be germane to the provisions of the bill. Conditioning the availability of funds may be germane if the condition is related to the general purpose and within the scope of the pending proposition (Deschler-Brown, ch. 28, §§ 29–34). Thus, the following are germane: to a bill authorizing the funding of a variety of programs that satisfy several stated requirements in order to accomplish a general purpose, an amendment conditioning the availability of those funds upon implementation by their recipients of another program related to that general purpose (June 18, 1973, p. 20100); to a bill authorizing funds for military procurement and construction, an amendment declaring that none of the funds be used to carry out military operations in North Vietnam (Mar. 2, 1967, p. 5143); to a proposition reducing the line-item authorization for certain missiles and prohibiting procurement of certain other missiles, an amendment proposing a conditional restriction on the availability of funds for such procurement that merely requires observation of activities of another country, which activities already constitute the policy basis for the funding of that governmental activity (missile procurement) (May 16, 1984, p. 12510); to a bill authorizing federal funding of certain qualifying state programs, an amendment restricting the payment of Federal funds in a bill to States that enact certain laws relating to the activities being funded (July 28, 1993, p. 17403); to an authorization bill, an amendment that conditions the availability of such funds by adopting as a measure of their availability the expenditure during the fiscal year of a comparable percentage of funds authorized by other acts as long as the amendment does not directly affect the use of other funds (July 26, 1973, p. 26210);

to a bill authorizing certain housing programs, an amendment restricting the amounts of direct spending in the bill to the levels set in the concurrent resolution on the budget as merely a measure of availability of funds in the bill and not a provision directly affecting the congressional budget process (June 11, 1987, p. 15540); to a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of funds to a subcategory of the same recipients (Sept. 25, 1979, pp. 26135–43); to a bill authorizing appropriations for an agency, an amendment prohibiting the use of funds for any purpose to which the funds may otherwise be applied (Nov. 5, 1981, p. 26716); an amendment that conditions the availability of funds covered by a bill by adopting as a measure of their availability the monthly increases in the public debt (as long as the amendment does not directly affect other provisions of law or impose contingencies textually predicated upon other unrelated actions of Congress) (Sept. 25, 1979, pp. 26150–52); to a bill authorizing defense assistance to a foreign nation, an amendment delaying the availability of that assistance until that nation's former ambassador testified before a House committee, which had been directed by the House to investigate gifts by that nation's representatives to influence Members and employees, as a contingency that sought to compel the furnishing of information related to efforts to induce defense assistance to that nation (Aug. 2, 1978, p. 23932); to a provision authorizing funds for a fiscal year, an amendment restricting the availability of funds appropriated pursuant thereto for a specified purpose until enactment of a subsequent law authorizing that purpose (July 21, 1983, p. 20198); to a bill authorizing humanitarian and evacuation assistance to war refugees, an amendment making such authorization contingent on a report to Congress on costs of a portion of the evacuation program (but not requiring implementation of any new program) (Apr. 23, 1975, p. 11529); and to an amendment precluding the availability of an authorization for part of a fiscal year and then permitting availability for the remainder of the year based upon a contingency, an amendment constituting a prohibition on the availability of the same funds for the entire fiscal year (May 16, 1984, p. 12567).

On the other hand, the following conditions on the availability of funds are not germane: an amendment conditioning the use of funds on the conduct of congressional hearings addressing an unrelated subject (July 22, 1994, p. 17613); to a proposition conditioning the availability of funds upon the enactment of an authorizing statute for the enforcing agency, a substitute conditioning the availability of some of those funds upon a prohibition of certain imports into the United States (Nov. 7, 1985, p. 30984); to a bill authorizing funds for military assistance to certain foreign countries, an amendment to make the availability of those funds contingent upon efforts by those countries to control narcotic traffic to the United States, and to authorize the President to offer the assistance of Federal agencies for that purpose, where the subjects of narcotics and the accessibility of Federal agencies are not contained in the bill (June 17, 1971,

p. 20589); to a bill authorizing funds for foreign assistance, an amendment placing restrictions on funds authorized or appropriated in prior years (Aug. 24, 1967, p. 24002); to an amendment changing a dollar amount in a bill, a substitute therefor not only changing the figure but also restricting the use of any funds in furtherance of a certain activity (June 7, 1972, p. 19920); to a proposal to restrict availability of agency funds for a year and amending the organic law as it relates to the internal functions thereof, an amendment further restricting funding but also applying with respect to the use of funds in the bill provisions of criminal and other laws not applicable thereto (Oct. 26, 1989, p. 26269); to a provision prohibiting aid to a certain country unless certain conditions were met, an amendment prohibiting aid to another country until that nation took certain acts, and referring to funds provided in other acts (Nov. 17, 1967, p. 32968); and an amendment conditioning the availability of defense funds to foreign contractors based upon their compliance with Federal law regarding discrimination not otherwise applicable to them (and within the jurisdiction of other committees) (June 16, 1983, p. 16060); an amendment conditioning the availability of grants to states and localities based upon their compliance with Federal immigration law regarding employment eligibility verification not otherwise applicable to them (and within the jurisdiction of other committees) (Mar. 7, 2007, p. ——).

An amendment to a general appropriation bill in the form of a limitation on funds therein for activities unrelated to the functions of departments and agencies addressed by the bill is not germane (July 10, 2000, p. 13605).

An amendment delaying the availability of authorizations pending unrelated determinations involving agencies and committee jurisdictions not within the purview of the bill is also not germane (Feb. 7, 1973, p. 3708; July 8, 1981, p. 15010; July 9, 1981, p. 15218). Thus, the following are not germane: to a bill authorizing military assistance to Israel and funds for a U.N. emergency force in the Middle East, an amendment postponing the availability of funds to Israel until the President certifies the existence of a designated level of domestic energy supplies (Dec. 11, 1973, p. 40837); an amendment delaying the availability of an appropriation pending the enactment of certain revenue legislation (Oct. 25, 1979, p. 29639); to a bill authorizing radio broadcasting to Cuba, an amendment prohibiting the use of those funds until Congress has considered a constitutional amendment mandating a balanced budget (Aug. 10, 1982, p. 20250).

Similarly, while it may be in order on a general appropriation bill to delay the availability of certain funds therein if the contingency does not impose new duties on executive officials, the contingency must be related to the funds being withheld and cannot affect other funds in the bill not related to that factual situation (VII, 1596, 1600), may not be made applicable to a trust fund provided (IV, 4017), and may not be made applicable to money appropriated in other acts (IV, 3927; VII, 1495, 1597–1599). Thus, to a general appropriation bill containing funds not only for a former President but also for other departments and agencies, an amendment delaying

the availability of all funds in the bill until the former President had made restitution of a designated amount of money is not germane (Oct. 2, 1974, p. 33620). On the other hand, to a general appropriation bill providing funds for the Department of Agriculture and including specific allocation of funds for pest control, an amendment was germane that prohibited the use of funds for use of pesticides prohibited by State or local law (May 26, 1969, p. 13753).

It is not in order to amend a bill to delay the effectiveness of the legislation pending an unrelated contingency (VIII, 3035, 3037). Thus the following are not germane: an amendment delaying the bill's effectiveness pending unrelated determinations involving agencies and committee jurisdictions not within the purview of the bill (Feb. 7, 1973, p. 3708; July 8, 1981, p. 15010; July 9, 1981, p. 15218); an amendment delaying the bill's effectiveness pending enactment of unrelated State legislation (June 29, 1967, p. 17921; July 28, 1993, p. 17401); an amendment conditioning authorization for one agency (National Science Foundation) on appropriations for another (National Aeronautics and Space Administration) (May 2, 2007, p. ——); to a bill proposing relief for women and children in Germany, an amendment delaying the effectiveness of such relief until a soldier's compensation act shall have been enacted (VIII, 3035); and to a bill naming an airport, an amendment conditioning the naming on approval by an entity without jurisdiction over the administration of the airport (Feb. 4, 1998, p. 794). On the other hand, the following are germane: an amendment delaying operation of a proposed enactment pending an ascertainment of a fact when the fact to be ascertained relates to the subject matter of the bill (VIII, 3029; Dec. 15, 1982, pp. 30957–61); an amendment postponing the effective date of a title of a bill to a date certain (July 25, 1973, p. 25828); to a provision to become effective immediately, an amendment deferring the time at which it shall become effective, without involving affirmative legislation (VIII, 3030).

Where a proposition confers broad discretionary power on an executive official, an amendment is germane that directs that official to take certain actions in the exercise of the authority or proposes to limit such authority (VIII, 3022). Thus the following are germane: to an amendment in the nature of a substitute authorizing the Federal Energy Administrator to restrict exports of certain energy resources, an amendment directing that official to prohibit the exportation of petroleum products for use in Indochina military operations (Dec. 14, 1973, p. 41753); to a provision conferring Presidential authority to establish priorities among users of petroleum products and requiring priority to education and transportation users, an amendment restricting such regulatory authority by requiring that petroleum products allocated for public school transportation be used only between the student's home and the closest school (Dec. 13, 1973, pp. 41267–69); to a bill extending the authorities of one government agency, including requirements for consultation with several other agencies, an amendment requiring that agency to perform a function based upon an analysis fur-

nished by yet another agency, as an additional limitation on the authority of the agency being extended that did not separately mandate the performance of an unrelated function by another entity (July 27, 1978, p. 23107); to a proposition authorizing a program to be undertaken, a substitute providing for a study to determine the feasibility of undertaking the same type of program, as a more limited approach involving the same agency (June 26, 1985, pp. 17453, 17458, 17460) (in effect overruling VIII, 2989); and to a bill limiting an official's authority to construe legal authorities transferred to him in the bill, an amendment further restricting his authority to construe under any circumstances certain other laws to be administered by him (as an additional, although more restrictive, curtailment of existing authorities transferred by the bill) (June 11, 1979, pp. 14226–38).

An amendment providing a privileged procedure for expedited review of an agency's regulations is not germane where the bill does not contain such procedures (Aug. 13, 1982, pp. 20969, 20975–78). On the other hand to a bill authorizing an agency to undertake certain activities, an amendment allowing Congress to disapprove regulations issued pursuant thereto if the disapproval mechanism does not amend the rules or procedures of the House is germane (May 4, 1976, p. 12348); and to a bill directing the furnishing of certain intelligence information to the House without amending any House procedure, an amendment imposing relevant conditions of security on the handling of such information in committee (also without amending any House procedure) for the period covered by the bill is also germane (June 11, 1991, p. 14204).

It is germane to condition or restrict assistance to a particular class of recipient covered by the underlying measure. Thus, the following are germane: to a bill providing aid to shipping, an amendment to limit such aid to ships equipped with saving devices (VIII, 3027); to a bill authorizing the insurance of vessels, an amendment denying such insurance to vessels charging exorbitant rates (VIII, 3023); to a proposition denying benefits to recipients failing to meet a certain qualification, a substitute denying the same benefits to some recipients but excepting others (July 28, 1982, pp. 18355–58, 18361). While a bill relating to benefits based on indemnification of liability arising out of an activity does not ordinarily admit as germane amendments relating to regulation of that activity, an amendment conditioning benefits upon agreement by its recipient to be governed by certain safety regulations may be germane if related to the activity giving rise to the liability (July 29, 1987, p. 21448). On the other hand, it is not germane to condition or restrict assistance to a particular class of recipient upon an unrelated contingency such as action or inaction by another class of recipient or agent not covered by the bill (Mar. 5, 1986, p. 3613).

To a bill not only granting consent of Congress to an interstate compact but also imposing conditions on the granting of that consent, an amendment stating an additional related condition to that consent and not di-

rectly changing the compact may be germane (Oct. 7, 1997, p. 21475). To a bill regulating immigration, an amendment providing that the operation of the act should not conflict with an agreement with Japan is not germane (VIII, 3050).

Amendments providing exceptions or exemptions must also be within the scope of the proposition. Thus, to a bill requiring that a certain percentage of autos sold in the United States be manufactured domestically, and imposing an import restriction for autos on persons violating that requirement, an amendment waiving those restrictions with respect to a foreign nation where the President has issued a proclamation that that nation is not imposing unfair import restrictions on any United States product was held not germane, as it dealt with overall trade issues rather than domestic content requirement for autos sold in the United States (Nov. 2, 1983, p. 30776). However, an amendment to the same bill prohibiting its implementation if resulting in the violation of an international agreement was held germane since the bill already comprehensively addressed those subject matters by disclaiming any purpose to amend international agreements or to confer court jurisdiction relative thereto and by conferring court jurisdiction over adjudication of penalties assessed under the bill (Nov. 2, 1983, p. 30546). Similarly, the following are germane: to a bill providing for the deportation of aliens, an amendment to exempt a portion of such aliens from deportation (VIII, 3029); to a bill prohibiting the issuance of injunctions by the courts in labor disputes, an amendment to except labor disputes affecting public utilities (VIII, 3024).

Readings

§941. Reading, engrossment, and passage of bills.

8. Bills and joint resolutions are subject to readings as follows:

(a) A first reading is in full when the bill or joint resolution is first considered.

(b) A second reading occurs only when the bill or joint resolution is read for amendment in a Committee of the Whole House on the state of the Union under clause 5 of rule XVIII.

(c) A third reading precedes passage when the Speaker states the question: "Shall the bill [or joint resolution] be engrossed [when applicable] and read a third time?" If that question

is decided in the affirmative, then the bill or joint resolution shall be read the final time by title and then the question shall be put on its passage.

This provision (formerly clause 1 of rule XXI) was adopted in 1789, amended in 1794, 1880 (IV, 3391), and on Jan. 4, 1965 (H. Res. 8, 89th Cong., p. 21). This latest amendment eliminated the provision that permitted a Member to demand the reading in full of the engrossed copy of a House bill. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XXI. The recodification also clarified paragraphs (a) and (b) to reflect the modern practice of first and second readings (H. Res. 5, Jan. 6, 1999, p. 47).

§ 942. First and second readings.

Formerly a bill was read for the first time by title at the time of its introduction, but since 1890 all bills have been introduced by filing them with the Clerk, thus rendering a reading by title impossible at that time (IV, 3391). But the titles of all bills introduced are printed in the Journal and Record, thereby carrying out the real purpose of the rule.

Under paragraph (a), the first reading of a bill is in full and occurs when a bill is called up in the House (IV, 3391), although when called up pursuant to a unanimous-consent request, it is reported by title only (Dec. 18, 2005, p. ——). The initial step of consideration in the Committee of the Whole is sometimes referred to as the "first reading." Under clause 5 of rule XVIII that reading is in full and occurs before general debate commences. However, it customarily is dispensed with by unanimous consent or special rule, although a motion to dispense with the first reading is not in order (VIII, 2335, 2436). The Speaker may object to a request for unanimous consent to dispense with the first reading (IV, 3390; VII, 1054).

Under paragraph (b), the second reading of a bill comprises its reading for amendment in the Committee of the Whole (Apr. 28, 1977, p. 12635).

§ 943. The third reading after engrossment.

The right to demand the reading in full of the engrossed copy of a bill formerly guaranteed by the rule existed immediately after it had been ordered to be engrossed and before it had been read a third time by title (IV, 3400, 3403, 3404; VII, 1061); and before the yeas and nays had been ordered on passage (IV, 3402). The right to demand the reading in full caused the bill to be laid aside until engrossed even though the previous question had been ordered (IV, 3395–3399; VII, 1062). A privileged motion may not intervene before the third reading (IV, 3405), and the question on engrossment and third reading is not subject to a demand for division of the question (Aug. 3, 1989, p. 18544). A vote on passage must first be reconsidered to remedy the omission to read a bill a third time (IV, 3406). Senate bills are not engrossed in the House; but are ordered to a third

reading. The demand for the reading of the engrossed copy of a Senate bill cannot be made in the House (VIII, 2426).

§944. Voting on bills.

A bill in the House (as distinguished from the Committee of the Whole) is amended pending the engrossment and third reading (V, 5781; VI, 1051, 1052). The question on engrossment and third reading being decided in the negative the bill is rejected (IV, 3420, 3421). A bill must be considered and voted on by itself (IV, 3408). Where the two Houses pass similar but distinct bills on the same subject it is necessary that one or the other House act again on the subject (IV, 3386). The requirement of a two-thirds vote for proposed constitutional amendments has been construed in the later practice to apply only to the vote on the final passage (V, 7029, 7030; VIII, 3504). A bill having been rejected by the House, consideration of a similar but not identical bill on the same subject was afterwards held to be in order (IV, 3384).

RULE XVII

DECORUM AND DEBATE

Decorum

§945. Obtaining the floor for debate; and relevancy and decorum therein.

1. (a) A Member, Delegate, or Resident Commissioner who desires to speak or deliver a matter to the House shall rise and respectfully address himself to "Mr. Speaker" and, on being recognized, may address the House from any place on the floor. When invited by the Chair, a Member, Delegate, or Resident Commissioner may speak from the Clerk's desk.

(b) Remarks in debate (which may include references to the Senate or its Members) shall be confined to the question under debate, avoiding personality.

This clause (formerly clause 1 of rule XIV) was adopted in 1880, but was made up, in its main provisions, of older rules, which dated from 1789 and 1811 (V, 4979). A rule of comity prohibiting most references in debate to the Senate was first enunciated in Jefferson's Manual and was strictly enforced in the House through the 108th Congress (albeit with certain exceptions adopted in the 100th and 101st Congresses outlined in former paragraph (b)) (§371, *supra*; H. Res. 5, Jan. 6, 1987, p. 6; H. Res. 5, Jan.

3, 1989, p. 72). In the 109th Congress the exceptions were deleted and the parenthetical in paragraph (b) was inserted (sec. 2(g), H. Res. 5, Jan. 4, 2005, p. ——). The rule continues to require Members to avoid personality, and the Chair remains under a duty to call to order a Member who violates the rule. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47). This clause, and rulings of the Chair with respect to references in debate to the Senate, are discussed in §§ 361, 371, *supra*.

The Speaker, who has a responsibility under rule I to maintain and enforce decorum in debate, and the chairman of the Committee of the Whole, who enforces decorum in debate under rule XVIII, have reminded and advised Members of the following: (1) clause 1 requires Members seeking recognition to rise and to address themselves to the question under debate, avoiding personality; (2) Members should address their remarks to the Chair only and not to other entities such as the press or the television audience, and the Chair enforces this rule on its own initiative (see, *e.g.*, Nov. 8, 1979, p. 31519; Sept. 29, 1983, p. 26501; Dec. 17, 1987, p. 36139; Oct. 17, 2005, p. ——); (3) Members should not refer to or address any occupant of the galleries; (4) Members should refer to other Members in debate only in the third person, by State designation (Speaker O'Neill, June 14, 1978, p. 17615; Oct. 2, 1984, p. 28520; Mar. 7, 1985, p. 5028); (5) Members should refrain from using profanity or vulgarity in debate (Mar. 5, 1991, p. 5036; Feb. 18, 1993, p. 2973; Nov. 17, 1995, p. 33744; July 23, 1998, p. 17032; Oct. 11, 2000, p. 22189; Oct. 2, 2003, p. ——; Mar. 10, 2004, p. ——); (6) the Chair may interrupt a Member engaging in personalities with respect to another Member of the House, as the Chair does with respect to such references to the Senate or the President (Jan. 4, 1995, p. 551); (7) Members should refrain from discussing the President's personal character (May 10, 1994, p. 9697); (8) Members should heed the gavel (see, *e.g.*, Mar. 16, 1988, p. 4081; May 22, 2003, p. 12965; Oct. 2, 2003, p. ——; May 19, 2004, p. ——), and remarks uttered in debate while not under recognition do not appear in the Congressional Record (*e.g.,* May 22, 2003, p. 12965; Oct. 2, 2003, p. ——; May 19, 2004, p. ——); (9) Members may not use audio devices during debate (May 24, 2005, p. ——). The Speaker has deplored the tendency to address remarks directly to the President (or others not in the Chamber) in the second person, and cautions Members on his own initiative (see, *e.g.*, Oct. 16, 1989, p. 24715; Oct. 17, 1989, p. 24764; Jan. 24, 1990, p. 426; Oct. 9, 1991, p. 25999). Even when referring in debate to the Speaker, Members direct their remarks to the occupant of the Chair and address him as "Mr. Speaker" pursuant to this clause (Nov. 1, 1983, p. 30267).

Members should refrain from speaking disrespectfully of the Speaker or arraigning the personal conduct of the Speaker, and under the precedents the sanctions for such violations transcend the ordinary requirements for timeliness of challenges (II, 1248; Jan. 4, 1995, p. 551; Jan. 18, 1995, p. 1441; Jan. 19, 1995, p. 1599). Engaging in personalities with

respect to the Speaker's conduct is not in order even though possibly relevant to a pending resolution granting him certain authority (Sept. 24, 1996, p. 24485).

This clause also has been interpreted to proscribe the wearing of badges by Members to communicate a message, since Members must rise and address the Speaker to deliver any matter to the House (Speaker O'Neill, Apr. 15, 1986, p. 7525; Feb. 22, 1995, p. 5435; Mar. 29, 1995, p. 9662; Oct. 19, 1995, pp. 28522, 28540, 28646; Nov. 17, 1995, p. 5435; Mar. 7, 1996, p. 4083; Sept. 26, 1996, p. 25117; July 24, 1998, p. 17157; Sept. 28, 2000, p. 19940; Sept. 22, 2004, p. ——). A Member's comportment may constitute a breach of decorum even though the content of that Member's speech is not, itself, unparliamentary (July 29, 1994, p. 18609). Under this standard the Chair may deny recognition to a Member who has engaged in unparliamentary debate and ignored repeated admonitions by the Chair to proceed in order, subject to the will of the House on the question of his proceeding in order (Sept. 18, 1996, p. 23535).

For further discussion of personalities in debate with respect to references to the official conduct of a Member, see §§ 361–363, *supra*; with respect to references to the President, see § 370, *supra*; and with respect to references to the Senate, see §§ 371–374, *supra*.

Aside from "special-order," "morning-hour," or "one-minute" debate, where no question is pending and recognition is by unanimous consent or leadership listings, it is a general rule that a motion must be made before a Member may proceed in debate (V, 4984, 4985), and this motion may be required to be reduced to writing (V, 4986). A motion must also be stated by the Speaker or read by the Clerk before debate may begin (V, 4982, 4983, 5304). The withdrawal of a motion precludes further debate on it (V, 4989). But sometimes when a communication or a report has been before the House it has been debated before any specific motion has been made in relation to it (V, 4987, 4988). In a few cases, such as conference reports and reports from the Committee of the Whole, the motion to agree is considered as pending without being offered from the floor (IV, 4896; V, 6517).

In presenting a question of personal privilege the Member is not required in the first instance to offer a motion or offer a resolution, but such is not the rule in presenting a case involving the privileges of the House (III, 2546, 2547; VI, 565, 566, 580; see § 708, *supra*). Personal explanations merely are made by unanimous consent (V, 5065).

§ 946. Interruption of a Member in debate.

A Member having the floor may not be taken off his feet by an ordinary motion, even the highly privileged motion to adjourn (V, 5369, 5370; VIII, 2646), or the motion to table (Mar. 18, 1992, p. 6022). He may not be deprived of the floor by a parliamentary inquiry (VIII, 2455–2458), a question of privilege (V, 5002; VIII, 2459), a motion that the Committee rise (VIII, 2325), or a demand for the previous question (VIII, 2609; Mar. 18, 1992, p. 6022), but he may be interrupted for a conference report (V, 6451; VIII, 3294). It

is a custom also for the Speaker to request a Member to yield for the reception of a message. A Member may yield the floor for a motion to adjourn or that the Committee of the Whole rise without losing his right to continue when the subject is again continued (V, 5009–5013), but where the House has by resolution vested control of general debate in the Committee of the Whole in designated Members, their control of general debate may not be abrogated by another Member moving to rise, unless they yield for that purpose (May 25, 1967, p. 14121; June 10, 1999, p. 12471). A Member may also resume his seat while a paper is being read in his time without losing his right to the floor (V, 5015). A Member who, having the floor, moved the previous question was permitted to resume the floor on withdrawing the motion (V, 5474). But a Member may not yield to another Member to offer an amendment without losing the floor (V, 5021, 5030, 5031; VIII, 2476), and a Member may not offer an amendment in time secured for debate only (VIII, 2474), or request unanimous consent to offer an amendment unless yielded to for that purpose by the Member controlling the floor (Sept. 24, 1986, p. 25589; May 11, 2006, p. ——). A Member recognized under the five-minute rule in the Committee of the Whole may not yield to another Member to offer an amendment, as it is within the power of the Chair to recognize Members to offer amendments (Apr. 19, 1973, p. 13240; Dec. 12, 1973, p. 41171). A Member desiring to interrupt another in debate should address the Chair for permission of the Member speaking (V, 5006; VI, 193), but the latter may exercise his own discretion as to whether or not he will yield (V, 5007, 5008; VI, 193; VIII, 2463, 2465). It is not in order to disrupt a Member's remarks in debate by repeatedly interrupting to ask whether he will yield after he has declined to do so (Apr. 9, 1992, p. 9040; Nov. 13, 1997, p. 26533). Where a Member interrupts another during debate without being yielded to or otherwise recognized (as on a point of order), his remarks are not printed in the Record (Speaker O'Neill, Feb. 7, 1985, p. 2229; July 21, 1993, p. 16545; July 29, 1994, p. 18609). Members should not engage in disruption while another is speaking (Dec. 20, 1995, p. 37878; June 27, 1996, p. 15915).

§ 947. Speaker in debate.

The Speaker may of right speak from the Chair on questions of order and be first heard (II, 1367), but with this exception he may speak from the Chair only by leave of the House and on questions of fact (II, 1367–1372). On occasions comparatively rare Speakers have called Members to the Chair and participated in debate on questions of order or matters relating their own conduct or rights, usually without asking consent of the House (II, 1367, 1368, 1371; III, 1950; V, 6097). In more recent years, Speakers have frequently entered into debate from the floor on substantive legislative issues before the House for decision, and the right to participate in debate in the Committee of the Whole is without question (see, *e.g.*, Apr. 30, 1987, p. 10811).

§948. Member must confine himself to the subject.

It has always been held, and generally quite strictly, that in the House the Member must confine himself to the subject under debate (V, 5043–5048; VI, 576; VIII, 2481, 2534). The Chair normally waits for the question of relevancy of debate to be raised and does not take initiative (Sept. 27, 1990, p. 26226; Mar. 23, 1995, p. 8986; Nov. 14, 1995, pp. 32354–57, 32374; Dec. 15, 1995, p. 37118; Mar. 12, 1996, p. 4149; Mar. 20, 2002, p. 3663).

During debate on a bill, a Member under recognition must confine his remarks to the pending legislation; that is, he must not dwell on another measure not before the House (Nov. 4, 1999, p. 28524), rather he must maintain a constant nexus between debate and the subject of the bill (Nov. 14, 1995, pp. 32354–57; Mar. 12, 1996, p. 4450; Mar. 20, 2002, pp. 3663–64; June 3, 2003, p. 13483, p. 13486). Debate on a motion to amend must be confined to the amendment, and may neither include the general merits of the bill (V, 5049–5051), nor range to the merits of a proposition not included in the underlying resolution (Jan. 31, 1995, p. 3032). Similarly, debate on a motion to recommit with instructions should be confined to the subject of the motion rather than dwelling on the general merits of the bill (Mar. 7, 1996, p. 4092). However, the Chair has accorded Members latitude in debating a series of amendments in the nature of a substitute to a concurrent resolution on the budget (Mar. 25, 1999, p. 5734). On a motion to suspend the rules, debate is confined to the object of the motion and may not range to the merits of a bill not scheduled for such consideration (Nov. 23, 1991, p. 34189; June 11, 2002, p. 9997). Debate on a special order providing for the consideration of a bill may range to the merits of the bill to be made in order (Sept. 26, 1989, p. 21532; Oct. 16, 1990, p. 29668; Oct. 1, 1991, p. 24836), because the question of consideration of the bill is involved, but should not range to the merits of a measure not to be considered under that special order (Sept. 27, 1990, p. 26226; July 25, 1995, p. 20323; Sept. 20, 1995, p. 15838; Dec. 15, 1995, p. 37118; May 1, 1996, p. 9888; May 8, 1996, p. 10511; May 15, 1996, p. 1131; Mar. 13, 1997, p. 3833; Mar. 20, 2002, p. 3664) or to the Rules of the House in general (July 9, 2004, p. —— (sustained by tabling of appeal)). Debate on a resolution providing authorities to expedite the consideration of end-of-session legislation may neither range to the merits of a measure that might or might not be considered under such authorities nor engage in personalities with respect to the official conduct of the Speaker, even as asserted to relate to the question of granting the authorities proposed (Sept. 24, 1996, pp. 24485, 24486). If a unanimous-consent request for a Member to address the House for one hour specifies the subject of the address, the occupant of the Chair during that speech may enforce the rule of relevancy in debate by requiring that the remarks be confined to the subject so specified (Jan. 23, 1984, p. 93). Debate on a question of personal privilege must be confined to the statements or issue that gave rise to the question of privilege (V, 5075–5077; VI, 576, 608; VIII, 2448, 2481; May 31, 1984,

p. 14623). Debate on a privileged resolution recommending disciplinary action against a Member, while it may include comparisons with other such actions taken by or reported to the House for purposes of measuring severity of punishment, may not extend to the conduct of another sitting Member not the subject of a committee report (Dec. 18, 1987, p. 36271). The question whether a Member should be relieved from committee service is debatable only within very narrow limits (IV, 4510; June 16, 1975, p. 19056). Debate on a resolution electing a Member to a committee is confined to the election of that Member and should not extend to that committee's agenda (July 10, 1995, p. 18258).

While Speakers have entertained appeals from their decisions as to irrelevancy, they have held that such appeals were not debatable (V, 5056–5063).

Under prior practice in Committee of the Whole, a Member did not have to confine himself to the subject during general debate (V, 5233–5238; VIII, 2590; June 28, 1974, p. 21743); but under modern practice a special order providing for consideration of a measure in the Committee of the Whole typically does require such relevance in debate. All five-minute debate in Committee of the Whole is confined to the subject (V, 5240–5256), even on a pro forma amendment (VIII, 2591), in which case debate must relate to an issue in the pending portion of the bill (VIII, 2592, 2593); thus, where a general provisions title is pending debate may relate to any agency funded by the bill (June 13, 1991, p. 14692).

Recognition

§ 949. Speaker's power of recognition.

2. When two or more Members, Delegates, or the Resident Commissioner rise at once, the Speaker shall name the Member, Delegate, or Resident Commissioner who is first to speak. * * *

This provision was adopted in 1789 (V, 4978). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47).

In the early history of the House, when business proceeded on presentation by individual Members, the Speaker recognized the Member who arose first; and in case of doubt there was an appeal from his recognition (II, 1429–1434). But as the membership and business of the House increased it became necessary to establish and adhere to a fixed order of business, and recognitions, instead of pertaining to the individual Member, necessarily came to pertain to the bill or other business that would be before the House under the rule regulating the order of business. Hence the necessity that the Speaker should not be compelled to heed the claims of Members as individuals was expressed in 1879 in a report from the Committee on Rules, which declared that "in the nature of the case discre-

tion must be lodged with the presiding officer" (II, 1424). And in 1881 the Speaker declined to entertain an appeal from his decision on a question of recognition (II, 1425–1428), establishing thereby a line of precedent that continues (VI, 292; VIII, 2429, 2646, 2762). It also has been determined that a Member may not invoke clause 6 of rule XIV (formerly rule XXV) (§ 884, *supra*), providing that questions relating to the priority of business shall be decided by a majority without debate, to inhibit the Speaker's power of recognition under this clause (Speaker Albert, July 31, 1975, p. 26249).

§ 950. One-minute and special-order speeches.

Recognition for one-minute speeches by unanimous consent and the order of recognition are entirely within the discretion of the Speaker (Nov. 15, 1983, p. 32657; Mar. 7, 2001, p. 3027). When the House has a heavy legislative schedule, the Speaker may refuse to recognize Members for that purpose until the completion of legislative business (Deschler-Brown, ch. 29, § 73; July 24, 1980, p. 19386). It is not in order to raise as a question of the privileges of the House a resolution directing the Speaker to recognize for such speeches, since a question of privilege cannot amend or interpret the Rules of the House (July 25, 1980, pp. 19762–64). The modern practice of limiting recognition before legislative business to one minute began August 2, 1937 (p. 8004) and was reiterated by Speaker Rayburn on March 6, 1945 (Deschler, ch. 21, § 6.1).

Since the 98th Congress the Speaker has followed announced policies of (1) alternating recognition for one-minute speeches and special-order speeches between majority and minority Members and (2) recognizing for special-order speeches of five minutes or less before longer speeches (Speaker O'Neill, Aug. 8, 1984, p. 22963; Jan. 4, 1995, p. 551). In the 101st Congress, the Chair continued the practice of alternating recognition for one-minute speeches but began a practice of recognizing Members suggested by their party leadership before others in the well (Apr. 19, 1990, p. 7406). From August 8, 1984, through February 23, 1994, the Speaker also followed an announced policy of recognizing Members of the same party within a given category in the order in which their unanimous-consent requests for special orders were granted (Speaker O'Neill, Aug. 8, 1984, p. 22963; Jan. 5, 1993, p. 106). However, on February 24, 1994, the Speaker announced a new policy governing recognition for special-order speeches. With respect to recognition for five-minute special orders, the Speaker announced that the Chair would recognize for speeches of five minutes or less first, before longer speeches, and that Members may not enter requests for five-minute special orders earlier than one week in advance. With respect to recognition for longer special orders, the Speaker announced a policy of recognition that would depend not on orders by unanimous consent but, rather, on lists submitted by the respective party Leaders. This policy, the result of bipartisan negotiations, was a departure from the modern practice as described in Deschler, ch. 21, § 7.1 (special-order speeches following legislative business are enabled only by unanimous con-

sent). Under the Speaker's policy: (1) recognition does not extend beyond midnight; (2) recognition for longer speeches occurs after five-minute speeches and is limited (except on Tuesdays) to four hours equally divided between the majority and minority; (3) the first hour for each party is reserved to its respective Leader or his designees; (4) time within each party is allotted in accord with a list submitted to the Chair by the respective Leader; (5) recognition for the first hour alternates between the parties from day to day; (6) the respective Leaders may establish additional guidelines for entering requests; and (7) a Member recognized for a five-minute special order may not be recognized for a longer special order (Feb. 11, 1994, p. 2244; May 23, 1994, p. 1154; June 10, 1994, p. 12684; Jan. 4, 1995, p. 551; Feb. 16, 1995, p. 5096; May 12, 1995, p. 12765; Jan. 21, 1997, p. 460; Jan. 31, 2001, p. 1078).

While the Chair's calculation of time consumed under one-minute speeches is not subject to challenge, the Chair endeavors to recognize majority and then minority Members by allocating time in a nonpartisan manner (Aug. 4, 1982, p. 19319). Before legislative business, the Speaker will traditionally recognize a Member only once by unanimous consent for a one-minute speech, and will not entertain a second request (May 1, 1985, p. 9995). The Chair will not entertain a unanimous-consent request to extend a five-minute special order (Mar. 7, 1995, p. 7152), to recognize for a special order after midnight (May 10, 2007, p. ——), or to extend a special order beyond midnight (Oct. 7, 1998, p. 24394). The Chair will recognize for subdivisions of the first hour reserved for special orders only on designations (and reallocations) by the leadership concerned (Oct. 2, 1998, p. 23151; Dec. 12, 2001, p. 25605). A Member who is recognized to control time during special orders may yield to colleagues for such amounts of time as the Member may deem appropriate but may not yield blocks of time to be enforced by the Chair. Members regulate the duration of their yielding by reclaiming the time when appropriate (Jan. 31, 2001, p. 1078).

§ 951. Morning-hour debates.

Beginning in the second session of the 103d Congress, the House has by unanimous consent agreed (without prejudice to the Speaker's ultimate power of recognition under this rule) to convene early on Mondays and Tuesdays for morning-hour debate (Feb. 11, 1994, p. 2244; May 23, 1994, p. 11459; June 8, 1994, p. 12305; June 10, 1994, p. 12684; Jan. 4, 1995, p. 551; Feb. 16, 1995, p. 5096; Jan. 21, 1997, p. 460; Jan. 19, 1999, p. 602; Jan. 3, 2001, p. 38; Jan. 23, 2002, p. 3; Jan. 7, 2003, p. 24; Jan. 20, 2004, p. ——; Jan. 4, 2005, p. ——; Jan. 31, 2006, p. ——; Jan. 4, 2007, p. ——). On May 12, 1995, the House extended and modified the above order to accommodate earlier convening times after mid-May of each year. The modified order changes morning-hour debates on Tuesdays after mid-May of each year as follows: (1) the House convenes one hour early (rather than 90 minutes); (2) time for debate is limited to 25 minutes for each party (rather than 30 minutes); and (3) in no event is morning-hour debate to continue beyond

10 minutes before the House is to convene (May 12, 1995, p. 12765). The House extended such order in a modified form to accommodate early convening times on any Monday or Tuesday (Jan. 20, 2004, p. ——; Jan. 4, 2005, p. ——; Jan. 31, 2006, p. ——; Jan. 4, 2007, p. ——). The above-cited orders of the House also: (1) postpone the Prayer, approval of the Journal, and the Pledge of Allegiance during morning-hour debates; and (2) require the Chair to recognize Members for not more than five minutes each, alternating between the majority and minority parties in accord with lists supplied by their respective Leaders. Under the customary order of the House establishing morning-hour debate, the Chair does not entertain a unanimous-consent request to extend a five-minute period of recognition (Apr. 28, 1998, p. 6924; Nov. 12, 2002, p. 21327). During morning-hour debate it is not in order to request that a name be removed from a list of cosponsors of a bill (Apr. 26, 1994, p. 8544).

§ 952. "Oxford-style" debates.

In the 103d Congress the House agreed by unanimous consent to conduct at a time designated by the Speaker structured debate on a mutually agreeable topic announced by the Speaker, with four participants from each party in a format announced by the Speaker (Feb. 11, 1994, p. 2244; Mar. 11, 1994, p. 4772; May 23, 1994, p. 11459; June 8, 1994, p. 12305; June 10, 1994, p. 12648). Pursuant to that authority the House conducted three "Oxford-style" debates (Mar. 16, 1994, p. 5088; May 4, 1994, p. 9300; July 20, 1994, p. 17245). As a precursor to those structured debates, special-order time was used for a "Lincoln-Douglas-style" debate involving five Members, with one Member acting as "moderator" by controlling the hour under this clause (Nov. 3, 1993, p. 27312).

§ 953. Speaker governed by usage in recognitions.

Although there is no appeal from the Speaker's recognition, he is not a free agent in determining who is to have the floor. The practice of the House establishes rules from which he should not depart. For example, on February 24, 1994, the Speaker announced a policy with respect to recognition for special-order speeches that departed from the established practice of recognition by unanimous consent (Deschler, ch. 21, § 7.1; see § 26, *supra*). The Speaker's new policy was the product of bipartisan negotiations, which justified the departure from the then-established practice. When the order of business brings before the House a certain bill he must first recognize, for motions for its disposition, the Member who represents the committee that has reported it (II, 1447; VI, 306, 514). This is not necessarily the chairman of the committee, for a chairman who, in committee, has opposed the bill, must yield the prior recognition to a member of his committee who has favored the bill (II, 1449). Usually, however, the chairman has charge of the bill and is entitled at all stages to prior recognition for allowable motions intended to expedite it (II, 1452, 1457; VI, 296, 300). This principle does not, however, apply to the chairman of the Committee of the Whole (II, 1453). Once the proponent of a pending motion has been recognized for debate thereon, a unanimous-consent re-

quest to modify the motion may be entertained only if the proponent yields for that purpose (Jan. 5, 1996, p. 348). In the case of a motion to instruct conferees (Mar. 29, 2006, p. ——), a measure on which the previous question has been ordered without intervening motion (Feb. 13, 2007, p. ——, p. ——), or a measure on which time has been yielded under the hour rule solely for the purpose of debate (Dec. 16, 2005, p. ——), the Chair will entertain a unanimous-consent request regarding the disposition of the measure only if the majority manager yields for that purpose. The Member who originally introduces the bill that a committee reports has no claim to recognition as opposed to the claims of the members of the committee, but in cases where a proposition is brought directly before the House by a Member the mover is entitled to prior recognition for motions and debate (II, 1446, 1454; VI, 302–305, 417; VIII, 2454, 3231). This principle applies to the makers of certain motions. Thus, the Member on whose motion the enacting clause of a bill is stricken in Committee of the Whole is entitled to prior recognition when the bill is reported to the House (V, 5337; VIII, 2629). Where a Member raises an objection in a joint session to count the electoral vote, and the Houses separate to consider the objection, the Chair first recognizes that Member (III, 1956; Jan. 6, 2005, p. ——) or a co-signer of the objection (Jan. 6, 1969, pp. 145–7). But a Member may not, by offering a debatable motion of higher privilege than the pending motion, deprive the Member in charge of the bill of possession of the floor for debate (II, 1460–1463; VI, 290, 297–299; VIII, 2454, 3193, 3197, 3259). The Member in charge of the bill and having the floor may demand the previous question, although another Member may propose to offer a motion of higher privilege (VIII, 2684); but the motion of higher privilege must be put before the previous question (V, 5480; VIII, 2684). When an order of the House makes consideration of a measure in order, only a manager will be recognized to bring it up (Deschler, ch. 21, § 1.25; Jan. 18, 2007, p. ——). The Member who has been recognized to call up a measure in the House has priority of recognition to move the previous question thereon, even over the chairman of the committee reporting that measure (Oct. 1, 1986, p. 27468). The fact that a Member has the floor on one matter does not necessarily entitle him to prior recognition on a motion relating to another matter (II, 1464). It is because the Speaker is governed by these usages that he often asks, when a Member seeks recognition, "For what purpose does the gentleman rise?". By this question he determines whether the Member proposes business or a motion that is entitled to precedence, and he may deny recognition (VI, 289–291, 293; Aug. 13, 1982, pp. 20969, 20975–78; Speaker Wright, Feb. 17, 1988, p. 1583; Feb. 27, 1992, p. 3656). For example, a Member's mere revelation that he seeks to offer a motion to adjourn does not suffice to make that motion "pending," and thus the Chair remains able to declare a short recess under clause 12 of rule I (Oct. 28, 1997, p. 23524; June 25, 2003, p. ——). There is no appeal from such denial of recognition (II, 1425; VI, 292; VIII, 2429, 2646, 2762; Feb. 27, 1992, p. 3656). Recognition for parliamentary inquiry lies in the discre-

tion of the Chair (VI, 541; Mar. 23, 2007, p. ——), who may take a parliamentary inquiry under advisement (VIII, 2174), especially where not related to the pending proceedings (Apr. 7, 1992, p. 8273).

The Chair may follow a tradition of the House to allow the highest ranking elected leaders (Speaker, Majority Leader, and Minority Leader) additional time to make their remarks in debate (Dec. 18, 1998, p. 27834; May 18, 2004, p. ——).

§ 954. Loss of right to recognition by Member in charge.

When an essential motion made by the Member in charge of a bill is decided adversely, the right to prior recognition passes to the Member who the Speaker perceives to be leading the opposition to the motion (II, 1465–1468; VI, 308). Under this principle control of a measure passes when the House disagrees to a recommendation of the committee reporting the measure (II, 1469–1472) or when the Committee of the Whole reports the measure adversely (IV, 4897; VIII, 2430). Similarly, this principle applies when a motion for the previous question is rejected (VI, 308). However, a Member who led the opposition to ordering the previous question may be preempted by a motion of higher precedence (Aug. 13, 1982, pp. 20969, 20975–78). On the other hand, the mere defeat of an amendment proposed by the Member in charge does not cause the right to prior recognition to pass to an opponent (II, 1478, 1479).

Rejection of a conference report after the previous question has been ordered thereon does not cause recognition to pass to a Member opposed to the report, and the manager retains control to offer the initial motion to dispose of amendments in disagreement (Speaker Albert, May 1, 1975, p. 12761). Similarly, the invalidation of a conference report on a point of order, which is equivalent to its rejection by the House, does not give the Member raising the question of order the right to the floor (VIII, 3284) and exerts no effect on the right to recognition (VI, 313). In most cases, when the House refuses to order the previous question on a conference report, it then rejects the report (II, 1473–1477; V, 6396). However, control of a Senate amendment reported from conference in disagreement passes to an opponent when the House rejects a motion to dispose thereof (Aug. 6, 1993, p. 19582).

§ 955. Prior right of Members to recognition for debate.

In debate the members of the committee—except the Committee of the Whole (II, 1453)—are entitled to priority of recognition for debate (II, 1438, 1448; VI, 306, 307), but a motion to lay a proposition on the table is in order before the Member entitled to prior recognition for debate has begun his remarks (V, 5391–5395; VI, 412; VIII, 2649, 2650).

In recognizing for debate under general House rules the Chair alternates between those favoring and those opposing the pending matter, preferring members of the committee reporting the bill (II, 1439–1444). When a member of a committee has occupied the floor in favor of a measure the Chair attempts to recognize a Member opposing next, even though he be not

a member of the committee (II, 1445). The principle of alternation is not insisted on rigidly where a limited time is controlled by Members, as in the 40 minutes of debate on motions for suspension of the rules and the previous question (II, 1442).

§ 956. Exceptions to the usages constraining the Speaker as to recognitions.

As to motions to suspend the rules, which are in order on Mondays, Tuesdays, and Wednesdays, the Speaker exercises discretion in recognition (V, 6791–6794, 6845; VIII, 3402–3404). He also may decline to recognize a Member who desires to ask unanimous consent to set aside the rules in order to consider a bill not otherwise in order, this being the way of signifying his objection to the request. But this authority did not extend to the former Consent Calendar. Where the previous question was ordered to passage of a bill without intervening motion except recommittal, the Chair declined to entertain a unanimous-consent request to further amend the pending bill as an exercise of his discretionary power of recognition under this clause (Feb. 10, 2000, p. 1019). The Chair has declined to entertain a unanimous-consent request to print a separate volume of tributes given in memory of a deceased former Member absent concurrence of the Joint Committee on Printing (Aug. 1, 1996, p. 21247). The Speaker has announced and enforced a policy of conferring recognition for unanimous-consent requests for the consideration of certain legislation only when assured that the majority and minority floor and committee leaderships have no objection. This policy includes: (1) requests relating to reported measures (July 23, 1993, p. 16820) and unreported measures (see, *e.g.*, Dec. 15, 1981, p. 31590; May 4, 1982, p. 8613; Nov. 16, 1983, p. 33138; Jan. 25, 1984, p. 354; Jan. 26, 1984, p. 449; Jan. 31, 1984, p. 1063; Oct. 2, 1984, p. 28516; Feb. 4, 1987, p. 2675; Jan. 3, 1989, p. 89; Jan. 3, 1991, p. 64; Jan. 5, 1993, p. 106; Apr. 4, 1995, p. 10297); (2) requests for immediate consideration of matters (separately unreported) comprising a portion of a measure already passed by the House (Dec. 19, 1985, p. 38356); (3) requests to consider a motion to suspend the rules and pass an unreported bill (on a nonsuspension day) (Aug. 12, 1986, p. 21126; Mar. 30, 1998, p. 5153); (4) requests to permit consideration of (nongermane) amendments to bills (Nov. 14, 1991, p. 32083; Dec. 20, 1995, p. 37877; June 27, 2002, p. 11838); (5) requests to permit expedited consideration of measures on subsequent days, as by waiving the requirement that a bill be referred to committee for 30 legislative days before a motion to discharge may be presented under clause 2 of rule XV (formerly clause 3 of rule XXVII) (June 9, 1992, p. 13900); (6) requests relating to Senate-passed bills on the Speaker's table (Oct. 25, 1995, p. 29347; Jan. 3, 1996, p. 58; Aug. 2, 1999, p. 18942), including one identical to a House-passed bill (Feb. 4, 1998, p. 799) and a Senate concurrent resolution to correct an enrollment (Oct. 20, 1998, p. 27358); and (7) requests to dispose of Senate amendments to House bills on the Speaker's table (Jan. 4, 1996, pp. 200, 210; Nov. 22, 2002, p. 23510). The Speaker will recognize for an "omnibus" unanimous-consent request (one request disposing of various

measures) only when assured that the request, and each constituent part of the request, has been cleared under this policy (Oct. 10, 2002, p. 20339; Oct. 16, 2002, p. 20765; Nov. 14, 2002, p. 22513). The Speaker's enforcement of this policy is not subject to appeal (Apr. 4, 1995, p. 10298) and is a matter of discretionary recognition in the first instance (Sept. 27, 2006, p. ——). "Floor leadership" in this context has been construed to apply only to the Minority Leader and not to the entire hierarchy of minority leadership, where the Chair had been assured that the Minority Leader had been consulted (Apr. 25, 1985, p. 9415). It is not a proper parliamentary inquiry to ask the Chair to indicate which side of the aisle has failed under the Speaker's guidelines to clear a unanimous-consent request (Feb. 1, 1996, p. 2260; Nov. 22, 2002, p. 23510), but the Chair may indicate his cognizance of a source of objection for the Record (Feb. 4, 1998, p. 799). In addition, with respect to unanimous-consent requests to dispose of Senate amendments to House bills on the Speaker's table, the Chair will entertain such a request only if made by the chairman of the committee with jurisdiction, or by another committee member authorized to make the request (Apr. 26, 1984, p. 10194; Feb. 4, 1987, p. 2675; Jan. 3, 1996, p. 86; Jan. 4, 1996, pp. 200, 210; Deschler, ch. 21, § 1.23). For a discussion of recognition for unanimous-consent requests to vary procedures in the Committee of the Whole governed by a special order adopted by the House, see § 993, *infra*.

§ 957. The hour rule in debate.

2. * * * A Member, Delegate, or Resident Commissioner may not occupy more than one hour in debate on a question in the House or in the Committee of the Whole House on the state of the Union except as otherwise provided in this rule.

This provision (formerly clause 2 of rule XIV) dates from 1841, when the increase of membership had made it necessary to prevent the making of long speeches that sometimes occupied three or four hours each (V, 4978). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47).

This provision applies to debate on a question of privilege, as well as to debate on other questions (V, 4990; VIII, 2448). When the time for debate has been placed within the control of those representing the two sides of a question, it must be assigned to Members in accordance with this rule (V, 5004, 5005; VIII, 2462). A Member recognized to call up a privileged resolution may yield the floor upon expiration of his hour without moving the previous question, thereby permitting another Member to be recognized for a successive hour (Dec. 18, 1998, p. 27838). Under this clause a Member recognized for one hour for a "special-order" speech in the House may not extend that time, even by unanimous consent (Feb. 9, 1966, p. 2794; July

12, 1971, pp. 24594, 24603; Oct. 23, 1997, p. 23254). The Chair has advised that he will recognize the managers of a measure (as so designated by a special rule governing consideration of the measure) for unanimous-consent requests to enlarge the time for debate (Oct. 8, 2002, p. 19527). In the 104th Congress the Speaker announced his intention to strictly enforce time limitations on debate (Jan. 4, 1995, pp. 457–552). The Chair has announced that he would accommodate as many unanimous-consent requests to insert remarks in debate as necessary provided they comprise a simple, declarative statement of the Member's attitude toward the pending measure; however, any embellishment of such a request with other oratory may become an imposition on the time of the Member who yielded for that purpose (see, *e.g.*, Mar. 24, 1995, p. 9215; June 27, 2002, p. 11849; May 9, 2003, p. 11039; June 26, 2003, p. ——; July 24, 2003, p. ——; Nov. 21, 2003, p. ——).

For a discussion of morning-hour debates and "Oxford-style" debates, see §§ 951–952, *supra*.

Managing debate

§ 958. The opening and closing of general debate.

3. (a) The Member, Delegate, or Resident Commissioner who calls up a measure may open and close debate thereon. When general debate extends beyond one day, that Member, Delegate, or Resident Commissioner shall be entitled to one hour to close without regard to the time used in opening.

§ 959. Member to speak but once to the same question; right to close controlled debate.

(b) Except as provided in paragraph (a), a Member, Delegate, or Resident Commissioner may not speak more than once to the same question without leave of the House.

(c) A manager of a measure who opposes an amendment thereto is entitled to close controlled debate thereon.

Paragraphs (a) and (c) (formerly clause 3 of rule XIV) were adopted in 1847 and perfected in 1880 (V, 4996). Paragraph (b) (formerly clause 6 of rule XIV) was adopted in 1789, and amended in 1840 (V, 4991). Before the House recodified its rules in the 106th Congress, paragraphs (a) and (c) were found in former clause 3 of rule XIV and paragraph (b) was found

in former clause 6 of rule XIV. The recodification also added paragraph (c) to codify modern practice (H. Res. 5, Jan. 6, 1999, p. 47).

In the later practice this right to close may not be exercised after the previous question is ordered (V, 4997–5000). This clause applies to general debate in Committee of the Whole (Mar. 26, 1985, p. 6283). A majority manager of the bill who represents the primary committee of jurisdiction is entitled to close general debate; for example, as against another manager representing an additional committee of jurisdiction (May 13, 1998, p. 9042, 9050); or as against the subject of a disciplinary resolution (July 24, 2002, p. 14313). Where an order of the House divides debate on an unreported measure among four Members, the Chair will recognize for closing speeches in the reverse order of the original allocation (Mar. 24, 1999, p. 5454). Where a special order of the House allocates time for debate, which is further fractionalized under a later order by unanimous consent, the Chair recognizes for closing speeches in the reverse order of their original recognitions, concluding with the Member who opened the debate. This is true even when the manager who opened debate is opposed, as in the case of a measure reported adversely (July 22, 1998, p. 16726; July 27, 1999, p. 18012; June 21, 2000, pp. 11704, 11721; July 26, 2000, p. 16437). In response to a parliamentary inquiry, the Chair advised that time unused by a minority manager in general debate is considered as yielded back upon recognition of the majority manager to close general debate (Feb. 27, 2002, p. 2059). For further discussion of management of time for general debate and for debate on amendments in the Committee of the Whole, see § 978, *infra*.

A Member who has spoken once to the main question may speak again to an amendment (V, 4993, 4994). It is too late to make the point of order that a Member has spoken already if no one claims the floor until he has made some progress in his speech (V, 4992). Paragraph (b) is often circumscribed by modern practice and by special orders of business that vest control of debate in designated Members and permit them to yield more than once to other Members (Apr. 5, 2000, p. 4497). For a discussion of the right of a Member to speak more than once under the five-minute rule, see § 981, *infra*. The right to close may not be exercised after the previous question has been ordered (V, 4997–5000). The right to close does not belong to a Member who has merely moved to reconsider the vote on a bill where not a member of the reporting committee (V, 4995). The right of a contestant in an election case to close when he is permitted to speak in the contest has been a matter of discussion (V, 5001).

As codified in paragraph (c), the manager of a bill or other representative of the committee and not the proponent of an amendment has the right to close controlled debate on an amendment (VIII, 2581; July 16, 1981, p. 16043; Apr. 4, 1984, p. 7841; June 5, 1985, p. 14302; July 10, 1985, p. 18496; Oct. 24, 1985, p. 28824; May 2, 1988, p. 9638; May 5, 1988, p. 9961), including the minority manager (June 29, 1984, p. 20253; Aug. 14, 1986, p. 21660; July 26, 1989, p. 16403; Oct. 27, 1997, p. 23212; July

26, 2002, p. 14972) and including the manager of a measure that was reported adversely (Feb. 13, 2002, p. 1355). This is so even where the manager is also the proponent of a pending amendment to the amendment (Mar. 16, 1983, p. 5792). The Chair will assume that the manager of a measure is representing the committee of jurisdiction even where the measure called up is unreported (Apr. 15, 1996, p. 7421; July 24, 1998, p. 17263), where an unreported compromise text is made in order as original text in lieu of committee amendments (Oct. 19, 1995, p. 28650), or where the committee reported the measure without recommendation (Feb. 12, 1997, pp. 2108, 2109). Where the pending text includes a provision recommended by a committee of sequential referral, a member of that committee is entitled to close debate in oppostion to an amendment thereto (June 15, 1989, pp. 12084–87). Where the rule providing for the consideration of an unreported measure designates managers who do not serve on a committee of jurisdiction, those managers are entitled to close controlled debate in oppostion to an amendment thereto (Sept. 18, 1997, p. 19325). The majority manager of the bill will be recognized to control time in opposition to an amendment thereto, without regard to the party affiliation of the proponent, where the special order allocated control to "a Member opposed" (May 13, 1998, p. 9110). The right to close debate in opposition to an amendment devolves to a member of the committee of jurisdiction who derived debate time by unanimous consent from a manager who originally had the right to close debate (Sept. 10, 1998, pp. 19961–63). Such right to close may not devolve to the manager of a bill who derived debate time by unanimous consent from a non-committee Member controlling time in opposition because that right may be transferred only where there has been an unbroken line of committee affiliation in opposition to the amendment (July 17, 2003, p. ——). The proponent of a first-degree amendment who controls time in opposition to a second-degree amendment that favors the original bill over the first-degree amendment does not qualify as a "manager" within the meaning of paragraph (c) (June 15, 2000, pp. 11040, 11047).

Under certain circumstances, however, the proponent of the amendment may close debate where he represents the position of the reporting committee (Aug. 14, 1986, p. 21660); for example, the proponent of a "manager's amendment" may close controlled debate thereon where a member of the committee does not claim time in opposition (May 13, 1998, p. 9092). Similarly, the proponent may close debate where neither a committee representative nor a Member assigned a managerial role by the governing special order oppose the amendment (Aug. 15, 1986, p. 22057; May 6, 1998, pp. 8307, 8316; July 14, 1998, p. 15321; July 17, 2003, p. ——). Where a committee representative is allocated control of time in opposition to an amendment not by recognition from the Chair but by unanimous-consent request of a third Member who was allocated the time by the Chair, then the committee representative is not entitled to close debate as against the proponent (July 24, 1997, pp. 15684, 15685, 15689). Similarly, the proponent of the amendment may close debate where no representative from the re-

porting committee opposes an amendment to a multijurisdictional bill (Mar. 9, 1995, p. 7467); where the measure is unreported and has no "manager" under the terms of a special rule (Apr. 24, 1985, p. 9206); or where a measure is being managed by a single reporting committee and the Member controlling time in opposition, though a member of the committee having jurisdiction over the amendment, does not represent the reporting committee (Nov. 9, 1995, p. 31964).

Call to order

§ 960. The call to order for words spoken in debate.

4. (a) If a Member, Delegate, or Resident Commissioner, in speaking or otherwise, transgresses the Rules of the House, the Speaker shall, or a Member, Delegate, or Resident Commissioner may, call to order the offending Member, Delegate, or Resident Commissioner, who shall immediately sit down unless permitted on motion of another Member, Delegate, or the Resident Commissioner to explain. If a Member, Delegate, or Resident Commissioner is called to order, the Member, Delegate, or Resident Commissioner making the call to order shall indicate the words excepted to, which shall be taken down in writing at the Clerk's desk and read aloud to the House.

(b) The Speaker shall decide the validity of a call to order. The House, if appealed to, shall decide the question without debate. If the decision is in favor of the Member, Delegate, or Resident Commissioner called to order, the Member, Delegate, or Resident Commissioner shall be at liberty to proceed, but not otherwise. If the case requires it, an offending Member, Delegate, or Resident Commissioner shall be liable to censure or such other punishment as the House may

consider proper. A Member, Delegate, or Resident Commissioner may not be held to answer a call to order, and may not be subject to the censure of the House therefor, if further debate or other business has intervened.

The first sentence of paragraph (a) and all but the last sentence of paragraph (b) (formerly clause 4 of rule XIV) was adopted in 1789 and amended in 1822 and 1880 (V, 5175). The last sentence of paragraph (a) and the last sentence of paragraph (b) (formerly clause 5 of rule XIV) was adopted in 1837 and amended in 1880, although the practice of writing down objectionable words had been established in 1808. When the House recodified its rules in the 106th Congress, it consolidated former clauses 4 and 5 of rule XIV into a single clause (H. Res. 5, Jan. 6, 1999, p. 47).

§ 961. Words taken down and other calls to order for unparliamentary debate.

Members transgressing the rules of debate and decorum may be called to order by the Speaker (VIII, 2481, 2521, 3479), a Member (II, 1344; V, 5154, 5161–5163, 5175, 5192), or a Delegate (II, 1295). A Member may initiate a call to order either by making a point of order that a Member is transgressing the rules or by formally demanding that words be taken down under this clause (Sept. 12, 1996, pp. 22897, 22899; Sept. 17, 1996, p. 23426; Sept. 18, 1996, p. 23535; Sept. 25, 1996, p. 24759). A Member's comportment in debate may constitute a breach of decorum even though the content of the Member's speech is not, itself, unparliamentary (July 29, 1994, p. 18609). Except for naming the offending Member, the Speaker may not otherwise censure or punish him (II, 1345; VI, 237; Sept. 18, 1996, p. 23535; see also § 366, *supra*). The House may by proper motions under this clause dictate the consequences of a ruling by the Chair that a Member was out of order (May 26, 1983, p. 14048). As an exercise of recognition, the Chair's determination that a Member's time in debate has expired is not subject to appeal (Mar. 22, 1996 p. 6086; see also §§ 622, 629, *supra*). Furthermore, a Member speaking while not under recognition (as when speaking beyond the allotted time) is not entitled to in-House amplification (Mar. 16, 1988, p. 4081; see also § 684, *supra*).

As discussed in § 374, *supra*, it is customary for the Chair to initiate the call to order of a Member who engages in personality in debate with respect to Members of the Senate, including an insertion in the Record (Speaker Albert, Apr. 17, 1975, p. 10458; Oct. 7, 1975, p. 32055; Feb. 27, 1997, pp. 2784, 2785). On the other hand, it is customary for the Chair to await an initiative from the floor to call to order a Member who engages in personality in debate with respect to another Member of the House (June 29, 1987, p. 18072; Jan. 4, 1995, p. 551; Feb. 27, 1997, pp. 2784, 2785). The Chair may take initiative to call to order a Member engaging in verbal outburst either following expiration of his recognition for debate

(Mar. 16, 1988, p. 4081) or during recognition of another Member (June 5, 2003, p. 13884). He may order the offending Member to take his seat (June 5, 2003, p. 13884) or may deny further recognition, subject to the will of the House on the question of his proceeding in order (Speaker O'Neill, June 16, 1982, p. 13843; July 29, 1994, p. 18609; Sept. 18, 1996, p. 23535). The Chair may admonish a Member for words spoken in debate and request that they be removed from the Record even before a demand that the words be taken down (Sept. 24, 1992, p. 27345).

This clause (formerly clause 5) prohibits the taking down of words after intervening business (V, 5177; VIII, 2536; Sept. 16, 1991, p. 23032; Mar. 28, 1996, p. 6934) and the Chair's ruling in that regard is subject to appeal (Jan. 22, 2007, p. ——). However, a Member on his feet and seeking recognition at the appropriate time may yet be recognized to demand that words be taken down even though brief debate may have intervened, and a request that a Member uttering objectionable words yield does not forfeit the right to demand that the words be taken down (VIII, 2528). Action taken by the Chair to determine whether a point of order from the floor is intended as a demand that words be taken down is not such intervening debate or business as would render the demand untimely (Oct. 2, 1984, p. 28522). Similarly, a parliamentary inquiry concerning the propriety of words just spoken in debate does not render untimely a demand that the words be taken down as unparliamentary (May 6, 2004, p. ——). However, an improper parliamentary inquiry concerning the substantive content of the words does render untimely such demand (July 20, 2005, p. ——). Although under this clause a Member may not be held to answer a call to order if further debate or business has intervened, the Chair may under clause 2 of rule I generally admonish Members to preserve proper decorum even after intervening debate (Dec. 5, 2001, p. 24002). For instances in which the Chair admonished Members for improper references to the Senate after brief intervening debate, see § 371, supra.

While a demand that a Member's words be taken down is pending, that Member should be seated immediately (July 29, 1994, p. 18609; Jan. 25, 1995, p. 2352), and no Member may engage the Chair until the demand has been disposed of (Nov. 9, 1995, p. 31913; Nov. 14, 1995, p. 32472). Where two Members consecutively demand that each others' words be taken down as unparliamentary, the Chair advises both Members to be seated and then directs the Clerk to report the first words objected to (June 19, 1996, p. 14655). An offending Member may be directed by the Chair to be seated even if a formal demand that the Member's words be taken down is not pending; for example, where a Member declines to proceed in order at the directive of the Chair after points of order have been sustained against unparliamentary references in debate, the Chair may, under rule I and this rule, deny the Member further recognition as a disposition of the question of order, subject to the will of the House on the question of proceeding in order (Sept. 12, 1996, p. 22900; Sept. 17, 1996, p. 23427; Sept. 18, 1996, p. 23535; see also § 366, *supra*).

The Chair may entertain a unanimous-consent request to withdraw or modify words taken down either before (Deschler-Brown, ch. 29, § 51.1) or after (Deschler-Brown, ch. 29, § 51.2) the words have been reported to the House (VIII, 2528, 2538, 2540, 2543, 2544; July 16, 1998, p. 15827; June 28, 2000, pp. 12771, 12776). Unanimous consent is not required for a Member to withdraw his demand that words be taken down before a ruling by the Chair (June 18, 1986, p. 14232).

The words having been read from the desk, the Chair decides whether they are in order (II, 1249; V, 5163, 5169, 5187) as read by the Clerk and not as otherwise alleged to have been uttered (June 9, 1992, p. 13902). When a Member denies that the words taken down are the exact words used, the question as to the words is put to the House for decision (V, 5179, 5180). Where demands are made to take down words both as spoken in a one-minute speech and as reiterated when the offending Member is permitted by unanimous consent to explain, the Chair may rule simultaneously on both (July 25, 1996, p. 19170). A decision of the Chair on words taken down is subject to appeal (Sept. 28, 1996, p. 25780; Apr. 9, 2003, p. 9005).

The rule permits a motion that an offending Member be permitted to explain before the Chair rules on the words taken down, and the Chair has discretion to ask for explanation before ruling on the words (Feb. 1, 1940, p. 954). The Chair also may recognize an offending Member, permitted by unanimous consent, to explain words ruled out of order (Nov. 10, 1971, p. 40442).

If words taken down are ruled out of order, the Member loses the floor (V, 5196–5199; Jan. 25, 1995, p. 2352) and may not proceed on the same day without the permission of the House (Jan. 29, 1946, p. 533; Aug. 21, 1974, p. 29652; Jan. 25, 1995, p. 2352; Apr. 17, 1997, p. 5832), even on yielded time (V, 5147), and may not insert unspoken remarks in the Record (Jan. 25, 1995, p. 2352), but still may exercise his right to vote or to demand the yeas and nays (VIII, 2546). The ruling does not take the issue off the floor, and other Members may proceed to debate the same subject (July 25, 1996, p. 19170). The offending Member will not lose the floor if the House permits the Member to proceed in order (see, *e.g.*, May 10, 1990, p. 9992), which motion may be stated on the initiative of the Chair (Oct. 8, 1991, p. 25757; Mar. 29, 1995, p. 9676; July 25, 1996, p. 1970; June 13, 2002, p. 10232) or offered by any Member (July 25, 1996, p. 1970; Mar. 21, 2007, p. ——). The motion is not inconsistent with the immediate consequence of the call to order because this clause (formerly clause 4) also permits the House to determine the extent of the sanction for a given breach (Oct. 10, 1991, p. 26102). The motion is debatable within narrow limits of relevance under the hour rule, and consequently also is subject to the motion to lay on the table (Speaker Foley, Oct. 8, 1991, p. 25757).

Where a Member has been called to order not in response to a formal demand that words be taken down but in response to a point of order, the former practice was to test the opinion of the House by a motion "that

the gentleman be allowed to proceed in order" (V, 5188, 5189; VIII, 2534). Under the modern practice the Chair either may invite the offending Member to proceed in order (see, *e.g.*, Sept. 12, 1996, p. 22898) or, particularly where admonitions have been ignored, may deny the Member recognition for the balance of the time for which he was recognized, subject to the will of the House, as by a vote on the question whether the Member should be permitted to proceed in order (Sept. 12, 1996, p. 22899; Sept. 17, 1996, p. 23426; Sept. 18, 1996, p. 23535; Sept. 25, 1996, p. 24759).

Words taken down and ruled out of order by the Chair are subject to a motion that they be stricken or expunged from the Record. This motion has precedence (VIII, 2538–2541; Aug. 21, 1974, p. 29652). Unanimous consent to expunge such words often is granted upon the initiative of the Chair (May 10, 1990, p. 9992; June 13, 2002, p. 10232), and is debatable within narrow limits (VIII, 2539; Speaker Martin, June 12, 1947, p. 6896). However, the motion may not be entertained in the Committee of the Whole (Feb. 18, 1941, p. 1126) or offered by the Member called to order (Feb. 11, 1941, pp. 894, 899).

When disorderly words are spoken in the Committee of the Whole, they are taken down and read at the Clerk's desk, and the Committee rises automatically (VIII, 2533, 2538, 2539) and reports them to the House (II, 1257–1259, 1348). Action in the House on words reported from the Committee of the Whole is limited to the words reported (VIII, 2528), and it is not in order as a question of privilege in the House to propose censure of a Member for disorderly words spoken in Committee of the Whole but not reported therefrom (V, 5202). After words reported to the House from Committee of the Whole have been disposed of (by decision of the Chair and any associated action by the House), the Committee resumes its sitting without motion (VIII, 2539, 2541).

The House has censured a Member for disorderly words (II, 1253, 1254, 1259, 1305; VI, 236). The House may proceed to censure or other action although business may have intervened in certain exceptional cases, such as when disorderly words are part of an occurrence constituting a breach of privilege (II, 1657), when a Member's language has been investigated by a committee (II, 1655), when a Member has reiterated on the floor certain published charges (III, 2637), when a Member has uttered words alleged to be treasonable (II, 1252), or when a Member has uttered an attack on the Speaker (II, 1248; Jan. 4, 1995, p. 551; Jan. 19, 1995, p. 1599).

For a discussion of resolving the use of objectional exhibits that are a breach of decorum, see § 622, *supra*; and for a discussion of resolving the use of objectional exhibits that are not necessarily a breach of decorum, see clause 6, § 963, *infra*.

Comportment

§ 962. Decorum of Members in the Hall.

5. When the Speaker is putting a question or addressing the House, a Member, Delegate, or Resident Commissioner may not walk out of or across the Hall. When a Member, Delegate, or Resident Commissioner is speaking, a Member, Delegate, or Resident Commissioner may not pass between the person speaking and the Chair. During the session of the House, a Member, Delegate, or Resident Commissioner may not wear a hat or remain by the Clerk's desk during the call of the roll or the counting of ballots. A person may not smoke or use a wireless telephone or personal computer on the floor of the House. The Sergeant-at-Arms is charged with the strict enforcement of this clause.

Until the 104th Congress this clause (formerly clause 7 of rule XIV) was made up of provisions adopted in 1789, 1837, 1871, and 1896. In the 104th Congress a reference to the former Doorkeeper was deleted and a prohibition against using any personal electronic office equipment was added (secs. 201 and 223, H. Res. 6, Jan. 4, 1995, pp. 463, 469). However, that prohibition was modified in the 108th Congress to cover only a wireless telephone or personal computer (sec. 2(k), H. Res. 5, Jan. 7, 2003, p. 7). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 7 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47).

Originally Members wore their hats during sessions, as in Parliament, and the custom was not abolished until 1837 (II, 1136). The prohibition against Members wearing hats in the Chamber while the House is in session includes doffing a hat in tribute to a group (Speaker Foley, June 22, 1993, p. 13569; June 10, 1996, p. 13560). In the 96th Congress the Speaker announced that he considered as proper the customary and traditional attire for Members, including a coat and tie for male Members and appropriate attire for female Members (where thermostat controls had been raised in the summer to conserve energy); the House then adopted a resolution, offered as a question of the privileges of the House, requiring Members to wear proper attire as determined by the Speaker, and denying noncomplying Members the privilege of the floor (July 17, 1979, pp. 19008, 19073). In the 106th and 109th Congresses Members were reminded of the need

to be in proper attire in the Chamber (June 28, 2000, p. 12654; June 20, 2006, p. ——), and the Chair has so admonished a Member speaking in debate without his jacket (Apr. 3, 2001, p. 5361). In the 97th Congress, the Speaker announced during a vote by electronic device that Members were not permitted under the traditions of the House to wear overcoats on the House floor (Dec. 16, 1981, p. 31847).

The prohibition against using personal electronic office equipment was affirmed by response to a parliamentary inquiry (Feb. 23, 1995, p. 5639). The Chair announced that the use of cellular telephones was not permitted on the floor of the House or in the gallery (July 13, 1999, p. 15744; Oct. 7, 1999, p. 24415; Jan. 27, 2000, p. 132) and that Members should disable wireless telephones on entering the Chamber (*e.g.,* June 12, 2000, p. 10369; July 19, 2000, p. 15344; Oct. 10, 2000, p. 22021; Oct. 19, 2000, p. 23616; May 13, 2004, p. ——).

Smoking is not permitted in the Hall during sessions of the House (Oct. 15, 1990, p. 29248), nor during sittings of the Committee of the Whole (Aug. 14, 1986, p. 21707); and the prohibition extends to smoking behind the rail (Feb. 23, 1995, p. 5640).

On the opening day of the 101st Congress, the Speaker prefaced his customary announcement of policies concerning such aspects of the legislative process as recognition for unanimous-consent requests and privileges of the floor with a general statement concerning decorum in the House, including particular adjurations against engaging in personalities, addressing remarks to spectators, and passing in front of the Member addressing the Chair (Jan. 3, 1989, p. 88; see also Jan. 5, 1993, p. 105; Jan. 4, 1995, p. 551). The Chair has announced: (1) that Members should not traffic, or linger in, the well of the House while another Member is speaking (Feb. 3, 1995, p. 3541; Mar. 3, 1995, p. 6721; Dec. 15, 1995, p. 37111), including Members who may have been invited to the well by the Member speaking (June 12, 2003, p. 14627); and (2) that Members should not engage in disruption while another Member is speaking (Dec. 20, 1995, p. 37878). Under this provision the Chair may require a line of Members waiting to sign a discharge petition to proceed to the rostrum from the far right-hand aisle and require the line not to stand between the Chair and Members engaging in debate (Oct. 24, 1997, p. 23293).

Hissing and jeering is not proper decorum in the House (May 21, 1998, p. 10282).

A former Member must observe proper decorum under this clause, and the Chair may direct the Sergeant-at-Arms to assist the Chair in maintaining such decorum (Sept. 17, 1997, p. 19027). In the 105th Congress the House adopted a resolution offered as a question of the privileges of the House alleging indecorous behavior of a former Member and instructing the Sergeant-at-Arms to ban the former Member from the floor, and rooms leading thereto, until the resolution of a contested election to which he was party (H. Res. 233, Sept. 18, 1997, p. 19340).

Exhibits

§ 963. Objections to use of exhibits.

6. When the use of an exhibit in debate is objected to by a Member, Delegate, or Resident Commissioner, the Chair, in his discretion, may submit the question of its use to the House without debate.

This provision was rewritten in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49) to address the use of exhibits in debate rather than the reading from papers. As rewritten in the 103d Congress, an objection to the use of an exhibit automatically triggered a vote by the House on its use. The clause was amended in the 107th Congress to permit the Chair in his discretion to submit the question of its use to the House (sec. 2(o), H. Res. 5, Jan. 3, 2001, p. 25). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXX (H. Res. 5, Jan. 6, 1999, p. 47).

When the use of an exhibit in debate was objected to before the clause was rewritten in the 107th Congress, the Chair immediately put the question on whether use of the exhibit would be permitted (the Chair was not determining a breach of decorum under clause 2 of rule I) (Nov. 1, 1995, p. 31154; Nov. 10, 1995, p. 20689; July 31, 1996, p. 20689). The Chair put the question without debate, and without requiring the objecting Member to state the basis for the objection (Nov. 10, 1995, p. 20689). As such, an objection under this rule was not a point of order: it could have been resolved by withdrawal of the exhibit; that failing, it amounted to a demand that the Chair put to the House the question whether the exhibit may be used (July 31, 1996, p. 20700).

It is not a proper parliamentary inquiry to ask the Chair to judge the accuracy or authenticity of the content of an exhibit (Nov. 10, 1995, p. 32142; July 11, 2001, p. 12977). The Chair has held that a second virtually consecutive invocation of this provision, resulting in a second pair of votes on use of a chart and on reconsideration thereof, was not dilatory under former clause 10 of rule XVI (current clause 1 of rule XVI) or former clause 4(b) of rule XI (current clause 6(b) of rule XIII) (July 31, 1996, p. 20700). It is not in order to request that the voting display be turned on during debate as an exhibit to accompany a Member's debate (Oct. 12, 1998, p. 25770). For a discussion of the Speaker's responsibility to preserve decorum that may require that he disallow the use of exhibits in debate that would be demeaning to the House, or to any Member of the House, or that would be disruptive of the decorum thereof, see § 622, *supra*.

§ 964. History of former rule on reading of papers.

The earlier form of the rule (formerly rule XXX), originally adopted in 1794 and amended in 1802 and 1880 (V, 5257), addressed reading from papers. It recognized the right of a Member under the general parliamentary law to have read the paper on which the House is to vote (V, 5258), but when that paper had been read once, the reading could not be repeated unless by order of the House (V, 5260). The right could be abrogated by suspension of the rules (V, 5278–5284; VIII, 3400); but was not abrogated simply by the fact that the current procedure was taking place under the rule for suspension (V, 5273–5277). On a motion to refer a report, the reading of it could be demanded as a matter of right, but the latest ruling left to the House to determine whether or not an accompanying record of testimony should be read (V, 5261, 5262). In general the reading of a report was held to be in the nature of debate (V, 5292); but where a report presented facts and conclusions but no legislative proposition, it was read if submitted for action (IV, 4663). Where a paper is offered as involving a matter of privilege it may be read to the House (III, 2597; VI, 606; VIII, 2599), rather than by the Speaker privately (III, 2546), but a Member may not, as a matter of right, require the reading of a book or paper on suggestion that it contains matter infringing on the privileges of the House (V, 5258).

The former rule XXX prohibiting the reading of papers in debate was held to apply to the exhibition of articles as evidence or in exemplification in debate (VIII, 2452, 2453; June 2, 1937, p. 6104; Aug. 5, 1949, p. 10859), and the new form of the rule adopted in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49) marks the modern relevance of that application. While Members may use exhibits such as charts during debate subject to this rule, the Speaker may, pursuant to his authority to preserve order and decorum under rule I (see § 622, *supra*), direct the removal from the well of the House of a chart that is not being utilized during debate (Apr. 1, 1982, p. 6304), or that is otherwise disruptive of decorum.

§ 965. Earlier practice.

The reading of papers other than those on which the vote was about to be taken was usually permitted without question (V, 5258), and the Member in debate usually read such papers as he pleased. However, this privilege was subject to the authority of the House if another Member objected (V, 5285–5291; VIII, 2597, 2602; Dec. 19, 1974, p. 41425; Dec. 10, 1987, p. 34669). This principle applied even to the Member's own written speech (V, 5258; VIII, 2598), to a report that he proposed to have read in his own time or to read in his place (V, 5293), and to excerpts from the Congressional Record (VIII, 2597). After the previous question was ordered, a Member could not ask the decision of the House on a request for the reading of a paper not before the House for action (V, 5296), even though it be the report of the committee (V, 5294, 5295). For further discussion, see §§ 432–436, *supra*. Pursuant to the former form of this rule, the consent of the House for a Member to read a paper in debate only permitted the Member seeking such permission

to read as much of the paper as possible in the time yielded or allotted to that Member, and did not necessarily grant permission to read or to insert the entire document (Mar. 1, 1979, p. 3748). Where a Member objected to another's reading from a paper, the Chair put the question without debate. It was not in order under the guise of parliamentary inquiry to debate that question by indicating that the objection was a dilatory tactic (Dec. 10, 1987, p. 34672).

Galleries

§ 966. Gallery occupants not to be introduced.

7. During a session of the House, it shall not be in order for a Member, Delegate, or Resident Commissioner to introduce to or to bring to the attention of the House an occupant in the galleries of the House. The Speaker may not entertain a request for the suspension of this rule by unanimous consent or otherwise.

This clause was adopted April 10, 1933 (VI, 197). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 8 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47). The Chair enforces this clause on his own initiative (Deschler-Brown, ch. 29, §§ 45.4, 45.7).

Congressional Record

§ 967. Revisions of remarks in debate.

8. (a) The Congressional Record shall be a substantially verbatim account of remarks made during the proceedings of the House, subject only to technical, grammatical, and typographical corrections authorized by the Member, Delegate, or Resident Commissioner making the remarks.

(b) Unparliamentary remarks may be deleted only by permission or order of the House.

§ 968. Standard of conduct.

(c) This clause establishes a standard of conduct within the meaning of clause 3(a)(2) of rule XI.

This clause was adopted in the 104th Congress (sec. 213, H. Res. 6, Jan. 4, 1995, p. 468). Before the House recodified its rules in the 106th

Congress, this provision was found in former clause 9 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47). Under paragraph (a) a unanimous-consent request to revise and extend remarks permits a Member (1) to make technical, grammatical, and typographical corrections to remarks uttered and (2) to include in the Record additional remarks not uttered to appear in a distinctive typeface; however, such a unanimous-consent request does not permit a Member to remove remarks actually uttered (Jan. 4, 1995, p. 541). For example, remarks held irrelevant by the Chair may be removed from the Record by unanimous consent only (Mar. 20, 2002, p. 3663). Remarks uttered while not under recognition (such as when a Member fails to heed the gavel at the expiration of debate time) do not appear in the Record (*e.g.*, May 22, 2003, p. 12965; Oct. 2, 2003, p. ——; May 19, 2004, p. ——). Paragraph (a) also applies to statements and rulings of the Chair (Jan. 20, 1995, p. 1866). For a discussion of rules relating to the Congressional Record, see §§ 685–692, *supra*.

Secret sessions

§ 969. Secret session of the House.

9. When confidential communications are received from the President, or when the Speaker or a Member, Delegate, or Resident Commissioner informs the House that he has communications that he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members, Delegates, Resident Commissioner, and officers of the House for the reading of such communications, and debates and proceedings thereon, unless otherwise ordered by the House.

This provision (formerly rule XXIX), in a somewhat different form, was adopted in 1792, although secret sessions had been held by the House before that date. They continued to be held at times with considerable frequency until 1830. In 1880, at the time of the general revision of the rules, the House concluded to retain the rule, although it had been long in disuse (V, 7247; VI, 434). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXIX (H. Res. 5, Jan. 6, 1999, p. 47).

The two Houses have legislated in secret session, transmitting their messages also in secrecy (V, 7250); but the House has declined to be bound to secrecy by act of the Senate (V, 7249). Motions to remove the injunction of secrecy should be made with closed doors (V, 7254). In 1843 a confidential

message from the President was referred without reading; but no motion was made for a secret session (V, 7255).

The House and not the Committee of the Whole determines whether the Committee may sit in executive session, and an inquiry relative to whether the Committee of the Whole should sit in secret session is properly addressed to the Speaker and not to the chairman of the Committee of the Whole (May 9, 1950, p. 6746; June 6, 1978, p. 16376; June 20, 1979, p. 15710). A Member seeking to offer the motion that the House resolve itself into secret session must qualify, as provided by the rule, by asserting that the Member has a secret communication to make to the House (June 6, 1978, p. 16376). A motion having been defeated, a Member may offer a second motion on the same legislative day if he has additional communications to make (May 10, 2007, p. ——). The motion is subject to the motion to lay on the table (May 10, 2007, p. ——).

On June 20, 1979, the House adopted by voice vote a motion that the House resolve itself into secret session pursuant to this rule (the first such occasion since 1830), where the Member offering the motion had assured the Speaker that he had confidential communications to make to the House as required by the rule (pp. 15711–13). The Speaker pro tempore announced on that occasion before the commencement of the secret session that the galleries would be cleared of all persons, that the Chamber would be cleared of all persons except Members and those officers and employees specified by the Speaker whose attendance was essential to the functioning of the secret session, who would be required to sign an oath of secrecy, and that all proceedings in the secret session must be kept secret until otherwise ordered by the House (June 20, 1979, pp. 15711–13). Where the House has concluded a secret session and has not voted to release the transcripts of that session, the injunction of secrecy remains and the Speaker may informally refer the transcripts to appropriate committees for their evaluation and report to the House as to ultimate disposition to be made (June 20, 1979, pp. 15711–13).

The following procedures apply during a secret session. The motion for a secret session is not debatable (June 20, 1979, p. 15711; Mar. 31, 1998, p. 5229; Sept. 26, 2006, p. ——). The Member who offers the motion may be recognized for one hour of debate after the House resolves into secret session, and the normal rules of debate, including the principle that no motions would be in order unless he yields for that purpose, apply. The Speaker having found that a Member has qualified to make the motion for a secret session, having confidential communications to make, no point of order lies that the material in question must be submitted to the Members to make that determination (the motion for a secret session having been adopted by the House). No point of order lies in secret session that employees designated by the Speaker as essential to the proceedings, who have signed an oath of secrecy, may not be present. A motion in secret session to make public the proceedings therein is debatable for one hour, within narrow limits of relevancy. At the conclusion of debate in secret

session, a Member may be recognized to offer a motion that the session be dissolved (July 17, 1979, pp. 19057–59).

The House conducted another secret session in the 96th Congress to receive confidential communications consisting of classified information in the possession of the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence, which those committees had authorized to be used in a secret session of the House if ordered; on that occasion the Speaker overruled a point of order against the motion for a secret session since the Speaker must rely on the assurance of a Member that he has confidential communications to make to the House, and since the Speaker was aware that the committee with possession of the materials had authorized those materials to be used in a secret session (Feb. 25, 1980, p. 3618). Another secret session was held in the 98th Congress pending consideration of a bill amending the Intelligence Authorization Act to prohibit United States support for military or paramilitary operations in Nicaragua (July 19, 1983, p. 19776).

The House may subsequently by unanimous consent order printed in the Congressional Record proceedings in secret session, with appropriate deletions and revisions agreeable to the committees to which the secret transcript has been referred for review (July 17, 1979, p. 19049).

Under his authority in clause 3 of rule I, the Speaker may convene a classified briefing for Members on the House floor when the House is not in session (*e.g.,* Mar. 18, 1999, p. 4863).

RULE XVIII

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

Resolving into the Committee of the Whole

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

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

This provision (formerly clause 1(a) of rule XXIII), adopted in 1880, was made from two older rules dating from 1789 and modified in 1794 to provide

for the appointment of the chairman instead of the inconvenient method of election by the Committee (IV, 4704). It was amended in the 103d Congress to permit Delegates and the Resident Commissioner to preside in the Committee of the Whole (H. Res. 5, Jan. 5, 1993, p. 49). That authority was repealed in the 104th Congress (sec. 212(b), H. Res. 6, Jan. 4, 1995, p. 468) and reinstated in the 110th Congress (H. Res. 78, Jan. 24, 2007, p. ——). Delegates presided in two instances during the 103d Congress (Oct. 6, 1994, p. 28533; Oct. 7, 1994, p. 29167). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1(a) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47).

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

The Sergeant-at-Arms attends the sittings of the Committee of the Whole and, under direction of the chairman, maintains order (I, 257). The chairman recognizes for debate (V, 5003). Like the Speaker, the chairman is forbidden to recognize for requests to suspend the rule of admission to the floor (V, 7285).

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

Decisions of the chairman on questions of order may be appealed. In stating the appeal the question is put as in the House: "Shall the decision of the Chair stand as the judgment of the Committee?" The Committee of the Whole may not postpone a vote on an appeal of a ruling of the Chair (even by unanimous consent); and an appeal of a ruling of the Chair may be withdrawn in the Committee of the Whole as a matter of right (June 8, 2000, p. 9954). An appeal is debatable in the Committee of the Whole under the five-minute rule (June 24, 2003, p. ——). A majority vote sustains the ruling (Aug. 1, 1989, p. 17159).

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

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

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

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

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

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

Measures requiring initial consideration in the Committee of the Whole

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

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

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

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

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

When a bill is granted a special order for its consideration in the House by special rule (IV, 3216–3224) or by unanimous consent (IV, 4823; VIII, 2393), the effect is to discharge the Committee of the Whole. If the special order so dictates, the bill is before the full House for consideration (IV, 3216; VII, 788). Otherwise, the bill is considered in the House as in the Committee of the Whole (VIII, 2393). For a discussion of the modern practice of the House, under which a special order reported from the Committee on Rules that makes in order no amendments, or only one amendment, normally provides for consideration of a measure on the Union Calendar in the House, see House Practice, ch. 12, § 3.

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

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

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

Order of business

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

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

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

The early practice left the order of taking up bills to be determined entirely by the Committee, but in 1844 the House began by rule to regulate the order, and in 1880 adopted the present rule (IV, 4729). When the House recodified its rules in the 106th Congress, this provision was transferred from former clause 4 of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). At that time references in this provision to revenue bills and rivers and harbors bills were deleted to conform to changes made to the rules of the House by the Committee Reform Amendments of 1974 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), which revoked the privilege to report such bills at any time.

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

Reading for amendment

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

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

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

A rule of 1789 provided that bills should be read and debated in Committee of the Whole and in the House by clauses. Although that rule has

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

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

A simple motion to rise is in order during general debate if offered by a Member managing time or a Member to whom a manager yields for that purpose (June 10, 1999, p. 12522; Sept. 4, 2003, p. ——, p. ——, p. ——). However, a Member may not, in time yielded to him for general

debate, move that the Committee rise (May 25, 1967, p. 14121) or further yield to another for such motion (Feb. 22, 1950, p. 2178; May 17, 2000, p. 8200).

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

The motion to close general debate in Committee of the Whole, successor in practice to the motion to discharge provided by the rule of 1841, is made in the House pending the motion that the House resolve itself into Committee, and not after the House has voted to go into Committee (V, 5208). Though the motion is not debatable, the previous question is sometimes ordered on it to prevent amendment (V, 5203). Where the previous question is ordered, the 40 minutes of debate under clause 1(a) of rule XIX (formerly clause 2 of rule XXVII) is not allowed (VIII, 2555, 2690). General debate must have already begun in Committee of the Whole before the motion to limit debate it is in order in the House (V, 5204–5206). The motion may not apply to a series of bills (V, 5209) and must be offered to apply to the whole and not to a part of a bill (V, 5207). A proposition for a division of time may not be made as a part of it (V, 5210, 5211). The motion may not be made in Committee of the Whole (V, 5217; VIII, 2548); but, in the absence of an order by the House, the Committee of the Whole may by unanimous consent determine general debate (V, 5232; VIII, 2553). Where the House has fixed the time, the Committee may not, even by unanimous consent, extend it (V, 5212–5216; VIII, 2321, 2550; Mar. 27, 1984, p. 6599; June 17, 1999, pp. 13437, 13442).

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

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

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

A bill (or the remainder of a bill) may be considered as having been read and open to amendment by unanimous consent but not by motion (June 18, 1976, p. 19296). A unanimous-consent request in Committee of the Whole that an amendment in the nature of a substitute offered from

the floor be read for amendment by sections is not in order (Mar. 25, 1975, p. 8490). The chairman of the Committee of the Whole normally looks to the manager of a general appropriation bill for any request to accelerate the reading by paragraph, although the Chair may recognize a Member seeking unanimous consent to offer an amendment to a portion of a bill not yet read (July 26, 2001, p. 14733).

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

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

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

The Member recognized during five-minute debate may not yield time (V, 5035–5037; May 8, 1987, p. 11832; Dec. 10, 1987, p. 34686) unless he remains on his feet (June 10, 1998, p. 11976); and he must confine himself to the subject (V, 5240–5256; VIII, 2591). Where debate on an amendment is limited or allocated by special order to a proponent and an opponent, the Members controlling the debate may yield and reserve time, whereas debate time on amendments under the five-minute rule cannot be reserved (Aug. 1, 1990, p. 21425). A Member recognized under the five-minute rule may not yield to another Member to offer an amendment (Dec. 12, 14, 1973, pp. 41171, 41716; Sept. 8, 1976, p. 29243; Mar. 7, 1995, p. 7107) or yield blocks of time (June 14, 2006, p. ——). For a further discussion of management of time for debate on amendments in the Committee of the Whole, see § 959, *supra*.

Where the Chair recognizes the proponent of an amendment to propound a unanimous-consent request to modify the text of the amendment before commencing debate thereon, the Chair does not charge time consumed

under a reservation of objection against the proponent's time for debate on the amendment (Feb. 3, 1993, p. 1978; May 27, 1993, p. 11931).

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

The Committee of the Whole may not, even by unanimous consent, prohibit the offering of an amendment otherwise in order under the five-minute rule (July 31, 1984, p. 21701; Mar. 7, 1995, p. 11931). The fact that copies of an amendment have not been made available as required in this clause is not grounds for a point of order against the amendment (June 21, 1974, p. 20609; Mar. 25, 1976, p. 7997). An amendment that has been disposed of in the Committee of the Whole may not be withdrawn (June 17, 2004, p. ——).

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

The pro forma amendment to "strike out the last word" has long been used for purposes of debate or explanation where an actual amendment is not contemplated (V, 5778; VIII, 2591). Unless a special rule precludes any amendment except pro forma amendments for the purpose of debate, a pro forma amendment may be voted on unless withdrawn (VIII, 2874). A Member who has occupied five minutes on a pro forma amendment to debate a pending substantive amendment may not lengthen this time by making another pro forma amendment (V, 5222; VIII, 2560), may not offer another pro forma amendment after intervening debate on a pending amendment or proposition, even on a subsequent day (July 14, 1998, p. 15298; May 23, 2002, p. 8913 (see May 22, 2002, p. 8707)), and may not extend debate time by offering a substantive amendment while other Members are seeking recognition (July 28, 1965, p. 18631). A Member recognized to offer a pro forma amendment under the five-minute rule may not during that time offer a substantive amendment but must be separately recognized for that purpose (Nov. 19, 1987, p. 32880). A Member may speak in opposition to a pending amendment and subsequently offer a pro forma amendment and debate that (June 30, 1955, p. 9614); a Member may offer a second degree amendment and then offer a pro forma amendment to debate the underlying first degree amendment (June 28, 1995, p. 17633); a Member who has debated a substantive amendment may thereafter rise in opposition to a pro forma amendment thereto (July 20, 1951, p. 8566); and a Member may offer a pro forma amendment to both a pending amendment and a second degree amendment thereto (June 12, 2007, p. ——). A Member who has offered a substantive amendment and then debated it for five minutes may not extend his time by offering a pro forma amend-

ment, as it is not in order for the offeror of an amendment to amend his own amendment except by unanimous consent (Oct. 14, 1987, p. 27898). A pro forma amendment may be offered after a substitute has been adopted and before the vote on the amendment, as amended, by unanimous consent only, since the amendment has been amended in its entirety and no further amendments, including pro forma amendments, are in order (Oct. 18, 1983, p. 28185; June 28, 1995, p. 17633). A Member recognized on a pro forma amendment may not allocate or reserve time, though he may in yielding indicate to the Chair when he intends to reclaim his time (May 19, 1987, p. 12811; July 13, 1994, p. 16438). The Chair endeavors to alternate recognition to offer pro forma amendments between majority and minority Members (giving priority to committee members) rather than between sides of the question (Mar. 21, 1994, p. 5730).

Quorum and voting

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

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

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

(2) After a quorum has once been established on a day, the Chairman may entertain a point of order that a quorum is not present only when the Committee of the Whole House on the state of the Union is operating under the five-minute

rule and the Chairman has put the pending proposition to a vote.

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

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

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

It was the early practice for the Committee of the Whole to rise on finding itself without a quorum (IV, 2977), and it was not until 1847 that a rule (formerly clause 2(a) of rule XXIII) was adopted. The rule was amended in 1880, again in 1890 (which included the concept that a quorum in the Committee should be 100 rather than a quorum of the House (IV, 2966)), and in 1971 (Jan. 22, 1971, p. 144). On October 13, 1972 (H. Res. 1123, p. 36012) the rule was amended to reflect the installation of the electronic voting system in the House Chamber. The clause was amended in the 93d Congress to permit the Chair to vacate proceedings under the call in his discretion when a quorum appears (H. Res. 998, Apr. 9, 1974, pp. 10195–99). In the 95th Congress the clause was substantially changed to allow quorum calls only under the five-minute rule where the Chair has put the question on a pending proposition, after a quorum of the Committee of the Whole has been once established on that day (H. Res. 5, Jan. 4, 1977, pp. 53–70). The clause was amended again in the 96th Congress

to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the chair to receive the Committee's report of absentees as in previous practice, and to enable the Chair to reduce to five minutes the period for a recorded vote immediately following a regular quorum call (H. Res. 5, Jan. 15, 1979, pp. 7–16). In the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98) the clause was amended to allow the Chair the discretion whether or not to entertain a point of order of no quorum during general debate only. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(a) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47).

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

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

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

Where the Committee has risen to report the absence of a quorum, it resumes its session by direction of the Speaker on the appearance of a quorum (IV, 2968; VI, 674). The quorum that must appear to permit the Committee to continue its business is a quorum of the Committee and

not of the House (IV, 2970, 2971). However, if such quorum fails to appear, a quorum of the House is required for the Committee to resume its sitting (VI, 674). It was formerly held that after the Committee has risen and reported its roll call, a motion to adjourn was in order before direction as to resumption of the session (IV, 2969); but under the later practice the Committee immediately resumed its session without intervening motion or unanimous-consent requests (VI, 672, 673; VIII, 2377, 2379, 2436). The failure of a quorum of the House to answer on this roll call does not interfere with the authority of the Speaker to direct the Committee to resume its session (IV, 2969). The Chair's count of a quorum is not subject to verification by tellers (VIII, 2369, 2436), may not be challenged by an appeal (July 24, 1974, p. 25012), and may include those present and not voting (VI, 641). On a division vote totaling less than 100, the Chair has relied on his immediately prior count on a point of no quorum and on his observation of several Members present but not voting on the division vote in finding the presence of a quorum of the Committee of the Whole (June 29, 1988, p. 16504). No quorum being present when a vote is taken in Committee of the Whole, and the Committee having risen before a quorum appeared, such vote is invalid, and the question is put de novo when the Committee resumes its business (VI, 676, 677). While an "automatic" roll call (under clause 6(a) of rule XX) is not in order in Committee of the Whole, a point of order of no quorum may intervene between the announcement of a division vote result and the transaction of further business, and a demand for a recorded vote following the quorum call is not thereby precluded (Oct. 9, 1975, p. 32598). Where a recorded vote is refused but the Chair has not announced the result of a voice vote on an amendment, and the demand for a division vote remains possible, the question remains pending and the Chair is obligated to entertain a point of order of no quorum under this provision (June 6, 1979, p. 13648).

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

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

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

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

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

This provision was adopted in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(b) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). A demand for a recorded vote on an amendment is untimely where the Chair has recognized for the next amendment (Dec. 15, 2005, p. ——) or put the question on the next amendment pending on the tree (Procedure, ch. 30, § 12.5), or where considerable time has elapsed after the Chair's announcement of the voice vote (June 13, 2006, p. ——).

§ 984. Five-minute votes in Committee of the Whole.

(f) In the Committee of the Whole House on the state of the Union, the Chairman may reduce to five minutes the minimum time for electronic voting without any intervening business or debate on any or all pending amendments after a record vote has been taken on the first pending amendment.

(g) The Chairman may postpone a request for a recorded vote on any amendment. The Chairman may resume proceedings on a postponed request at any time. The Chairman may reduce to five minutes the minimum time for electronic voting on any postponed question that follows

another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.

Paragraph (f) was added in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. 39). Before the House recodified its rules in the 106th Congress, paragraph (f) was found in former clause 2(c) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). A vote by division is not such intervening business as would preclude a five-minute vote under this paragraph (July 22, 1994, p. 17609). By unanimous consent waiving the five-minute minimum set by paragraphs (f) and (g), the House has authorized the chairman of the Committee of the Whole to reduce questions to two-minute electronic votes (*e.g.,* Mar. 16, 2006, p. ——; May 23, 2006, p. ——).

Paragraph (g) was added in the 107th Congress (H. Res. 5, Jan. 3, 2001, p. 25). Before the adoption of paragraph (g), the chairman of the Committee of the Whole could not entertain a unanimous-consent request to reduce to fewer than 15 minutes the minimum time for recorded votes (June 18, 1987, p. 16764) or to postpone and cluster votes on amendments (July 13, 1995, p. 18871; Sept. 27, 1995, p. 26611; July 14, 1998, p. 15305). An amendment pending as unfinished business where proceedings on a request for a recorded vote have been postponed can be modified by unanimous consent on the initiative of its proponent (July 19, 2005, p. ——; see also Mar. 30, 2000, p. 4037). Special rules of the House before adoption of paragraph (g) commonly provided the chairman of the Committee of the Whole authority to postpone and cluster requests for recorded votes. Where a special rule provided such authority: (1) use of that authority, and the order of clustering, was entirely within the discretion of the Chair (*e.g.,* Aug. 5, 1998, p. 18950); (2) a request for a recorded vote on an amendment on which proceedings had been postponed could be withdrawn by unanimous consent before proceedings resumed on the request as unfinished business, in which case the amendment stood disposed of by the voice vote thereon (May 16, 2000, p. 7994); (3) it did not permit the Chair to postpone a vote on an appeal of a ruling of the Chair (even by unanimous consent) (June 8, 2000, p. 9954); (4) the Committee of the Whole by unanimous consent could vacate postponed proceedings, thereby permitting the Chair to put the question de novo (June 20, 2000, p. 11526); and (5) the Committee of the Whole could resume proceedings on unfinished business consisting of a "stack" of amendments even while another amendment was pending (July 10, 2000, p. 13615).

Pursuant to this clause, where the Speaker has announced that he will postpone a request for a recorded vote that was made pending a point of order of no quorum, the point of order is considered as withdrawn because the question is no longer pending after the Speaker's announcement (see § 1026, *infra*). The offering of a pro forma amendment to discuss the

legislative program, or an extended one-minute speech by a Member to express gratitude to the Members on a personal matter, is considered intervening business such as to preclude a five-minute vote under this authority except by unanimous consent (June 22, 2000, p. 12087; June 27, 2000, p. 12586). A request for a record vote under this paragraph may be withdrawn by unanimous consent before proceedings resume on the request as unfinished business, in which case the amendment stands disposed of by the voice vote thereon (*e.g.,* Sept. 17, 1998, p. 20845; June 25, 2004, p. ——) unless the request proposes that the Chair put the question de novo (Sept. 22, 2004, p. ——).

§ 985. De novo votes where Delegates decisive.

(h) Whenever a recorded vote on any question has been decided by a margin within which the votes cast by the Delegates and the Resident Commissioner have been decisive, the Committee of the Whole shall rise and the Speaker shall put such question de novo without intervening motion. Upon the announcement of the vote on that question, the Committee of the Whole shall resume its sitting without intervening motion.

This paragraph (former clause 2(d) of rule XXIII) was added in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49), repealed in the 104th Congress (sec. 212(c), H. Res. 6, Jan. 4, 1995, p. 468), and reinstated in the 110th Congress (H. Res. 78, Jan. 24, 2007, p.——).

Whether the votes cast by the delegates are decisive is determined by a "but for" test, the question being whether the result would be different if their votes were not counted (May 19, 1993, p. 10409; Feb. 8, 2007, p. ——). The Chair's count in such matter is not subject to appeal (Feb. 8, 2007, p. ——). The Chair does not differentiate between Members and Delegates and the Resident Commissioner in announcing the result of a record vote in the Committee of the Whole (Feb. 8, 2007, p. ——). An amendment adopted by immediate proceedings de novo in the House does not disturb the sequence of a "king-of-the-hill" procedure established by a special rule waiving all points of order against subsequent amendments (Mar. 17, 1994, p. 5388).

Dispensing with the reading of an amendment

§ 986. Motion to dispense with reading.

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

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

Closing debate

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

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

(b) If the Committee of the Whole House on the state of the Union closes debate on any portion of a bill or resolution before there has been

debate on an amendment that a Member, Delegate, or Resident Commissioner has caused to be printed in the Congressional Record at least one day before its consideration, the Member, Delegate, or Resident Commissioner who caused the amendment to be printed in the Record shall be allowed five minutes to explain it, after which the Member, Delegate, or Resident Commissioner who shall first obtain the floor shall be allowed five minutes to speak in opposition to it. There shall be no further debate thereon.

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

This clause (formerly clause 6 of rule XXIII) was adopted in 1860, with amendments in 1880 and 1885 (V, 5221, 5224). Paragraph (b), permitting 10 minutes for debate on an amendment that has been printed in the Record even after the Committee of the Whole closes debate, was inserted in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144) following the enactment of an identical provision in section 119 of the Legislative Reorganization Act of 1970 (84 Stat. 1140). In the 105th Congress that provision was amended to accommodate the printing of amendments to measures not yet reported (H. Res. 5, Jan. 7, 1997, p. 121). The third sentence, relating to the procedure for submitting and printing of amendments, was added in the 93d Congress (H. Res. 1387, Nov. 25, 1974, p. 37270). The last sentence, relating to the numbering of printed amendments, was added in

the 104th Congress (sec. 217, H. Res. 6, Jan. 4, 1995, p. 468). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 6 of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). A clerical correction was effected to paragraph (c) in the 107th Congress (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 26).

The Speaker announced that amendments to be printed in the Record pursuant to this clause must be deposited in a separate box at the Rostrum or with the Official Reporters of Debates within 15 minutes following adjournment, and must bear the Member's original signature (Nov. 25, 1974, p. 37270). Although ordinarily the expiration of time for debate on a bill and all amendments thereto precludes debate on amendments offered thereafter (July 18, 1968, p. 22110), debate on an amendment printed in the Record may nevertheless proceed for 10 minutes under this clause (Aug. 2, 1973, p. 27715). Printing an amendment in the Record under this clause permits debate notwithstanding a limitation of debate only if the amendment has been properly offered, and does not permit the offering of an amendment not otherwise in order under the rules (Apr. 23, 1975, p. 11491); and the guaranteed five minutes may be claimed only if the offeror of the amendment is the Member who caused it to be printed under the rule (June 1, 1976, p. 16044; June 29, 1989, p. 13928; June 19, 1991, p. 15473). The guaranteed time applies to an amendment offered as a substitute for another amendment, rather than as a primary amendment, if offered in the precise form printed (June 26, 1979, p. 16682), but where such a substitute amendment has not been printed in the Record it may not be debated unless time is yielded within the original 10 minutes (Dec. 10, 1987, p. 34710). Where a special order requires amendments to be printed in the Record to qualify during the consideration of a bill under the five-minute rule, but makes no designation concerning offerors, any printed amendment may be offered by any Member (Mar. 22, 1990, p. 5017); but only the Member causing the amendment to be printed is entitled to the time for debate guaranteed by this clause.

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

restrict the offering of amendments in contravention of a special order adopted by the House (June 25, 1985, p. 17201). The Committee of the Whole by unanimous consent may limit and allocate control of time for debate on amendments not yet offered (May 6, 1998, p. 8348). The motion may be ruled out when dilatory (V, 5734).

The closing of debate on the last section of a bill does not preclude debate on a substitute for the whole text (V, 5228). Where there is a time limitation on debate on a pending amendment in the nature of a substitute and all amendments thereto, but not on the underlying original text, debate on perfecting amendments to the original text proceeds under the five-minute rule absent another time limitation (Apr. 13, 1983, p. 8402). Where the time for debate on a pending amendment in the form of a motion to strike and all amendments thereto has been limited, a subsequently offered perfecting amendment considered as preferential to (rather than as an amendment to) the motion to strike remains separately debatable outside the limitation (July 20, 1995, p. 19788). Where five-minute debate has been limited to a certain number of minutes without reference to a time certain, the time consumed by reading of amendments, quorum calls, points of order and votes does not reduce the amount of time remaining for debate (Oct. 3, 1969, p. 28459; Nov. 9, 1971, p. 40060). However, where debate has been limited to a time certain, such activities as reading and voting consume time otherwise available for debate (May 6, 1970, p. 14452; Oct. 7, 1976, p. 26305). Unlike time placed under a Member's control, five-minute debate (or time derived therefrom under a limitation) may not be reserved or yielded in blocks except by unanimous consent (Mar. 2, 1976, p. 4992; May 11, 1976, p. 13416; June 14, 1977, p. 18833). A motion to limit debate on a pending amendment may neither allocate the time proposed to remain nor vary the order of recognition to close debate, though the Committee of the Whole may do either separately by unanimous consent (July 12, 1988, p. 17767). The Committee of the Whole may by motion: (1) limit debate on a pending committee amendment in the nature of a substitute (considered as read) and on all amendments thereto to a time certain; and then (2) separately limit debate on each perfecting amendment as it is offered (Mar. 16, 1983, p. 5794).

Under a limitation on debate the Chair may, in his discretion, choose among the following: (1) permit continued debate under the five-minute rule; (2) divide the remaining time among those desiring to speak; or (3) divide the remaining time between a proponent and an opponent to be yielded by them to other Members (May 25, 1982, p. 11672; May 10, 2000, p. 7515). The Chair also may, in his discretion, give priority in recognition under a limitation to those Members seeking to offer amendments, over other Members standing at the time the limitation was agreed to (May 26, 1977, pp. 16950–52). Where time for debate has been limited on a bill and all amendments thereto to a time certain several hours away, the Chair may, in his discretion, continue to proceed under the five-minute rule until he desires to allocate remaining time on possible amendments,

and may then divide that time among proponents of anticipated amendments and committee members opposing those amendments (*e.g.*, July 16, 1981, p. 16044; Feb. 28, 1995, pp. 6306–08). The Chair has discretion to reallocate time to conform to the limit set by unanimous consent of the Committee of the Whole (Mar. 16, 1995, p. 8115).

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

Striking the enacting clause

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

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

The practice of rejecting a bill by striking out the enacting words dates from a time as early as 1812, but the first rule on the subject was not adopted until 1822. By amendments in 1860, 1870, and 1880 the rule has

been brought into its present form (V, 5326). The rule before 1880 applied in the House as well as in Committee of the Whole. In the revision of 1880, it was classified among the rules relating to the Committee of the Whole, but there is nothing to indicate that this change was intended to limit the scope of the motion. It was probably a recognition merely of the fact that the motion was used most frequently in Committee of the Whole (V, 5326, 5332). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 7 of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). The motion must be in writing and in the proper form (July 24, 1986, p. 17641; Aug. 15, 1986, p. 22071; Sept. 12, 1986, p. 23178).

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

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

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

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

A point of order against the motion should be made before debate thereon has begun (V, 6902; VIII, 3442; May 6, 1950, p. 6571), and when challenged the Member offering the motion must qualify as being opposed to the bill (Mar. 13, 1942, p. 2439; May 6, 1950, p. 6571; June 14, 1979, p. 14995; Jan. 26, 1995, p. 2521). When a bill is reported from the Committee of the Whole with the recommendation that the enacting words be stricken out, the motion to strike out is debatable (V, 5337–5340), but a motion to lay on the table is not in order (V, 5337). The previous question may be moved on the motion to concur without applying to further action on the bill (V, 5342). When the House disagrees to the action of the Committee in striking out the enacting words and does not refer it under the provisions of the rule, it goes back to the Committee of the Whole, where it becomes unfinished business (V, 5326, 5345, 5346; VIII, 2633). Notwithstanding that consideration of the pending bill was governed by a "modified-closed" rule permitting only specified amendments, pending the concurrence of the House with a recommendation of the Committee of the Whole that the enacting clause be stricken, the House could by instructions in a motion to refer under this clause direct the Committee of the Whole to consider additional germane amendments (Apr. 14, 1994, p. 7452). When the enacting words of a bill are stricken, the bill is rejected (V, 5326). When the enacting clause of a Senate measure is stricken, the bill is rejected (V, 5326); and the Senate is so informed (IV, 3423; VIII, 2638; June 20, 1946, p. 7211; Oct. 4, 1972, p. 33787).

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

Concurrent resolution on the budget

§ 990. Reading concurrent resolution on budget for amendment.

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

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

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

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

(c)(1) Except as specified in subparagraph (2), it shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent resolution on the budget, or an amendment thereto, that proposes to change the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported.

(2) Amendments to achieve mathematical consistency under section 305(a)(5) of the Congressional Budget Act of 1974, if offered by direction of the Committee on the Budget, may propose to

adjust the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported, to reflect changes made in other figures contained in the concurrent resolution.

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

Unfunded mandates

§991. Unfunded mandates.

11. (a) In the Committee of the Whole House on the state of the Union, an amendment proposing only to strike an unfunded mandate from the portion of the bill then open to amendment, if otherwise in order, may be precluded from consideration only by specific terms of a special order of the House.

(b) In this clause the term "unfunded mandate" means a Federal intergovernmental mandate the direct costs of which exceed the threshold otherwise specified for a reported bill or joint resolution in section 424(a)(1) of the Congressional Budget Act of 1974.

This provision (formerly clause 5(c) of rule XXIII) was added by the Unfunded Mandates Reform Act of 1995 (sec. 107(a), P.L. 104–4; 109 Stat. 63). It was amended later in the 104th Congress to effect a technical correction (H. Res. 254, Nov. 30, 1995, p. 35077), and in the 105th Congress

to clarify that it applies to intergovernmental mandates (H. Res. 5, Jan. 7, 1997, p. 121). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5(c) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). An amendment has been admitted under this clause to a bill being considered under a modified-closed rule that did not specifically preclude such amendment (Apr. 21, 2005, p. ——).

Applicability of Rules of the House

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

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

This clause was adopted in 1789 (IV, 4737). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 9 of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47).

§ 993. Modification of special orders.

The Chair may not entertain a unanimous-consent request in the Committee of the Whole if its effect is to materially modify procedures required by a special rule or order adopted by the House. For example, the following unanimous-consent requests may not be entertained in the Committee of the Whole: (1) to permit a perfecting amendment to be offered to the underlying bill where a special rule permitted its consideration only as a perfecting amendment to a committee amendment (Aug. 2, 1977, p. 26161); (2) to permit a substitute to be read by section for amendment where the special rule did not so provide (Dec. 12, 1973, p. 41153); (3) to extend the time limitation for consideration of amendments beyond that set by a special order requiring the Chair to put the question on the pending amendments at the expiration of certain hours of consideration (Apr. 10, 1986, p. 7079; Oct. 30, 1991, p. 29213; Aug. 3, 1999, p. 19218; Oct. 21, 1999, p. 26492); (4) to restrict "en blocking" authority granted in a special order (Sept. 11, 1986, p. 22871; June 21, 1989, p. 12744); (5) to change the scheme for control (Oct. 9, 1986, p. 29984) or duration (Aug. 1, 1989, p. 17143; Mar. 12, 1991, p. 5799; Mar. 17, 1993, p. 5385; June 17, 1999, pp. 13437, 13442; Feb. 9, 2005, p. —— (Chair corrected himself)) of general debate specified by the House, including a "wrap up" debate following the amendment process (Mar. 25, 2004, p. ——); (6) to preempt the Chair's discretion (granted by a special order) to postpone and cluster votes or to schedule further consideration of a pending measure to a subsequent day (June 4, 1992, p. 13625; July 13, 1995, p. 18872); (7) to postpone a vote on an appeal of a ruling of the Chair (June 8, 2000, p. 9954); (8) to permit an amendment offered by another Member to an amendment rendered unamendable by a special order or to permit a subsequent amendment changing such unamendable amendment already adopted (Nov. 18, 1987, p. 32643; July 26, 1989, p. 16411; July 24, 1996, p. 18907); (9) to permit consideration

of an amendment out of the order specified in a special rule (May 25, 1988, p. 12275; Oct. 3, 1990, p. 27354; Oct. 31, 1991, p. 29359; Nov. 19, 1993, p. 30472; June 10, 1998, p. 11914; July 29, 1999, p. 18735; May 3, 2007, p. ——); (10) to permit consideration of an additional amendment (July 28, 1988, p. 19491; June 10, 1998, p. 11914; June 24, 2005, p. ——; Mar. 15, 2006, p. ——); (11) to authorize a supplemental report from the Committee on Rules in lieu of the original report referred to in the special order (Speaker Wright, Aug. 11, 1988, p. 22105); (12) to permit another to offer an amendment vested in a specified Member (May 1, 1990, p. 9030); (13) to permit a division of the question on an amendment rendered indivisible by a special order (July 16, 1996, p. 17318); (14) to preclude procedural votes (where the order of the House refrained from precluding any form of motion to rise) (July 26, 2001, p. 14754); (15) to preclude further amendment except as specified (Apr. 3, 2003, p. 8490); (16) to permit the offering of a pro forma amendment to an amendment when the special order governing consideration occupied the field by permitting pro forma amendments to the bill only (July 7, 2004, p. ——).

Unanimous-consent requests have been entertained in Committee of the Whole: (1) to permit the modification of a designated amendment made in order by a special rule, once offered, if the request is propounded by the proponent of the amendment (see, *e.g.*, June 10, 1993, p. 12486; July 24, 1996, p. 18906; May 6, 1998, p. 8332; Mar. 29, 2000, p. 4017; Mar. 13, 2002, p. 3127), including as unfinished business where proceedings on a request for a recorded vote have been postponed (Mar. 30, 2000, p. 4037); (2) to permit a page reference to be included in a designated amendment made in order as printed where the printed amendment did not include that reference (Apr. 1, 1976, p. 9091); (3) to permit a supporter of an amendment to claim debate time allocated by special order to an opponent, where no opponent seeks recognition (May 23, 1990, p. 11988); (4) to shorten the time set by special order for debate on a particular amendment (Aug. 1, 1990, p. 21510; Mar. 29, 1995, p. 9742); (5) to lengthen the time set by special order for debate on a particular amendment under terms of control congruent with those set by the order of the House (May 11, 1988, p. 10495; May 21, 1991, p. 11646; Mar. 22, 1995, p. 8769; June 27, 1995, p. 17329; Nov. 2, 1995, p. 31376; Mar. 25, 2004, p. ——); (6) to permit en bloc consideration of several amendments under a "modified-closed" special order providing for the sequential consideration of designated separate amendments (Aug. 10, 1994, p. 20768); (7) to permit one of two committees controlling time for general debate pursuant to a special order to yield control of its time to the other (Aug. 18, 1994, p. 23118); (8) to permit the proponent of an amendment to yield control of time in support to another (Mar. 9, 2006, p. ——); (9) to permit the offering of pro forma amendments for the purpose of debate under a "modified-closed" special order limiting both amendments and debate thereon (July 17, 1996, p. 17563; July 24, 1996, p. 18896); (10) to reach ahead in the reading of a general appropriation bill to consider one amendment without prejudice

to others earlier in the bill under a special order of the House contemplating that each remaining amendment be offered only at the "appropriate point in the reading of the bill" (Mar. 29, 2000, p. 3980); (11) to permit the reading of an amendment that already was considered as read under the special order of the House (June 13, 2000, p. 10546; July 10, 2002, p. 12441); (12) to permit a request for a recorded vote even though untimely (Mar. 28, 2007, p. ——).

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

RULE XIX

MOTIONS FOLLOWING THE AMENDMENT STAGE

Previous question

§ 994. The previous question.

1. (a) There shall be a motion for the previous question, which, being ordered, shall have the effect of cutting off all debate and bringing the House to a direct vote on the immediate question or questions on which it has been ordered. Whenever the previous question has been ordered on an otherwise debatable question on which there has been no debate, it shall be in order to debate that question for 40 minutes, equally divided and controlled by a proponent of the question and an opponent. The previous question may be moved and ordered on a single question, on a series of

questions allowable under the rules, or on an amendment or amendments, or may embrace all authorized motions or amendments and include the bill or resolution to its passage, adoption, or rejection.

The House adopted a rule for the previous question in 1789, but did not turn it into an instrument for closing debate until 1811. The history of the motion for the previous question is discussed in V, 5443, 5446; VIII, 2661. In 1880 the previous question rule was amended to apply to single motions or a series of motions as well as to amendments, and the motion to commit pending the motion for the previous question or after the previous question is ordered to passage was added (V, 5443). From 1880 to 1890, the previous question could only be ordered to the engrossment and third reading, and then again ordered on passage, but in 1890 the rule was changed to permit ordering the previous question to final passage (V, 5443). When the House recodified its rules in the 106th Congress, it consolidated former clause 1 of rule XVII and a provision included in former clause 2 of rule XXVII, permitting 40 minutes debate on which the previous question has been ordered without there having been debate under this clause. The 106th Congress also transferred the provision addressing the motion to commit from clause 1 of rule XVII to clause 2 of this rule (H. Res. 5, Jan. 6, 1999, p. 47).

The previous question is the only motion used for closing debate in the House itself (V, 5456; VIII, 2662). It is not in order in Committee of the Whole (IV, 4716; Apr. 25, 1990, p. 8257) but is in order in the House as in Committee of the Whole (VI, 639). The motion may not include a provision that it shall take effect at a certain time (V, 5457).

§ 996. Application of the previous question.

The provisions of the rule define the application of the previous question with considerable accuracy. It may not be moved on more than one bill, or on motions to agree to a conference report and to dispose of differences not included in the report, except by unanimous consent (V, 5461–5465). When ordered on a motion to send to conference, it applies to that motion alone and does not extend to a subsequent motion to instruct conferees (VIII, 2675). It may apply to the main question and a pending motion to refer (V, 5466; VI, 373; VIII, 2678), or to a pending resolution and a pending amendment thereto (Sept. 25, 1990, p. 25575; July 16, 1998, p. 15793). When a bill is reported from the Committee of the Whole with the recommendation that the enacting words be stricken, it may be applied to the motion to concur without covering further action on the bill (V, 5342). During consideration "in the House as in Committee of the Whole" it may be demanded while Members still desire to offer amendments (IV, 4926–4929; VI, 639), but it may not be moved on a single section of a bill (IV, 4930). When ordered on a resolution with a preamble there is doubt of its application

to the preamble, unless the motion so specifies (V, 5469, 5470). It may be moved on a series of resolutions, but this does not preclude a division of the resolutions on the vote (V, 5468), although where two propositions on which the previous question is moved are related, as in the case of a special order reported from the Committee on Rules and a pending amendment thereto, a division is not in order (Sept. 25, 1990, p. 25575). The previous question is often ordered on nondebatable propositions to prevent amendment (V, 5473, 5490), but may not be moved on a motion that is both nondebatable and unamendable (IV, 3077). It applies to questions of privilege as to other questions (II, 1256; V, 5459, 5460; VIII, 2672).

§ 997. The right to move the previous question.

The Member in charge of the bill and having the floor may demand the previous question, although another Member may propose a motion of higher privilege (VIII, 2684), which must be put first (V, 5480; VIII, 2609, 2684). If the Member in charge of the bill claims the floor in debate another Member may not demand the previous question (II, 1458); but having the floor, unless yielded to for debate only, any Member may make the motion although the effect may be to deprive the Member in charge of the bill (V, 5476; VIII, 2685). The Member who has called up a measure in the House has priority of recognition to move the previous question thereon, even over the chairman of the reporting committee (Oct. 1, 1986, p. 27468). If, after debate, the Member in charge of the bill does not move the previous question, another Member may (V, 5475); but where a Member intervenes on a pending proceeding to make a preferential motion, such as the motion to recede from a disagreement with the Senate, he may not move the previous question on that motion as against the rights of the Member in charge (II, 1459), and the Member in charge is entitled to recognition to move the previous question even after he has surrendered the floor in debate (VIII, 2682, 3231). Where a Member controlling the time on a bill or resolution in the House yields for the purpose of amendment (or offers an amendment himself), another Member may move the previous question before the Member offering the amendment is recognized to debate it (Deschler, ch. 23, § 18.3; July 24, 1979, p. 20385). Where under a rule of the House debate time on a motion or proposition is equally divided and controlled by the majority and the minority, or between those in favor and those opposed (see, *e.g.*, clauses 2 and 6 of rule XV), or where a block of time for debate has been yielded by the manager, the previous question may not be moved until the other side has used or yielded back its time; and the Chair may vacate the adoption of the previous question where it was improperly moved while the other side was still seeking time (Oct. 3, 1989, p. 22842). The previous question may not be demanded on a proposition against which a point of order is pending (VIII, 3433).

The motion to lay on the table may not be applied to the previous question (V, 5410, 5411); and it may not be applied to the main question after the previous question has been ordered (V, 5415–5422; VIII, 2655), or after the yeas and nays have been ordered on the demand for the previous question (V, 5408, 5409).

§ 998. Relation of the previous question to motions.

The motion to postpone may not be applied to the main question after the previous question has been ordered (V, 5319–5321; VIII, 2617). The previous question may be applied both to the main question and a pending motion to refer (V, 5342; VI, 373). The motion to adjourn is not available when the previous question has been ordered by special rule from the beginning of debate to final passage without intervening motion (IV, 3211–3213, June 14, 2001, p. 10725; Apr. 18, 2002, p. 4969).

§ 999. The 40 minutes of debate on undebated propositions.

This clause allows 40 minutes of debate when the previous question is ordered on an otherwise debatable proposition on which there has been no debate (V, 6821; VIII, 2689; Sept. 13, 1965, p. 23602; Mar. 22, 1990, p. 4996). However, any previous debate on the merits of the main proposition precludes the 40 minutes (V, 5499–5502). The demand for 40 minutes of debate must come before the vote is taken on the main question (V, 5496). It is not available: (1) when the question on which the previous question is ordered is otherwise nondebatable, such as the motion to close debate (VIII, 2555, 2690); (2) on an undebated amendment where the motion for the previous question covers both the amendment and the original proposition, which has been debated (V, 5504) (although when the previous question is ordered merely on an amendment that has not been debated, the 40 minutes are allowed (V, 5503)); (3) on incidental motions (V, 5497–5498); (4) on propositions previously debated in Committee of the Whole (V, 5505); (5) on conference reports accompanying measures that were debated before being sent to conference (V, 5506–5507); (6) on ancillary measures, such as a concurrent resolution to correct an enrolled bill (V, 5508). Debate allowed under this provision is equally divided and controlled between the person demanding the time and a Member representing the opposition (V, 5495; Sept. 13, 1965, pp. 23602–06; May 8, 1985, p. 11073). Priority in recognition for time in opposition is accorded to a Member truly opposed (VIII, 2689).

§ 1000. Questions of order pending the motion for the previous question.

(b) Incidental questions of order arising during the pendency of a motion for the previous question shall be decided, whether on appeal or otherwise, without debate.

This provision was adopted in 1837 to prevent delay by debate on points of order after the demand for the previous question (V, 5448). Before the House recodified its rules in the 106th Congress, this provision was found

in former clause 3 of rule XVII (H. Res. 5, Jan. 6, 1999, p. 47). The Chair may recognize and respond to a parliamentary inquiry although the previous question may have been demanded (Mar. 27, 1926, p. 6469).

A question of privilege relating to the integrity of action of the House itself has been distinguished from ordinary questions of order and has been debated after the ordering of the previous question (III, 2532).

Recommit

§ 1001. Recommit.

2. (a) After the previous question has been ordered on passage or adoption of a measure, or pending a motion to that end, it shall be in order to move that the House recommit (or commit, as the case may be) the measure, with or without instructions, to a standing or select committee. For such a motion to recommit, the Speaker shall give preference in recognition to a Member, Delegate, or Resident Commissioner who is opposed to the measure.

(b) Except as provided in paragraph (c), if a motion that the House recommit a bill or joint resolution on which the previous question has been ordered to passage includes instructions, it shall be debatable for 10 minutes equally divided between the proponent and an opponent.

(c) On demand of the floor manager for the majority, it shall be in order to debate the motion for one hour equally divided and controlled by the proponent and an opponent.

The motion to commit or recommit described in paragraph (a) was added to the previous question rule (formerly clause 1 of rule XVII) in 1880 (V, 5443). The portion of paragraph (a) that gives preference in recognition to one opposed to the measure was added to former clause 4 of rule XVI in the 61st Congress (Mar. 15, 1909, pp. 22–34). Paragraphs (b) and (c), relating to debate on the motion to recommit with instructions were added to former clause 4 of rule XVI by section 123 of the Legislative Reorganization Act of 1970 and made a part of the standing rules in the 92d Congress

(H. Res. 5, Jan. 21, 1971, p. 14). That provision was also amended in the 99th Congress to provide that on the demand of the majority floor manager of a bill or joint resolution, the 10 minutes of debate on a motion to recommit with instructions, the previous question having been ordered, may be extended to one hour, equally divided and controlled (H. Res. 7, Jan. 3, 1985, p. 393). When the House recodified its rules in the 106th Congress, it consolidated the last sentence of former clause 1 of rule XVII and provisions of former clause 4 of rule XVI, addressing the motion to recommit, under this clause (H. Res. 5, Jan. 6, 1999, p. 47). For a general discussion of the motion to refer, see § 916, *supra*.

§ 1002. Application of motion.

The motion to commit under this rule applies to resolutions of the House alone as well as to bills (V, 5572, 5573; VIII, 2742), and to a motion to amend the Journal (V, 5574). It does not apply to a report from the Committee on Rules providing a special order of business (V, 5593–5601; VIII, 2270, 2750), or to a pending amendment to a proposition in the House (V, 5573). A motion to commit under this clause, with instructions to report forthwith with an amendment, has been allowed after the previous question has been ordered on a motion to dispose of Senate amendments before the stage of disagreement (V, 5575; VIII, 2744, 2745). However, a motion to commit under this clause does not apply to a motion disposing of Senate amendments after the stage of disagreement where utilized to displace a pending preferential motion (Speaker Albert, Sept. 16, 1976, p. 30887).

The motion to commit may be made pending the demand for the previous question on passage (or adoption), whether a bill or resolution is under consideration (V, 5576). However, when the demand covers all stages of the bill to passage, the motion to commit is made only after the third reading and is not in order pending the demand or before third reading (V, 5578–5581). When separate motions for the previous question are made, respectively, on the third reading and on passage of a bill, the motion to commit should be made only after the previous question is ordered on passage (V, 5577). When the House refuses to order a bill to be engrossed and read a third time, the motion to commit may not be made (V, 5602, 5603). When the previous question has been ordered on a simple resolution (as distinguished from a joint resolution) and a pending amendment, the motion to commit should be made after the vote on the amendment (V, 5585–5588). A motion to commit has been entertained after ordering of the previous question even before the adoption of rules at the beginning of a Congress (VIII, 2755; Jan. 5, 1981, p. 111).

When a special order declares that at a certain time the previous question shall be considered as ordered on a bill to final passage, it has usually, but not always, been held that a motion to commit is precluded (IV, 3207–3209). Under clause 6(c) of rule XIII (formerly clause 4(b) of rule XI) the Committee on Rules is prohibited from reporting a special order that precludes the motion to recommit as provided in clause 2 of rule XIX (VIII, 2260, 2262–2264; see also § 1001, *supra*). That provision was amended in

the 104th Congress to further prohibit the Committee on Rules from denying the Minority Leader or his designee the right to include proper amendatory instructions in a motion to recommit except with respect to a Senate measure for which the text of a House-passed measure has been substituted (sec. 210, H. Res. 6, Jan. 4, 1995, p. 460). Where a special order providing for consideration of a matter in the House provides that the previous question shall be considered as ordered thereon without intervening motion and does not simply state that the previous question be considered as ordered after debate, the previous question is considered as ordered from the beginning of the debate, precluding the consideration of any intervening motion (Mar. 12, 1980, pp. 5387–93; June 14, 2001, p. 10725).

Where a bill is recommitted under this motion, the previous question being pending but not ordered on final passage and, having been reported again, is again amended and subjected to the previous question, another motion to commit is in order after the engrossment and third reading (V, 5591).

§ 1002a. Consideration of motion.

When the previous question is ordered on a bill to final passage, debate on a straight motion to recommit under this clause is no longer in order and only a motion to recommit with instructions is debatable for the 10 minutes specified in the rule (June 22, 1995, p. 16844). Before the amendment of this clause in the 92d Congress, no debate was permitted on a motion to recommit with instructions after the previous question was ordered (V, 5561, 5582–5584; VIII, 2741). The 10 minutes of debate provided under this clause on motions to recommit with instructions does not apply to a motion to recommit with instructions of a simple or concurrent resolution or conference report, since the clause limits its applicability to bills and joint resolutions (Nov. 15, 1973, p. 37151; Mar. 29, 1976, p. 8444; Speaker O'Neill, June 19, 1986, p. 14698). The manager of a bill or joint resolution, if opposed, and not the proponent of a motion to recommit with instructions has the right to close controlled debate on a motion to recommit (Speaker Wright, Dec. 3, 1987, p. 34066). The Member recognized for five minutes in favor of the motion may not reserve time (Speaker Wright, June 29, 1988, p. 16510; June 29, 1989, p. 13938). Although time for debate on a motion to recommit with instructions is not "controlled," and therefore Members may not reserve or yield blocks of time (July 26, 2006, p. ——), a Member under recognition may yield to another while remaining on his feet (Feb. 27, 2002, p. 2081).

Although the ordering of the previous question on a bill and all amendments to final passage precludes debate (other than that specified in clause 2 of rule XIX) on a motion to recommit, it does not exclude amendments to such motion (V, 5582; VIII, 2741); and, unless the previous question is ordered on a motion to recommit with instructions, the motion is open to amendment germane to the bill (see V, 6888; VIII, 2711). An amendment to a motion to recommit is read in full (unless the reading is dispensed

with by unanimous consent) (Feb. 27, 2002, p. 2084). An amendment to a motion to recommit is not debatable (Feb. 27, 2002, p. 2084). An amendment striking out all of the proposed instructions and substituting others cannot be ruled out as interfering with the right of the minority to move recommitment (VIII, 2698, 2759). The Member offering a motion to recommit a bill with instructions may, at the conclusion of the 10 minutes of debate thereon, yield to another Member to offer an amendment to the motion if the previous question has not been ordered on the motion to recommit (Speaker Albert, July 19, 1973, p. 24967).

The motion may be withdrawn in the House at any time before action or decision thereon (VIII, 2764). The motion may not be laid on the table after the previous question has been ordered (V, 5412–5414).

§ 1002b. Instructions with motion.

The simple motion to recommit and the motion to recommit with instructions are of equal privilege and have no relative precedence (VIII, 2714, 2758, 2762; Nov. 25, 1970, p. 38997). It has been a practice to permit a motion to recommit with instructions that the committee report "forthwith," in which case the chairman reports at once without awaiting action by the committee (V, 5545–5547; VIII, 2730), and the bill is before the House for immediate consideration (V, 5550; VIII, 2735).

It is not in order to propose as instructions anything that might not be proposed directly as an amendment such as: (1) an amendment that is not germane (V, 5529–5541, 5834, 5889; VIII, 2705, 2707, 2708); (2) to amend or eliminate an amendment adopted by the House (unless permitted by special order) (V, 5531; VIII, 2712, 2714, 2715, 2720–2724); (3) an amendment in violation of clause 2 of rule XXI (V, 5533–5540; Sept. 1, 1976, p. 28883; Sept. 19, 1983, p. 24646; Speaker Foley, Aug. 1, 1989, p. 17159, and Aug. 3, 1989, p. 18546, each time sustained by tabling of appeal; July 1, 1992, p. 17294; June 22, 1995, p. 16844); or (4) to change the Rules of the House by authorizing a committee to report at any time (V, 5543) or directing a committee to report by a date certain (V, 5549). However, it has been held in order to reoffer an amendment rejected by the House (VIII, 2728). A waiver of all points of order against consideration of a bill does not inure to the motion to recommit (May 9, 2003, p. 11072).

Where a special rule providing for the consideration of a bill prohibited the offering of amendments to a certain title of the bill (at any point during consideration), it was held not in order to offer a motion to recommit with instructions to amend the restricted title (Jan. 11, 1934, pp. 479–83). However, that precedent should be read in light of clause 6(c) of rule XIII, which precludes the Committee on Rules from reporting a rule that would prevent a motion to recommit from including amendatory instructions (see § 857, *supra*).

In cases where amendatory instructions are not in order, the motion has directed a committee to study an issue and to report "promptly" its recommendations (Mar. 29, 1990, p. 1834). Instructions must be germane to the bill regardless of whether they directly propose an amendment there-

to (Sept. 23, 1992, p. 27178). The adoption of a motion to recommit with instructions to report back "forthwith"occasions an immediate report on the floor. The adoption of a motion to recommit with other instructions, however, sends the bill to committee, whose eventual report (if any) would not be immediately before the House (Deschler, ch. 23, § 32.25; May 24, 2000, p. 9151; May 3, 2007, p. ——).

Only one motion to commit is in order (V, 5577, 5582, 5585; VIII, 2763). If a motion to recommit is ruled out, a proper motion is admissible (VIII, 2736, 2760, 2761, 2763; June 22, 2005, p. ——). Similarly, if the House votes pursuant to section 426(b)(3) of the Congressional Budget Act of 1974 not to consider a motion to recommit against which a Member has made a point of order under section 425(a) of that Act, a proper motion to recommit remains available (Mar. 28, 1996, p. 6932).

A motion to recommit with instructions was ruled out of order before the entire motion had been read as a matter of form where a special order of business precluded instructions (May 6, 2004, p. ——).

When a bill is recommitted, it is before the committee as a new subject (IV, 4557; V, 5558), but the committee must confine itself to the instructions if there be any (IV, 4404; V, 5526). Where the House has recommitted a bill to a committee with instructions to report it back forthwith with certain amendments, the amendments must be adopted by the House after the report by the committee (VIII, 2734).

The motion to recommit may not be accompanied by preamble or otherwise include argument, explanation, or other matter in the nature of debate (V, 5589; VIII, 2749). Thus, a motion to recommit a bill to a standing committee with recommendations for producing legislation that the President could sign was held inadmissible in both form and content (Feb. 27, 1992, p. 3778).

§ 1002c. Recognition to offer motion.

Before former clause 4 of rule XVI was amended in 1909 to give priority in recognition for the motion to recommit to an opponent of a bill or joint resolution pending final passage, it was held that the opponents of a bill had no claim to prior recognition (II, 1456). Although the provision as amended in 1909 applied only to bills and joint resolutions, the principle embodied in that provision was applied also to motions to recommit simple or concurrent resolutions or conference reports under former clause 1 of rule XVII (VIII, 2764; Nov. 28, 1979, p. 33914). When the House consolidated the last sentence of former clause 1 of rule XVII and provisions of former clause 4 of rule XVI, addressing the motion to recommit, under this clause (H. Res. 5, Jan. 6, 1999, p. 47), the sentence conferring prior recognition to the opposition was formally applied to all measures. However, precedents under former clause 1 of rule XVII still dictate that recognition to offer a motion to commit a resolution offered from the floor as a privileged matter without having been referred to committee does not depend on opposition to the resolution or on party affiliation (Speaker Albert, Feb. 19, 1976, p. 3920).

When applying this rule the Speaker looks first to the Minority Leader or his designee (as imputed by the form of former clause 4(b) of rule XI adopted in the 104th Congress (current clause 6(c) of rule XIII)). If the Minority Leader is not seeking recognition, the Speaker looks to minority members of the committee reporting the bill, in order of their rank on the committee (Speaker Garner, Jan. 6, 1932, p. 1396; Speaker Byrns, July 2, 1935, p. 10638), then to other Members on the minority side (Speaker Rayburn, Aug. 16, 1950, p. 12608). Until a qualifying minority Member has had his motion read by the Clerk, he is not entitled to the floor so as to prevent a senior qualifying minority member from the reporting committee from seeking recognition to offer the motion to recommit (Speaker O'Neill, Apr. 24, 1979, p. 8360). If no Member of the minority qualifies, a majority Member who is opposed to the bill may be recognized (Speaker Garner, Apr. 1, 1932, p. 7327). The Chair does not assess the degree of a Member's opposition (Oct. 23, 1991, p. 28258) and accepts a Member's averment of opposition (Nov. 9, 2005, p.——; Apr. 26, 2006, p. ——; May 4, 2006, p. ——). A Member who is opposed to the bill "in its present form" (*i.e.*, in the form before the House when the motion is made) qualifies to offer the motion (Speaker Martin, Apr. 15, 1948, p. 4547; Speaker McCormack, Mar. 12, 1964, p. 5147). In response to a parliamentary inquiry, the Chair requested all Members to reflect on the importance of the Chair's being able to rely on the veracity of a Member's assertion, when qualifying to offer a motion to recommit, that he is opposed to the bill; and he recited to the Members the following apology by the ranking minority member of the Committee on Appropriations in 1979: "The honorable, if not technical, duty of a Member offering a motion to recommit is to vote against the bill on final passage" (Speaker Hastert, June 23, 2005, p. ——, quoting from Deschler-Brown, ch. 29, § 23.49). The Chair also advised that it is not a violation of the rules for a Member to vote for passage after asserting opposition to a measure in order to qualify to offer a motion to recommit, and it is not the province of the Chair to instruct a Member how to vote (Apr. 26, 2006, p. ——).

The priority in recognition of a Member of the minority who is opposed is not diminished by the fact that the minority party may have successfully led the opposition to the previous question on the special order governing consideration of the bill and offered a "modified-closed" rule permitting only minority Members to offer perfecting amendments to the majority text (June 26, 1981, p. 14740). However, although the motion to recommit is the prerogative of the minority if opposed, a Member who in the Speaker's determination led the opposition to the previous question on the motion to recommit is entitled to offer an amendment to the motion to recommit, regardless of party affiliation, such as the chairman (June 26, 1981, pp. 14791–93) or another majority-party member (Feb. 27, 2002, pp. 2080–85) of the committee reporting the bill. The right to offer a motion to recommit a House bill with a Senate amendment belongs to a Member who is opposed to the whole bill in preference to a Member who is merely opposed

to the Senate amendment (VIII, 2772). Where the previous question has been ordered on both the pending resolution and its preamble, a Member may qualify to offer a motion to recommit on the basis of his opposition to the preamble, even though it is not otherwise subject to separate vote or amendment (Feb. 12, 1998, p. 1333). A Member rising in opposition to a motion to recommit must likewise qualify as opposed to the motion (Apr. 29, 1998, p. 7156) or obtain unanimous consent if not (*e.g.*, Mar. 14, 2007, p. ——).

Reconsideration

§ 1003. The motion to reconsider.

3. When a motion has been carried or lost, it shall be in order on the same or succeeding day for a Member on the prevailing side of the question to enter a motion for the reconsideration thereof. The entry of such a motion shall take precedence over all other questions except the consideration of a conference report or a motion to adjourn, and may not be withdrawn after such succeeding day without the consent of the House. Once entered, a motion may be called up for consideration by any Member. During the last six days of a session of Congress, such a motion shall be disposed of when entered.

The motion to reconsider used in the Continental Congress and in the House of Representatives from its first organization, in 1789, was first made the subject of a rule in 1802; and at various times this rule has been perfected by amendments (V, 5605). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XVIII (H. Res. 5, Jan. 6, 1999, p. 47).

The motion is not used in Committee of the Whole (IV, 4716–4718; VIII, 2324, 2325), but is in order in the House as in Committee of the Whole (VIII, 2793). It is not in order in the House during the absence of a quorum when the vote proposed to be reconsidered requires a quorum (V, 5606). However, on votes incident to a call of the House the motion to reconsider may be entertained and also laid on the table, although a quorum may not be present (V, 5607, 5608).

§ 1004. Maker of the motion to reconsider.

The mover of a proposition is entitled to prior recognition to move to reconsider (II, 1454). A Member may make the motion at any time without thereby abandoning a prior motion made by himself and pending (V, 5610). A Delegate or the Resident Commissioner may not make the motion in the House (rule III; II, 1292; VI, 240). The provision of the rule that the motion may be made by any Member of the majority is construed, in case of a tie vote, to mean any Member of the prevailing side (V, 5615, 5616), and the same construction applies in case of a two-thirds vote (II, 1656; V, 5617, 5618; VIII, 2778–2780). Where the yeas and nays have not been ordered recorded in the Journal, any Member, irrespective of whether he voted with the majority or not, may make the motion to reconsider (V, 5611–5613, 5689; VIII, 2775, 2785; Sept. 23, 1992, p. 27196); but a Member who was absent (V, 5619), or who was paired in favor of the majority contention and did not vote, may not make the motion (V, 5614; VIII, 2774). When proxy voting was permitted in committee, it was generally held that a member who was not present at a vote, but cast his vote by proxy, did not qualify to make the motion to reconsider thereon. Any Member may object to the Chair's statement that by unanimous consent the motion to reconsider a vote is laid on the table, and the objecting Member need not have voted on the prevailing side, but if objection is made, the Chair's statement is ineffective and only a Member who voted on the prevailing side may offer the motion to reconsider the vote (Aug. 15, 1986, p. 22139). The Chair, having voted on the prevailing side, may offer the motion to reconsider by stating the pendency of the motion (Oct. 9, 1997, p. 22017).

§ 1005. Precedence of the motion to reconsider.

The precedence given the motion by the rule permits it to be made even after the previous question has been demanded (V, 5656) or while it is operating (V, 5657–5662; VIII, 2784). The motion to reconsider the vote on the engrossment of a bill may be admitted after the previous question has been moved on a motion to postpone (V, 5663), and a motion to reconsider the vote on the third reading may be made and acted on after a motion for the previous question on the passage has been made (V, 5656). It also takes precedence of the motion to resolve into Committee of the Whole to consider an appropriation bill (VIII, 2785), or even of a demand that the House return to Committee after the appearance of a quorum (IV, 3087). However, in a case wherein the House had passed a bill and disposed of a motion to reconsider the vote on its passage, it was held to be too late to reconsider the vote sustaining the decision of the Chair that brought the bill before the House (V, 5652), and that a motion to vacate those proceedings was not in order (Speaker O'Neill, Dec. 17, 1985, pp. 37472–74). After a conference has been agreed to and the managers for the House appointed, it is too late to move to reconsider the vote whereby the House acted on the amendments in disagreement (V, 5664). Although the motion has high privilege for entry, it may not be considered while another question is before the House (V, 5673–5676; July

2, 1980, p. 18354), or while the House is dividing (VIII, 2791). A motion to reconsider a secondary motion to postpone that has previously been offered and rejected is highly privileged, even after the manager of the main proposition has yielded time to another Member and before that Member has begun his remarks (May 29, 1980, p. 12663). When it relates to a bill belonging to a particular class of business, consideration of the motion is in order only when that class of business is in order (V, 5677–5681; VIII, 2786). It may then be called up at any time; but is not the regular order until called up (V, 5682; VIII, 2785, 2786). When once entered it may remain pending indefinitely, even until a succeeding session of the same Congress (V, 5684). The motion to reconsider is subject to the question of consideration (VIII, 2437), and may be laid on the table (VIII, 2652, 2659). The motion to reconsider an action taken on a bill on Tuesday may be entered but may not be considered on Calendar Wednesday (VII, 905).

The motion to reconsider is in order in standing committees and may be made on the same day on which the action is taken to which it is proposed to be applied, or on the next day thereafter on which the committee convenes with a quorum present at a properly scheduled meeting at which business of that class is in order (VIII, 2213). In practice in the standing committees, reconsideration of an amendment may require that the motion to report first be reconsidered, and then the ordering of the previous question on the measure, before a motion can be offered to reconsider the amendment (*cf.* VIII, 2789).

§ 1006. Application of the motion to reconsider.

A motion to reconsider may be entertained, although the bill or resolution to which it applies may have gone to the other House or the President (V, 5666–5668). However, unanimous consent is required to initiate reconsideration of a measure passed by both Houses (IV, 3466–3469). The Senate may not reconsider the confirmation of a nomination after a commission has been issued by the President to a nominee and the latter has taken the oath and entered upon the duties of his office. U.S. *v.* Smith, 286 U.S. 6 (1932). The fact that the House had informed the Senate that it had agreed to a Senate amendment to a House bill was held not to prevent a motion to reconsider the vote on agreeing (V, 5672). When a motion is made to reconsider a vote on a bill that has gone to the Senate, a motion to recall the bill is privileged (V, 5669–5671). The motion to reconsider may be applied once only to a vote ordering the previous question (V, 5655; VIII, 2790), and may not be applied to a vote ordering the previous question that has been partially executed (V, 5653, 5654); but a vote agreeing to an order of the House has been reconsidered, although the execution of the order had begun (III, 2028; V, 5665). The vote ordering the previous question on a special order reported from the Committee on Rules may be reconsidered and is not dilatory under clause 6(b) of rule XIII (formerly clause 4(b) of rule XI) (Sept. 25, 1990, p. 25575).

The motion may not be applied to negative votes on motions to adjourn (V, 5620–5622), or for a recess (V, 5625), or to resolve into Committee

of the Whole (V, 5641). The motion to reconsider may be applied however to an affirmative vote on the motion to resolve into the Committee of the Whole while the Speaker is still in the chair (V, 5368; Apr. 20, 1978, p. 10990). A motion to reconsider the vote by which the House had decided a question of parliamentary procedure was held not to be in order (VIII, 2776). Motions to reconsider negative votes on motions to fix the day to which the House shall adjourn have been the subject of conflicting rulings (V, 5623, 5624). It is in order to reconsider a vote postponing a bill to a day certain (V, 5643; May 29, 1980, p. 12663). It is not in order to reconsider a negative decision of the question of consideration (V, 5626, 5627), although it is in order to reconsider an affirmative vote on the question of consideration (Oct. 4, 1994, p. 27644). It is not in order to reconsider a negative vote on the motion to suspend the rules (V, 5645, 5646; VIII, 2781; Sept. 28, 1996, p. 25796), although it is in order to reconsider an affirmative vote on that motion (Sept. 28, 1996, p. 25795). It is not in order to reconsider a vote on reconsideration of a bill returned with the objections of the President (VIII, 2778). A vote whereby a second is ordered may be reconsidered (V, 5642). The motion to reconsider a vote on a proposition having been once agreed to, and said vote having again been taken, a second motion to reconsider may not be made unless the nature of the proposition has been changed by amendment (V, 5685–5688; VIII, 2788; Sept. 20, 1979, p. 25512). After disposition of a conference report and amendments reported from conference in disagreement, it is in order on the same day to move to reconsider the vote on a motion disposing of one of the amendments; but laying on the table a motion to reconsider the vote whereby the House has amended a Senate amendment does not preclude the House from acting on a subsequent Senate amendment to that House amendment, or considering any other proper motion to dispose of an amendment that might remain in disagreement after further Senate action (Oct. 5, 1983, p. 27323). For a discussion of the application of the motion to reconsider in committees, see § 416, *supra*.

§ 1007. Effect of the motion to reconsider.

A bill is not considered passed or an amendment agreed to if a motion to reconsider is pending, the effect of the motion being to suspend the original proposition (V, 5704); and the Speaker declines to sign an enrolled bill until a pending motion to reconsider has been disposed of (V, 5705). However, when the Congress expires leaving undisposed a motion to reconsider the vote whereby a simple resolution of the House has been agreed to, it is probable that the resolution would be operative; and where a bill has been enrolled, signed by the Speaker, and approved by the President, it is undoubtedly a law, even though a motion to reconsider may not have been disposed of (V, 5704, note). A Member-elect may not take the oath until a motion to reconsider the vote determining his title is disposed of (I, 335); but when, in such a case, the motion is disposed of, the right to be sworn is complete (I, 622). When the motion to reconsider is decided in the affirmative the question immediately recurs on the question reconsidered (V, 5703). When

a vote whereby an amendment has been agreed to is reconsidered the amendment becomes simply a pending amendment (V, 5704). When the vote ordering the previous question is reconsidered, it is in order to withdraw the motion for the previous question, the "decision" having been nullified (V, 5357). When the previous question has been ordered on a series of motions and its force has not been exhausted, the reconsideration of the vote on one of the motions does not throw it open to debate (V, 5493). Under the earlier practice, when a vote taken under the operation of the previous question was reconsidered, the main question stood divested of the previous question, and was debatable and amendable without reconsideration separately of the motion for the previous question (V, 5491–5492, 5700). However, under the modern practice, where the House adopts a motion to reconsider a vote on a question on which the previous question has been ordered, the question to be reconsidered is neither debatable nor amendable (unless the vote on the previous question is separately reconsidered) (July 2, 1980, p. 18355). It is in order to move to reconsider the ordering of the yeas and nays on a question before the question has been finally decided (V, 5689–5691, 6029; VIII, 2790; Sept. 24, 1997, p. 19946); but where the House had voted to reconsider the vote whereby it had rejected a bill but had not separately reconsidered the ordering of a record vote, the Speaker put the question de novo and entertained a new demand for a record vote (Sept. 20, 1979, p. 25512).

§ 1008. The vote on the motion to reconsider.

The motion to reconsider is agreed to by majority vote, even when the vote reconsidered requires two thirds for affirmative action (II, 1656; V, 5617, 5618; VIII, 2795), or when only one fifth is required for affirmative action, as in votes ordering the yeas and nays (V, 5689–5692, 6029; VIII, 2790). However, one motion to reconsider the yeas and nays having been acted on, another motion to reconsider is not in order (V, 6037).

§ 1009. Relation of the motion to reconsider to the motion to lay on the table.

A vote on the motion to lay on the table may be reconsidered whether the decision be in the affirmative (V, 5628, 5695, 6288; VIII, 2785) or in the negative (V, 5629). It is in order to reconsider the vote laying an appeal on the table (V, 5630), although during proceedings under a call of the House this motion was once ruled out (V, 5631). The motion to reconsider may not be applied to the vote whereby the House has laid another motion to reconsider on the table (V, 5632–5640; June 20, 1967, p. 16497); and a motion to reconsider may be laid on the table only before the Chair has put the question on the motion to a vote (Sept. 20, 1979, p. 25512).

§ 1010. Debate on the motion to reconsider.

A motion to reconsider is debatable only if the proposition proposed to be reconsidered was debatable (V, 5694–5699; VIII, 2437, 2792; Sept. 13, 1965, p. 23608); so the motion to reconsider a vote ordering the previous question is not debatable (Sept. 25, 1990, p. 25575) and the application of the previous question makes a motion to reconsider nondebatable (V, 5701; VIII, 2792;

Sept. 20, 1979, p. 25512; July 2, 1980, p. 18355). Where a resolution providing for the order of business was agreed to without adoption of the previous question, the Speaker advised that a motion to reconsider would be debatable and that the Member moving the reconsideration would be recognized to control the one hour of debate (Speaker McCormack, Sept. 13, 1965, p. 23608).

§ 1011. Application of motion to reconsider to bills in committees.

4. A bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, may not be brought back to the House on a motion to reconsider.

This clause (formerly clause 2 of rule XVIII) was first adopted in 1860, and amended in 1872, to prevent a practice of using the privilege of the motion to reconsider to secure consideration of bills otherwise not in order (V, 5647). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XVIII, and in recodification a provision requiring written reports was deleted as redundant of the requirement contained in clause 2 of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47). There is a question as to whether or not the rule applies to a case wherein the House, after considering a bill, recommits it (V, 5648–5650). After a committee has reported a bill it is too late to reconsider the vote by which it was referred (V, 5651).

RULE XX

VOTING AND QUORUM CALLS

§ 1012. Voting viva voce, by division, by electronic device.

1. (a) The House shall divide after the Speaker has put a question to a vote by voice as provided in clause 6 of rule I if the Speaker is in doubt or division is demanded. Those in favor of the question shall first rise from their seats to be counted, and then those opposed.

(b) If a Member, Delegate, or Resident Commissioner requests a recorded vote, and that request is supported by at least one-fifth of a quorum, the vote shall be taken by electronic de-

vice unless the Speaker invokes another procedure for recording votes provided in this rule. A recorded vote taken in the House under this paragraph shall be considered a vote by the yeas and nays.

This provision (formerly clause 5(a) of rule I) was adopted in 1789 and its present form reflects the revisions and amendments of 1860, 1880 (II, 1311), 1972 (H. Res. 1123, Oct. 13, 1972, pp. 36005–08), and 1993 (H. Res. 5, Jan. 5, 1993, p. 49). From January 22, 1971 (when H. Res. 5 of the 92d Congress was adopted incorporating provisions in the Legislative Reorganization Act of 1970, 84 Stat. 1140), until October 13, 1972, this rule provided a two-step procedure for ordering "tellers with clerks" before installation of the electronic voting system, and for the first time permitted Members to be recorded on votes in Committee of the Whole. The last two sentences of this paragraph permitting a single-step "recorded vote" and voting by means of electronic device installed in the Chamber in 1972, were contained in a House resolution adopted on October 13, 1972, and were made effective by adoption of the rules of the 93d Congress (H. Res. 6, Jan. 3, 1973, p. 26). The general provision for demanding a vote by tellers was repealed in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49). The provision providing that a recorded vote taken pursuant thereto shall be considered a vote by the yeas and nays was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5(a) of rule I (H. Res. 5, Jan. 6, 1999, p. 47).

The former right to demand tellers was not precluded by the fact that the yeas and nays had been refused (V, 5998; VIII, 3103), by a point of no quorum against a division vote on the question on which tellers were requested (VIII, 3104), by a point of no quorum and a call of the House following a division vote on the question on which tellers were demanded (Sept. 25, 1969, p. 27041), or by the intervention of a quorum call following the refusal of the Committee of the Whole to order a recorded vote (Feb. 27, 1974, p. 4447).

One of the suppositions on which parliamentary law is founded is that the Speaker will not betray his duty to make an honest count on a division (V, 6002) and the integrity of the Chair in counting a vote should not be questioned in the House (VIII, 3115; July 11, 1985, p. 18550). A vote by division takes no cognizance of Members present but not voting, and consequently the number of votes counted by division has no tendency to establish a lack of a quorum (June 29, 1988, p. 16504). Only one demand for a vote by division on a pending question is in order (July 26, 1984, p. 21259; June 29, 1994, p. 15206). However, where a division vote is demanded on a proposition in the House and the vote thereon is then postponed pursuant to clause 8, a division may again be demanded when the

question is put de novo on the proposition as unfinished business (since a demand for a division may be made by any Member) (Mar. 18, 1980, p. 5739).

In a full House (total membership of 435), a recorded vote is ordered by one-fifth of a quorum (44), but in Committee of the Whole a recorded vote is ordered by 25 (clause 6(e) of rule XVIII), rather than 20 in both cases as in prior practice (V, 5986; Dec. 20, 1974, p. 41793). The Chair's count of Members demanding a recorded vote is not appealable (June 24, 1976, p. 20390).

Only one request for a recorded vote on a pending question is in order (Jan. 21, 1976, p. 508). The request may not be renewed where the absence of a quorum is disclosed immediately following the refusal to order a recorded vote (June 6, 1979, p. 13648; Oct. 25, 1983, p. 29227). However, while a request for a recorded vote once denied may not be renewed, the request remains pending where the Chair interrupts the count of Members standing in favor of the request in order to count for a quorum pursuant to a point of order that a quorum is not present (Aug. 5, 1982, pp. 19658, 19659; July 22, 2003, p. ——). A recorded vote may be had in the House on a separate vote on an amendment adopted in the Committee of the Whole on which a recorded vote had been refused (May 13, 1998, p. 9134). A demand for the yeas and nays if refused by the House may not be renewed, even when the question is put de novo as unfinished business (Deschler-Brown, ch. 30, § 55.5).

A demand for a record vote cannot interrupt a vote by division that is in progress (June 10, 1975, p. 18048). Where both a division vote and a recorded vote are requested, the Chair will count for a recorded vote (July 22, 2003, p. ——). A parliamentary inquiry, or remarks uttered without recognition, immediately following the Chair's announcement of a voice vote on an amendment is not such intervening business as to prevent a demand for a recorded vote thereon where the Chair has not announced the final disposition of the amendment (May 23, 1984, p. 13928; July 26, 1984, p. 21249; June 10, 1998, p. 11856).

§ 1013. Former ordering of tellers and taking of the vote.

Under the precedents recorded before the abolition of tellers, it was the duty of the Member to serve as teller when appointed by the Chair (V, 5987); but when Members of one side had declined, the second teller was appointed from the other side (V, 5988) or the position was left vacant (V, 5989). A Delegate could have been appointed teller (II, 1302). Where there was doubt as to the count by tellers, the Chair could have ordered the vote taken again (V, 5991; July 19, 1946, p. 9466), but this must have been done before the result was announced (V, 5993–5995; VIII, 3098). The Chair could have been counted without passing between the tellers (V, 5996, 5997; VIII, 3100, 3101).

(c) In case of a tie vote, a question shall be lost.

This provision was adopted in 1789. Before the House recodified its rules in the 106th Congress, it was found in former clause 6 of rule I (H. Res. 5, Jan. 6, 1999, p. 47).

§ 1014. Use of electronic equipment in recording roll calls.

2. (a) Unless the Speaker directs otherwise, the Clerk shall conduct a record vote or quorum call by electronic device. In such a case the Clerk shall enter on the Journal and publish in the Congressional Record, in alphabetical order in each category, the names of Members recorded as voting in the affirmative, the names of Members recorded as voting in the negative, and the names of Members answering present as if they had been called in the manner provided in clause 3. A record vote by electronic device shall not be held open for the sole purpose of reversing the outcome of such vote. Except as otherwise permitted under clause 8 or 9 of this rule or under clause 6 of rule XVIII, the minimum time for a record vote or quorum call by electronic device shall be 15 minutes.

The permissive use of an electronic voting system was incorporated in the Legislative Reorganization Act of 1970 (sec. 121; 84 Stat. 1140) and was made a part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). The clause in its essential form was adopted the next year (formerly clause 5(a) of rule XV) (H. Res. 1123, Oct. 13, 1972, p. 36012). A technical correction to paragraph (a) was effected in the 108th Congress (sec. 2(u), H. Res. 5, Jan. 7, 2003, p. 7). The third sentence of paragraph (a) was added in the 110th Congress (sec. 302, H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)). The electronic system was first utilized in the House on January 23, 1973 (p. 1793).

The Speaker inserted in the Record a detailed statement describing procedures to be followed during votes and quorum calls by electronic device and by the backup procedures therefor (Jan. 15, 1973, pp. 1054–57). The Speaker may direct that a call of the House be conducted by an alphabetical call of the roll by the Clerk where, in his discretion, he does not utilize the electronic voting device (Mar. 7, 1973, p. 6699), and pursuant to this clause and clause 6 (formerly clause 4 of rule XV) the Speaker may, in

his discretion, direct the Clerk to call the roll, in lieu of taking the vote by electronic device, where a quorum fails to vote on any question and objection is made for that reason (May 16, 1973, p. 15850).

A request that the voting display be turned on during debate is not in order (Oct. 12, 1998, p. 25770).

At the end of a 15-minute vote, after the electronic voting stations are closed but before the Speaker's announcement of the result, a Member may cast an initial vote or change a vote by ballot card in the well (Speaker Albert, Sept. 23, 1975, p. 29850; Speaker Wright, Oct. 29, 1987, p. 30239). In 1975 Speaker Albert announced that changes could no longer be made at the electronic stations but would have to be made by ballot card in the well (Speaker Albert, Sept. 17, 1975, p. 28903). In 1976 Speaker Albert announced that changes could be made electronically during the first 10 minutes of a 15-minute voting period, but changes during the last 5 minutes would have to be made by ballot card in the well (Speaker Albert, Mar. 22, 1976, p. 7394). In 1977 Speaker O'Neill announced that changes could be made electronically at any time during a vote reduced to five minutes under the rules (Speaker O'Neill, Jan. 4, 1977, pp. 53–70). Once the Clerk has announced changes, the voting stations close and further changes must be made in the well (Nov. 17, 2005, p. ——).

The Speaker declines to entertain unanimous-consent requests to correct the Journal and Record on votes taken by electronic device (Apr. 18, 1973, p. 13081; May 10, 1973, p. 15282; June 17, 1986, p. 14038), unless the request is to delete a vote that was not actually cast (June 26, 2000, p. 12371). A recorded vote or quorum call may not be reopened once the Chair has announced the result (June 15, 2000, p. 11098). However, the Speaker may announce a change in the result of a vote taken by electronic device where required to correct an error in identifying a signature on a voting card submitted in the well (Speaker O'Neill, June 11, 1981).

On a call of the House, or a vote, conducted by electronic device, Members are permitted a minimum of 15 minutes to respond, but it is within the discretion of the Chair, following the expiration of 15 minutes, to allow additional time for Members to record their presence, or vote, before announcing the result (June 6, 1973, p. 18403; Oct. 9, 1997, p. 22016; Sept. 9, 2003, p. ——; Mar. 30, 2004, p. ——; July 8, 2004, p. ——; July 9, 2004, p. ——). When an emergency recess under clause 12(b) of rule I occurred during an electronic vote, the Chair extended the period of time in which to cast a vote by 15 additional minutes (May 11, 2005, p. ——; June 29, 2005, p. ——). A resolution alleging intentional misuse of House practices and customs in holding a vote open for approximately three hours for the sole purpose of circumventing the will of the House, and directing the Speaker to take such steps as necessary to prevent further abuse, constitutes a question of the privileges of the House (Dec. 8, 2003, p. ——; Dec. 8, 2005, p. ——). In response to a parliamentary inquiry concerning the rule on holding votes open for the sole purpose of reversing the outcome, the Chair advised that the first record vote of a legislative day, especially

if unexpected, may require more time to complete (Jan. 18, 2007, p. ——). In addition, the Chair is constrained to differentiate between activity toward the establishment of an outcome on the one hand, and activity that might have as its purpose the reversal of an already-established outcome, on the other. As such, the Chair may hold the vote open beyond expiration of the minimum time in order to allow all Members to vote (Mar. 14, 2007, p.——; May 9, 2007, p. ——).

Because this clause is incorporated by reference into clause 6 of rule XVIII (formerly clause 2 of rule XXIII), the chairman of the Committee of the Whole need not convert to a regular quorum call precisely at the expiration of 15 minutes if 100 Members have not appeared on a notice quorum call, but he may continue to exercise his discretion under that clause at any time during the conduct of the call (July 17, 1974, p. 23673).

Because the Chair has the discretion to close the vote and to announce the result at any time after 15 minutes have elapsed, those precedents guaranteeing Members in the Chamber the right to have their votes recorded even if the Chair has announced the result (*e.g.*, V, 6064, 6065; VIII, 2143), which predate the use of an electronic voting system, do not require the Chair to hold open indefinitely a vote taken by electronic device (Mar. 14, 1978, p. 6838). In the 103d Congress the Speaker inserted in the Record his announcement that, in order to expedite the conduct of votes by electronic device, the Cloakrooms were directed not to forward to the Chair individual requests to hold a vote open (Speaker Foley, Jan. 6, 1993, p. 106). Starting in the 104th Congress, the Speaker has announced that each occupant of the Chair would have the Speaker's full support in striving to close each electronic vote at the earliest opportunity and that Members should not rely on signals relayed from outside the Chamber to assume that votes will be held open until they arrive (Speaker Gingrich, Jan. 4, 1995, p. 552; June 10, 1998, p. 11849; Speaker Hastert, Jan. 6, 1999, p. 249; Speaker Hastert, Jan. 3, 2001, p. 41; Speaker Hastert, Jan. 7, 2003, p. 24; Jan. 8, 2003, p. 172; Speaker Hastert, Jan. 4, 2005, p. ——; Speaker Pelosi, Jan. 5, 2007, p. ——); however, the Chair will not close a vote while a Member is in the well attempting to vote (Feb. 10, 1995, p. 4385; June 22, 1995, p. 16814; Nov. 17, 2005, p. ——).

§ 1014a. Procedure when electronic voting system inoperable.

(b) When the electronic voting system is inoperable or is not used, the Speaker or Chairman may direct the Clerk to conduct a record vote or quorum call as provided in clause 3 or 4.

When the House recodified its rules in the 106th Congress, this provision was added as a cross reference to the backup procedures found in clauses 3 and 4(a) and to clarify the Chair's discretion to choose either backup procedure (H. Res. 5, Jan. 6, 1999, p. 47).

In the event of a malfunction in the electronic voting system during a record vote, the Chair may vacate the results of the electronic vote and direct that the record vote be conducted by call of the roll under clause 3 of rule XX (May 4, 1988, pp. 9846, 9847; Oct. 6, 1999, p. 24198) or may direct a new electronic vote with a new 15-minute voting period (July 13, 2004, p. ——). The question whether the electronic voting system is functioning reliably is in the discretion of the Chair, who may base a judgment on certification by the Clerk (Oct. 6, 1999, p. 24198). For example, the Speaker continued to use the electronic system, even though the electronic display panels or certain voting stations were temporarily inoperative, while urging Members to verify their votes (Sept. 19, 1985, p. 24245; Feb. 4, 1994, p. 1640; Feb. 10, 2000, p. 1021; Apr. 9, 2002, p. 4054; Sept. 19, 2002, p. 17237; Sept. 4, 2003, p. ——). Similarly, where the electronic voting system malfunctioned only temporarily, the Chair continued an electronic vote but advised Members to verify that they were recorded correctly (Mar. 25, 2004, p. ——). On the other hand, the Chair vacated the results of an electronic vote and directed that the record vote be taken by call of the roll where there was a malfunction in the electronic display panel and the Chair could not obtain from the Clerk verification that the vote would be recorded with 100 percent accuracy (Oct. 6, 1999, p. 24198). On one occasion, when the electronic voting system became inoperative during a vote, the Chair announced that (1) the vote would be held open until all Members were recorded; (2) the Clerk would retrieve the names of Members already recorded from the electronic display board; (3) the Clerk would combine the names of Members voting electronically and those who signed tally cards to form a valid vote; and (4) the vote would remain open until Members had returned from a memorial service at the National Cathedral (Sept. 14, 2001, p. 17103).

§ 1015. Call of the roll for the yea-and-nay vote.

3. The Speaker may direct the Clerk to conduct a record vote or quorum call by call of the roll. In such a case the Clerk shall call the names of Members, alphabetically by surname. When two or more have the same surname, the name of the State (and, if necessary to distinguish among Members from the same State, the given names of the Members) shall be added. After the roll has been called once, the Clerk shall call the names of those not recorded, alphabetically by surname. Members appearing after the second

call, but before the result is announced, may vote or announce a pair.

The first form of this clause (formerly clause 1 of rule XV) was adopted in 1789, and amendments were added in 1870, 1880, 1890 (V, 6046), 1969 (H. Res. 7, 91st Cong., Jan. 3, 1969, p. 35), and 1972 (H. Res. 1123, 92d Cong., Oct. 13, 1972, pp. 36005–012). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XV (H. Res. 5, Jan. 6, 1999, p. 47). While this clause permits the announcement of a "live" pair, the practice of general pairs found in former clause 2 of rule VIII was deleted in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47; see § 1031, *infra*).

The names of Members who have not been sworn are not entered on the roll from which the yeas and nays are called for entry on the Journal (V, 6048; VI, 638; VIII, 3122).

Commencing in 1879 the Clerk, in calling the roll, called Members by the surnames with the prefix "Mr." instead of calling the full names (V, 6047), but since the 62d Congress the practice has been discontinued in the interest of brevity (VIII, 3121). The Speaker's name is not on the voting roll and is not ordinarily called (V, 5970). When he votes his name is called at the close of the roll (V, 5965). In case of a tie that is revealed by a correction of the roll, he has voted after intervening business or even on another day (V, 5969, 6061–6063; VIII, 3075). Where the Speaker through an error of the Clerk in reporting the yeas and nays announces a result different from that actually had, the status of the question is governed by the vote as recorded and subsequent announcement by the Speaker of the changed result is authoritative, or he may entertain a motion for correction of the Journal in accordance with the vote as finally ascertained (VIII, 3162).

Under this clause, as under clause 6, the roll is called twice, and those Members appearing after their names are called but before the announcement of the result may vote or announce a "live" pair. Under the former practice, before the amendment adopted on January 3, 1969, a Member who had failed to respond on either the first or second call of the roll could not be recorded before the announcement of the result (V, 6066–6070; VIII, 3134–3150) unless he qualified by declaring that he had been within the Hall, listening, when his name should have been called and failed to hear it (V, 6071–6072; VIII, 3144–3150), and then only on the theory that his name may have been inadvertently omitted by the Clerk (VIII, 3137). Under the former practice where the roll was called by the Clerk, either before announcement of the result (V, 6064) or after such announcement (VIII, 3125), the Speaker could order the vote recapitulated (V, 6049, 6050; VIII, 3128). A Member may not change his vote on recapitulation if the result has been announced (VIII, 3124), but errors in the record of such votes may be corrected (VIII, 3125). A motion that a vote be recapitulated is not privileged (VIII, 3126). The Speaker has declined to order

a recapitulation of a vote taken by electronic device (Speaker Albert, July 30, 1975, p. 25841).

§ 1016. Bell system.

The legislative call system was designed to alert Members to certain occurrences on the floor of the House. The Speaker has directed that the bells and lights comprising the system be utilized as follows (Jan. 23, 1979, p. 701):

Tellers—one ring and one light on left. Because the demand for teller votes was discontinued at the beginning of the 103d Congress, this signal is no longer utilized.

Recorded vote, yeas and nays, or automatic record vote taken either by electronic system or by use of tellers with ballot cards—two bells and two lights on left indicate a vote by which Members are recorded by name. Bells are repeated five minutes after the first ring. When by unanimous consent waiving the five-minute minimum set by clause 9 (formerly clause 5(b)(3) of rule I) the House authorized the Speaker to put remaining postponed questions (Oct. 4, 1988, pp. 28126, 28148) or any question following another vote by electronic device (*e.g.*, May. 23, 2006, p. ——) to two-minute electronic votes, two bells were rung.

Recorded vote, yeas and nays, or automatic record electronic vote to be followed immediately by possible five-minute vote under clauses 8(c) or 9 of rule XX or clauses 6(f) or 6(g) of rule XVIII—two bells rung at beginning of first vote, followed by five bells, indicate that Chair will order five-minute votes if recorded vote, yeas and nays, or automatic vote is ordered immediately thereafter. Two bells repeated five minutes after first ring. Five bells on each subsequent electronic vote.

Recorded vote, yeas and nays, or automatic roll call by call of the roll—two bells, followed by a brief pause, then two bells indicate such a vote taken by a call of the roll in the House. The bells are repeated when the Clerk reaches the "R's" in the first call of the roll.

Regular quorum call—three bells and three lights on left indicate a quorum call either in the House or in Committee of the Whole by electronic system or by clerks. The bells are repeated five minutes after the first ring. Where quorum call is by call of the roll, three bells followed by a brief pause, then three more bells, with the process repeated when the Clerk reaches the "R's" in the first call of the roll, are used.

Regular quorum call in Committee of the Whole, which may be followed immediately by five-minute electronic recorded vote—three bells rung at beginning of quorum call, followed by five bells, indicate that Chair will order five-minute vote if recorded vote is ordered on pending question. Three bells repeated five minutes after first ring. Five bells for recorded vote on pending question if ordered.

Notice or short quorum call in Committee of the Whole—one long bell followed by three regular bells, and three lights on left, indicate that the Chair has exercised his discretion under clause 6 of rule XVIII and will vacate proceedings when a quorum of the Committee appears. Bells are repeated every five minutes unless (a) the call is vacated by ringing of

one long bell and extinguishing of three lights, or (b) the call is converted into a regular quorum call and three regular bells are rung.

Adjournment—four bells and four lights on left.

Any five-minute vote—five bells and five lights on left.

Recess of the House—six bells and six lights on left.

Civil Defense Warning—twelve bells, sounded at two-second intervals, with six lights illuminated.

The light on the far right—seven—indicates that the House is in session.

Failure of the signal bells to announce a vote does not warrant repetition of the roll call (VIII, 3153–3155, 3157) nor does such a failure permit a Member to be recorded following the conclusion of the call (June 9, 1938, p. 8662).

§ 1017. Changes and corrections of votes.

Before the result of a vote has been finally and conclusively pronounced by the Chair, but not thereafter, a Member may change his vote (V, 5931–5933, 6093, 6094; VIII, 3070, 3123, 3124, 3160), and a Member who has answered "present" may change it to "yea" or "nay" (V, 6060). However, a vote given by a Member may not be withdrawn without leave of the House (V, 5930).

When a vote actually given fails to be recorded during a call of the roll (V, 6061–6063) the Member may, before the approval of the Journal, demand as a matter of right that correction be made (V, 5969; VIII, 3143). However, statements of other Members as to alleged errors in a recorded vote must be very definite and positive to justify the Speaker in ordering a change of the roll (V, 6064, 6099). The Speaker declines to entertain requests to correct the Journal and Record on votes taken by electronic device, based upon the technical accuracy of the electronic system if properly utilized and upon the responsibility of each Member to correctly cast and verify his vote (Apr. 18, 1973, p. 13081; May 10, 1973, p. 15282). By unanimous consent the House may vacate proceedings on a recorded vote conducted in the Committee of the Whole and require a vote de novo where it is alleged that Members were improperly prevented from being recorded (June 22, 1995, p. 16815).

§ 1018. Interruptions of the roll call.

When once begun the roll call may not be interrupted even by a motion to adjourn (V, 6053; VIII, 3133), a parliamentary inquiry (VIII, 3132) except in the discretion of the Chair and if related to the call (Deschler-Brown, ch. 31, §§ 15.14, 15.15), a question of personal privilege (V, 6058, 6059; VI, 554, 564), the arrival of the time fixed for another order of business (V, 6056) or for a recess (V, 6054, 6055; VIII, 3133), or the presentation of a conference report (V, 6443). However, it is interrupted for the reception of messages and by the arrival of the hour fixed for adjournment sine die (V, 6715–6718). A Member-elect may be sworn during a record vote (Jan. 4, 2005, p. ——; Jan. 6, 2005, p. ——; Jan. 25, 2005, p. ——). Incidental questions arising during the roll call, such as the refusal of a Member to vote (V, 5946–5948), are considered after the completion of the call and the announcement of the vote (V, 5947). The rules do not preclude a Member

from announcing after a recorded vote on which he failed to answer how he would have voted if present (Speaker Rayburn, June 27, 1957, p. 10521; contra VIII, 3151), but neither the rules nor practice permit a Member to announce after a recorded vote how absent colleagues would have voted if present (VI, 200; Apr. 3, 1933, p. 1139; Apr. 28, 1933, p. 2587; May 20, 1933, p. 3834; Mar. 16, 1934, pp. 4691, 4700; Apr. 14, 1937, pp. 3489, 3490; Apr. 15, 1937, p. 3563).

§ 1019. Quorum call by clerks.

4. (a) The Speaker may direct a record vote or quorum call to be conducted by tellers. In such a case the tellers named by the Speaker shall record the names of the Members voting on each side of the question or record their presence, as the case may be, which the Clerk shall enter on the Journal and publish in the Congressional Record. Absentees shall be noted, but the doors may not be closed except when ordered by the Speaker. The minimum time for a record vote or quorum call by tellers shall be 15 minutes.

This paragraph was adopted as part of the general revision of this rule (formerly rule XV) that was required by the implementation of the electronic voting system (H. Res. 1123, 92d Cong., Oct. 13, 1972, p. 36012). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(b) of rule XV (H. Res. 5, Jan. 6, 1999, p. 47). The Speaker, in his discretion, may direct that the presence of Members be recorded by this procedure in lieu of using the electronic system, or the Chair may, in his discretion, direct that a quorum call be taken by an alphabetical call of the roll (Mar. 7, 1973, p. 6699). The chairman of the Committee of the Whole also may direct that a quorum call be conducted by depositing quorum tally cards with clerk tellers, rather than by electronic device or a call of the roll (July 13, 1983, p. 18858).

Exercising his authority under this paragraph, the Speaker ordered the doors to the Chamber closed and locked during a call of the House and instructed the Doorkeeper to enforce the rule and let no Members leave the Hall (Deschler, ch. 20, § 6.3). This clause does not give the Speaker the authority to lock the doors during a recorded vote (June 11, 1997, p. 10665). For a discussion of the count to determine a quorum, see House Practice, ch. 43, § 5.

§ 1020. Count of those not voting to make a quorum of record on a roll call.

(b) On the demand of a Member, or at the suggestion of the Speaker, the names of Members sufficient to make a quorum in the Hall of the House who do not vote shall be noted by the Clerk, entered on the Journal, reported to the Speaker with the names of the Members voting, and be counted and announced in determining the presence of a quorum to do business.

This clause was adopted in 1890 (IV, 2905), but it merely formalized a principle already established by a decision of the Chair (IV, 2895). It was much in use in the first years after its adoption (III, 2620; IV, 2905–2907); but with the decline of obstruction in the House and the adoption of clause 6 (formerly clause 4 of rule XV) of this rule the necessity for its use has disappeared to a large extent. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XV (H. Res. 5, Jan. 6, 1999, p. 47). The Speaker may direct the Clerk to note names of Members under this rule even on a vote for which a quorum is not necessary (VIII, 3152). For a discussion of the count to determine a quorum, see House Practice, ch. 43, § 5.

§ 1021. The call of the House.

5. (a) In the absence of a quorum, a majority comprising at least 15 Members, which may include the Speaker, may compel the attendance of absent Members.

(b) Subject to clause 7(b) a majority described in paragraph (a) may order the Sergeant-at-Arms to send officers appointed by him to arrest those Members for whom no sufficient excuse is made and shall secure and retain their attendance. The House shall determine on what condition they shall be discharged. Unless the House otherwise directs, the Members who voluntarily appear shall be admitted immediately to the Hall of the House and shall report their names

to the Clerk to be entered on the Journal as present.

The essential portions of this provision were adopted in 1789 and 1795, with minor amendments in 1888, 1890 (IV, 2982), and 1971 (H. Res. 5, 92d Cong., Jan. 22, 1971, p. 144). Later in the 92d Congress several provisions of this rule, including this clause, were amended to reflect the implementation of the electronic voting system (H. Res. 1123, Oct. 13, 1972, pp. 36005–12). The provisions relating to the call of the roll by the Clerk were deleted. Calls of the House are now taken by electronic device unless the Speaker orders the use of the alternative procedure in clause 2(b). Together with clause 7 (formerly clause 6(e)(2) of rule XV) this provision was further amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to conform to the requirement in that provision that further proceedings under the call shall be dispensed with unless the Speaker in his discretion recognizes for a call of the House or a motion to compel attendance under this paragraph. This clause must be read in light of clause 7 (formerly clause 6(e) of rule XV), which prohibits the point of order that a quorum is not present unless the Speaker has put a question to a vote. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(a) of rule XV (H. Res. 5, Jan. 6, 1999, p. 47). A technical correction to paragraph (b) was effected in the 109th Congress (sec. 2(l), H. Res. 5, Jan. 4, 2005, p. ——).

§ 1022. Ordering and conducting the call.

Under this rule a call may not be ordered by less than 15, and without that number present the motion for a call is not entertained (IV, 2983). It must be ordered by majority vote, and a minority of 15 or more favoring a call on such vote is not sufficient (IV, 2984). A quorum not being present no motion is in order but for a call of the House or to adjourn (IV, 2950, 2988; VI, 680), and at this stage the motion to adjourn has precedence over the motion for a call of the House (VIII, 2642).

While the following precedents predate the use of the electronic voting and recording system, they are retained in the Manual because of their general applicability with respect to calls of the House. A roll call under paragraph (a) may not be interrupted by a motion to dispense with further proceedings under the call (IV, 2992), and a recapitulation of the names of those who appear after their names have been called may not be demanded (IV, 2933). However, during proceedings under the call the roll may be ordered to be called again by those present (IV, 2991).

During a call less than a quorum may revoke leaves of absence (IV, 3003, 3004) and excuse a Member from attendance (IV, 3000, 3001), but may not grant leaves of absence (IV, 3002). The roll is sometimes called for excuses, and motions to excuse are in order during this call (IV, 2997), but neither the motion to excuse nor an incidental appeal are debatable (IV, 2999). After the roll has been called for excuses, and the House has

ordered the arrest of those who are unexcused, a motion to excuse an absentee is in order when he is brought to the bar (IV, 3012).

§ 1023. Arrest of Members.

An order of arrest for absent Members may be made after a single calling of the roll (IV, 3015, 3016), and a warrant issued on direction of those present, such motion having precedence of a motion to dispense with proceedings under the call (IV, 3036). The Sergeant-at-Arms is required to arrest Members wherever they may be found (IV, 3017), and the former leave for a committee to sit during sessions did not release its members from liability to arrest (IV, 3020). A motion to require the Sergeant-at-Arms to report progress in securing a quorum is in order during a call of the House (VI, 687). A Member who appears and answers is not subject to arrest (IV, 3019), and in a case where a Member complained of wrongful arrest the House ordered the Sergeant-at-Arms to investigate and amend the return of his warrant (IV, 3021). A Member once arrested having escaped it was held that he might not be brought back on the same warrant (IV, 3022). A privileged motion to compel the attendance of absent Members is in order after the Chair has announced that a quorum has not responded on a negative recorded vote on a motion to adjourn (Nov. 2, 1987, p. 30386).

The former practice of presenting Members at the bar during a call of the House (IV, 3030–3035) is obsolete, and Members now report to the Clerk and are recorded without being formally excused unless brought in under compulsion (VI, 684). Those present on a call may prescribe a fine as a condition of discharge, and the House has by resolution revoked all leaves of absence and directed the Sergeant-at-Arms to deduct from the salary of Members compensation for days absent without leave (VI, 30, 198), but this penalty has been of rare occurrence (IV, 3013, 3014, 3025). Having rejected a motion to adjourn, less than a quorum of the House rejected a motion directing the Sergeant-at-Arms to arrest absent Members, rejected a second motion to adjourn, and then adopted a motion authorizing the Speaker to compel the attendance of absent Members (Nov. 2, 1987, p. 30387).

The motion to dispense with further proceedings under the call of the House is not in order when a motion to arrest absent Members is pending (IV, 3029, 3037); is not entertained until a quorum responds on the call, but may be agreed to by less than a quorum thereafter (IV, 3038, 3040; VI, 689; Sept. 11, 1968, p. 26453; Dec. 22, 1970, p. 43311); and is neither debatable nor subject to amendment, thus the motion to lay it on the table is not in order (Aug. 27, 1962, p. 17653; Dec. 18, 1970, p. 42504).

Form of resolution for the arrest of Members absent without leave (VI, 686).

§ 1024. Motions during a call.

During the call, which in later practice has been invoked only in the absence of a quorum, incidental motions may be agreed to by less than a quorum (IV, 2994, 3029; VI, 681), and under clause 7 (formerly clause 6(a)(4) of rule XV) a point of order of no quorum may not be made during the offering, consider-

ation, and disposition of any motion incidental to a call of the House. This includes motions for the previous question (V, 5458), to reconsider and to lay the motion to reconsider on the table (V, 5607, 5608), to adjourn, which is in order even in the midst of the call of the roll for excuses (IV, 2998) or while the House is dividing on a motion for a call of the House (VIII, 2644), and which takes precedence over a motion to dispense with further proceedings under the call (VIII, 2643), and an appeal from a decision of the Chair (IV, 3010, 3037; VI, 681). The yeas and nays may also be ordered (IV, 3010), but a question of privilege may not be raised unless it be something connected immediately with the proceedings (III, 2545). Motions not strictly incidental to the call are not admitted, as for a recess (IV, 2995, 2996), to excuse a Member from voting even when otherwise in order (IV, 3007), to enforce the statute relating to deductions of pay of Members for absence (IV, 3011; VI, 682), to construe a rule or make a new rule (IV, 3008), or to order a change of a Journal record (IV, 3009). An appeal also may not be entertained during a call of the yeas and nays (V, 6051). A motion for a call of the House is not debatable (VI, 683, 688). The motion to compel the attendance of absent Members, being neither debatable nor amendable, is not subject to a motion to lay on the table (Speaker Wright, Nov. 2, 1987, p. 30389).

§ 1024a. "Provisional quorum."

(c)(1) If the House should be without a quorum due to catastrophic circumstances, then—

(A) until there appear in the House a sufficient number of Representatives to constitute a quorum among the whole number of the House, a quorum in the House shall be determined based upon the provisional number of the House; and

(B) the provisional number of the House, as of the close of the call of the House described in subparagraph (3)(C), shall be the number of Representatives responding to that call of the House.

(2) If a Representative counted in determining the provisional number of the House thereafter ceases to be a Representative, or if a Representative not counted in determining the provisional

number of the House thereafter appears in the House, the provisional number of the House shall be adjusted accordingly.

(3) For the purposes of subparagraph (1), the House shall be considered to be without a quorum due to catastrophic circumstances if, after a motion under clause 5(a) of rule XX has been disposed of and without intervening adjournment, each of the following occurs in the stated sequence:

(A) A call of the House (or a series of calls of the House) is closed after aggregating a period in excess of 72 hours (excluding time the House is in recess) without producing a quorum.

(B) The Speaker—

(i) with the Majority Leader and the Minority Leader, receives from the Sergeant-at-Arms (or his designee) a catastrophic quorum failure report, as described in subparagraph (4);

(ii) consults with the Majority Leader and the Minority Leader on the content of that report; and

(iii) announces the content of that report to the House.

(C) A further call of the House (or a series of calls of the House) is closed after aggregating a period in excess of 24 hours (excluding time the House is in recess) without producing a quorum.

(4)(A) For purposes of subparagraph (3), a catastrophic quorum failure report is a report ad-

vising that the inability of the House to establish a quorum is attributable to catastrophic circumstances involving natural disaster, attack, contagion, or similar calamity rendering Representatives incapable of attending the proceedings of the House.

(B) Such report shall specify the following:

(i) The number of vacancies in the House and the names of former Representatives whose seats are vacant.

(ii) The names of Representatives considered incapacitated.

(iii) The names of Representatives not incapacitated but otherwise incapable of attending the proceedings of the House.

(iv) The names of Representatives unaccounted for.

(C) Such report shall be prepared on the basis of the most authoritative information available after consultation with the Attending Physician to the Congress and the Clerk (or their respective designees) and pertinent public health and law enforcement officials.

(D) Such report shall be updated every legislative day for the duration of any proceedings under or in reliance on this paragraph. The Speaker shall make such updates available to the House.

(5) An announcement by the Speaker under subparagraph (3)(B)(iii) shall not be subject to appeal.

(6) Subparagraph (1) does not apply to a proposal to create a vacancy in the representation

from any State in respect of a Representative not incapacitated but otherwise incapable of attending the proceedings of the House.

(7) For purposes of this paragraph:

(A) The term "provisional number of the House" means the number of Representatives upon which a quorum will be computed in the House until Representatives sufficient in number to constitute a quorum among the whole number of the House appear in the House.

(B) The term "whole number of the House" means the number of Representatives chosen, sworn, and living whose membership in the House has not been terminated by resignation or by the action of the House.

This paragraph was added in the 109th Congress (sec. 2(h), H. Res. 5, Jan. 4, 2005, p. ——). In extraordinary circumstances, section 8 of title 2, United States Code, prescribes special election rules to expedite the filling of vacancies in representation of the House.

§ 1024b. Accounting for vacancies.

(d) Upon the death, resignation, expulsion, disqualification, removal, or swearing of a Member, the whole number of the House shall be adjusted accordingly. The Speaker shall announce the adjustment to the House. Such an announcement shall not be subject to appeal. In the case of a death, the Speaker may lay before the House such documentation from Federal, State, or local officials as he deems pertinent.

This paragraph was added in the 108th Congress (sec. 2(l), H. Res. 5, Jan. 7, 2003, p. 7). In the 109th Congress it was redesignated from paragraph (c) to paragraph (d) and the Speaker's responsibility to announce an adjustment was extended to the swearing of a Member (sec. 2(h), H. Res. 5, Jan. 4, 2005, p. ——).

§ 1025. The call of the House in the new form.

6. (a) When a quorum fails to vote on a question, a quorum is not present, and objection is made for that cause (unless the House shall adjourn)—

(1) there shall be a call of the House;

(2) the Sergeant-at-Arms shall proceed forthwith to bring in absent Members; and

(3) the yeas and nays on the pending question shall at the same time be considered as ordered.

(b) The Clerk shall record Members by the yeas and nays on the pending question, using such procedure as the Speaker may invoke under clause 2, 3, or 4. Each Member arrested under this clause shall be brought by the Sergeant-at-Arms before the House, whereupon he shall be noted as present, discharged from arrest, and given an opportunity to vote; and his vote shall be recorded. If those voting on the question and those who are present and decline to vote together make a majority of the House, the Speaker shall declare that a quorum is constituted, and the pending question shall be decided as the requisite majority of those voting shall have determined. Thereupon further proceedings under the call shall be considered as dispensed with.

(c) At any time after Members have had the requisite opportunity to respond by the yeas and nays, but before a result has been announced, a motion that the House adjourn shall be in order if seconded by a majority of those present, to be ascertained by actual count by the Speaker. If

the House adjourns on such a motion, all proceedings under this clause shall be considered as vacated.

This clause (formerly clause 4 of rule XV) was adopted in 1896 (IV, 3041; VI, 690); and amended in 1972 to make its provisions subject to clause 2 (formerly clause 5) of this rule (H. Res. 1123, 92d Cong., p. 36012). In the 108th Congress paragraph (c) was amended to clarify the privileged nature of the motion to adjourn during the call (sec. 2(m), H. Res. 5, Jan. 7, 2003, p. 7). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 4 of rule XV (H. Res. 5, Jan. 6, 1999, p. 47).

Where objection is raised to a vote in the House on the ground that a quorum is not present, and a quorum is in fact not present, the Speaker may direct that the call of the House be taken by electronic device under clause 2 (formerly clause 5), or may, in his discretion, direct the Clerk to call the roll pursuant to this clause (May 16, 1973, p. 15860).

It applies only to votes wherein a quorum is required, and hence does not apply to an affirmative vote on a motion to adjourn (July 25, 1949, p. 10092; Nov. 4, 1983, p. 30946), or motions incidental to a call of the House that may be agreed to by less than a quorum (IV, 2994, 3029; VI, 681), or to a call when there is no question pending (IV, 2990). While a quorum is not required to adjourn, a point of no quorum on a negative vote on adjournment, if sustained, precipitates a call of the House under the rule (VI, 700; June 4, 1951, pp. 6097, 6098; June 15, 1951, p. 6621). Where less than a quorum rejects a motion to adjourn, the House may not consider business but may dispose of motions to compel the attendance of absent Members (Nov. 2, 1987, p. 30387).

When a Member objects to a vote on the ground that a quorum is not present and makes the point of order under this clause, the Speaker may count the House and determine the presence of a quorum and is not required to announce his actual count under the first sentence of this clause (Sept. 30, 1981, p. 22456). Where the Speaker ascertains the presence of a quorum by actual count following an objection to a vote under this clause, or on a rejected demand for the yeas and nays and a division vote is then taken on the pending question, the division vote is intervening business (see VIII, 2804) permitting another objection to the lack of a quorum, and the Speaker must again count the House (Mar. 17, 1976, p. 6792; Aug. 2, 1979, p. 22006). However, where the announced absence of a quorum has resulted in a record vote under this clause (on the Speaker's approval of the Journal), the House may not, even by unanimous consent, vacate the vote in order to conduct another voice vote in lieu of the record vote, since no business, including a unanimous-consent agreement, is in order in the announced absence of a quorum (July 13, 1983, p. 18844; Feb. 24, 1988, p. 2450). The House having authorized the Speaker to compel the attendance of absent Members, the Speaker announced that the Sergeant-

at-Arms would proceed with necessary and efficacious steps, and that pending the establishment of a quorum no further business, including unanimous-consent requests for recess authority, could be entertained (Nov. 2, 1987, p. 30389).

§ 1026. Conduct of the call in the new form.

Under this clause the roll is called twice, and those appearing after their names are called may vote (IV, 3052). A motion to adjourn may be made before the call begins (IV, 3050). After the roll has been called, and while the proceedings to obtain a quorum are going on, motions to excuse Members are in order (IV, 3051).

The Sergeant-at-Arms is required to detain those who are present and bring in absentees (IV, 3045–3048), and he does this without the authority of a resolution adopted by those present (IV, 3049). There is doubt as to whether or not a warrant is necessary but it is customary for the Speaker to issue one on the authority of the rule (IV, 3043; VI, 702). When arrested, Members are arraigned at the bar, and either vote or are noted as present, after which they are discharged (IV, 3044).

When a quorum fails to vote on a yea-and-nay vote on a motion that requires a quorum to be present, and a quorum is not present, the Chair takes notice of the fact, and unless the House adjourns, a call of the House is ordered by the Chair under this rule, and the vote is taken on the question de novo (IV, 3045, 3052; VI, 679). If the House does adjourn, the question is put de novo the next meeting day (Oct. 10, 1940, p. 13535).

An automatic roll call results under this rule when the objection that a quorum is not present and voting is made after a viva voce vote (VI, 697). An automatic roll call under this rule is not in order in Committee of the Whole (Aug. 2, 1966, p. 17844). Pursuant to clause 8, if a vote is objected to under this clause, further proceedings may be postponed, in which case the question is put de novo when that vote recurs as unfinished business. Furthermore, when such proceedings are postponed, the point of order that a quorum is not present is considered as withdrawn because no longer in order (a question not being put after the Speaker's announcement of postponement) (see clause 7, *infra*).

§ 1027. Quorum; when not required.

7. (a) The Speaker may not entertain a point of order that a quorum is not present unless a question has been put to a vote.

§ 1028. Speaker's discretion to recognize for motion for call of House.

(b) Subject to paragraph (c) the Speaker may recognize a Member, Delegate, or Resident Commissioner to move a call of the House at any time. When a quorum is established pursuant to a call of the

House, further proceedings under the call shall be considered as dispensed with unless the Speaker recognizes for a motion to compel attendance of Members under clause 5(b).

(c) A call of the House shall not be in order after the previous question is ordered unless the Speaker determines by actual count that a quorum is not present.

§ 1029. Relation of previous question to failure of a quorum.

Paragraphs (a) and (b) were adopted in the 93d Congress (H. Res. 998, Apr. 9, 1974, pp. 10195–99) and amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70) and in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to dispense with further proceedings under any call of the House when a quorum appears unless the Speaker at his discretion recognizes for a motion. Paragraph (c) (formerly clause 2 of rule XVII) was adopted in 1860 (V, 5447). Before the House recodified its rules in the 106th Congress, paragraphs (a) and (b) were found in former clause 6 of rule XV and paragraph (c) was found in former clause 2 of rule XVII. The 106th Congress also transferred former clause 6(b) of rule XV to clause 6(d) of rule XVIII (H. Res. 5, Jan. 6, 1999, p. 47).

Under this clause the Speaker may not entertain a point of order of no quorum when he has not put a question to a vote in the House (Speaker O'Neill, Jan. 11, 1977, p. 891; Jan. 31, 1977, p. 2640; Sept. 30, 1997, p. 20837; July 21, 1998, p. 16342; June 14, 2001, p. 10725). The Chair may not entertain a point of order of no quorum pending a request that a committee be permitted to sit under the five-minute rule, because the Chair has not put the question on a pending proposition to a vote (June 18, 1980, p. 15316). However, under this clause the Speaker may at any time in his discretion recognize a Member of his choice to move a call of the House (Speaker O'Neill, Jan. 19, 1977, p. 1719; Jan. 31, 1977, p. 2640; Aug. 6, 1986, p. 19370), or may choose not to do so (Sept. 30, 1997, p. 20837), or by unanimous consent may initiate a call of the House without motion (Speaker Foley, Mar. 14, 1990, p. 4324) even, for example, before the call of the Private Calendar, which is in order after approval of the Journal and disposition of business on the Speaker's table (July 8, 1987, p. 18972). When one Member is already under recognition for debate, however, another Member may be recognized to move a call of the House only if the first Member yields for that purpose (July 23, 1998, p. 16989). For precedents addressing timeliness in raising a point of order of no quorum, see Deschler, ch. 20, § 13.

The Speaker's refusal to entertain a point of order of no quorum when a pending question has not been put to a vote is not subject to an appeal,

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

In adopting this rule, the House has presumably determined that the mere conduct of debate in the House, where the Chair has not put the pending motion or proposition to a vote, is not such business as requires a quorum under the Constitution (art. I, sec. 5, cl. 1), and neither a point of order of no quorum during debate only nor a point of order against the enforcement of this clause lies independently under the Constitution (Sept. 8, 1977, p. 28114; Sept. 12, 1977, p. 28800; Feb. 27, 1986, p. 3060). Clause 7(c) of rule XX provides that after the previous question is ordered a call of the House shall only be in order if the Speaker determines by actual count of the House that a quorum is not present.

Postponement of proceedings

§ 1030. Postponing record votes on passage.

8. (a)(1) When a recorded vote is ordered, or the yeas and nays are ordered, or a vote is objected to under clause 6—

(A) on any of the questions specified in subparagraph (2), the Speaker may postpone further proceedings to a designated place in the legislative schedule within two additional legislative days; and

(B) on the question of agreeing to the Speaker's approval of the Journal, the Speaker may postpone further proceedings to a designated place in the legislative schedule on that legislative day.

(2) The questions described in subparagraph (1) are as follows:

(A) The question of passing a bill or joint resolution.

(B) The question of adopting a resolution or concurrent resolution.

(C) The question of agreeing to a motion to instruct managers on the part of the House (except that proceedings may not resume on such a motion under clause 7(c) of rule XXII if the managers have filed a report in the House).

(D) The question of agreeing to a conference report.

(E) The question of ordering the previous question on a question described in subdivision (A), (B), (C), or (D).

(F) The question of agreeing to a motion to suspend the rules.

(G) The question of agreeing to a motion to reconsider or the question of agreeing to a motion to lay on the table a motion to reconsider.

(H) The question of agreeing to an amendment reported from the Committee of the Whole.

(b) At the time designated by the Speaker for further proceedings on questions postponed under paragraph (a), the Speaker shall resume proceedings on each postponed question.

(c) The Speaker may reduce to five minutes the minimum time for electronic voting on a question postponed under this clause, or on a question incidental thereto, that follows another electronic vote without intervening business, so long as the minimum time for electronic voting on the first in any series of questions is 15 minutes.

(d) If the House adjourns on a legislative day designated for further proceedings on questions

postponed under this clause without disposing of such questions, then on the next legislative day the unfinished business is the disposition of such questions.

This provision (formerly clause 5(b) of rule I) was added in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 7), and paragraph (a) was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to consolidate most authority for the postponing of further proceedings on certain questions into this paragraph. This consolidation was accomplished with the addition of the authority to postpone further proceedings on reports from the Committee on Rules and motions to suspend the rules. The Speaker was granted additional authority to postpone further proceedings as follows: (1) the Speaker's approval of the Journal until later that legislative day in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34); (2) motions to instruct conferees under clause 7(c) of rule XXII in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72); (3) the original motion to instruct conferees in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47); (4) ordering the previous question on another question that is, itself, susceptible of postponement (and the list was reordered) in the 104th Congress (sec. 223(a), H. Res. 6, Jan. 4, 1995, p. 469); (5) certain questions during consideration of bills called from the Corrections Calendar in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121), but that provision was stricken in the 109th Congress when the Corrections Calendar was repealed (sec. 2(f), H. Res. 5, Jan. 4, 2005, p. ——); (6) questions incidental to a postponed question (and to permit the first postponed vote in a series to be a five-minute vote if it immediately follows a 15-minute vote) in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47); and (7) the question of agreeing to the motion to reconsider, the question of agreeing to the motion to lay on the table a motion to reconsider, and the question of agreeing to an amendment reported from the Committee of the Whole in the 109th Congress (sec. 2(i), H. Res. 5, Jan. 4, 2005, p. ——). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5(b) of rule I (H. Res. 5, Jan. 6, 1999, p. 47). Technical corrections to paragraphs (a), (b), and (d) of clause 8 were effected in the 108th Congress (sec. 2(u), H. Res. 5, Jan. 7, 2003, p. 7). The House by unanimous consent authorized the Speaker to postpone further proceedings on a specified class of record votes to a date certain beyond the two legislative days permitted under this clause (Sept. 17, 2003, p. ——).

In the 108th Congress clause 9 was expanded to include the authority described in clause 8(c) (sec. 2(n), H. Res. 5, Jan. 7, 2003, p. 7). Clause 9 permits the Speaker to reduce to five minutes a record vote on any question arising without intervening business after an electronic vote on another question if notice of possible five-minute voting was properly issued.

The Speaker first exercised his authority to postpone a record vote on the approval of the Journal on November 10, 1983 (p. 32097). That authority includes the power to postpone a division vote on the approval of the Journal that is objected to under clause 6 of rule XX (formerly clause 4 of rule XV) (Sept. 21, 1993, p. 21820). On questions not enumerated in this paragraph, such as the initial motion to instruct conferees before the 106th Congress, unanimous consent is required to permit the Speaker to postpone such record votes (Oct. 6, 1986, p. 28704).

Pursuant to clause 7 of rule XX (formerly clause 6(e) of rule XV), prohibiting a point of order of no quorum unless the Speaker has put the pending proposition to a vote, the Speaker announces, after postponing a vote on a motion to suspend the rules where objection has been made to the vote on the grounds that a quorum is not present, that the point of order is considered as withdrawn, since the Chair is no longer putting the question (May 16, 1977, p. 14785). At the conclusion of debate on all motions to suspend the rules on a legislative day, the Speaker announces that he will put the question on each motion on which further proceedings have been postponed—either de novo if objection to the vote has been made under clause 6 of rule XX (formerly clause 4 of rule XV) or for a "yea and nay" or recorded vote if previously ordered by the House in the order in which the motions had been entered (June 4, 1974, pp. 17521–47). Clause 8(a) of rule XX (formerly clause 5(b) of rule I) does not require the Chair's customary announcement at the beginning of consideration of motions to suspend the rules that the Chair intends to postpone possible record votes (Feb. 23, 1993, p. 3281; Nov. 14, 1995, p. 32385).

Under the authority to postpone further proceedings on a specified question to a designated time within two legislative days, the Speaker may simultaneously designate separate times for the resumption of proceedings on separate postponed questions (Mar. 3, 1992, p. 4072). Once the Speaker has postponed record votes to a designated place in the legislative schedule, he may subsequently redesignate the time when the votes will be taken within the appropriate period (June 6, 1984, p. 15080; Oct. 3, 1988, pp. 27782, 27878). When the House adjourns on the second legislative day after postponement of a question under this clause without resuming proceedings thereon, the question remains unfinished business on the next legislative day (Oct. 1, 1997, p. 20922).

Following the first postponed vote on motions to suspend the rules, the Speaker may in his discretion reduce to not less than five minutes the time for taking votes on any or all of the subsequent motions on which votes have been postponed (June 4, 1974, p. 17547). Having clustered record votes on motions to suspend the rules and then having clustered record votes on passage of other measures considered immediately after debate on the suspension motions, the Speaker may, pursuant to this clause, conduct all the postponed votes in one sequence and reduce to five minutes the time for all electronic votes after the first suspension vote (May 17, 1983, p. 12508; Oct. 2, 1989, p. 22724). However, the Chair may

decline, in his discretion, to recognize for a unanimous-consent request to reduce to five minutes the first vote in the series, since the bell and light system would not give adequate notice of the initial five-minute vote (Oct. 8, 1985, p. 26666; see also § 1032, *infra*). However, before the 106th Congress, where a series of votes had been postponed pursuant to this clause to occur following a 15-minute vote on another measure not a part of that series, the vote on the first postponed measure could have been reduced to five minutes only by unanimous consent (May 24, 1983, p. 13595; July 22, 1996, p. 18410). By unanimous consent waiving the five-minute minimum set by paragraph (c) (formerly clause 5(b)(3) of rule I), the House has authorized the Speaker to put remaining postponed questions to two-minute electronic votes (Oct. 4, 1988, pp. 28126, 28148). The Speaker may "cluster" postponed votes on a motion to suspend the rules and on adoption of a resolution in the order in which those questions were considered on the preceding day (July 19, 1983, p. 19774). The requirement that the Speaker put each question on motions to suspend the rules in the order in which postponed does not prevent the Speaker from entertaining a unanimous-consent request for the consideration of a similar Senate measure following passage of a House bill and before the next postponed vote (Feb. 15, 1983, p. 2175). Since a resolution raising a question of the privileges of the House takes precedence over a motion to suspend the rules, it may be offered and voted on between motions to suspend the rules on which the Speaker has postponed record votes until after debate on all suspensions (May 17, 1983, p. 12486). Proceedings may not resume on a postponed question of agreeing to a 20-day motion to instruct conferees after the managers have filed a conference report in the House (Oct. 19, 1999, p. 25961).

For several years before the 107th Congress, special rules adopted by the House commonly provided the chairman of the Committee of the Whole authority to postpone and cluster requests for recorded votes on amendments. In the 107th Congress that authority was given to the chairman in the standing rules by adoption of a new clause 6(g) of rule XVIII. For a discussion of such authority, see § 984, *supra*.

§ 1031. Former pairs.

Former clause 2 of rule VIII was adopted in 1880, although the practice of pairing had then existed in the House for many years (V, 5981). The language of the clause was slightly altered by amendment in 1972 to reflect the installation of electronic voting in the 93d Congress (H. Res. 1123, Oct. 13, 1972, pp. 36005–12). It was amended in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20) to permit pairs to be announced in the Committee of the Whole. Former clause 2 of rule VIII was deleted in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). "Live" pairs still may be announced under clause 3 of rule XX (§ 1015, *supra*).

Before the 106th Congress, pairs were not announced at a time other than that prescribed by the former rule (V, 6046), and the voting intentions of an absent Member were not otherwise announced by a colleague (VIII,

3151). Before the 94th Congress pairs were not permitted in Committee of the Whole (V, 5984; Speaker Albert, Jan. 15, 1973, p. 1054). The House did not consider questions arising out of the breaking of a pair (V, 5982, 5983, 6095; VIII, 3082, 3085, 3087–3089, 3093), or permit a Member to vote after the call on the plea that he had refrained because of misunderstanding as to a pair (V, 6080, 6081). Discussion of the origin of the practice of pairing in the House and Senate (VIII, 3076). On questions requiring a two-thirds majority Members were paired two in the affirmative against one in the negative (VIII, 3088; Nov. 15, 1983, p. 32685). For Speaker Clark's interpretation of the rule and practice regarding pairs, see VIII, 3089.

Five-minute votes

§ 1032. "15-and-5" voting.

9. The Speaker may reduce to five minutes the minimum time for electronic voting on any question arising without intervening business after an electronic vote on another question if notice of possible five-minute voting for a given series of votes was issued before the preceding electronic vote.

The Speaker's authority to reduce record votes to five minutes, provided the first vote in any series is a 15-minute vote, gradually expanded over the years as follows: (1) on a bill, resolution, or conference report following a vote on a motion to recommit as first added in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16); (2) on amendments reported from the Committee of the Whole following a vote on the first such amendment, as added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72); (3) on adoption of a special order of business following a vote on ordering the previous question thereon as added in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49), and expanded to any underlying question following a vote on ordering the previous question in the 104th Congress (sec. 223(e), H. Res. 6, Jan. 4, 1995, p. 469); (4) on any incidental question under this clause as added in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47); and (5) finally (the present language of the rule), on any question arising without intervening business after an electronic vote on another question in the 108th Congress (sec. 2(n), H. Res. 5, Jan. 7, 2003, p. 7). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5(b) of rule XV (H. Res. 5, Jan. 6, 1999, p. 47).

Five-minute votes are now permitted at the discretion of the Chair in the following circumstances: (1) under clause 9 on any question arising without intervening business after an electronic vote on another question if notice of possible five-minute voting was properly issued (which includes the authority also granted under clause 8(c)); (2) under clause 6(b)(3) of

rule XVIII, on a pending question immediately following a regular quorum call in Committee of the Whole; (3) under clause 6(f) of rule XVIII, on any or all pending amendments immediately following a 15-minute recorded vote on the first such pending amendment in Committee of the Whole; and (4) under clause 6(g) of rule XVIII, on a postponed question on adoption of an amendment that immediately follows another electronic vote. This clause does not give the Chair the authority to reduce to five minutes the vote on a motion to recommit occurring immediately after a recorded vote on an amendment reported from the Committee of the Whole (June 29, 1994, p. 15107). The Chair does not entertain a unanimous-consent request to reduce a vote to five minutes where Members have not been given sufficient notice (*e.g.*, July 14, 1999, p. 16008; June 23, 2004, p. ——; Sept. 15, 2005, p. ——). However, the Chair may entertain such a request when circumstances ensure sufficient notice (June 24, 2005, p. ——; June 15, 2007, p. ——). The House has by unanimous consent authorized the Speaker to reduce to two minutes electronic votes conducted under this clause (*e.g.*, May 23, 2007, p. ——).

Where five-minute voting is interrupted by a one-minute speech, unanimous consent is required to continue five-minute voting (June 25, 2002, p. 11211). A voice vote on the question of adoption of a resolution following a 15-minute vote on ordering the previous question is not construed as "intervening business" such as would preclude five-minute votes on certain postponed questions (Sept. 26, 2002, pp. 18096, 18097). In the 95th Congress, the Speaker announced that changes could be made electronically at any time during a vote reduced to five minutes under the rules (Speaker O'Neill, Jan. 4, 1977, pp. 53–70).

Automatic yeas and nays

§ 1033. Yeas and nays ordered on certain questions.

10. The yeas and nays shall be considered as ordered when the Speaker puts the question on passage of a bill or joint resolution, or on adoption of a conference report, making general appropriations, or increasing Federal income tax rates (within the meaning of clause 5 of rule XXI), or on final adoption of a concurrent resolution on the budget or conference report thereon.

This clause was adopted in the 104th Congress (sec. 214, H. Res. 6, Jan. 4, 1995, p. 468). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 7 of rule XV (H. Res. 5, Jan. 6, 1999, p. 47). The Chair announced the ordering of the yeas and nays under this clause on passage of a joint resolution not only further

continuing appropriations for the current fiscal year but also enacting by reference six general appropriation bills (Oct. 21, 2003, p. ——).

Ballot votes

§ 1034. Elections by ballot.

11. In a case of ballot for election, a majority of the votes shall be necessary to an election. When there is not such a majority on the first ballot, the process shall be repeated until a majority is obtained. In all balloting blanks shall be rejected, may not be counted in the enumeration of votes, and may not be reported by the tellers.

This rule was first adopted in 1789 and was amended in 1837 (V, 6003). It was renumbered January 3, 1953 (p. 24). The last election by ballot seems to have occurred in 1868 (V, 6003).

RULE XXI

RESTRICTIONS ON CERTAIN BILLS

Reservation of certain points of order

§ 1035. Reservation of points of order.

1. At the time a general appropriation bill is reported, all points of order against provisions therein shall be considered as reserved.

This clause was added in the 104th Congress (sec. 215(e), H. Res. 6, Jan. 4, 1995, p. 468), rendering unnecessary the former practice that a Member reserve points of order when a general appropriation bill was referred to the calendar of the Committee of the Whole House on the state of the Union, in order that provisions in violation of rule XXI could be stricken in the Committee of the Whole (see § 1044, *infra*). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 8 of rule XXI (H. Res. 5, Jan. 6, 1999, p. 47).

General appropriation bills and amendments

2. (a)(1) An appropriation may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, for an expenditure not previously authorized by law, except to continue appropriations for public works and objects that are already in progress.

§ 1036. Unauthorized appropriations in reported general appropriation bills or amendments thereto.

(2) A reappropriation of unexpended balances of appropriations may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, except to continue appropriations for public works and objects that are already in progress. This subparagraph does not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated that are reported by the Committee on Appropriations.

§ 1037. Reappropriations prohibited.

(b) A provision changing existing law may not be reported in a general appropriation bill, including a provision making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation, except germane provisions that retrench expenditures by the reduction of amounts of money covered by the bill (which may include those recommended to the Committee on Appropriations by direction of a legislative committee having jurisdiction over the

§ 1038. Legislation in reported general appropriation bills; exceptions.

subject matter) and except rescissions of appropriations contained in appropriation Acts.

§ 1039. Legislation or limitations in amendments to general appropriation bills.

(c) An amendment to a general appropriation bill shall not be in order if changing existing law, including an amendment making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation. Except as provided in paragraph (d), an amendment proposing a limitation not specifically contained or authorized in existing law for the period of the limitation shall not be in order during consideration of a general appropriation bill.

§ 1040. Motion to rise and report as preferential to amendments.

(d) After a general appropriation bill has been read for amendment, a motion that the Committee of the Whole House on the state of the Union rise and report the bill to the House with such amendments as may have been adopted shall, if offered by the Majority Leader or a designee, have precedence over motions to amend the bill. If such a motion to rise and report is rejected or not offered, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments that retrench expenditures by reductions of amounts of money covered by the bill may be considered.

§ 1041. Designated emergencies in reported appropriation bills.

(e) A provision other than an appropriation designated an emergency under section 251(b)(2) or section 252(e) of the Balanced Budget and Emer-

gency Deficit Control Act, a rescission of budget authority, or a reduction in direct spending or an amount for a designated emergency may not be reported in an appropriation bill or joint resolution containing an emergency designation under section 251(b)(2) or section 252(e) of such Act and may not be in order as an amendment thereto.

§ 1042. Offsetting amendments en bloc to appropriation bills.

(f) During the reading of an appropriation bill for amendment in the Committee of the Whole House on the state of the Union, it shall be in order to consider en bloc amendments proposing only to transfer appropriations among objects in the bill without increasing the levels of budget authority or outlays in the bill. When considered en bloc under this paragraph, such amendments may amend portions of the bill not yet read for amendment (following disposition of any points of order against such portions) and are not subject to a demand for division of the question in the House or in the Committee of the Whole.

§ 1043. History of clause 2 of rule XXI.

The 25th Congress in 1837 was the first to adopt a rule prohibiting appropriations in a general appropriation bill or amendment thereto not previously authorized by law, in order to prevent delay of appropriation bills because of contention over propositions of legislation. In 1838 that Congress added the exception to permit unauthorized appropriations for continuation of works in progress and for contingencies for carrying on departments of the Government. The rule remained in that form until the 44th Congress in 1876, when William S. Holman of Indiana persuaded the House to amend the rule to permit germane legislative retrenchments. In 1880, the 46th Congress dropped the exception that permitted unauthorized appropriations for contingencies of Government departments, and modified the "Holman Rule" to define retrenchments as the reduction of the number and salary of officers of the United States, the reduction of compensation of any person paid out of the Treasury of the United States, or the reduction

of the amounts of money covered by the bill. That form of the retrenchment exception remained in place until the 49th Congress in 1885, when it was dropped until the 52d Congress in 1891, and then reinserted through the 53d Congress until 1894. It was again dropped in the 54th Congress from 1895 until reinserted in the 62d Congress in 1911 (IV, 3578; VII, 1125).

The clause remained unamended until January 3, 1983, when the 98th Congress restructured it in the basic form of paragraphs (a)–(d). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress, including a change to clause 2(a)(2) to clarify that the point of order lies against the offending provision in the text and not against consideration of the entire bill. At that time former clause 6 was transferred to clause 2(a)(2) and former clause 2(a) became clause 2(a)(1) (H. Res. 5, Jan. 6, 1999, p. 47).

Paragraph (a)(1) (formerly paragraph (a)) retained the prohibition against unauthorized appropriations in general appropriation bills and amendments thereto except in continuation of works in progress.

Paragraph (a)(2) (formerly clause 6), from section 139(c) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190f(c)), was made part of the standing rules in the 83d Congress (Jan. 3, 1953, p. 24). Previously, a reappropriation of an unexpended balance for an object authorized by law was in order on a general appropriation bill (IV, 3591, 3592; VII, 1156, 1158). This provision was amended in the 99th Congress by section 228(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177) to permit the Committee on Appropriations to report transfers of unexpended balances within the department or agency for which originally appropriated.

Paragraph (b) narrowed the "Holman Rule" exception from the prohibition against legislation to cover only retrenchments reducing amounts of money included in the bill as reported, and permitted legislative committees with proper jurisdiction to recommend such retrenchments to the Appropriations Committee for discretionary inclusion in the reported bill. The last exception in paragraph (b), permitting the inclusion of legislation rescinding appropriations in appropriation Acts, was added in the 99th Congress by the Balanced Budget and Emergency Deficit Control Act of 1985 (sec. 228(a), P.L. 99–177). The latter feature of the paragraph does not extend to a rescission of budget authority provided by a law other than an appropriation Act (see, § 1052, *infra*). In the 105th Congress paragraph (b) was amended to treat as legislation a provision reported in a general appropriation bill that makes funding contingent on whether circumstances not made determinative by existing law are "known" (H. Res. 5, Jan. 7, 1997, p. 121).

Paragraph (c) retained the prohibition against amendments changing existing law but permitted limitation amendments during the reading of the bill by paragraph only if specifically authorized by existing law for the period of the limitation. In the 105th Congress paragraph (c) was amended to treat as legislation an amendment to a general appropriation

bill that makes funding contingent on whether circumstances not made determinative by existing law are "known" (H. Res. 5, Jan. 7, 1997, p. 121).

Paragraph (d) provided a new procedure for consideration of retrenchment and other limitation amendments only when the reading of a general appropriation bill has been completed and only if the Committee of the Whole does not adopt a motion to rise and report the bill back to the House (H. Res. 5, Jan. 3, 1983, p. 34). In the 104th Congress paragraph (d) was amended to limit the availability of the preferential motion to rise and report to the Majority Leader or his designee (sec. 215(a), H. Res. 6, Jan. 4, 1995, p. 468). In the 105th Congress it was further amended to make the motion preferential to any motion to amend at that stage (H. Res. 5, Jan. 7, 1997, p. 121).

Paragraphs (e) and (f) were added in the 104th Congress (sec. 215, H. Res. 6, Jan. 4, 1995, p. 468). However, paragraph (e) is no longer effective with respect to discretionary spending because under section 275 of the Balanced Budget and Emergency Deficit Control Act section 251 expired on September 30, 2002. A technical correction to paragraph (f) was effected in the 109th Congress (sec. 2(l), H. Res. 5, Jan. 4, 2005, p. ——).

§ 1044. Points of order on general appropriation bills generally.

As the rule applies only to general appropriation bills, which are not enumerated or defined in the rules (VII, 1116), bills appropriating only for one purpose have been held not to be "general" within the meaning of this clause (VII, 1122). The following have been held not to be "general appropriation bills" within the purview of this clause: (1) a joint resolution providing an appropriation for a single Government agency (Jan. 31, 1962, p. 1352); (2) a joint resolution only containing continuing appropriations for diverse agencies to provide funds until regular appropriation bills are enacted (Sept. 21, 1967, p. 26370); (3) a joint resolution providing an appropriation for a single Government agency and permitting a transfer of a portion of those funds to another agency (Oct. 25, 1979, p. 29627); (4) a joint resolution transferring funds already appropriated from one specific agency to another (Mar. 26, 1980, p. 6716); (5) a joint resolution transferring unobligated balances to the President to be available for specified purposes but containing no new budget authority (Mar. 3, 1988, p. 3239).

A point of order under this rule does not apply to a special order reported from the Committee on Rules "self-executing" the adoption in the House of an amendment changing existing law (July 27, 1993, p. 17117). By unanimous consent the Committee of the Whole may vacate proceedings under specified points of order (June 7, 1991, p. 13973). A point of order may be withdrawn as a matter of right (in the Committee of the Whole as well as in the House) before action thereon (May 19, 2000, p. 8600).

As all bills making or authorizing appropriations require consideration in Committee of the Whole, it follows that the enforcement of the rule must ordinarily occur during consideration in Committee of the Whole,

where the Chair, in response to a point of order, may rule out any portion of the bill in conflict with the rule (IV, 3811; Sept. 8, 1965, pp. 23140, 23182). Portions of the bill thus stricken are not reported back to the House. Before the adoption of clause 1 (formerly clause 8) in the 104th Congress (see § 1035, *supra*), it was necessary that a Member reserve points of order when a general appropriation bill was referred to the calendar of the Committee of the Whole House on the state of the Union, in order that provisions in violation of the rule could be stricken in the Committee (V, 6921–6925; VIII, 3450; Feb. 6, 1926, p. 3456). Where points of order had been reserved pending a unanimous-consent request that the committee be permitted to file its report when the House would not be in session, it was not necessary that they be reserved again when the report ultimately was presented as privileged when the House was in session, as the initial reservation carried over to the subsequent filing (Mar. 1, 1983, p. 3241). In an instance where points of order were not reserved against an appropriation bill when it was reported to the House and referred to the Committee of the Whole, points of order in the Committee of the Whole against a proposition in violation of this clause were overruled on the ground that the chairman of the Committee of the Whole lacked authority to pass upon the question (Apr. 8, 1943, p. 3150, 3153).

The enforcement of the rule also occurs in the House in that a motion to recommit a general appropriation bill may not propose an amendment containing legislation (Sept. 1, 1976, p. 28883). Clause 2(c) provides that a limitation not specifically contained in existing law or authorized for the period of the limitation shall not be in order during consideration of a general appropriation bill except as contemplated by clause 2(d), including a requirement that it come at the end of the reading (Speaker Foley, Aug. 1, 1989, p. 17159; Aug. 3, 1989, p. 18546); and such amendment is precluded whether the Committee of the Whole has risen and reported automatically pursuant to a special rule or, instead, by a motion at the end of the reading for amendment (June 22, 1995, p. 16844).

Points of order against unauthorized appropriations or legislation on general appropriation bills may be made as to the whole or only a portion of a paragraph (IV, 3652; V, 6881). The fact that a point of order is made against a portion of a paragraph does not prevent another point of order against the whole paragraph (V, 6882; July 31, 1985, p. 21895), nor does it prevent another Member from demanding that the original point of order be extended to the entire paragraph (*e.g.*, July 16, 1998, p. 15806; Sept. 4, 2003, p. ——, p. ——; Sept. 14, 2004, p. ——; June 29, 2005, p. ——). If a portion of a proposed amendment is out of order, it is sufficient for the rejection of the whole amendment (V, 6878–6880). If a point of order is sustained against any portion of a package of amendments considered en bloc, all the amendments are ruled out of order and must be reoffered separately, or those that are not subject to a point of order may be considered en bloc by unanimous consent (Sept. 16, 1981, pp. 20735–38; June 21, 1984, p. 17687; July 26, 2001, pp. 14716, 14721). Where a point of

order is sustained against the whole of a paragraph the whole must go out, but it is otherwise when the point of order is made only against a portion (V, 6884, 6885).

General appropriation bills are read "scientifically" only by paragraph headings and appropriation amounts, and points of order against a paragraph must be made before an amendment is offered thereto or before the Clerk reads the next paragraph heading and amount (Deschler, ch. 26, § 2.26). A point of order against a paragraph under this clause may be made only after that paragraph has been read by the Clerk, and not before its reading pending consideration of an amendment inserting language immediately prior thereto (June 6, 1985, pp. 14605, 14609). Where the reading of a paragraph of a general appropriation bill has been dispensed with by unanimous consent, the Chair inquires whether there are points of order against the paragraph before entertaining amendments or directing the Clerk to read further, but he does not make such an inquiry where the Clerk has actually read the paragraph (May 31, 1984, p. 14608). Where a portion of the bill is considered as having been read and open to amendment by unanimous consent, points of order against provisions in that portion must be made before amendments are offered, and may not be reserved (Dec. 1, 1982, p. 28175; May 19, 2000, p. 8595; July 26, 2003, p. ——). Where a chapter is considered as read by unanimous consent and open to amendment at any point, no amendments are offered and the Clerk begins to read the next chapter, it is too late to make a point of order against a paragraph in the preceding chapter (June 11, 1985, p. 15181). It is too late to rule out the entire paragraph after points of order against specific portions have been sustained and an amendment to the paragraph has been offered (June 27, 1974, pp. 21670–72).

The fact that legislative jurisdiction over the subject matter of an amendment may rest with the Committee on Appropriations does not immunize the amendment from the application of clause 2(c) of rule XXI (July 17, 1996, p. 17550; July 24, 1996, p. 18898). The "works in progress" exception under clause 2(a) of rule XXI is a defense to a point of order against an unauthorized appropriation reported in a general appropriation bill and is not a defense to a point of order under clause 2(c) of rule XXI that an amendment to an appropriation bill constitutes legislation (July 24, 1996, p. 18898).

For a discussion of perfecting amendments to unauthorized appropriations or legislation permitted to remain in a general appropriation bill by failure to raise or by waiver of a point of order, see § 1057, *infra*.

§ 1044a. Points of order on general appropriation bills, deliberation of.

To resolve an ambiguity when ruling on a point of order, the Chair may: (1) examine legislative history established during debate on an amendment against which a point of order has been reserved (June 14, 1978, p. 17651); (2) inquire after its author's intent (Oct. 29, 1991, p. 28818); or (3) examine the accompanying report to determine the intent of the section (June 25, 2004, p. ——).

In the administration of the rule, it is the practice that those upholding an item of appropriation should have the burden of showing the law authorizing it (IV, 3597; VII, 1179, 1233, 1276; June 23, 2000, p. 12123). Thus, the burden of proving the authorization for appropriations carried in a bill, or that the language in the bill constitutes a valid limitation that does not change existing law, falls on the proponents and managers of the bill (May 28, 1968, p. 15357; Nov. 30, 1982, p. 28062; June 25, 2004, p. ——). By the same token, the proponent of an amendment has the burden of proof to show that an appropriation contained in an amendment is authorized by law (*e.g.*, May 11, 1971, p. 14471; Oct. 29, 1991, p. 28791; July 26, 1995, p. 20567; July 27, 1995, pp. 20808, 20811; July 31, 1995, p. 21207) or that the amendment constitutes a valid limitation (July 17, 1975, p. 23239; June 16, 1976, p. 18666; July 18, 1995, p. 19357; June 24, 2003, p. ——). For example, the proponent of a provision in the bill or of an amendment, as the case may be, has the burden to show the following: (1) that any duties imposed by a limitation are merely ministerial or already required under existing law (July 16, 1998, p. 15829); (2) in the case of language proposing a double-negative, that the object of the double-negative is specifically contemplated by existing law (July 23, 2003, p. ——, p. ——; see § 1053, *infra*); (3) that the amendment does not increase levels of budget authority or outlays within the meaning of clause 2(f) (*e.g.*, Oct. 11, 2001, pp. 19368, 19369; see also July 13, 2004, p. ——, p. —— and May 25, 2006, p. ——, where the Chair sustained the point of order in part because the manager's averment that the amendment increased outlays went unchallenged); (4) if the language is susceptible to more than one interpretation, that it merits the construction that it does not violate the rule (Deschler, ch. 26, § 22.26), although that burden may be met by a showing that only the requirements of existing law, and not any new requirements, are recited in the language (Sept. 23, 1993, p. 22206).

The mere recitation in an amendment that a determination is to be made pursuant to existing laws and regulations, absent a citation to the law imposing such responsibility, is not sufficient proof by the proponent of an amendment to overcome a point of order that the amendment constitutes legislation (Sept. 16, 1980, p. 25606).

The Chair may overrule a point of order that appropriations for a certain agency are unauthorized upon citation to an organic statute creating the agency, absent any showing that the organic law has been overtaken by a scheme of periodic reauthorization; the Chair may hear further argument and reverse his ruling, however, where existing law not previously called to the Chair's attention would require the ruling to be reversed (VIII, 3435; June 8, 1983, p. 14854, where a law amending the statute creating the Bureau of the Mint with the express purpose of requiring annual authorizations was subsequently called to the Chair's attention). Reported provisions in a general appropriation bill described in the accompanying report as

directly or indirectly changing the application of existing law are presumably legislation, absent rebuttal by the committee (May 31, 1984, p. 14591).

§ 1044b. Motion to rise and report.

Where the reading of a general appropriation bill for amendment has been completed (or dispensed with), including the last paragraph of the bill containing the citation to the short title (July 30, 1986, p. 18214), the Chair (under the former form of the rule, which made the preferential motion available to any Member) might first inquire whether any Member sought to offer an amendment (formerly, one not prohibited by clauses 2(a) or (c)) before recognizing Members to offer limitation or retrenchment amendments (June 2, 1983, p. 14317; Sept. 22, 1983, p. 25406; Oct. 27, 1983, p. 29630), including pro forma amendments (Aug. 2, 1989, p. 18126). Pursuant to clause 2(d), a motion that the Committee rise and report the bill to the House with such amendments as may have been adopted is not debatable (Apr. 23, 1987, p. 9613) and takes precedence over any amendment (formerly only over a limitation or retrenchment amendment) (July 30, 1985, p. 21534; July 23, 1986, p. 17431; Apr. 23, 1987, p. 9613), but only after completion of the reading and disposition of amendments not otherwise precluded (June 30, 1992, p. 17135). Thus a motion that the Committee rise and report the bill to the House with the recommendation that it be recommitted, with instructions to report back to the House (forthwith or otherwise) with an amendment proposing a limitation, does not take precedence over the motion to rise and report the bill to the House with such amendments as may have been adopted (Sept. 19, 1983, p. 24647 (sustained on appeal)). An amendment not only reducing an amount in a paragraph of an appropriation bill but also limiting expenditure of those funds on a particular project (*i.e.*, a limitation not contained in existing law) was held not in order during the reading of that paragraph but only at the end of the bill under clause 2(d) (July 23, 1986, p. 17431; June 15, 1988, p. 14719). Where language of limitation was stricken from a general appropriation bill on a point of order that it changed existing law, an amendment proposing to reinsert the limitation without its former legislative content was held not in order before completion of the reading for amendment (June 18, 1991, p. 15214; Sept. 23, 1993, p. 22214). A motion that the Committee of the Whole rise and report to the House with the recommendation that the enacting clause be stricken takes precedence over the motion to amend under clause 9 of rule XVIII (formerly clause 7 of rule XXIII) and also over the motion to rise and report under clause 2(d) (July 24, 1986, p. 17641).

The 109th Congress adopted a resolution creating a point of order against the motion to rise and report an appropriation bill to the House where the bill, as proposed to be amended, exceeded an applicable allocation of new budget authority under section 302(b) of the Congressional Budget Act of 1974, and setting forth procedures in the Committee of the Whole in the event that the point of order was sustained (sec. 2, H. Res. 248, Apr. 28, 2005, p. ——). The 110th Congress adopted the same procedure

(sec. 511(a)(5), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)), to wit:

SEC. 511. (a)(5)(A) During the One Hundred Tenth Congress, except as provided in subsection (C), a motion that the Committee of the Whole rise and report a bill to the House shall not be in order if the bill, as amended, exceeds an applicable allocation of new budget authority under section 302(b) of the Congressional Budget Act of 1974, as estimated by the Committee on the Budget.

(B) If a point of order under subsection (A) is sustained, the Chair shall put the question: 'Shall the Committee of the Whole rise and report the bill to the House with such amendments as may have been adopted notwithstanding that the bill exceeds its allocation of new budget authority under section 302(b) of the Congressional Budget Act of 1974?'. Such question shall be debatable for 10 minutes equally divided and controlled by a proponent of the question and an opponent but shall be decided without intervening motion.

(C) Subsection (A) shall not apply—

(i) to a motion offered under clause 2(d) of rule XXI; or

(ii) after disposition of a question under subsection (B) on a given bill.

(D) If a question under subsection (B) is decided in the negative, no further amendment shall be in order except—

(i) one proper amendment, which shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole; and

(ii) pro forma amendments, if offered by the chairman or ranking minority member of the Committee on Appropriations or their designees, for the purpose of debate.

§ 1045. Authorization of law for appropriations.

A treaty may provide the authorization by existing law required in the rule to justify appropriations if it has been ratified by the contracting parties (IV, 3587); however, where existing law authorizes appropriations for the U.S. share of facilities to be recommended in an agreement with another country containing specified elements, an agreement in principle with that country predating the authorization law and lacking the required elements is insufficient authorization (June 28, 1993, p. 14421). An Executive Order does not constitute sufficient authorization in law absent proof of its derivation from a statute enacted by Congress authorizing the order and expenditure of funds (June 15, 1973, p. 19855; June 25, 1974, p. 21036). Thus a Reorganization Plan submitted by the President pursuant to 5 U.S.C. 906 has the status of statutory law when it becomes effective and is sufficient authorization to support an appropriation for an office created by Executive Order issued pursuant to the Reorganization Plan (June 21, 1974, p. 20595). A constitutional guarantee of just compensation for a gov-

ernmental taking of private property for public use does not itself constitute sufficient authorization by law for appropriations in a general appropriation bill for compensation of particular private property owners (July 18, 2001, pp. 13662–65; *cf.* VII, 1144).

A resolution of the House has been held sufficient authorization for an appropriation for the salary of an employee of the House (IV, 3656–3658) even though the resolution may have been agreed to only by a preceding House (IV, 3660). Previous enactment of items of appropriation unauthorized by law does not justify similar appropriations in subsequent bills (VII, 1145, 1150, 1151) unless, if through appropriations previously made, a function of the Government has been established that would bring it into the category of continuation of works in progress (VII, 1280), or unless legislation in a previous appropriation act has become permanent law (May 20, 1964, p. 11422). The omission to appropriate during a series of years for an object authorized by law does not repeal the law, and consequently an appropriation when proposed is not subject to the point of order (IV, 3595).

The law authorizing each head of a department to employ such numbers of clerks, messengers, copyists, watchmen, laborers, and other employees as may be appropriated for by Congress from year to year is held to authorize appropriations for those positions not otherwise authorized by law (IV, 3669, 3675, 4739); but this law does not apply to offices not within departments or not at the seat of Government (IV, 3670–3674). A permanent law authorizing the President to appoint certain staff, together with legislative provisions authorizing additional employment contained in an appropriation bill enacted for that fiscal year, constituted sufficient authorization for a lump sum supplemental appropriation for the White House for the same fiscal year (Nov. 30, 1973, p. 38854). By a general provision of law, appropriations for investigations and the acquisition and diffusion of information by the Agriculture Department on subjects related to agriculture are generally in order in the agricultural appropriation bill (IV, 3649). It has once been held that this law would also authorize appropriations for the instrumentalities of such investigations (IV, 3615); but these would not include the organization of a bureau to conduct the work (IV, 3651). The law does not authorize general investigations by the department (IV, 3652), cooperation with State investigations (IV, 3650; VII, 1301, 1302), the investigation of foods in relation to commerce (IV, 3647, 3648; VII, 1298), or the compiling of tests at an exposition (IV, 3653).

A paragraph appropriating funds for matching grants to States was held unauthorized where the authorizing law did not require State matching funds (June 28, 1993, p. 14418). A paragraph funding a project from the Highway Trust Fund was held unauthorized where such funding was authorized only from the general fund (Sept. 23, 1993, p. 22175; June 26, 2001, p. 11936; Nov. 28, 2001, pp. 23239, 23240) or from the Airport and Airway Trust Fund (*e.g.,* Sept. 14, 2004, p. ——; June 29, 2005, p. ——). A paragraph providing funds for the President to meet "unanticipated

needs" was held unauthorized (July 16, 1998, p. 15808). The authorization must be enacted before the appropriation may be included in an appropriation bill; thus delaying the availability of an appropriation pending enactment of an authorization does not protect the item of appropriation against a point of order under this clause (Apr. 26, 1972, p. 14455). Similarly, an amendment limiting funds to the extent provided in authorizing legislation on or after the date of enactment of the pending appropriation bill is not in order (May 19, 2005, p. ——).

The failure of Congress to enact into law separate legislation specifically modifying eligibility requirements for grant programs under existing law does not necessarily render appropriations for those programs subject to a point of order, where more general existing law authorizes appropriations for all of the programs proposed to be modified by new legislation pending before Congress (June 8, 1978, p. 16778). However, whether organic statutes or general grants of authority in law constitute sufficient authorization to support appropriations depends on whether the general laws applicable to the function or department in question require specific or annual authorizations (June 14, 1978, pp. 17616, 17622, 17626, 17630) or on whether a periodic authorization scheme has subsequently occupied the field (Sept. 9, 1997, p. 18197). An authorization of "such sums as may be necessary" is sufficient to support any dollar amount, but has no tendency to relieve other conditions of the authorization law (June 28, 1993, p. 1442). Where existing law authorizes certain appropriations from a particular trust fund without fiscal year limitation, language that such an appropriation remain available until expended does not constitute legislation (July 15, 1993, p. 15848).

An amendment to a general appropriation bill providing that "not less than" (or "not to exceed") a certain amount be made available to a program requires an authorization (June 21, 1988, p. 15440; July 12, 2000, p. 14070; July 13, 2000, p. 14084).

Pursuant to clause 11(i) of rule X (formerly clause 9 of rule XLVIII), no funds may be appropriated to certain agencies carrying out intelligence and intelligence-related activities, unless such funds have been authorized by law for the fiscal year in question.

§ 1046. Authorization for claims and salaries.

Judgments of courts certified to Congress in accordance with law or authorized by treaty (IV, 3634, 3635, 3644) and audited under authority of law have been held to be authorization for appropriations for the payment of claims (IV, 3634, 3635). However, unadjudicated claims (IV, 3628), even though ascertained and transmitted by an executive officer (IV, 3625–3640), and findings filed under the Bowman Act do not constitute authorization (IV, 3643).

An appropriation for an object not otherwise authorized does not constitute authorization to justify a continuance of the appropriation another year (IV, 3588, 3589; VII, 1128, 1145, 1149, 1191), and the mere appropriation for a salary does not create an office so as to justify appropriations

in succeeding years (IV, 3590, 3672, 3697), it being a general rule that propositions to appropriate for salaries not established by law or to increase salaries fixed by law are out of order (IV, 3664–3667, 3676–3679). An exception to these general principles is found in the established practice that in the absence of a general law fixing a salary the amount appropriated in the last appropriation bill has been held to be the legal salary (IV, 3687–3696). A law having established an office and fixed a salary, it is not in order to provide for an unauthorized office and salary in lieu of it (IV, 3680).

§ 1047. Authorizations for public works.

An appropriation for a public work in excess of a fixed limit of cost (IV, 3583, 3584; VII, 1133), or for extending a service beyond the limits assigned by an executive officer exercising a lawful discretion (IV, 3598), or by actual law (IV, 3582, 3585), or for purposes prohibited by law are out of order (IV, 3580, 3581, 3702), as is an appropriation from the Highway Trust Fund where the project is specifically authorized from the general fund (Sept. 23, 1993, p. 22175). However, the mere appropriation of a sum to complete a work does not fix a limit of cost such as would exclude future appropriations (IV, 3761). A declaration of policy in an act followed by specific provisions conferring authority upon a governmental agency to perform certain functions was construed not to authorize appropriations for purposes germane to the policy but not specifically authorized by the act (VII, 1200). A point of order will not lie against an amendment proposing to increase a lump sum for public works projects where language in the bill limits use of the lump sum appropriation to projects as authorized by law (Deschler, ch. 26, § 19.6), but where language in the bill limits use of the lump sum both to projects "authorized by law" and "subject, where appropriate, to enactment of authorizing legislation," that paragraph constitutes an appropriation in part for some unauthorized projects and is not in order (June 6, 1985, p. 14617). Language in an appropriation bill precluding funds for projects not authorized by law or beyond the amount authorized was held to limit expenditures to authorized projects and was not legislation (Deschler, ch. 25, § 2.18).

§ 1048. Continuation of a public work by appropriations.

The provision excepting public works and objects that are already in progress from the requirement that appropriations be authorized by existing law (IV, 3578) has historically been applied only in cases of general revenue funding (Sept. 22, 1993, p. 22140; Sept. 23, 1993, p. 22173). An appropriation in violation of existing law or to extend a service beyond a fixed limit is not in order as the continuance of a public work (IV, 3585, 3702–3724; VII, 1332; Sept. 23, 1993, p. 22173; Deschler, ch. 26, § 8.9). The "works in progress" exception may not be invoked to fund a project governed by a lapsed authorization and may not be invoked to fund a project that is not yet under construction (July 31, 1995, p. 21207). Where existing law (40 U.S.C. 606) specifically prohibits the making of an appropriation to construct or alter any public building involving more than

$500,000 unless approved by the House and Senate Public Works Committees, an appropriation for such purposes not authorized by both committees is out of order notwithstanding the "works in progress" exemption, since the law specifically precludes the appropriation from being made (June 8, 1983, p. 14855). An appropriation from the Highway Trust Fund for an ongoing project was held not in order under the "works in progress" exception where the Internal Revenue Code "occupied the field" with a comprehensive authorization scheme not embracing the specified project (Sept. 22, 1993, p. 22140; Sept. 23, 1993, p. 22173). Interruption of a work does not necessarily remove it from the privileges of the rule (IV, 3705–3708); but the continuation of the work must not be so conditioned in relation to place as to become a new work (IV, 3704). It has been held that a work has not begun within the meaning of the rule when an appropriation has been made for a site for a public building (IV, 3785), or when a commission has been created to select a site or when a site has actually been selected for a work (IV, 3762, 3763), or when a survey has been made (IV, 3782–3784). "Public works and objects already in progress" include tangible matters like buildings, roads, etc., but not duties of officials in executive departments (IV, 3709–3713), or the continuance of a work indefinite as to completion and intangible in nature like the gauging of streams (IV, 3714, 3715). A general system of roads on which some work has been done, or an extension of an existing road (Sept. 22, 1993, p. 22140), may not be admitted as a work in progress (VII, 1333). Concerning reappropriation for continuation of public works in progress, see § 1031, *supra*.

§ 1049. Examples illustrating the continuation of a public work.

Thus the continuation of the following works has been admitted: a topographical survey (IV, 3796, 3797; VII, 1382), a geological map (IV, 3795), marking of a boundary line (IV, 3717), marking graves of soldiers (IV, 3788), a list of claims (IV, 3717), and recoinage of coins in the Treasury (IV, 3807); but the following works have not been admitted: Investigation of materials, like coal (IV, 3721), scientific investigations (IV, 3719; VII, 1345), duties of a commission (IV, 3720; VII, 1344), extension of foreign markets for goods (IV, 3722), printing of a series of opinions indefinite in continuance (IV, 3718), free evening lectures in the District of Columbia (IV, 3789), certain ongoing projects from the Highway Trust Fund (Sept. 22, 1993, pp. 22140; Sept. 23, 1993, p. 22173), extension of an existing road (Sept. 22, 1993, p. 22140), continuation of an extra compensation for ordinary facility for carrying the mails (IV, 3808), although the continuation of certain special mail facilities has been admitted (IV, 3804–3806). However, appropriations for rent and repairs of buildings or Government roads (IV, 3793, 3798) and bridges (IV, 3803) have been admitted as in continuation of a work (IV, 3777, 3778), although it is not in order as such to provide for a new building in place of one destroyed (IV, 3606). It is not in order to repair paving adjacent to a public building but in a city street, although it may have been laid originally by the Government (IV, 3779). The purchase of adjoining land for a work already estab-

lished has been admitted under this principle (IV, 3766–3773) as have additions to existing buildings in cases where no limits of cost have been shown (IV, 3774, 3775). However, the purchase of a separate and detached lot of land is not admitted (IV, 3776). The continuation of construction at the Kennedy Library, a project owned by the United States and funded by a prior year's appropriation, has been admitted notwithstanding the absence of any current authorization (June 14, 1988, p. 14335). A provision of law authorizing Commissioners of the District of Columbia to take over and operate the fish wharves of the city of Washington was held insufficient authority to admit an appropriation for reconstructing the fish wharf (VII, 1187).

§ 1050. New buildings at existing institutions as in continuance of a public work.

Appropriations for new buildings at Government institutions have sometimes been admitted (IV, 3741–3750) when intended for the purposes of the institution (IV, 3747); but later decisions, in view of the indefinite extent of the practice made possible by the early decisions, have ruled out propositions to appropriate for new buildings in navy yards (IV, 3755–3759) and other establishments (IV, 3751–3754). Appropriations for new schoolhouses in the District of Columbia (IV, 3750; VII, 1358), for new Army hospitals (IV, 3740), for new lighthouses (IV, 3728), armor-plate factories (IV, 3737–3739), and for additional playgrounds for children in the District of Columbia (IV, 3792) have also been held not to be in continuation of a public work.

§ 1051. New vessel for naval and other services as in continuation of a public work.

By a former broad construction of the rule an appropriation of a new and not otherwise authorized vessel of the Navy had been held to be a continuance of a public work (IV, 3723, 3724); but this line of decisions has been overruled (VII, 1351; Jan. 22, 1926, p. 2621). While appropriations for new construction and procurement of aircraft and equipment for the Navy are not in order, appropriations for continuing experiments and development work on all types of aircraft are in order (Jan. 22, 1926, p. 2623). This former interpretation was confined to naval vessels, and did not apply to vessels in other services, like the Coast and Geodetic Survey or Lighthouse Service (IV, 3725, 3726), or to floating or stationary drydocks (IV, 3729–3736). The construction of a submarine cable in extension of one already laid was held not to be the continuation of a public work (IV, 3716), but an appropriation for the Washington-Alaska military cable has been held in order (VII, 1348).

§ 1052. Legislation generally.

A provision changing existing law is construed to mean the enactment of law where none exists (IV, 3812, 3813). For example, the following provisions have been held out of order: (1) permitting funds to remain available until expended or beyond the fiscal year covered by the bill where existing law does not permit such availability (Aug. 1, 1973, p. 27288; June 9, 2006, p. ——); (2) permitting funds to be available immediately upon enactment before

the fiscal year covered by the bill (July 29, 1986, p. 17981; June 28, 1988, p. 16255); (3) permitting funds to be available to the extent provided in advance in appropriation Acts but not explicitly beyond the fiscal year in question (July 21, 1981, p. 16687); or (4) setting a floor on spending that is not established by existing law (July 23, 2003, p. ——).

Although clause 2(b) permits the Committee on Appropriations to report rescissions of appropriations, an amendment proposing a rescission constitutes legislation under clause 2(c) (May 26, 1993, p. 11319), as does a provision proposing a rescission of budget authority provided in law other than appropriations acts, such as contract authority (*e.g.,* Sept. 22, 1993, p. 22138; May 15, 1997, p. 8510; July 23, 1997, p. 15353; July 29, 1998, p. 17956) or a loan guarantee program (July 13, 2004, p. ——). Similarly, a provision canceling funds under the Farm Security and Rural Investment Act of 2002 was held to be legislation (June 16, 2004, p. ——). A provision constituting congressional disapproval of a deferral of budget authority proposed by the President pursuant to the Impoundment Control Act of 1974 is not in order if included in a general appropriation bill rather than in a separate resolution of disapproval under that Act (July 29, 1982, pp. 18625, 18626).

A proposal to amend existing law to provide for automatic continuation of appropriations in the absence of timely enactment of a regular appropriation bill constitutes legislation in contravention of clause 2(c) (July 17, 1996, p. 17550; July 24, 1996, p. 18898). A proposal to designate an appropriation as "emergency spending" within the meaning of the budget-enforcement laws (or so designated under provisions of a budget resolution) is fundamentally legislative in character (*e.g.,* Sept. 8, 1999, pp. 20900; June 19, 2000, pp. 11294–97 (sustained on appeal); June 20, 2001, p. 11224; Oct. 16, 2003, p. ——; Mar. 15, 2005, p. —— (sustained on appeal)). Similarly, a provision containing an averment necessary to qualify for certain scorekeeping under the Budget Act was conceded to be legislation (July 20, 1989, p. 15374), even though the Budget Act contemplates that expenditures may be mandated to occur before or following a fiscal period if the law making those expenditures specifies that the timing is the result of a "significant" policy change (July 20, 1989, p. 15374).

Language in an appropriation bill precluding funds for projects not authorized by law or beyond the amount authorized has been held in order as simply limiting expenditures to authorized projects (Deschler, ch. 25, § 2.18). However, an amendment limiting funds to the extent provided for in authorizing legislation on or after the date of enactment of the pending appropriation bill is not in order (May 19, 2005, p. ——).

Although the object to be appropriated for may be described without violating the rule (IV, 3864), an amendment proposing an appropriation under a heading that indicates an unauthorized purpose as its object has been ruled out (Oct. 29, 1991, p. 28814). For example, an amendment proposing to make certain funds available for a specified report not contemplated by existing law was held to constitute legislation in violation

of clause 2(c) (June 13, 2000, p. 10509). The fact that a legislative item has been carried in appropriation bills for many years does not exempt it from a point of order (VII, 1445, 1656). The reenactment from year to year of a law intended to apply during the year of its enactment only is not relieved, however, from the point that it is legislation (IV, 3822). Limits of cost for public works may not be made or changed (IV, 3761, 3865–3867; VII, 1446), nor contracts authorized (IV, 3868–3870; May 14, 1937, p. 4595).

An amendment to a general appropriation bill stating a legislative position constitutes legislation (July 24, 2001, pp. 14349, 14351) as does one establishing a select committee (Mar. 16, 2006, p. ——) or a trust fund in the Treasury (June 9, 2006, p. ——).

§ 1053. Limitations on appropriations generally.

Although the rule forbids a provision "changing existing law," the House, by practice, has established the principle that certain "limitations" may be admitted. Just as the House may decline to appropriate for a purpose authorized by law, so may it by limitation prohibit the use of the money for part of the purpose while appropriating for the remainder of it (IV, 3936; VII, 1595). Paragraph (c) prohibits consideration of limitation amendments during the reading of the bill by paragraph unless specifically authorized by existing law for the period of the limitation, even if the amendment is expanding a limitation already in the bill (July 23, 2003, p. ——).

A limitation may provide that some or all of the appropriation under consideration may not be used for a certain designated purpose (IV, 3917–3926; VII, 1580). This designated purpose may reach the question of qualifications, for while it is not in order to legislate as to the qualifications of the recipients of an appropriation (Deschler, ch. 26, §§ 53, 57.15), the House may specify that no part of the appropriation may go to recipients lacking certain qualifications (IV, 3942–3952; VII, 1655; June 4, 1970, p. 18412; June 27, 1974, p. 21662; Oct. 9, 1974, p. 34712; June 9, 1978, p. 16990).

A limitation amendment prohibiting the use of funds for the construction of certain facilities unless such construction were subject to a project agreement was held not in order during the reading of the bill, even though existing law directed Federal officials to enter into such project agreements, on the ground that limitation amendments are in order during the reading only where existing law requires or permits the inclusion of limiting language in an appropriation Act, and not merely where the limitation is alleged to be "consistent with existing law" (June 28, 1988, p. 16267).

A limitation may place some minimal, incidential duties on Federal officials, who must determine the effect of such a limitation on appropriated funds. However, a provision may not impose additional duties not required by law, either explicitly or implicitly, or make the appropriation contingent upon the performance of such duties (VII, 1676; June 11, 1968, p. 16712; July 31, 1969, pp. 21631–33; May 28, 1968, p. 15350; July 26, 1985, p. 20807; see § 1054, *infra*). The fact that a limitation may indirectly interfere

with an executive official's discretionary authority by denying the use of funds (June 24, 1976, p. 20408) or may impose certain incidental burdens on executive officials (Aug. 25, 1976, p. 27737) does not destroy the character of the limitation as long as it does not otherwise amend existing law and is descriptive of functions and findings already required to be undertaken by existing law. For example, a limitation precluding funds for specified Federal departments to file certain motions in specified civil actions (all matters of public record in the litigation and therefore available to responsible intervening Federal officials) was held to be a proper limitation (July 18, 2001, pp. 13683, 13684).

The limitation must apply solely to the money of the appropriation under consideration (VII, 1597, 1600, 1720; Feb. 26, 1958, p. 2895). For example, a limitation on funds: (1) may not apply to money appropriated in other Acts (IV, 3927, 3928; VII, 1495, 1525; June 28, 1971, p. 22442; June 27, 1974, pp. 21670–72; May 13, 1981, p. 9663); (2) may not require funds available to an agency in any future fiscal year for a certain purpose to be subject to limitations specified in advance in appropriations Acts (May 8, 1986, p. 10156). The tendency of a limitation to change existing law is measured against the state of existing law "for the period of the limitation," such that the presence of the same limitation in the annual bill for the previous fiscal year does not justify its inclusion in the pending annual bill (Sept. 22, 1983, p. 25406, June 26, 2000, p. 12355).

A restriction on authority to incur obligations is legislative in nature and not a limitation on funds (July 13, 1987, p. 19507; Sept. 23, 1993, p. 22204; July 15, 2004, p. ——). For example, a limitation on the authority of the Commodity Credit Corporation to purchase sugar is legislative in nature and not a limitation on funds (June 29, 2000, p. 13109).

In construing a proposed limitation, the Chair may examine whether the purpose of the limitation is legislative. For example, a limitation accompanied by language stating a legislative motive or purpose is not in order (Aug. 8, 1978, p. 24969; July 22, 1980, p. 19087; Sept. 16, 1980, p. 25604; Sept. 22, 1981, p. 21577). Similarly, where existing law and the Constitution require a census to be taken of all persons, an amendment that seeks to preclude the use of funds to exclude another class "known" to the Secretary is not in order (Aug. 1, 1989, p. 17156). However, language may, by negatively refusing to include funds for all or part of an authorized executive function, thereby affect policy and restrict executive discretion to the extent of its denial of availability of funds (IV, 3968–3972; VII, 1583, 1653, 1694; Sept. 14, 1972, p. 30749; June 21, 1974, p. 20601; Oct. 9, 1974, p. 34716). For example, an appropriation may be withheld from a designated object by a negative limitation on the use of funds, notwithstanding that contracts may be left unsatisfied thereby (IV, 3987; July 10, 1975, pp. 22006–07).

The Chair has stated that a limitation amendment that comprises a textual "double-negative" (the coupling of a denial of an appropriation with a negative restriction on official duties) is suspect and may result in an

affirmative direction or an affirmative statement of intent that constitutes legislation and is therefore not in order (VII, 1690–1692; Deschler, ch. 26, § 51.15 (note); July 23, 2003, p. ——). In order to carry the burden of proof on an amendment proposing a double-negative, a Member must be able to show that the object of the double-negative is specifically contemplated by existing law (July 23, 2003, p. ——, p. ——). For example, the following have been held out of order for using a double-negative: (1) a provision to limit funds to prohibit the obligation of funds up to a specified amount for an unauthorized transportation project (effectively authorizing an unauthorized project) (Sept. 23, 1993, p. 22209); (2) an amendment to limit funds to prohibit projects that promote the participation of women in international peace efforts, such promotion not specifically contemplated by law (July 23, 2003, p. ——); (3) an amendment to limit funds to prohibit the establishment of an independent commission not contemplated by existing law (July 23, 2003, p. ——).

It is not in order, even by language in the form of a limitation, to restrict the discretionary authority conferred by law to administer the expenditure of appropriated funds, such as by limiting the percentage of funds that may be apportioned for expenditure within a certain period of time (Deschler, ch. 26, § 51.23), or by precluding the obligation of certain funds until funds provided by another Act have been obligated (Deschler, ch. 26, § 48.8). The burden is on the proponent to show that such a proposal does not change existing law by restricting the timing of the expenditure of funds rather than their availability for specified objects (Deschler, ch. 26, §§ 64.23, 80.5).

As long as a limitation merely restricts the expenditure of Federal funds carried in the bill without changing existing law, the limitation is in order, even if the Federal funds in question are commingled with non-Federal funds that would have to be accounted for separately in carrying out the limitation (Aug. 20, 1980, p. 22171).

The fact that existing law authorizes funds to be available until expended or without regard to fiscal year limitation does not prevent the Committee on Appropriations from limiting their availability to the fiscal year covered by the bill unless existing law mandates availability beyond the fiscal year (June 25, 1974, p. 21040; see also Deschler, ch. 26, § 32). The fact that a provision would constitute legislation for only a year does not make it a limitation in order under the rule (IV, 3936).

A proposition to construe a law may not be admitted (IV, 3936–3938, see § 1055, *infra*). Care also should be taken that the language of limitation be not such as, when fairly construed, would change existing law (IV, 3976–3983) or justify an executive officer in assuming an intent to change existing law (IV, 3984; VII, 1706).

Although the Committee on Appropriations may include in a general appropriation bill language not in existing law limiting the use of funds in the bill, if such language also constitutes an appropriation it must be authorized by law (June 21, 1988, p. 15439). An amendment placing a

limitation on funds for activities unrelated to the functions of departments and agencies addressed by the bill is not germane under clause 7 of rule XVI (July 10, 2000, p. 13605).

§ 1054. New duties or determinations; executive discretion.

Propositions to establish affirmative directions for executive officers (IV, 3854–3859; VII, 1443; July 31, 1969, p. 21675; June 18, 1979, p. 15286; July 1, 1987, pp. 18654, 18655; June 27, 1994, p. 14572), even in cases where they may have discretion under the law so to do (IV, 3853; June 4, 1970, p. 18401; Aug. 8, 1978, p. 24959), or to affirmatively take away an authority or discretion conferred by law (IV, 3862, 3863; VII, 1975; Mar. 30, 1955, p. 4065; June 21, 1974, p. 20600; July 31, 1985, p. 21909), are subject to a point of order.

A limitation may not: (1) be applied directly to the official functions of executive officers (IV, 3957–3966; VII, 1673, 1678, 1685), (2) directly interfere with discretionary authority in law by establishing a level of funding below which expenditures may not be made (VII, 1704; July 20, 1978, p. 21856), (3) require a judgment as to whether racial imbalance had been overcome (July 31, 1969, pp. 21653, 21675); (4) condition the availability of funds or the exercise of contract authority upon an interpretation of local law where that interpretation is not required by existing law (July 17, 1981, p. 16327); (5) require new determinations of full Federal compliance with mandates imposed upon States (July 22, 1981, p. 16829); (6) require the evaluation of the theoretical basis of a program (July 22, 1981, p. 16822); (7) require new determinations of propriety or effectiveness (Oct. 6, 1981, p. 23361; May 25, 1988, p. 12275), or satisfactory quality (Aug. 1, 1986, p. 18647); (8) incorporate by reference determinations already made in administrative processes not affecting programs funded by the bill (Oct. 6, 1981, p. 23361); (9) require new determinations of rates of interest payable (July 29, 1982, p. 18624; Dec. 9, 1982, p. 29691); (10) require a determination of whether the Office of Management and Budget interfered with the rulemaking authority of a regulatory agency (Nov. 30, 1982, p. 28062); (11) authorize the President to reduce each appropriation in the bill by not more than 10 percent (May 31, 1984, p. 14617; June 6, 1984, p. 15120); (12) apply standards of conduct to foreign entities where existing law requires such conduct only by domestic entities (July 17, 1986, p. 16951); (13) require the enforcement of a standard where existing law only requires inspection of an area (July 30, 1986, p. 18189); (14) prohibit the availability of funds for the purchase of "nondomestic" goods and services (Sept. 12, 1986, p. 23178); (15) mandate contractual provisions (May 18, 1988, p. 11389); (16) authorize the adjustment of wages of Government employees (June 21, 1988, p. 15451; Apr. 26, 1989, p. 7525) or permit an increase in Members' office allowances only "if requested in writing" (Oct. 21, 1990, p. 31708); (17) convert an existing legal prerequisite for the issuance of a regulatory permit into a prerequisite for even the preliminary processing of such a permit (July 22, 1992, p. 18825); (18) mandate reductions in various appropriations by a variable percentage calculated in rela-

tion to "overhead" (Deschler, ch. 26, § 5.6; June 24, 1992, p. 16110); (19) require an agency to investigate and determine whether private airports are collecting certain fees for each enplaning passenger (Sept. 23, 1993, p. 22213); (20) require an agency to investigate and determine whether a person or entity entering into a contract with funds under the pending bill is subject to a legal proceeding commenced by the Federal Government and alleging fraud (Sept. 17, 1997, p. 19045); (21) require an agency to determine whether building services are "usually" provided through the Federal Building Fund to an agency not paying a level of assessment specified elsewhere (and not necessarily applicable) (July 16, 1998, p. 15816); (22) require a determination of "successor agency" status (Sept. 26, 1997, p. 20347); (23) require a determination whether a delegate or envoy to the United Nations has "advocated" the adoption of a certain convention (June 26, 2000, p. 12355); (24) require tests or reports not required under existing law (May 19, 2000, p. 8616) or require all quarterly and annual reports required by law in accordance with standards for reports under a specified law not otherwise applicable (Sept. 9, 2003, p. ——); (25) impose a new duty to tally violations of law by contractors where existing law required information on violations but not on the number thereof (June 7, 2000, p. 9849); (26) require an investigation of the conscription requirements of other nations (July 13, 2000, p. 14121); (27) require a determination whether "efforts" have been made to change any nation's laws regarding abortion, family planning, or population control (July 13, 2000, p. 14130); (28) impose a new duty to calculate the "total amount" of payments under a Federal program paid to a husband and wife (to determine whether an exception to an otherwise valid limitation would apply) (July 11, 2001, pp. 13001–03); (29) require an investigation into the extent to which World Trade Organization challenges against foreign laws and policies promote access to certain pharmaceuticals (July 18, 2001, pp. 13693, 13694); (30) require an investigation into whether an applicant for immigration has been involved in the harvesting of organs (July 18, 2001, pp. 13702–05); (31) require the Inspector General to opine on audited financial statements of certain components of the Department of Defense where the issuance of such opinion was not shown to be required by existing law (June 27, 2002, pp. 11788, 11789); (32) require the examination of certain legislative reports to determine whether an entity is specifically identified by name (July 17, 2002, pp. 13365, 13366); (33) require several agencies to process certain information where current law required only one specific agency to process that information (June 24, 2003, p.); (34) in the case of a limitation with respect to certain roads on public land, require a determination of the precise nature of those roads including their ownership and the types of vehicles allowed to travel on them (July 17, 2003, p. ——); (35) require a determination that certain trade agreements achieved generic undefined policy goals that were not set forth in existing law (July 23, 2003, p. ——); (36) require a determination that a drug has been prescribed "for the purpose of relieving or managing pain" (July 7, 2004, p. ——);

(37) require a determination as to the date on which various road construction projects in a National Forest were commenced within the periods in which they were authorized to commence (May 19, 2005, p. ——); (38) require the Food and Drug Administration to examine a registry of clinical trials maintained by the National Institutes of Health, a different entity (June 8, 2005, p. ——) or require the administrator of the Low-Income Home Energy Assistance Program to determine whether a federal prohibition on certain mineral exploration (administered by a different federal entity) remained in effect (Mar. 15, 2006, p. ——); (39) require a determination regarding a specific type of employment behavior before initiating an employment investigation (June 8, 2005, p. ——); (40) require a determination as to whether a local educational agency had obtained parental consent before providing military recruiters student information (June 24, 2004, p. ——); (41) in the case of a limitation on the enforcement of a regulation against a specified class, require a determination as to whether a person is a member of that class (June 30, 2005, p. ——); (42) prescribe a policy for an agency in the distribution of grants (June 6, 2006, p. ——); (43) require determinations of citizenship based on birth (June 6, 2006, p. ——). The fact that an executive official may have been directed by an Executive Order to consult another executive official before taking an action does not permit inclusion of language directing the official being consulted to make determinations not specifically required by law (July 22, 1980, p. 19087).

On the other hand, the following limitations have been held in order as not placing new duties on Federal officials: (1) denying the use of funds to pay the salaries of Federal officials who perform certain functions under existing law if the description of those duties precisely follows existing law and does not require them to perform new duties (June 24, 1976, p. 20373); (2) denying the use of funds to a Federal official not in compliance with an existing law that he is charged with enforcing (Sept. 10, 1981, p. 20110); (3) reducing the availability of funds for trade adjustment assistance by amounts of unemployment insurance entitlements where the law establishing trade adjustment assistance already required the disbursing agency to take into consideration levels of unemployment insurance in determining payment levels (June 18, 1980, p. 15355); (4) denying the use of funds to carry out (or pay the salaries of persons who carry out) tobacco crop and insurance programs (July 20, 1995, p. 19798); (5) denying the use of funds for any transit project exceeding a specified cost-effectiveness index where the Chair was persuaded that the limitation applied to projects for which indexes were already required by law (Sept. 23, 1993, p. 22206); (6) denying the use of funds to enforce FAA regulations to require domestic air carriers to surrender more than a specified number of "slots" at a given airport in preference of international air carriers where the Chair was persuaded that existing regulations already required the FAA to determine the origin of withdrawn slots (Sept. 23, 1993, p. 22212); (7) denying the use of funds for troops "except in time of war" (Deschler, ch. 26, § 70.1)

or "except in time of emergency" (VII, 1657, which was the basis for the preceding ruling); (8) denying the use of funds to implement any sanction imposed by the United States on private commercial sales of agricultural commodities, medicine, or medical supplies to Cuba except for a sanction imposed pursuant to agreement with one or more other countries (July 20, 2000, p. 15751); (9) denying the use of funds by the Forest Service to construct roads or prepare timber sales in certain roadless areas where the executive was already charged by law with ongoing responsibility to maintain a comprehensive and detailed inventory of all land and renewable resources of the National Forest System (July 18, 1995, p. 19357); (10) denying the use of funds to eliminate an existing legal requirement for sureties on custom bonds (June 27, 1984, p. 19101); (11) denying the use of funds by any Federal official in any manner that would prevent a provision of existing law (relating to import restrictions) from being enforced (June 27, 1984, p. 19101); (12) denying the use of funds for any reduction in the number of Customs Service regions or for any consolidation of Customs Service offices (June 27, 1984, p. 19102); (13) denying the use of funds for specified Federal departments to file certain motions in specified civil actions (all matters of public record in the litigation and therefore available to responsible intervening Federal officials) (July 18, 2001, pp. 13683, 13684); (14) denying the use of funds in contravention of a cited statute (May 17, 2005, p. ——; June 6, 2006, p. ——).

A paragraph prohibiting the use of funds to perform abortions except where the mother's life would be endangered if the fetus were carried to term (or where the pregnancy was a result of rape or incest) is legislation, since requiring Federal officials to make new determinations and judgments not required of them by law, regardless of whether private or State officials administering the funds in question commonly make such determinations (June 17, 1977, p. 1969; June 30, 1993, p. 14871; July 16, 1998, p. 15828). The fact that such a provision relating to abortion funding may have been included in appropriation Acts in prior years applicable to funds in those laws does not permit the inclusion of similar language requiring such determinations, not required by law, with respect to funds for the fiscal year in question (Sept. 22, 1983, p. 25406); and where the provision, applicable to Federal funds, was permitted to remain in a bill (no point of order having been made), an amendment striking the word "Federal," and thereby broadening the provision to include District of Columbia funds as well, was ruled out (Nov. 15, 1989, p. 29004). However, to such a provision permitted to remain in a general appropriation bill, an amendment "merely perfecting" the exemption to address cases where the health of the mother would be endangered if the fetus were carried to term was held not to constitute further legislation by requiring a different or more onerous determinations (June 27, 1984, p. 19113). An amendment providing that no Federal funds provided in the District of Columbia general appropriation bill be used to perform abortions is not legislation, since Federal officials have the responsibility to account for all appropriations

for the annual Federal payment and for disbursement of all taxes collected by the District of Columbia, pursuant to the D.C. Code (July 17, 1979, p. 19066).

An exception to a limitation on funds for the Office of Personnel Management to enter contracts for health benefit plans that required determinations of "equivalence" of benefits was held to impose new duties (July 16, 1998, p. 15829). However, an exception to a similar limitation that merely excepted certain specified coverage and plans was held not to impose new duties (July 16, 1998, p. 15841). Similarly, a limitation denying the use of funds in an appropriation bill for the General Services Administration to dispose of Federally owned "agricultural" land declared surplus was held to impose new duties since the determination whether surplus lands are "agricultural" was not required by law (Aug. 20, 1980, pp. 22156–58). However, a limitation denying the use of funds for any transit project exceeding a specified cost-effectiveness index was held not to impose new duties where the Chair was persuaded that the limitation applied to projects for which indexes were already required by law (Sept. 23, 1993, p. 22206).

Over a period dating from 1908, the House had developed a line of precedent to the effect that language restricting the availability of funds in a general appropriation bill could be a valid limitation if, rather than imposing new duties on a disbursing official or requiring new determinations of that official, it passively addressed the state of knowledge of the official (VII, 1695; *cf.* Aug. 1, 1989, p. 17156, and June 22, 1995, p. 16844 (limitations in recommittal ruled out on basis of form rather than of legislative content)). This reasoning culminated in a ruling in the 104th Congress admitting as a valid limitation an amendment prohibiting the use of funds in the bill to execute certain accounting transactions when specified conditions were "made known" to the disbursing official (July 17, 1996, p. 17542). In the 105th Congress this entire line of precedent was overtaken by changes in paragraphs (b) and (c) of this clause that treat as legislation a provision that makes funding contingent on whether circumstances not determinative under existing law are "known" (H. Res. 5, Jan. 7, 1997, p. 121; July 15, 1997, p. 14493; July 24, 1997, p. 15758).

§ 1055. Contingencies and congressional actions.

An amendment making an appropriation contingent upon a recommendation (June 27, 1979, p. 17054) or action not specifically required by law is legislation; such as a provision limiting the use of funds in a bill "unless" or "until" an action contrary to existing law is taken (Deschler, ch. 26, § 47.1; July 24, 1996, p. 18888). Where existing law requires an agency to furnish certain information to congressional committees upon request, without a subpoena, it is not in order to make funding for that agency contingent upon its furnishing information to subcommittees upon request (July 29–30, 1980, p. 20475), or contingent upon submission of an agreement by a Federal official to Congress and congressional review thereof (July 31, 1986, p. 18370). Similarly, it is not in order to

condition funds on legal determinations to be made by a Federal court and an executive department (June 28, 1988, p. 16261; see Deschler, ch. 26, § 47.2).

Provisions making the availability of funds contingent upon subsequent congressional action have, under the most recent precedents, been ruled out as legislation (June 30, 1942, p. 5826; May 15, 1947, p. 5378; June 27, 1994, p. 14613). However, a limitation on the use of funds to buy real estate or establish new offices except where Congress had approved and funded such activity (June 18, 1991, p. 15218) was held in order.

The following provisions have been ruled out as legislation: (1) making the availability of certain funds contingent upon subsequent congressional action on legislative proposals resolving the policy issue (Nov. 18, 1981, p. 28064); (2) making the availability of funds contingent upon subsequent enactment of legislation containing specified findings (Nov. 2, 1983, p. 30503); (3) making the availability of funding in the bill contingent on the funding of a separate provision of law (Mar. 15, 2006, p. ——); and (4) changing a permanent appropriation in existing law to restrict its availability until all general appropriation bills are presented to the President (June 29, 1987, p. 18083). A section in a general appropriation bill directly contravening existing law to subject the use of local funds to congressional approval was held to constitute legislation where it was shown that some local (District of Columbia) funds deriving from interest accounts were available to the Financial Control Board without subsequent congressional approval (Aug. 6, 1998, p. 19079).

Two rulings upholding the admissibility of amendments making the availability of funds contingent upon subsequent congressional action have been superseded by the precedents cited above (June 11, 1968, p. 16692; Sept. 6, 1979, p. 23360).

The following provisions also have been held to be legislation as they required: (1) a congressional committee to promulgate regulations to limit the use of an appropriation (June 13, 1979, p. 14670), or otherwise to direct the activities of a committee (June 24, 1992, p. 16087); (2) a substantive determination by a State or local government official or agency that is not otherwise required by existing law (July 25, 1985, p. 20569); (3) the Selective Service Administration to issue regulations to bring its classifications into conformance with a Supreme Court decision (July 20, 1989, p. 15405); (4) a change in a rule of the House (IV, 3819); (5) an agency to submit all quarterly and annual reports required by law in accordance with standards for reports under a specified law not otherwise applicable (Sept. 9, 2003, p. ——); (6) compliance with a law not otherwise applicable (Sept. 4, 2003, p. ——).

§ 1056. Construing or amending existing law.

A provision proposing to construe existing law is itself legislative and therefore not in order (IV, 3936–3938; May 2, 1951, p. 4747; July 26, 1951, p. 8982). However, an official's general responsibility to construe the language of a limitation on the use of funds, absent imposition of an affirm-

ative direction not required by law, does not destroy the validity of a limitation (June 27, 1974, pp. 21687–94).

Where it is asserted that duties ostensibly occasioned by a limitation are already imposed by existing law, the Chair may take cognizance of judicial decisions and rule the limitation out on the basis that the case law is not uniform, current, or finally dispositive (June 16, 1977, pp. 19365–74; June 7, 1978, p. 16676). For example, a limitation prohibiting the use of funds for an inspection conducted by a regulatory agency without a search warrant has been held out of order as imposing a new duty not uniformly required by case law (June 16, 1977, pp. 19365–74). Similarly, an amendment denying the use of funds for an agency to apply certain provisions of law under court decisions in effect on a prior date has been held out of order as requiring the official to apply noncurrent case law (June 7, 1978, p. 16655).

A provision prescribing a rule of construction is legislation (Deschler, ch. 26, § 25.15). For example, a provision prescribing a prospective rule of construction for possible (future) tax enactments was held to constitute legislation (June 21, 2000, p. 11773). Similarly, a provision construing a limitation in a bill by affirmatively declaring the meaning of the prohibition is legislation (May 17, 1988, p. 11305); and a provision prescribing definitions for terms contained in a limitation may be legislation (Deschler, ch. 26, §§ 25.7, 25.11). Language excepting certain appropriations from the sweep of a broader limitation may be in order (Deschler, ch. 26, § 25.2). It also has been held in order to except from the operation of a specific limitation on expenditures certain of those expenditures that are authorized by law by prohibiting a construction of the limitation in a way that would prevent compliance with that law (Deschler, ch. 26, § 25.10; June 18, 1991, p. 15218). Similarly, a limitation on certain payments to persons in "excess of $500," but stating that the limitation would not be "construed to deprive any share renter of payments" to which he might otherwise be entitled was held in order (Deschler, ch. 26, § 66.1).

The mere recitation in an amendment that a determination is to be made pursuant to existing laws and regulations, absent a citation to the law imposing such responsibility, is not sufficient proof by the proponent of an amendment to overcome a point of order that the amendment constitutes legislation (Sept. 16, 1980, p. 25606; May 8, 1986, p. 10156). A limitation denying the use of funds to apply certain provisions of the Internal Revenue Code other than under regulations in effect on a prior date is legislation as it would require an official to apply regulations no longer current in order to render an appropriation available (June 7, 1978, p. 16655; Aug. 19, 1980, pp. 21978–80). However, an exception to a limitation on the use of funds for designated Federal activities that were already authorized by law in more general terms, was held in order as not containing legislation (June 27, 1979, pp. 17033–35).

Language waiving provisions of an existing law that did not specifically permit inclusion of such a waiver in an appropriation bill has been ruled

out (*e.g.*, Nov. 13, 1975, p. 36271; June 20, 1996, p. 14847; May 19, 2000, p. 8600), as has language identical to that contained in an authorization bill previously passed by the House but not yet signed into law (Aug. 4, 1978, p. 24436), or a proposition for repeal of existing law (VII, 1403; Mar. 16, 2006, p. —— (sustained on appeal)).

Existing law may be repeated verbatim without violating the rule (IV, 3814, 3815), but the slightest change of the text renders it liable to a point of order (IV, 3817; VII, 1391, 1394; June 4, 1970, p. 18405). It is in order to include language descriptive of authority provided in law for the operation of Government agencies and corporations so long as the description is precise and does not change that authority in any respect (June 15, 1973, p. 19843; Aug. 3, 1978, p. 24249); although language merely reciting the applicability of current law to the use of earmarked funds is permitted, a provision that elevates existing guidelines to mandates for spending has been ruled out (July 12, 1989, p. 14432).

It is in order by way of limitation to deny the use of funds for implementation of the following: (1) an Executive Order, which was precisely described in the amendment (Mar. 16, 1977, p. 7748); (2) a regulation, which was promulgated pursuant to court order and constitutional provisions—the authority for the regulation being an argument on the merits of the amendment and not rendering it legislative in nature (Aug. 19, 1980, pp. 21981–84); (3) a ruling of the Internal Revenue Service that taxpayers are not entitled to certain charitable deductions because merely descriptive of an existing ruling already promulgated and not requiring any new determinations as to the applicability of the limitation to other categories of taxpayers (July 16, 1979, pp. 18808–10); (4) changes to a set of overtime compensation regulations in existence on a given date (with a certain nonlegislative exception) because they did not require the Department to administer superseded regulations (Sept. 4, 2004, p. ——).

An amendment proposing to increase budget authority and to offset that increase by proposing a change in the application of the Internal Revenue Code of 1986 was held to constitute legislation (see, *e.g.*, Sept. 8, 1999, pp. 20896–98; June 24, 2003, p. —— (sustained on appeal); July 10, 2003, pp. ——, ——).

§ 1057. Mandating expenditures.

A provision that mandates a distribution of funds in contravention of an allocation formula in existing law is legislation (July 29, 1982, pp. 18637, 18638; Oct. 5, 1983, p. 27335; Aug. 2, 1989, p. 18123; July 24, 1995, p. 20141), as is an amendment that by such a mandate interferes with an executive official's discretionary authority (Mar. 12, 1975, p. 6338), or requires not less than a certain sum to be used for a particular purpose where existing law does not mandate such expenditure (June 18, 1976, p. 19297; July 29, 1982, p. 18623) (including by stating that not less than a certain sum "should be allocated" (June 9, 2006, p. ——)), or earmarks appropriated funds to the arts and requires their expenditure pursuant to standards otherwise applicable only as guidelines (July 12, 1989, p. 14432). Where existing

law directed a Federal official to provide for sale of certain Government property to a private organization in "necessary" amounts, an amendment providing that no such property be withheld from distribution from qualifying purchasers was legislation, since requiring disposal of all property and restricting discretionary authority to determine "necessary" amounts (Aug. 7, 1978, p. 24707). An amendment directing the use of funds to assure compliance with an existing law, where existing law does not so mandate, also is legislation (June 24, 1976, p. 20370). So-called "hold-harmless" provisions that mandate a certain level of expenditure for certain purposes or recipients, where existing law confers discretion or makes ratable reductions in such expenditures, also constitute legislation (Apr. 16, 1975, p. 10357; June 25, 1976, p. 20557). A transfer of available funds from one department to another with directions as to the use to which those funds must be put is legislation (and also a reappropriation in violation of clause 2(a)(2) of this rule) (Dec. 8, 1982, p. 29449). A provision requiring States to match funds provided in an appropriation bill was held to constitute legislation where existing law contained no such requirement (June 28, 1993, p. 14418). Where existing law prescribes a formula for the allocation of funds among several categories, an amendment merely reducing the amount earmarked for one of the categories is not legislation, so long as it does not textually change the statutory formula (July 24, 1995, p. 20133).

§ 1058. Waivers; amending legislation permitted to remain.

The House may, by agreeing to a report from the Committee on Rules or by adopting an order under suspension of the rules, allow legislation on general appropriation bills (IV, 3260–3263, 3839–3845). Where an unauthorized appropriation or legislation is permitted to remain in a general appropriation bill by waiver or by failure to raise a point of order, an amendment merely changing that amount and not adding legislative language or earmarking separate funds for another unauthorized purpose is in order (IV, 3823–3835, 3838; VII, 1405, 1413–1415; June 9, 1954, p. 5963; July 27, 1954, p. 12287; Oct. 1, 1975, p. 31058; June 8, 1977, p. 17941; July 17, 1985, p. 19435; Sept. 11, 1985, p. 23398; June 14, 1988, p. 14341). However, this does not permit an amendment that adds additional legislation (IV, 3836, 3837, 3862; VII, 1402–1436; Dec. 9, 1971, p. 4595; Aug. 1, 1973, p. 27291; June 10, 1977, p. 1802; July 30, 1985, p. 21532; July 23, 1986, p. 17446; June 26, 1987, p. 17655; June 28, 1988, pp. 16203, 16213; Aug. 2, 1989, p. 18172; Nov. 15, 1989, p. 29004; June 23, 1998, p. 13475; July 13, 2000, p. 14093), proposes a new unauthorized purpose (Dec. 8, 1971, p. 45487; Aug. 7, 1978, pp. 24710–12; May 25, 1988, p. 12256), earmarks for unauthorized purposes (July 17, 1985, p. 19435; July 17, 1986, p. 16918; July 26, 1995, p. 20528; June 5, 1996, p. 13120), earmarks by directing a new use of funds not required by law (July 26, 1985, pp. 20811, 20813), or increases an authorized amount above the authorized ceiling (Aug. 4, 1999, p. 19513).

An amendment adding a new paragraph indirectly increasing an unauthorized amount contained in a prior paragraph permitted to remain is

subject to a point of order because the new paragraph is adding a further unauthorized amount not merely perfecting (July 12, 1995, p. 18628; July 16, 1997, pp. 14746; Sept. 9, 1997, p. 19121; Sept. 17, 1998, p. 20818). However, a new paragraph indirectly reducing an unauthorized amount permitted to remain in a prior paragraph passed in the reading is not subject to a point of order because it is not adding a further unauthorized amount (July 16, 1997, p. 14747). Where by unanimous consent an amendment is offered en bloc to a paragraph containing an unauthorized amount not yet read for amendment, the amendment increasing that unauthorized figure is subject to a point of order since at that point it is not being offered to a paragraph that has been read and permitted to remain (June 21, 1984, p. 17687). As required by clause 2(f), the Chair will query for points of order against the provisions of an appropriation bill not yet reached in the reading but addressed by an amendment offered en bloc under that clause as budget authority and outlay neutral (July 22, 1997, p. 15250).

The Chair examined an entire legislative provision permitted to remain when ruling that an amendment to a portion of the provision was merely perfecting (July 15, 1999, pp. 16284, 16291). An amendment to a general appropriation bill is not subject to a point of order as adding legislation for restating, verbatim, a legislative provision already contained in the bill and permitted to remain (Aug. 27, 1980, p. 23519).

To a legislative provision permitted to remain conferring assistance on a certain class of recipients, an amendment adding another class is further legislation and is not merely perfecting (June 22, 1983, p. 16851). The following amendments to legislative provisions permitted to remain have been held to propose additional legislation: (1) an amendment striking text that resulted in extending the legislative reach of the pending bill (July 17, 1996, p. 17533); (2) an amendment extending a legislative provision that placed certain restrictions on recipients of a defined set of Federal payments and benefits to persons benefiting from a certain tax status determined on wholly unrelated criteria (Aug. 3, 1995, p. 21967); (3) an amendment adding an additional nation to a legislative provision addressing sanctions against one nation (July 13, 2000, p. 14092); (4) an amendment to a legislative provision extending the availability of certain housing assistance to certain recipients (June 13, 2006, p. ——).

On the other hand, to a legislative provision permitted to remain, an amendment particularizing a definition in the language was held not to constitute additional legislation where it was shown that the definition being amended already contemplated inclusion of the covered class (Aug. 5, 1998, p. 18934). To a legislative provision permitted to remain that excepted from a denial of funds for abortions cases where the life of the mother would be endangered if a fetus were carried to term, an amendment excepting instead cases where the health of the mother would be endangered if the fetus were carried to term was held not to constitute further legislation, since determinations on the endangerment of life necessarily subsume determinations on the endangerment of health; and the amend-

ment did not therefore require any different or more onerous determinations (June 27, 1984, p. 19113).

To a paragraph permitted to remain despite containing a legislative proviso restricting the obligation of funds until a date within the fiscal year, an amendment striking the delimiting date, thus applying the restriction for the entire year, was held to be perfecting (July 30, 1990, p. 20442); but striking the date and inserting a new trigger (the enactment of other legislation), was held to be additional legislation (July 30, 1990, p. 20442).

§ 1059. Senate amendments.

The principle seems to be generally well accepted that the House proposing legislation on a general appropriation bill should recede if the other House persists in its objection (IV, 3904–3908), and clause 5 of rule XXII (§ 1076, *infra*) prohibits House conferees from agreeing to a Senate amendment that proposes legislation on an appropriation bill without specific authority from the House. However, where a Senate amendment proposing legislation on a general appropriation bill is, pursuant to the edict of clause 5 of rule XXII, reported back from conference in disagreement, a motion to concur in the Senate amendment with a further amendment is in order, even if the proposed amendment adds legislation to that contained in the Senate amendment, and the only test is whether the proposed amendment is germane to the Senate amendment reported in disagreement (IV, 3909; VIII, 3188, 3189; Speaker McCormack, Dec. 15, 1970, p. 41504; Aug. 1, 1979, pp. 22007–11; Speaker O'Neill, Dec. 12, 1979, p. 35520; June 30, 1987, p. 18308).

"HOLMAN RULE" ON RETRENCHING EXPENDITURES

§ 1062. Legislation reducing expenditures.

Decisions under the so-called "Holman Rule" in clause 2 of rule XXI have been rare in the modern practice of the House. The trend in construing language in general appropriation bills or amendments thereto has been to minimize the importance of the "Holman Rule" in those cases where the decision can be made on other grounds. The practice of using limitations in appropriation bills has been perfected in recent years so that most modern decisions by the Chair deal with distinctions between such limitations and matters that are considered to be legislation (see §§ 1053–1057, *supra*). Under the modern practice, the "Holman Rule" only applies where an obvious reduction is achieved by the provision in question and does not apply to limiting language unaccompanied by a reduction of funds in the bill (July 16, 1979, pp. 18808–10). It has no application to an amendment to an appropriation bill that does not legislate but is merely a negative limitation citing but not changing existing law (June 18, 1980, p. 15355).

A paragraph containing legislation reported in an appropriation bill to be in order must on its face show a retrenchment of a type that conforms to the requirements of the rule (Mar. 17, 1926, p. 5804).

The reduction of expenditure must appear as a necessary result, in order to bring an amendment or provision within the exception to the rule. It is not sufficient that such reduction would probably, or would in the opinion of the Chair, result therefrom (IV, 3887; VII, 1530–1534). Thus, an amendment to a general appropriation bill providing that appropriations made in that act are hereby reduced by $7 billion, though legislative in form, was held in order under the "Holman Rule" exception (Apr. 5, 1966, p. 7689), but an amendment providing for certain reductions of appropriations carried in the bill based on the President's budget estimates was held not to show a reduction on its face and to provide merely speculative reductions (Deschler, ch. 26, § 5.6; June 24, 1992, p. 16110). An amendment authorizing the President to reduce each appropriation in the bill by not more than 10 percent was ruled out as legislation conferring new authority on the President (May 31, 1984, p. 14617; June 6, 1984, p. 15120). An amendment reducing an unauthorized amount permitted to remain in a general appropriation bill is in order as a retrenchment under this clause (Oct. 1, 1975, p. 31058). An amendment to a general appropriation bill denying the availability of funds to certain recipients but requiring Federal officials to make additional determinations as to the qualifications of recipients is legislation and is not a retrenchment of expenditures where it is not apparent that the prohibition will reduce the amounts covered by the bill (June 26, 1973, p. 21389).

The amendment must not only show on its face an attempt to retrench but also must be germane to some provision in the bill even though offered by direction of the committee having jurisdiction of the subject matter of the amendment (VII, 1549; Dec. 16, 1911, p. 442). An amendment providing that appropriations "herein and heretofore made" shall be reduced by $70 million through the reduction of Federal employees as the President determines was held to be legislative and not germane to the bill, since it went to funds other than those carried therein, and was therefore not within the "Holman Rule" exception (Oct. 18, 1966, p. 27425).

An amendment reducing an amount in an appropriation bill for the Postal Service and prohibiting the use of funds therein to implement special bulk third-class rates for political committees was held in order since not specifically requiring a new determination and since constituting a retrenchment of expenditures even if assumed to be legislative (July 13, 1979, pp. 18453–55).

As long as an amendment calls for an obvious reduction at some point in time during the fiscal year, the amendment is in order under the "Holman Rule" even if the reduction takes place in the future in an amount actually determined when the reduction takes place (for example, by formula) (VII, 1491, 1505; July 30, 1980, pp. 20499–20503). To an amendment that is in order under the "Holman Rule," containing legislation but retrenching expenditures by formula for every agency funded by the bill, an amendment exempting from that reduction several specific programs

does not add further legislation and is in order (July 30, 1980, pp. 20499–20503).

A motion to recommit the District of Columbia appropriation bill with instructions to reduce the proportion of the fund appropriated from the Federal Treasury from one-half, as provided in the bill, to one-fourth of the entire appropriation is in order, since the effect of the amendment if adopted would reduce the expenditure of public money although not reducing the amount of the appropriation (VII, 1518).

The term "retrenchment" means the reduction of the amount of money to be taken out of the Federal Treasury by the bill, and therefore a reduction of the amount of money to be contributed toward the expenses of the District of Columbia is in order as a retrenchment (VII, 1502).

An amendment proposed to an item for the recoinage of uncurrent fractional silver, which amendment struck out the amount appropriated and added a provision for the coinage of all the bullion in the Treasury into standard silver dollars, the cost of such coinage and recoinage to be paid out of the Government's seigniorage, was held not to be in order under the rule; first, because not germane to the subject matter of the bill (the sundry civil); second, because it did not appear that any retrenchment of expenditure would result, the seigniorage being the property of the Government as other funds in the Treasury (VII, 1547).

To an item of appropriation for inland transportation of mails by star routes an amendment was offered requiring the Postmaster General to provide routes and make contracts in certain cases, with the further provision "and the amount of appropriation herein for star routes is hereby reduced to $500." A point of order made against the first or legislative part of the amendment was sustained, which decision was, on appeal, affirmed by the committee (VII, 1555).

To a clause appropriating for the foreign mail service an amendment reducing the appropriation, and in addition repealing the act known as the "subsidy act," was held not in order because the repealing of this act was not germane to the appropriation bill; and that to be in order both branches of the amendment must be germane to the bill (VII, 1548).

A provision in the agricultural appropriation bill transferring the supervision of the importation of animals from the Treasury to the Department of Agriculture is out of order, being a provision changing law and not retrenching expenditure (IV, 3886).

Where a paragraph containing new legislation provides in one part for a discharge of employees, which means a retrenchment, and in another part embodies legislation to bring about the particular retrenchment that in turn shows on its face an expenditure the amount of which is not apparent, the Chair is unable to hold that the net result will retrench expenditures. However, where the additional legislation does not show on its face an additional expenditure, the Chair will not speculate as to a possible expenditure under the additional legislation (VII, 1500).

As explained in the annotation in § 1043, *supra*, the amendment of clause 2(b) in the 98th Congress narrowed the "Holman Rule" exception to the general prohibition against legislation to cover only retrenchments reducing amounts of money covered by the bill, and not retrenchments resulting from reduction of the number and salary of officers of the United States or of the compensation of any person paid out of the U.S. Treasury. Accordingly, the Chair held out of order an amendment mandating the reduction of certain Federal salaries and expenses as not confined to a reduction of funds in the bill (June 17, 1994, p. 13422). Paragraph (b) also eliminated separate authority conferred upon legislative committees or commissions with proper jurisdiction to report amendments retrenching expenditures, and permitted legislative committees to recommend such retrenchments by reduction of amounts covered by the bill to the Appropriations Committee for discretionary inclusion in the reported bill. Paragraph (d) as added in the 98th Congress provides a new procedure for consideration of all retrenchment amendments only when reading of the bill has been completed and only if the Committee of the Whole does not adopt a motion to rise and report the bill back to the House. Other decisions that involved interpretation of the "Holman Rule," but which do not reflect the current form or interpretation of that rule, are found in IV, 3846, 3885–3892; VII, 1484, 1486–1492, 1498, 1500, 1515, 1563, 1564, 1569; June 1, 1892, p. 4920.

§ 1063. Reappropriations.

This provision from section 139(c) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190f(c)) was made part of the standing rules in the 83d Congress (Jan. 3, 1953, p. 24). Previously, a reappropriation of an unexpended balance for an object authorized by law was in order on a general appropriation bill (IV, 3591, 3592; VII, 1156, 1158). This clause was amended in the 99th Congress by section 228(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177) to permit the Committee on Appropriations to report certain transfers of unexpended balances. Consistent with clause 2 of rule XXI, and as codified in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47), violations of this clause are enforced only against specific provisions in general appropriation bills containing reappropriations rather than against consideration of the bill (see Deschler, ch. 25, § 3).

A provision in a general appropriation bill, or an amendment thereto, providing that funds for a certain purpose are to be derived by continuing the availability of funds previously appropriated for a prior fiscal year is in violation of clause 2(a)(2) (formerly clause 6 of rule XXI) (Aug. 20, 1951, p. 10393; Mar. 29, 1960, p. 6862; June 17, 1960, p. 13138; June 20, 1973, p. 20530; July 29, 1982, p. 18625; June 28, 1988, p. 16255), and a reappropriation of unexpended prior year balances prohibited by this clause is not in order under the guise of a "Holman Rule" exception to clause 2 of rule XXI (Oct. 18, 1966, p. 27424). An amendment to a general appropriation bill making any appropriations that are available for the current fiscal

year available for certain new purposes was held out of order under clause 2(a)(2) since it was not confined to the funds in the bill and would permit reappropriation of unexpended balances (Oct. 1, 1975, p. 31090). That appropriations may be authorized in law for a specified object does not permit an amendment to a general appropriation bill to include legislative language mandating the reappropriation of funds from other Acts (July 28, 1992, p. 19652).

This rule, however, is not applicable when the reappropriation language is identical to legislative authorization language enacted subsequent to the adoption of the rule, since the law is a more recent expression of the will of the House (Sept. 5, 1961, p. 18133), nor when a measure transferring unobligated balances of previously appropriated funds contains legislative provisions and rules changes but no appropriation of new budget authority and is neither in the form of an appropriation bill nor the subject of a privileged report by the Committee on Appropriations under rule XIII (Mar. 3, 1988, p. 3239).

The return of an unexpended balance to the Treasury is in order (IV, 3594).

A provision in a general appropriation bill that authorizes an official to transfer funds among appropriation accounts in the bill changes existing law in violation of clause 2 of rule XXI by including language conferring new authority (Deschler, ch 26, § 29.2; June 9, 2006, p. ——). However, direct transfers of appropriations within the confines of the same bill normally are considered in order (VII, 1468) as a "within-bill" transfer rather than a transfer of unexpended balances of the kind addressed by clause 2(a)(2).

§ 1063a. Offsetting en bloc amendments.

To invoke the protection of clause 2(f), an amendment must not increase the levels of budget authority or outlays carried in the bill (Aug. 4, 1999, p. 19513; July 12, 2000, p. 14071; July 13, 2004, pp. ——, ——); and the proponent of an amendment carries the burden of so proving (see § 1044a, *supra*). An amendment otherwise in order under this paragraph may nevertheless be in violation of clause 2(a)(1) if increasing an appropriation above the authorized amount contained in the bill (Aug. 4, 1999, p. 19513). The Chair will query for points of order against provisions of a bill not yet read when they are addressed by an offsetting amendment under this paragraph (*e.g.*, May 17, 2005, p. ——).

Transportation obligation limitations

§ 1064. Transportation obligation limitations.

3. It shall not be in order to consider a bill, joint resolution, amendment, or conference report that would cause obligation limitations to be below the level for any fiscal year set forth in section 8003 of the Safe,

Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, as adjusted, for the highway category or the mass transit category, as applicable. For purposes of this clause, any obligation limitation relating to surface transportation projects under section 1602 of the Transportation Equity Act for the 21st Century and section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users shall be assumed to be administered on the basis of sound program management practices that are consistent with past practices of the administering agency permitting States to decide High Priority Project funding priorities within State program allocations.

The Transportation Equity Act for the 21st Century (sec. 8101(e), P.L. 105–178; 2 U.S.C. 901 note) added this provision as a new clause 9 of rule XXI. In the 106th Congress, this provision was transferred to clause 3 (H. Res. 5, Jan. 6, 1999, p. 47). In the 109th Congress the first sentence of this clause was amended to conform the rule to the current law authorizing funds for highway and transit programs, and a second sentence was added (sec. 8004, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), P.L. 109–59; 2 U.S.C. 901 note). The second sentence was derived from the following provision of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (sec. 108, div. C, P.L. 105–277; 112 Stat. 2681–586): "Sec. 108. For the purpose of any Rule of the House of Representatives, notwithstanding any other provision of law, any obligation limitation relating to surface transportation projects under section 1602 of P.L. 105–178 shall be assumed to be administered on the basis of sound program management practices that are consistent with past practices of the administering agency permitting States to decide High Priority Project funding priorities within state program allocations." Section 8005 of SAFETEA–LU states as follows: "For purposes of clauses 2 and 3 of rule XXI of the House of Representatives, it shall be in order to transfer funds, in amounts specified in annual appropriation Acts to carry out the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (including the amendments made by that Act), from the Federal Transit Administration's administrative expenses account to other mass transit budget accounts under section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act

of 1985." An amendment limiting funds for a transportation project (1) that was part of an aggregate, annual level of obligation limitations set forth in section 8003 of SAFETEA-LU, (2) that was not covered by the "past practice" assumption, and (3) the funding for which could not be redirected elsewhere in the program, was held to cause an obligation limitation to be below the funding level required by this clause (June 14, 2006, p. ——).

§ 1064a. Funding for aviation programs.

Section 48114 of title 49 (a provision first added by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (sec. 106, P.L. 106–181), and extended to 2007 by its reenactment in title 49 (sec. 104, P.L. 108–176)) provides a point of order to enforce guarantees of total budget resources in a fiscal year for certain aviation investment programs as follows:

SEC. 48114. FUNDING FOR AVIATION PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—

(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2007 pursuant to sections 48101, 48102, 48103, and 106(k) of title 49, United States Code, shall be equal to the level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b).

(B) GUARANTEE.—No funds may be appropriated or limited for aviation investment programs listed in subsection (b) unless the amount described in subparagraph (A) has been provided.

(2) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—In any fiscal year through fiscal year 2007, if the amount described in paragraph (1) is appropriated, there is further authorized to be appropriated from the general fund of the Treasury such sums as may be necessary for the Federal Aviation Administration Operations account.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) TOTAL BUDGET RESOURCES.—The term "total budget resources" means the total amount made available from the Airport and Airway Trust Fund for the sum of obligation limitations and budget authority made available for a fiscal year for the following budget accounts that are subject to the obligation limitation on contract authority provided in this title and for which appropriations are provided pursuant to authorizations contained in this title:

(A) 69–8106–0–7–402 (Grants in Aid for Airports).

(B) 69–8107–0–7–402 (Facilities and Equipment).

(C) 69–8108–0–7–402 (Research and Development).

(D) 69–8104–0–7–402 (Trust Fund Share of Operations).

(2) LEVEL OF RECEIPTS PLUS INTEREST.—The term "level of receipts plus interest" means the level of excise taxes and interest credited to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) (Treasury identification code 20–8103–0–7–402) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

(c) ENFORCEMENT OF GUARANTEES.—

(1) TOTAL AIRPORT AND AIRWAY TRUST FUND FUNDING.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for aviation investment programs described in subsection (b) to be less than the amount required by subsection (a)(1)(A) for such fiscal year.

(2) CAPITAL PRIORITY.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for any fiscal year through fiscal year 2007 for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.

The chairmen of the Committee on Rules and the Committee on Transportation and Infrastructure inserted in the Record correspondence concerning points of order established in this section (Mar. 15, 2000, p. 2805).

Appropriations on legislative bills

§ 1065. Restriction of power to report appropriations.

4. A bill or joint resolution carrying an appropriation may not be reported by a committee not having jurisdiction to report appropriations, and an amendment proposing an appropriation shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against an appropriation in such a bill, joint resolution, or amendment thereto may be raised at any time

during pendency of that measure for amendment.

This portion of the rule was adopted June 1, 1920 (VII, 2133). When the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47), this clause was returned to clause 4 where it had been until moved to former clause 5(a) of rule XXI in the 93d Congress (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470).

A point of order under this rule cannot be raised against a motion to suspend the rules (VIII, 3426), against a motion to discharge a nonappropriating committee from consideration of a bill carrying an appropriation (VII, 2144), or against a Senate amendment (except as applied through clause 5 of rule XXII) (VII, 1572). However, it may be directed against an item of appropriation in a Senate bill (VII, 2136, 2147; July 30, 1957, pp. 13056, 13181). If the House deletes a provision in a Senate bill under this rule, the bill is messaged to the Senate with the deletion in the form of an amendment. The point of order may be made against an appropriation in a Senate bill that, although not reported in the House, is considered in lieu of a reported House "companion bill" (VII, 2137; Mar. 29, 1933, p. 988). This clause applies to an amendment proposed to a Senate amendment to a House bill not reported from the Committee on Appropriations (Oct. 1, 1980, pp. 28638–42). The rule does not apply to private bills since the committees having jurisdiction over bills for the payment of private claims may report bills making appropriations within the limits of their jurisdiction (VII, 2135; Dec. 12, 1924, p. 538). The point of order under this rule does not apply to an appropriation in a bill that has been taken away from a nonappropriating committee by a motion to discharge (VII, 1019a). The point of order under this rule does not apply to a special order reported from the Committee on Rules "self-executing" the adoption in the House of an amendment containing an appropriation, since the amendment is not separately before the House during consideration of the special order (Feb. 24, 1993, p. 3542).

The provision in this clause that a point of order against an amendment containing an appropriation to a legislative bill may be made "at any time" has been interpreted to require that the point of order be raised during the pendency of the amendment under the five-minute rule (Mar. 18, 1946, p. 2365; Apr. 28, 1975, p. 12043), and a point of order will lie against an amendment during its pendency, even in its amended form, although the point of order is against the amendment as amended by a substitute and no point of order was raised against the substitute before its adoption (Apr. 23, 1975, pp. 11512–13). However, the point of order must be raised during the initial consideration of the bill or amendment under the five-minute rule, and a point of order against similar language permitted to remain in the House version and included in a conference report on a bill will not lie, since the only rule prohibiting such inclusion (clause 5 of rule XXII) is limited to language originally contained in a Senate amend-

ment where the House conferees have not been specifically authorized to agree thereto (May 1, 1975, p. 12752). Where the House has adopted a resolution waiving points of order against certain appropriations in a legislative bill, a point of order may nevertheless be raised against an amendment to the bill containing an identical provision, since under this rule a point of order may be raised against the amendment "at any time" (Apr. 23, 1975, p. 11512). A point of order against a direct appropriation in a bill initially reported from a legislative committee and then sequentially referred to and reported adversely by the Committee on Appropriations was conceded and sustained as in violation of this clause (Nov. 10, 1975, p. 35611). The point of order should be directed to the item of appropriation in the bill and not to the act of reporting the bill (VII, 2143), and cannot be directed to the entire bill (VII, 2142; Apr. 28, 1975, p. 12043).

The term "appropriation" in the rule means the payment of funds from the Treasury, and the words "warranted and make available for expenditure for payments" are equivalent to "is hereby appropriated" and therefore not in order (VII, 2150). The words "available until expended," making an appropriation already made for one year available for ensuing years, are not in order (VII, 2145).

The point of order provided for in this clause is not applicable to the following provisions: (1) authorizing the Secretary of the Treasury to use proceeds from the sale of bonds under the Second Liberty Bond Act (public debt transactions) for the purpose of making loans, since such loans do not constitute "appropriations" within the purview of the rule (June 28, 1949, pp. 8536–38; Aug. 2, 1950, p. 11599); (2) exempting loan guarantees in a legislative bill from statutory limitations on expenditures (July 16, 1974, p. 23344); (3) authorizing the availability of certain loan receipts where it can be shown that the actual availability of those receipts remains contingent upon subsequent enactment of an appropriation act (Sept. 10, 1975, p. 28300); (4) increasing the duties of a commission (VII, 1578); (5) authorizing payment from an appropriation to be made (Jan. 31, 1923, p. 2794).

Language reappropriating, making available, or diverting an appropriation or a portion of an appropriation already made for one purpose to another (VII, 2146; Mar. 29, 1933, p. 988; Aug. 10, 1988, p. 21719), or for one fiscal year to another (Mar. 26, 1992, p. 7223), is not in order. For example, the following provisions have been held out of order: (1) expanding the definition in existing law of recipients under a Federal subsidy program as permitting a new use of funds already appropriated (May 11, 1976, pp. 13409–11); (2) authorizing the use, without a subsequent appropriation, of funds directly appropriated by a previous statute for a new purpose (Oct. 1, 1980, pp. 28637–40). However, a modification of such a provision making payments for such new purposes "effective only to the extent and in such amounts as are provided in advance in appropriation acts" does not violate this clause (Oct. 1, 1980, pp. 28638–42).

The following provisions have also been held to be in violation of this clause: (1) directing a departmental officer to pay a certain sum out of unexpended balances (VII, 2154); (2) authorizing the use of funds of the Shipping Board (VII, 2147); (3) directing payments out of Indian trust funds (VII, 2149); (4) making excess foreign currencies immediately available for a new purpose (Aug. 3, 1971, p. 29109); (5) authorizing the collection of fees or user charges by Federal agencies and making the revenues collected therefrom available without further appropriation (June 17, 1937, pp. 5915–18; Mar. 29, 1972, pp. 10749–51); (6) transferring existing Federal funds into a new Treasury trust fund to be immediately available for a new purpose (June 20, 1974, pp. 20273–75); (7) transferring unexpended balances of appropriations from an existing agency to a new agency created therein (Apr. 9, 1979, p. 7774); (8) making a direct appropriation to carry out a part of the Energy Security Act (Oct. 24, 1985, p. 28812); (9) requiring the diversion of previously appropriated funds in lieu of the enactment of new budget authority if a maximum deficit amount under the Deficit Control Act of 1985 is exceeded, though its stated purpose may be to avoid the sequestration of funds (Aug. 10, 1988, p. 21719).

Section 401(a) of the Congressional Budget Act of 1974 (88 Stat. 317) prohibits consideration in the House of any bill, resolution, or amendment that provides new spending authority (as that term is defined in that section) unless that measure also provides that such new spending authority is to be available only to the extent provided in appropriation acts (see § 1127, *supra*). See also Deschler, ch. 25, § 4 for a discussion of appropriations on legislative bills generally.

Tax and tariff measures and amendments

§ 1066. Restriction on bills and amendments carrying taxes or tariffs.

5. (a)(1) A bill or joint resolution carrying a tax or tariff measure may not be reported by a committee not having jurisdiction to report tax or tariff measures, and an amendment in the House or proposed by the Senate carrying a tax or tariff measure shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against a tax or tariff measure in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.

(2) For purposes of paragraph (1), a tax or tariff measure includes an amendment proposing a limitation on funds in a general appropriation bill for the administration of a tax or tariff.

Subparagraph (1) was added in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). Subparagraph (2) was added in the 108th Congress (sec. 2(o), H. Res. 5, Jan. 7, 2003, p. 7). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5(b) of rule XXI (H. Res. 5, Jan. 6, 1999, p. 47).

A point of order under this paragraph against a provision in a bill is in order at any time during consideration of the bill for amendment in Committee of the Whole (Aug. 1, 1986, p. 18649). On October 4, 1989, the chairman of the Committee of the Whole, before ruling on several points of order under this paragraph, enunciated several guidelines to distinguish taxes and tariffs on the one hand and user or regulatory fees and other forms of revenue on the other (p. 23260). On the opening day of the 102d Congress, Speaker Foley inserted in the Congressional Record the following statement of jurisdictional concepts underlying those same distinctions and indicated his intention to exercise his referral authority under rule X in a manner consistent with this paragraph (Jan. 3, 1991, p. 64 (reiterated at the beginning of each Congress, *e.g.*, Jan. 4, 1995, p. 551; Jan. 3, 2001, p. 39)):

> Clause 5(b) (current clause 5(a)) of rule XXI prohibits the reporting of a tax or tariff matter by any committee not having that jurisdiction. Most of the questions of order arising under this clause since its adoption in 1983 have related to provisions that clearly affected the operation of the Internal Revenue Code or the customs laws. From time to time, however, such a question has related to a provision drafted as a user or regulatory fee levied on members of a class that occasions or avails itself of a particular governmental activity, typically to generate revenue in support of that activity. In order to provide guidance concerning the referral of bills, to assist committees in staying within their appropriate jurisdictions under rule X, to assist committees without jurisdiction over tax or tariff measures in complying with clause 5(b) of rule XXI, and to protect the constitutional prerogative of the House to originate revenue bills, the Speaker will make the following statement: Standing committees of the House (other than the Committees on Appropriations and Budget) have jurisdiction to consider user, regulatory and other fees, charges, and assessments levied on a class directly availing itself of, or directly subject to, a governmental service, program, or activity, but not on the general public, as measures to be utilized solely to support, subject to annual appropriations, the service, program, or activity (including agency functions associated therewith) for which such

fees, charges, and assessments are established and collected and not to finance the costs of Government generally. The fee must be paid by a class benefiting from the service, program or activity, or being regulated by the agency; in short, there must be a reasonable connection between the payors and the agency or function receiving the fee. The fund that receives the amounts collected is not itself determinative of the existence of a fee or a tax. The Committee on Ways and Means has jurisdiction over "revenue measures generally" under rule X. That committee is entitled to an appropriate referral of broad-based fees and could choose to recast such fees as excise taxes. A provision only reauthorizing or amending an existing fee without fundamental change, or creating a new fee generating only a *de minimis* aggregate amount of revenues, does not necessarily require a sequential referral to the Committee on Ways and Means. The Chair intends to coordinate these principles with the Committee on the Budget and the Congressional Budget Office, especially in the reconciliation process, so that budget scorekeeping does not determine, and reconciliation directives and their implementation will not be inconsistent with, committee jurisdiction. Further, it should be emphasized that the constitutional prerogative of the House to originate revenue measures will continue to be viewed broadly to include any meaningful revenue proposal that the Senate may attempt to originate.

The adoption of subparagraph (2) in the 108th Congress established a different standard for determining a violation of this clause by an amendment to a reported general appropriation bill than for a provision in the appropriation bill itself. Before its adoption, a Member raising a point of order under this paragraph against a provision in, *or an amendment to*, a general appropriation bill affecting the use of funds therein (otherwise traditionally in order if admissible under clause 2 of rule XXI), carried the burden of showing a necessary, certain, and inevitable change in revenue collections or tax statuses or liabilities (Sept. 12, 1984, pp. 25108, 25109, 25120; July 26, 1985, p. 20806; Aug. 1, 1986, p. 18649; July 13, 1990, p. 17473; June 18, 1991, p. 15189). The intent of the rules change, as expressed during debate on the change, was "to ease the burden on the maker of a point of order [*against an amendment*] from having to show a necessary, certain and inevitable change in revenue collections, tax statuses, or liability as previous precedents required, to one of showing a textual relationship between the amendment and the administration of the Internal Revenue or tariff laws" (Jan. 7, 2003, p. 12). Under that standard the following amendments to a general appropriation bill have been held to impose a limitation on funds in violation of this clause: (1) a limitation on funds to assess or collect any tax liability attributable to the inclusion of certain economic assistance in the taxpayer's gross income (Sept. 9, 2003, p. ——); (2) a limitation on funds to process the importation of any product from Iran (June 18, 2004, p. ——); (3) a limitation on funds

for the accession of the Russian Federation into the World Trade Organization, thereby effecting changes to that country's products under domestic tariff law (June 28, 2006, p. ——).

The precedents developed under this clause before its change in the 108th Congress still apply to the Chair's determination whether a limitation in a general appropriation bill (rather than an amendment thereto) constitutes a tax or tariff measure proscribed by this paragraph. Prior precedents addressing amendments are still viable for that determination. The Chair will consider argument as to whether the limitation effectively and inevitably changes revenue collections and tax status or liability (Aug. 1, 1986, p. 18649). For example, in determining whether an amendment to a general appropriation bill proposing a change in IRS funding priorities constituted a tax measure proscribed by this paragraph, the Chair considered argument as to whether the change would necessarily or inevitably result in a loss or gain in tax liability and in tax collection (June 18, 1991, p. 15189).

A limitation on the use of funds contained in a general appropriation bill was held to violate this paragraph by denying the use of funds by the Customs Service to enforce duty-free entry laws with respect to certain imported commodities, thereby requiring the collection of revenues not otherwise provided for by law (Oct. 27, 1983, p. 29611). Similar rulings were issued: (1) where it was shown that the imposition of the restriction on IRS funding for the fiscal year would effectively and inevitably preclude the IRS or the Customs Service from collecting revenues otherwise due and owing by law or require collection of revenue not legally due or owing (July 26, 1985, p. 20806; Aug. 1, 1986, pp. 18649, 18650; July 17, 1996, p. 17563); and (2) where a provision in a general appropriation bill prohibited the use of funds to impose or assess certain taxes due under specified portions of the Internal Revenue Code (July 13, 1990, p. 17473). In the 98th Congress, the Chair sustained points of order under this paragraph against motions to concur in three Senate amendments to a general appropriation bill (not reported by the Committee on Ways and Means): (1) an amendment denying the use of funds in that or any other Act by the IRS to impose or assess any tax due under a designated provision of the Internal Revenue Code, thereby rendering the tax uncollectable through the use of any funds available to the agency (Sept. 12, 1984, p. 25108); (2) an amendment directing the Secretary of the Treasury to admit free of duty certain articles imported by a designated organization (Sept. 12, 1984, p. 25109); and (3) an amendment to the Tariff Act of 1930 to expand the authority of the Customs Service to seize and use the proceeds from the sale of contraband imports to defray operational expenses, and to offset owed customs duties under one section of that law (Sept. 12, 1984, p. 25120). An amendment to a general appropriation bill proposing to divert an increase in funding for the IRS from spot-checks to targeted audits was held not to constitute a tax within the meaning of this paragraph

because it did not necessarily affect revenue collection levels or tax liabilities (June 18, 1991, p. 15189).

In the 99th Congress, the following provisions in a reconciliation bill reported from the Budget Committee were ruled out as tax measures not reported from the Committee on Ways and Means: (1) a recommendation from the Committee on Education and Labor excluding certain interest on obligations from the Student Loan Marketing Association from application of the Internal Revenue Code, affecting interest deductions against income taxes (Oct. 24, 1985, pp. 28776, 28827); and (2) a recommendation from the Committee on Merchant Marine and Fisheries expanding tax benefits available to shipowners through a capital construction fund (Oct. 24, 1985, pp. 28802, 28827). In the 101st Congress, the following provisions in an omnibus budget reconciliation bill were ruled out: (1) a fee per passenger on cruise vessels, with revenues credited as proprietary receipts of the Coast Guard to be used for port safety, security, navigation, and antiterrorism activities (Oct. 4, 1989, p. 23260); (2) a per acre "ocean protection fee" on oil and gas leaseholdings in the Outer Continental Shelf, with receipts to be used to offset costs of various ocean protection programs (Oct. 4, 1989, p. 23261); (3) an amendment to the Internal Revenue Code relating to the tax deductibility of pension fund contributions (Oct. 4, 1989, p. 23262); (4) a fee incident to termination of employee benefit plans, with receipts to be applied to enforcement and administration of plans remaining with the system (Oct. 4, 1989, p. 23262); and (5) a fee incident to the filing of various pension benefit plan reports required by law, with revenues to be transferred to the Department of Labor for the enforcement of that law (Oct. 5, 1989, p. 23328).

To a bill reported from the Committee on Education and Labor authorizing financial assistance to unemployed individuals for employment opportunities, an amendment providing instead for tax incentives to stimulate employment was held to be a tax measure in violation of this paragraph (Sept. 21, 1983, p. 25145). A provision in a bill reported from the Committee on Foreign Affairs imposing a uniform fee at ports of entry to be collected by the Customs Service as a condition of importation of a commodity was held to constitute a tariff within the meaning of this paragraph (June 4, 1985, p. 14009), as was an amendment to a bill reported from that committee amending the tariff schedules to deny "most favored nation" trade treatment to a certain nation (July 11, 1985, p. 18590). A provision in a general appropriation bill creating a new tariff classification was held to constitute a tariff under this paragraph (June 15, 1994, p. 13103). A motion to concur in a Senate amendment constituting a tariff measure (imposing an import ban on certain dutiable goods) to a bill reported by a committee not having tariff jurisdiction was ruled out under this paragraph (Sept. 30, 1988, p. 27316). A proposal to increase a fee incident to the filing of a securities registration statement, with the proceeds to be deposited in the general fund of the Treasury as offsetting receipts, was held to constitute a tax within the meaning of this paragraph because

the amount of revenue derived and the manner of its deposit indicated a purpose to defray costs of Government, generally (Oct. 23, 1990, p. 32650). To a bill reported by the Committee on Transportation and Infrastructure, an amendment increasing a user fee was ruled out as a tax measure where the fee overcollected to offset a reduction in another fee, thus attenuating the relationship between the amount of the fee and the cost of the Government activity for which it was assessed (May 9, 1995, p. 12180). To a bill reported by the Committee on Science, Space, and Technology (now Science and Technology), an amendment proposing sundry changes in the Federal income tax by direct amendments to the Internal Revenue Code of 1986 was ruled out of order as carrying a tax measure in violation of this paragraph (Sept. 16, 1992, p. 25205), as were amendments to a general appropriation bill proposing in part to temper recently enacted reductions in rates of tax on income (July 10, 2003, pp. —— and ——).

Passage of tax rate increases

§ 1067. Three-fifths vote to increase income tax rates.

(b) A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present. In this paragraph the term "Federal income tax rate increase" means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section.

This provision was added in the 104th Congress (sec. 106(a), H. Res. 6, Jan. 4, 1995, p. 463), and in the 105th Congress it was amended to clarify the definition of "Federal income tax rate increase" as limited to a specific amendment to one of the named subsections (H. Res. 5, Jan. 7, 1997, p. 121). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5(c) of rule XXI (H. Res. 5, Jan. 6, 1999, p. 47). On one occasion the Chair held that a provision repealing a ceiling on total tax liability attributable to a net capital gain was not subject to the original version of this paragraph (Apr. 5, 1995, p. 10614). The modified version of this paragraph comprises three elements (an

amendment to a pertinent section of the Internal Revenue Code of 1986, the imposition of a new rate of tax thereunder, and an increase in the amount of tax thereby imposed) and a measure that does not fulfill even the first element does not carry a Federal income tax rate increase (Jan. 18, 2007, p. —— (sustained by tabling of appeal)). This paragraph does not apply to a concurrent resolution (Speaker Gingrich, May 18, 1995, p. 13499). A resolution reported from the Committee on Rules rendering this paragraph inapplicable may be adopted by majority vote (Oct. 26, 1995, p. 29477). The Speaker rules on the applicability of this paragraph only pending the question of final passage of a measure alleged to carry a Federal income tax rate increase, and not in advance upon adoption of a special order rendering this paragraph inapplicable (Oct. 26, 1995, p. 29477).

Consideration of retroactive tax rate increases

§ 1068. Prohibition against retroactive income tax rate increase.

(c) It shall not be in order to consider a bill, joint resolution, amendment, or conference report carrying a retroactive Federal income tax rate increase. In this paragraph—

(1) the term "Federal income tax rate increase" means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section; and

(2) a Federal income tax rate increase is retroactive if it applies to a period beginning before the enactment of the provision.

This paragraph was added in the 104th Congress (sec. 106(b), H. Res. 6, Jan. 4, 1995, p. 463), and it was amended in the 105th Congress to clarify the definition of "Federal income tax rate increase" (H. Res. 5, Jan. 7, 1997, p. 121). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 5(d) of rule XXI (H. Res. 5, Jan. 6, 1999, p. 47).

Designation of public works

§1068a. Restriction on designation of public works.

6. It shall not be in order to consider a bill, joint resolution, amendment, or conference report that provides for the designation or redesignation of a public work in honor of an individual then serving as a Member, Delegate, Resident Commissioner, or Senator.

This clause was adopted in the 107th Congress (sec. 2(q), H. Res. 5, Jan. 3, 2001, p. 25).

§1068b. Restriction on reconciliation directives.

7. It shall not be in order to consider a concurrent resolution on the budget, or an amendment thereto, or a conference report thereon that contains reconciliation directives under section 310 of the Congressional Budget Act of 1974 that specify changes in law reducing the surplus or increasing the deficit for either the period comprising the current fiscal year and the five fiscal years beginning with the fiscal year that ends in the following calendar year or the period comprising the current fiscal year and the ten fiscal years beginning with the fiscal year that ends in the following calendar year. In determining whether reconciliation directives specify changes in law reducing the surplus or increasing the deficit, the sum of the directives for each reconciliation bill (under section 310 of the Congressional Budget Act of 1974) envisioned by that measure shall be evaluated.

This clause was added in the 110th Congress (sec. 402, H. Res. 5, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)).

§ 1068c. Budget Act points of order.

8. With respect to measures considered pursuant to a special order of business, points of order under title III of the Congressional Budget Act of 1974 shall operate without regard to whether the measure concerned has been reported from committee. Such points of order shall operate with respect to (as the case may be)—

(a) the form of a measure recommended by the reporting committee where the statute uses the term "as reported" (in the case of a measure that has been so reported);

(b) the form of the measure made in order as an original bill or joint resolution for the purpose of amendment; or

(c) the form of the measure on which the previous question is ordered directly to passage.

This clause was added in the 110th Congress (sec. 403, H. Res. 5, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)).

§ 1068d. Congressional earmarks.

9. (a) It shall not be in order to consider—

(1) a bill or joint resolution reported by a committee unless the report includes a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill or in the report (and the name of any Member, Delegate, or Resident Commissioner who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits;

(2) a bill or joint resolution not reported by a committee unless the chairman of each committee of initial referral has caused a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill (and the name of any Member, Delegate, or Resident Commissioner who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration;

(3) an amendment to a bill or joint resolution to be offered at the outset of its consideration for amendment by a member of a committee of initial referral as designated in a report of the Committee on Rules to accompany a resolution prescribing a special order of business unless the proponent has caused a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the amendment (and the name of any Member, Delegate, or Resident Commissioner who submitted a request to the proponent for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration; or

(4) a conference report to accompany a bill or joint resolution unless the joint explanatory statement prepared by the managers on the

part of the House and the managers on the part of the Senate includes a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the conference report or joint statement (and the name of any Member, Delegate, Resident Commissioner, or Senator who submitted a request to the House or Senate committees of jurisdiction for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

(b) It shall not be in order to consider a rule or order that waives the application of paragraph (a). As disposition of a point of order under this paragraph, the Chair shall put the question of consideration with respect to the rule or order that waives the application of paragraph (a). The question of consideration shall be debatable for 10 minutes by the Member initiating the point of order and for 10 minutes by an opponent, but shall otherwise be decided without intervening motion except one that the House adjourn.

(c) In order to be cognizable by the Chair, a point of order raised under paragraph (a) may be based only on the failure of a report, submission to the Congressional Record, or joint explanatory statement to include a list required by paragraph (a) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

(d) For the purpose of this clause, the term "congressional earmark" means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

(e) For the purpose of this clause, the term "limited tax benefit" means—

(1) any revenue-losing provision that—

(A) provides a Federal tax deduction, credit, exclusion, or preference to 10 or fewer beneficiaries under the Internal Revenue Code of 1986, and

(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or

(2) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986.

(f) For the purpose of this clause, the term "limited tariff benefit" means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

This clause was added in the 110th Congress (sec. 404, H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)). A similar point of order operated during part of the 109th Congress (H. Res. 1000, Sep. 14, 2006, p. ——). A point of order under this clause does not lie against an unreported measure where the chairman of the committee of initial referral has printed in the Record a statement that the measure contains no congressional earmarks, limited tax benefits, or limited tariff benefits (Jan. 31, 2007, p. —— (sustained by tabling of appeal)), or against a reported measure where the committee report contains such a statement (May 10, 2007, p.——; May 23, 2007, p. ——). Paragraph (c) requires that a point of order under this clause be predicated only on the absence of a complying statement, and does not contemplate a question of order relating to the content of such statement (May 10, 2007, p. ——) A point of order under this clause is untimely after consideration has begun (Mar. 23, 2007, p. ——).

The House adopted an order during the 110th Congress establishing a point of order against the consideration of a conference report to accompany a regular general appropriation bill unless its joint explanatory statement contains a list of earmarks (within the meaning of paragraph (d)) that were not committed to the conference and were not in the House or Senate committee report on such measure. It further provided a point of order against a rule or order waiving such provision. Points of order against such rule or order or against such conference reports are decided by the question of consideration under paragraph (b) (H. Res. 491, June 18, 2007, p. ——).

§ 1068e. Pay-as-you-go point of order.

10. It shall not be in order to consider any bill, joint resolution, amendment, or conference report if the provisions of such measure affecting direct spending and revenues have the net effect of increasing the deficit or reducing the surplus for either the period comprising the current fiscal year and the five fiscal years beginning with the fiscal year that ends in the following calendar year or the period comprising the current fiscal year and the ten fiscal years beginning with the fiscal year that ends in the following calendar year. The effect of such measure on the deficit or surplus shall be determined on the basis of estimates made by the Committee on the Budget relative to—

(a) the most recent baseline estimates supplied by the Congressional Budget Office consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 used in considering a concurrent resolution on the budget; or

(b) after the beginning of a new calendar year and before consideration of a concurrent resolution on the budget, the most recent baseline estimates supplied by the Congressional Budget Office consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

This clause was added in the 110th Congress (sec. 405, H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)).

RULE XXII

HOUSE AND SENATE RELATIONS

Senate amendments

§ 1069. Motion for conference.

1. A motion to disagree to Senate amendments to a House proposition and to request or agree to a conference with the Senate, or a motion to insist on House amendments to a Senate proposition and to request or agree to a conference with the Senate, shall be privileged in the discretion of the Speaker if offered by direction of the primary committee and of all reporting committees that had initial referral of the proposition.

This provision (proviso in former clause 1 of rule XX), added by the 89th Congress (H. Res. 8, Jan. 4, 1965, p. 21), provides a method whereby bills can be sent to conference by majority vote. As contained in section 126(a) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and adopted

as part of the Rules of the House in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), this clause included language relating to separate votes on nongermane Senate amendments that was, in the 93d Congress, modified and transferred to former clause 5 of rule XXVIII (current clause 10 of rule XXII) (H. Res. 998, Apr. 9, 1974, pp. 10195–99). Before the House recodified its rules in the 106th Congress, clauses 1 and 3 of this rule occupied a single clause (formerly clause 1 of rule XX) (H. Res. 5, Jan. 6, 1999, p. 47). Technical changes were effected in the 108th Congress (sec. 2(u), H. Res. 5, Jan. 7, 2003, p. 7).

§ 1070. Motion for conference.

The motion to send a bill to conference under this clause is in order notwithstanding the fact that the stage of disagreement has not been reached (Aug. 1, 1972, p. 26153). On a bill that has been initially referred and reported in the House, the motion must be authorized by all committees reporting thereon (Sept. 26, 1978, p. 31623). However, a committee receiving sequential referral of a bill or not reporting thereon need not authorize the motion (Oct. 4, 1994, p. 27643). This clause was recodified in the 106th Congress to reflect this practice (H. Res. 5, Jan. 6, 1999, p. 47). On a Senate bill with a House amendment consisting of the text of two corresponding House bills that were previously reported to the House, the motion must be authorized by the committees reporting those corresponding bills (Oct. 1, 1998, p. 22944). Where such a motion has been rejected by the House, it may be repeated if the committee having jurisdiction over the subject matter again authorizes its chairman to make the motion (Deschler-Brown, ch. 33, § 2.13). The motion to send to conference is in order only if the Speaker in his discretion recognizes for that purpose, and the Speaker will not recognize for the motion where he has referred a nongermane Senate amendment in question to a House committee with jurisdiction and they have not yet had the opportunity to consider the amendment (June 28, 1984, p. 19770). Under clause 2(a)(3) of rule XI, a committee may adopt a rule providing that the chairman be directed to offer a motion under this clause whenever the chairman considers it appropriate (§ 791, *supra*).

2. A motion to dispose of House bills with Senate amendments not requiring consideration in the Committee of the Whole House on the state of the Union shall be privileged.

§ 1071. Privilege of certain Senate amendments.

This provision was adopted in 1890 (IV, 3089) as part of the rule governing disposal of business on the Speaker's table (formerly clause 2 of rule XXIV). When the House recodified its rules in the 106th Congress, all provisions of former clause 2 of rule XXIV except this one were transferred to clause 2 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47). For a discussion of referral of Senate amendments at the Speaker's table, see § 873, *supra*.

3. Except as permitted by clause 1, before the stage of disagreement, a Senate amendment to a House bill or resolution shall be subject to the point of order that it must first be considered in the Committee of the Whole House on the state of the Union if, originating in the House, it would be subject to such a point under clause 3 of rule XVIII.

§ 1072. Consideration of Senate amendments in Committee of the Whole.

This provision was adopted in 1880 to prevent Senate amendments of the class described from escaping consideration in Committee of the Whole (IV, 4796). Before the House recodified its rules in the 106th Congress, clauses 1 and 3 of this rule occupied a single clause (formerly clause 1 of rule XX) (H. Res. 5, Jan. 6, 1999, p. 47).

§ 1073. Consideration of Senate amendments in Committee of the Whole.

While a Senate amendment that is merely a modification of a House proposition, such as the increase or decrease of the amount of an appropriation, and does not involve new and distinct expenditure, may not be required to be considered in Committee of the Whole (IV, 4797–4806; VIII, 2382–2385), where the question was raised against a Senate amendment that on its face apparently placed a charge upon the Treasury, the Speaker held it devolved upon those opposing the point of order to cite proof to the contrary (VIII, 2387). When an amendment is offered in the House to provide an appropriation for another purpose than that of the Senate amendment, the House resolves into Committee of the Whole to consider it (IV, 4795). When an amendment is referred, the entire bill goes to the Committee of the Whole (IV, 4808), but the Committee considers only the Senate amendment (V, 6192). It usually considers all the amendments, although they may not all be within the rule requiring such consideration (V, 6195). In Committee of the Whole a Senate amendment, even though it be very long, is considered as an entirety and not by paragraphs or sections (V, 6194). When reported from the Committee of the Whole, Senate amendments are voted on en bloc and only those amendments on which a separate vote is demanded are voted on severally (VIII, 3191). It has been held that each amendment is subject to general debate and amendment under the five-minute rule (V, 6193, 6196). The requirement of this clause that certain Senate amendments be considered in Committee of the Whole applies only before the stage of disagreement has been reached on the Senate amendment, and it is too late after the House has disagreed thereto and the amendments have been reported from conference in disagreement to raise a point of order that Senate amendments should have been considered in Committee

of the Whole (Oct. 20, 1966, p. 28240; Dec. 4, 1975, p. 38714). The Committee on Rules may recommend a special order of business providing that a Senate amendment pending at the Speaker's table and otherwise requiring consideration in Committee of the Whole under this clause be "hereby" adopted, which special order, if adopted, would obviate the requirement of this clause (Deschler, ch. 21, § 16.11; Feb. 4, 1993, p. 2500).

§ 1074. Stage of disagreement between Houses.

When the stage of disagreement has been reached on a bill with amendments of the other House, motions to dispose of said amendments are privileged in the House (clause 4 of rule XXII; IV, 3149, 3150; VI, 756; VIII, 3185, 3194). The stage of disagreement between the two Houses is reached after the House in possession of the papers has either disagreed to the amendment(s) of the other House or has insisted on its own amendment to a measure of the other House (Sept. 16, 1976, p. 30868), and not merely where the other House has returned a bill with an amendment (Dec. 7, 1977, p. 38728). Thus, where the House concurred in a Senate amendment to a House bill with an amendment, insisted on the amendment and requested a conference, and the Senate then concurred in the House amendment with a further amendment, the matter was privileged in the House for further disposition since the House had communicated its insistence and request for a conference to the Senate (Speaker Albert, Sept. 16, 1976, p. 30868).

§ 1075. Privilege when stage of disagreement reached.

4. When the stage of disagreement has been reached on a bill or resolution with House or Senate amendments, a motion to dispose of any amendment shall be privileged.

This provision was adopted when the House recodified its rules in the 106th Congress to codify current practice, which is described in § 1074, *supra*) (H. Res. 5, Jan. 6, 1999, p. 47).

§ 1076. Conferees may not agree to certain Senate amendments.

5. (a) Managers on the part of the House may not agree to a Senate amendment described in paragraph (b) unless specific authority to agree to the amendment first is given by the House by a separate vote with respect thereto. If specific authority is not granted, the Senate amendment shall be reported in disagreement by the con-

ference committee back to the two Houses for disposition by separate motion.

(b) The managers on the part of the House may not agree to a Senate amendment described in paragraph (a) that—

(1) would violate clause 2(a)(1) or (c) of rule XXI if originating in the House; or

(2) proposes an appropriation on a bill other than a general appropriation bill.

This clause was adopted on June 1, 1920 (pp. 8109, 8120). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XX. The recodification also extended the rule to Senate amendments containing reappropriations of unexpended balances now referenced in clause 2(c) of rule XXI (H. Res. 5, Jan. 6, 1999, p. 47).

While the rule provides for a motion authorizing the managers on the part of the House to agree to amendments of the Senate in violation of clause 2 of rule XXI, such as a motion to recommit a conference report on a general appropriation bill with instructions to agree to a legislative Senate amendment (Speaker Albert, Dec. 19, 1973, p. 42565), it does not permit a motion to recommit a conference report on a general appropriation bill to include instructions to add legislation to that contained in a Senate amendment (Nov. 13, 1973, p. 36847). It had been customary after a conference on a general appropriation bill with numbered Senate amendments for the managers to report certain Senate amendments in technical disagreement, and after the partial conference report (consisting of agreement on those Senate amendments not in violation of clause 2 of rule XXI) is disposed of, the remaining amendments are taken up in order and disposed of directly in the House by separate motion. When Senate amendments in disagreement are considered in this fashion, they are not subject to a point of order under this clause (Dec. 4, 1975, p. 38714); and a motion to (recede and) concur in the Senate amendment with a further amendment is also in order, even if the proposed amendment is also legislation on an appropriation bill. The only test is whether the proposed amendment is germane to the Senate amendment reported in disagreement (IV, 3909; VIII, 3188, 3189; Speaker McCormack, Dec. 15, 1970, p. 41504; Aug. 1, 1979, pp. 22007–11; Speaker O'Neill, Dec. 12, 1979, p. 35520; June 30, 1987, p. 18308). In recent years Senate amendments to House-passed general appropriation bills have been in the nature of a substitute, which are not divided for separate disposition in conference.

In the event an appropriation bill with Senate amendments in violation of clause 2 of rule XXI is sent to conference by unanimous consent, such

procedure does not thereby prevent a point of order from being sustained against the conference report should the managers on the part of the House violate the provisions of this clause (VII, 1574). But where a special rule in the House waives points of order against portions of an appropriation bill that are unauthorized by law, and the bill passes the House with those provisions included therein and goes to conference, the conferees may report back their agreement to those provisions even though they remain unauthorized, since the waiver in the House of points of order under this clause carries over to the consideration of the same provisions when the conference report is before the House (Dec. 20, 1969, pp. 40445–48, consideration of conference report; Dec. 9, 1969, p. 37948, adoption of special rule waiving points of order against the bill in the House). The rule is a restriction upon the managers on the part of the House only, and does not provide for a point of order against a Senate amendment when it comes up for action by the House (VII, 1572). Managers may be authorized to agree to an appropriation by a resolution reported from the Committee on Rules (VII, 1577). House managers may include in their report a modification of a Senate amendment that eliminates the appropriation in that amendment (June 8, 1972, p. 20280); and the prohibition in this clause applies only to language in Senate amendments. Thus the conferees may without violating this clause agree to language in a Senate bill that was sent to conference (Speaker Albert, Jan. 25, 1972, pp. 1076, 1077; June 30, 1976, pp. 21632–34) or agree to language in a House bill that was permitted to remain and that constitutes an appropriation on a legislative bill (Speaker Albert, May 1, 1975, p. 12752).

A provision in a Senate amendment included in a conference report on an authorization bill considered after the relevant appropriation has been enacted into law, directing that funds appropriated pursuant to the authorization be obligated and expended on a project not specifically funded in the appropriation, is itself an appropriation and may not be agreed to by House conferees (Nov. 29, 1979, pp. 34113–15); and House conferees were held to have violated this clause when they had agreed to a provision in a Senate amendment not only authorizing appropriations to pay judgments against the United States for the award of attorney fees and other court costs, but also requiring that where such payments were not paid out of appropriated funds, payment be made in the same manner as judgments under 28 U.S.C. 2414 and 2517 (payable directly out of the Treasury pursuant to a direct appropriation previously provided by law in 31 U.S.C. 1304) (Oct. 1, 1980, pp. 28637–40).

6. A Senate amendment carrying a tax or tariff measure in violation of clause 5(a) of rule XXI may not be agreed to.

This provision was adopted when the House recodified its rules in the 106th Congress to reiterate the prohibition found in clause 5(a) of rule

XXI against a bill or joint resolution carrying a tax or tariff measure not reported by the Committee on Ways and Means (H. Res. 5, Jan. 6, 1999, p. 47).

Conference reports; amendments reported in disagreement

7. (a) The presentation of a conference report shall be in order at any time except during a reading of the Journal or the conduct of a record vote, a vote by division, or a quorum call.

§ 1077. High privilege of conference reports; and form of accompanying statement.

The practice of giving conference reports privilege dates from 1850, having had its origin in a temporary rule. This practice was continued by rulings of the Chair until this rule was adopted in 1880 (V, 6443–6446, 6454). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1(a) of rule XXVIII (H. Res. 5, Jan. 6, 1999, p. 47). For the requirement of a tax complexity analysis in either the joint statement or the Record, see clause 11 of this rule.

Under the language of the rule, a conference report may be presented: (1) while a Member is occupying the floor in debate (V, 6451; VIII 3294); (2) while a bill is being read (V, 6448); (3) after the yeas and nays have been ordered (V, 6457); (4) after a vote by tellers and pending the question of ordering the yeas and nays, although it may not be presented while the House is dividing (V, 6447); (5) after the previous question has been demanded or ordered (V, 6449, 6450); (6) during a call of the House if a quorum be present (V, 6456); (7) pending the forthwith report of a committee following adoption of a motion to recommit while the previous question is operating (*e.g.*, Apr. 24, 2007, p. ——); and (8) on Calendar Wednesday (VII, 907), but consideration of such reports yields to Calendar Wednesday business (VII, 899). It takes precedence over: (1) a motion to adjourn (V, 6451–6453), although as soon as the report is presented the motion to adjourn may be put (V, 6451–6453); (2) a report from the Committee on Rules (V, 6449); (3) the motion to reconsider (V, 5605); (4) the motion to resolve into the Committee of the Whole for consideration of general appropriation bills (VIII, 3291); (5) consideration of District of Columbia business on Monday (VIII, 3292); and (6) unfinished business (Speaker O'Neill, Oct. 4, 1978, p. 33473). It has been permitted to intervene when a special order provides that the House shall consider a certain bill "until the same is disposed of" (V, 6454). The consideration of a conference report may be interrupted, even in the midst of the reading of the statement, by the arrival of the hour previously fixed for a recess (V, 6524). Of course, a question of privilege that relates to the integrity of the House as an agency for action may not be required to yield precedence to a matter

entitled to priority merely by the rules relating to the order of business (V, 6454).

The question of consideration under clause 3 of rule XVI may be demanded against a conference report before points of order against the report are raised (VIII, 2439; Speaker Albert, Sept. 28, 1976, p. 33019). The motion to lay on the table may not be applied to a conference report (V, 6540). The Chair will not recognize for a unanimous-consent request to correct a conference report, including the joint statement of managers, as it is a joint report to the two Houses (Oct. 3, 2000, p. 20560).

While the rule provides that the managers of the House asking for conference shall leave the papers with the managers of the other (§§ 555, 556, *supra*), if the managers on the part of the House agreeing to a conference surrender the papers to the House asking the conference, the report may be received first by the House asking the conference (VIII, 3330).

For further discussion of conference reports, see provisions of Jefferson's Manual at §§ 527–559, *supra*.

§ 1078. Time for debate on motions to instruct.

(b)(1) Subject to subparagraph (2) the time allotted for debate on a motion to instruct managers on the part of the House shall be equally divided between the majority and minority parties.

(2) If the proponent of a motion to instruct managers on the part of the House and the Member, Delegate, or Resident Commissioner of the other party identified under subparagraph (1) both support the motion, one-third of the time for debate thereon shall be allotted to a Member, Delegate, or Resident Commissioner who opposes the motion on demand of that Member, Delegate, or Resident Commissioner.

This paragraph was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). Before the House recodified its rules in the 106th Congress, it was found in former clause 1(b) of rule XXVIII (H. Res. 5, Jan. 6, 1999, p. 47). The division of debate time specified in this clause does not apply to an amendment to a motion after defeat of the previous question thereon, and the proponent of such an amendment is recognized for one hour under clause 2 of rule XVII (formerly clause 2 of rule XIV) (Oct. 3, 1989, p. 22863; July 14, 1993, p. 15668; Aug. 1, 1994, p. 18868). The proponent of a motion to instruct conferees has the right to close debate (July 28, 1994, p. 18405; July 26, 1996, p. 19450).

§ 1079. Motions privileged after 20 calendar days and 10 legislative days of conference.

(c)(1) A motion to instruct managers on the part of the House, or a motion to discharge all managers on the part of the House and to appoint new conferees, shall be privileged after a conference committee has been appointed for 20 calendar days and 10 legislative days without making a report, but only on the day after the calendar day on which the Member, Delegate, or Resident Commissioner offering the motion announces to the House his intention to do so and the form of the motion.

(2) The Speaker may designate a time in the legislative schedule on that legislative day for consideration of a motion described in subparagraph (1).

(3) During the last six days of a session of Congress, a motion under subparagraph (1) shall be privileged after a conference committee has been appointed for 36 hours without making a report and the motion meets the notice requirement in subparagraph (1).

(d) Instructions to conferees in a motion to instruct or in a motion to recommit to conference may not include argument.

Paragraph (c) (formerly clause 1(c) of rule XXVIII) was adopted December 8, 1931 (VIII, 3225). The notice requirement was added on January 3, 1989 (H. Res. 5, 101st Cong., p. 72), and amended on January 5, 1993 (H. Res. 5, 103d Cong., p. 49) to clarify that both the motion to discharge conferees and appoint new conferees and the motion to instruct conferees after the requisite time in conference are subject to one day's notice, and to authorize the Speaker to designate a time in that day's legislative schedule for the consideration of a noticed motion to discharge or instruct conferees. Paragraph (c) was amended again in the 108th Congress to permit the motion to be offered after not only 20 calendar days *but also* after 10 legislative days, measured concurrently (sec. 2(p), H. Res. 5, Jan. 7,

2003, p. 7); and a technical amendment to paragraph (c)(3) was effected in the 109th Congress (sec. 2(l), H. Res. 5, Jan. 4, 2005, p. ——). Before the House recodified its rules in the 106th Congress, paragraph (c) was found in former clause 1(c) of rule XXVIII (H. Res. 5, Jan. 6, 1999, p. 47). Recodification resulted in certain unintended changes to paragraph (c), and the paragraph was restored to its original intent in the 107th Congress (sec. 2(r), H. Res. 5, Jan. 3, 2001, p. 25). Paragraph (d) was added in the 107th Congress (sec. 2(r), H. Res. 5, Jan. 3, 2001, p. 25).

The motion to instruct conferees under this clause may be repeated notwithstanding prior disposition of an identical motion to instruct, because any number of proper motions to instruct are in order after conferees have failed to report within the requisite time (Speaker Albert, July 22, 1974, p. 24448; July 10, 1985, p. 18440), and the motion remains available when a conference report, filed after the requisite time, is recommitted by the first House to act thereon, since the conferees are not discharged and the original conference remains in being (June 28, 1990, p. 16156). A motion under this clause may instruct House conferees to insist on holding conference sessions under just and fair conditions, and in executive session if desirable (Aug. 1, 1935, p. 12272), and may instruct House conferees to meet with Senate conferees (May 2, 1984, p. 10732). The motion to instruct conferees under this clause is of equal privilege with the motion to suspend the rules on a suspension day (Mar. 1, 1988, pp. 2749, 2751, 2754). The motion to adjourn is in order while a motion to instruct under this paragraph is pending (Sept. 30, 1997, p. 20886), and, if such a motion to adjourn is adopted, the motion to instruct is rendered unfinished business on the next day without need for further notice under this paragraph (Oct. 1, 1997, p. 20894). Under clause 8(a)(2)(C) of rule XX, proceedings may not resume on a postponed question of agreeing to a 20-day motion to instruct conferees after the managers have filed a conference report in the House (Oct. 19, 1999, p. 25961; Nov. 20, 2003, p. ——; May 19, 2004, p. ——).

§ 1080. The statement accompanying a conference report.

(e) Each conference report to the House shall be printed as a report of the House. Each such report shall be accompanied by a joint explanatory statement prepared jointly by the managers on the part of the House and the managers on the part of the Senate. The joint explanatory statement shall be sufficiently detailed and explicit to inform the House of the effects of the report on the matters committed to conference.

The original rule requiring the submission of a statement was adopted in 1880 (V, 6443) and remained in effect through the 91st Congress. The precedents carried in this annotation interpret the earlier rule, which required only that the statement be signed by a majority of the House managers (V, 6505, 6506) and did not anticipate a statement jointly prepared by the managers on the part of the House and those on the part of the Senate. The rule was revised in the Legislative Reorganization Act of 1970 (sec. 125(b); 84 Stat. 1140) and made a part of the standing Rules of the House in its present form in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1(d) of rule XXVIII (H. Res. 5, Jan. 6, 1999, p. 47).

The Speaker may require the statement to be in proper form (V, 6513), but it is for the House and not the Speaker to determine whether or not it conforms to the rule in other respects (V, 6511, 6512). A report may not be received without the accompanying statement (V, 6504, 6514, 6515). A quorum among the managers on the part of the House at a committee of conference is established by their signatures on the conference report and joint explanatory statement (Oct. 4, 1994, p. 27662). When the House by unanimous consent permitted the chairman of a House committee to insert in the Record extraneous material to supplement a joint statement of managers, the Chair announced that the insertion did not constitute a revised joint statement of managers (Oct. 10, 1998, p. 25502).

§ 1081. Unfunded mandates.

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4; 109 Stat. 48) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658–658g) that requires a committee of conference to ensure that the Director of the Congressional Budget Office prepares a statement with respect to unfunded costs of any additional Federal mandate contained in the conference agreement. See § 1127, *infra*.

§ 1082. Layover requirements.

8. (a)(1) Except as specified in subparagraph (2), it shall not be in order to consider a conference report until—

(A) the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which the conference report and the accompanying joint explanatory statement have been available to Members, Delegates, and the Resident Commissioner in the Congressional Record; and

(B) copies of the conference report and the accompanying joint explanatory statement have been available to Members, Delegates, and the Resident Commissioner for at least two hours.

(2) Subparagraph (1)(A) does not apply during the last six days of a session of Congress.

The original rule (formerly clause 2(a) of rule XXVIII) requiring that conference reports be printed in the Record was adopted in 1902 (V, 6516). The three-day layover requirement, as well as the provisions relating to the availability of copies of the conference report and the division of time for debate, were added by section 125(b) of the Legislative Reorganization Act of 1970 and made part of the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144). The paragraph was amended again the next year to clarify the manner of counting the three days for the layover period (H. Res. 1153, Oct. 13, 1972, p. 36023). In the 104th Congress it was amended once more to count as a "calendar day" any day on which the House is in session (H. Res. 254, Nov. 30, 1995, p. 35077). The paragraph was amended in the 94th Congress (Feb. 26, 1976, p. 4625) to require copies of conference reports to be available for two hours before consideration and to allow for the immediate consideration of a resolution from the Committee on Rules waiving that requirement (clause 8(e)). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(a) of rule XXVIII. At that time the portion of clause 2(a) permitting immediate consideration of a resolution reported by the Rules Committee waiving only the layover requirement was tranferred to clause 8(e), and the portion of clause 2(a) addressing debate was transferred to clause 8(d) (H. Res. 5, Jan. 6, 1999, p. 47).

For an example of a resolution reported by the Rules Committee waiving only the availability requirement of this clause and called up the same day reported without a two-thirds vote, see August 10, 1984 (p. 23978). When managers report that they have been unable to agree, the report is not acted on by the House (V, 6562; VIII, 3329; Aug. 23, 1957, p. 15816).

§ 1083. Consideration of amendments in disagreement.

(b)(1) Except as specified in subparagraph (2), it shall not be in order to consider a motion to dispose of a Senate amendment reported in disagreement by a conference committee until—

(A) the third calendar day (excluding Saturdays, Sundays, or legal holidays except when

the House is in session on such a day) on which the report in disagreement and any accompanying statement have been available to Members, Delegates, and the Resident Commissioner in the Congressional Record; and

(B) copies of the report in disagreement and any accompanying statement, together with the text of the Senate amendment, have been available to Members, Delegates, and the Resident Commissioner for at least two hours.

(2) Subparagraph (1)(A) does not apply during the last six days of a session of Congress.

This provision (formerly clause 2(b)(1) of rule XXVIII), relating to the consideration of amendments reported from conference in disagreement, was added in 1972 (H. Res. 1153, Oct. 13, 1972, p. 36023) and became effective at the end of the 92d Congress. In the 94th Congress the provision was amended to require copies of amendments reported from conference in disagreement to be available for two hours before consideration and to allow for the immediate consideration of a resolution from the Committee on Rules waiving that requirement (H. Res. 868, Feb. 26, 1976, p. 4625). In the 104th Congress the provision was amended to count as a "calendar day" any day on which the House is in session (H. Res. 254, Nov. 30, 1995, p. 35077). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(b)(1) of rule XXVIII. At that time the portion of clause 2(b)(1) addressing debate was transferred to clause 8(d) of rule XXII, and the portion of clause 2(b)(1) permitting immediate consideration of a resolution reported by the Rules Committee only waiving the layover requirement was transferred to clause 8(e) of this rule (H. Res. 5, Jan. 6, 1999, p. 47).

Until the adoption of paragraph (b), a report in total disagreement was not printed in the Record before the amendment in disagreement was again taken up in the House (VIII, 3299, 3332).

§ 1084. Certain motions to insist as preferential.

(3) During consideration of a Senate amendment reported in disagreement by a conference committee on a general appropriation bill, a motion to insist on disagreement to the Senate amendment shall be preferential to any other motion to dispose of

that amendment if the original motion offered by the floor manager proposes to change existing law and the motion to insist is offered before debate on the original motion by the chairman of the committee having jurisdiction of the subject matter of the amendment or a designee. Such a preferential motion shall be separately debatable for one hour equally divided between its proponent and the proponent of the original motion. The previous question shall be considered as ordered on the preferential motion to its adoption without intervening motion.

This provision was added in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49) to make preferential and separately debatable a motion to insist on disagreement to a Senate amendment to a general appropriation bill if: (1) the Senate amendment has been reported from conference in disagreement; (2) the original motion to dispose of the Senate amendment proposes to change existing law; and (3) the motion to insist is timely offered by the chairman of a committee of jurisdiction or a designee. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(b)(2) of rule XXVIII (H. Res. 5, Jan. 6, 1999, p. 47). The Committee on Post Office and Civil Service (now Oversight and Government Reform) has jurisdiction under clause 1 of rule X over the subject of a Senate legislative amendment entitling Forest Service employees to separation pay, enabling the chairman of that committee to offer a preferential motion to insist under this clause (Oct. 20, 1993, p. 25589).

§ 1085. Certain conference reports considered as read.

(c) A conference report or a Senate amendment reported in disagreement by a conference committee that has been available as provided in paragraph (a) or (b) shall be considered as read when called up.

Paragraph (c) was added in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2(c) of rule XXVIII (H. Res. 5, Jan. 6, 1999, p. 47).

§ 1086. Debate.

(d)(1) Subject to subparagraph (2), the time allotted for debate on a conference report or on a motion to dispose of a Senate amendment reported in disagreement by a conference committee shall be equally divided between the majority and minority parties.

(2) If the floor manager for the majority and the floor manager for the minority both support the conference report or motion, one-third of the time for debate thereon shall be allotted to a Member, Delegate, or Resident Commissioner who opposes the conference report or motion on demand of that Member, Delegate, or Resident Commissioner.

This provision was adopted in the 99th Congress as former clauses 2(a) and 2(b)(1) of rule XXVIII (H. Res. 7, Jan. 3, 1985, p. 393). When the House recodified its rules in the 106th Congress, those provisions addressing debate in clause 2(a) and 2(b)(1) were consolidated into this provision (H. Res. 5, Jan. 6, 1999, p. 47).

Recognition of one Member in opposition does not depend upon party affiliation and is within the discretion of the Speaker (Dec. 11, 1985, p. 36069; Dec. 16, 1985, p. 36716; Oct. 15, 1986, p. 31631), who accords priority in recognition to a member of the conference committee (Speaker Wright, Dec. 21, 1987, pp. 37093, 37516). The Chair will assume that the minority manager supports a conference report if the manager signed the report and is not immediately present to claim the contrary (Oct. 12, 1995, p. 27795). Where the time is divided three ways, the right to close debate falls to the majority manager calling up the conference report (May 2, 2002, pp. 6624, 6634), preceded by the minority manager, preceded by the Member in opposition—*i.e.*, the reverse order of the recognition to begin debate (Aug. 4, 1989, p. 19301).

Following rejection of a conference report on a point of order, debate on a motion to dispose of the Senate amendment remaining in disagreement is evenly divided between the majority and minority under the rationale contained in this provision (Sept. 30, 1976, pp. 34074–34100). Following vitiation of a conference report held to violate clause 9 of rule XXII, debate on a motion to recede and concur in a Senate amendment with an amendment also is evenly divided. (Nov. 14, 2002, pp. 22409, 22460).

The custom has developed, however, of equally dividing between majority and minority parties the time on all motions to dispose of amendments

emerging from conference in disagreement, whether reported in disagreement or before the House upon rejection of a conference report by a vote or a point of order (Speaker Albert, Sept. 27, 1976, pp. 32719–26; Sept. 30, 1976, pp. 34074–34100), upon rejection of an initial motion to dispose of the amendment (July 2, 1980, pp. 18357–59; Aug. 6, 1993, p. 19582), upon a motion to concur in a new Senate amendment where the Senate had receded with an amendment from one of its amendments reported from conference in disagreement (Mar. 24, 1983, p. 7301), or upon a motion to dispose of a further stage of amendment that is subsequently before the House (Aug. 1, 1985, p. 22561; Dec. 19, 1985, p. 38360). A Member offering a preferential motion does not thereby control half of the time, as all debate is allotted under the original motion (May 14, 1975, p. 14385). The minority Member in charge controls 30 minutes for debate only and can only yield to other Members for debate (Dec. 4, 1975, p. 38716). Where time for debate on such a motion is equally divided, the previous question may not be moved by the Member first recognized so as to prevent the Member from the other party from controlling half the debate and from offering a proper preferential motion to dispose of the Senate amendment (July 2, 1980, p. 18360). The right to close the debate on a motion to dispose of an amendment where the time is divided three ways falls to the manager offering the motion (Nov. 21, 1989, p. 30814).

The division of time for debate on a motion to dispose of a Senate amendment reported from conference in disagreement under this provision does not extend to separate debate on an amendment thereto, which is governed by the general hour rule (clause 2 of rule XVII) (Sept. 17, 1992, p. 25437).

§ 1087. Waiver.

(e) Under clause 6(a)(2) of rule XIII, a resolution proposing only to waive a requirement of this clause concerning the availability of reports to Members, Delegates, and the Resident Commissioner may be considered by the House on the same day it is reported by the Committee on Rules.

This provision was added in the 94th Congress to former clauses 2(a) and 2(b)(1) of rule XXVIII (Feb. 26, 1976, p. 4625). When the House recodified its rules in the 106th Congress, those provisions in former clauses 2(a) and 2(b)(1) permitting immediate consideration of a resolution from the Committee on Rules only waiving the layover requirement were consolidated into this provision (H. Res. 5, Jan. 6, 1999, p. 47).

§ 1088. Conferees may report germane modification of amendment in nature of substitute within scope of differences.

9. Whenever a disagreement to an amendment has been committed to a conference committee, the managers on the part of the House may propose a substitute that is a germane modification of the matter in disagreement. The introduction of any language presenting specific additional matter not committed to the conference committee by either House does not constitute a germane modification of the matter in disagreement. Moreover, a conference report may not include matter not committed to the conference committee by either House and may not include a modification of specific matter committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific matter as committed to the conference committee.

This provision (formerly clause 3 of rule XXVIII) is derived from section 135(a) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and originally was made a part of the standing rules on January 3, 1953 (p. 24). The clause was revised on January 22, 1971 (p. 144) following the passage of the Legislative Reorganization Act of 1970 (84 Stat. 1140), which carried a similar provision in section 125(b). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XXVIII (H. Res. 5, Jan. 6, 1999, p. 47).

Where one House strikes out of a bill of the other all after the enacting clause and inserts a new text, House managers, under the restrictions of this clause, may not agree to the deletion of certain language committed to conference if the effect of such deletion results in broadening the scope of the matter in disagreement (Dec. 14, 1971, p. 46779). Where one House authorizes certain funds for a fiscal year and the other House authorizes a lesser amount for that year as well as additional funds for the subsequent year, and neither version contains an overall amount, House managers do not exceed their authority under this rule by including in the report the amount authorized by one House for the first year and the other House for the subsequent year, even though the total authorization resulting from this compromise exceeds that possible under either version (June 8, 1972, p. 20281). Where a House version authorized endowment payments for

certain colleges and the Senate version conferred land-grant college status on those institutions and contained a higher endowment figure, House conferees remained within their authority under this clause by accepting the Senate provision on land-grant status and the lower House figure for endowment payments (Speaker Albert, June 8, 1972, p. 20280). Where the House version of a bill contained provisions for local funding of merit schools, but neither version contained a provision for State funding, a motion to recommit to conference with instructions to provide State funding for merit schools was held to exceed the scope of the differences committed to conference (Sept. 30, 1992, p. 29126). A conference report containing a provision that the joint statement of managers described as having no counterpart in either the House bill or Senate amendment was held to exceed scope (Nov. 14, 2002, pp. 22408, 22409).

While the scope of differences committed to conference—where one House has amended an existing law and the other House has implicitly taken the position of existing law by remaining silent on the subject—may properly be measured between those issues presented in the amending language and comparable provisions of existing law, the inclusion in a conference report of new matter not specifically contained in the amending version and not demonstrably contained in existing law may be ruled out as an additional issue not committed to conference in violation of this clause (Speaker Albert, Dec. 20, 1974, p. 41849). Thus where one House has amended an existing law and the other House has implicitly taken the position of existing law by only authorizing sums for the purpose of existing law, the scope of differences committed to conference may be measured between issues presented in the amending language and relevant provisions of the existing law; but the inclusion in a conference report of requirements and issues incorporated into existing law that were not contained in either version and that are not repetitive of existing law may be ruled out in violation of this paragraph (Speaker O'Neill, Oct. 14, 1977, pp. 33770–73).

A mere change in phraseology in a conference report (from language in either the House or Senate version) may be permitted to achieve legislative consistency where it is not shown that its effect is to broaden the scope of the language beyond the differences committed to conference, as where the report waives provisions of law for all programs in the bill and the House version waives those provisions for one section of the bill only (the Senate having no comparable provision) but the scope of programs covered by the report was coextensive with those in the designated section of the House version (Speaker Albert, May 1, 1975, p. 12752). The conferees may include language clarifying and limiting the duties imposed on an official by one House's version where that modification does not expand the authority conferred in that version or contained in existing law (the position of the other House) (Speaker Albert, July 29, 1975, p. 25515) and may confer broader authority on an official than that contained in one House's version if such authority is coextensive with the authority con-

tained in existing law that the other House has retained (Apr. 13, 1976, p. 10803). Where the Senate version authorized citizen suits to enforce existing law except where Federal officials were pursuing enforcement proceedings and the House version, with no comparable provision, retained existing law that did not permit such suits, the conferees exceeded the scope of the differences by further prohibiting citizen suits where State officials were pursuing enforcement proceedings—a new exception allowing State preemption of citizen suits (Sept. 27, 1976, p. 33019). A point of order was sustained against a motion to instruct conferees that directed them to agree to matter violating this clause: the House bill created an energy trust fund composed of certain revenues to be distributed by subsequent legislation; the Senate amendment created a similar trust fund with suggested but not mandated distribution, and the motion directed House conferees to insist on a mandatory allocation of revenues in question among specified purposes, some of which were not addressed in the Senate amendment (Feb. 28, 1980, p. 4304).

Before the revision of this clause in 1971, where one House struck out of a bill of the other all after the enacting clause and inserted a new text, conferees could discard language occurring both in the bill and substitute (VIII, 3266) and exercise broad discretion in incorporating germane amendments (VIII, 3263–3265), even to the extent of reporting a new bill germane to the subject (V, 6421, 6423, 6424; VIII, 3248). However, the present language of the rule prohibits the inclusion in a conference report or in a motion to instruct House conferees of additional topics not committed to conference by either House or beyond the scope of the differences committed to conference; and the precedents predating the adoption of this clause in 1971 must be read in light of the explicit restrictions now contained in the clause (Sept. 27, 1976, p. 32719). As such, a conference report may not include a new topic or issue that, although germane, was not committed to conference by either House (Mar. 25, 1992, p. 6843; Apr. 9, 1992, p. 9022). For example, a motion to instruct conferees on a general appropriation bill may not instruct the conferees to include either a funding limitation (Sept. 13, 1994, p. 24402) or a change in income tax law (Nov. 8, 2005, p. —— (sustained by tabling of appeal); Dec. 7, 2005, p. ——) not contained in the House bill or Senate amendment. Such motion also may not instruct managers to include funding for a program above both of the respective amounts in the House bill and Senate amendment for that program (Dec. 7, 2005, p. —— (sustained by tabling of appeal)). Similarly, a motion to recommit a conference report may not instruct conferees to expand definitions to include classes not covered under the House bill or Senate amendment (Sept. 29, 1994, p. 26781) or to include provisions not contained in the House bill or Senate amendment (Dec. 21, 1995, p. 38138). A waiver of all points of order against a conference report to accompany a measure and against its consideration does not inure to instructions contained in a motion to recommit such measure to conference (Sept. 29, 1994, p. 26781). Some latitude does remain with House managers to eliminate

specific words or phrases contained in either version and add words or phrases not included in either version so long as they remain within the scope of the differences committed to conference and do not incorporate additional topics, issues, or propositions not committed to conference (Speaker Albert, Sept. 28, 1976, pp. 33020–23).

For a discussion of the remedy where managers exceed their authority, see § 547, supra.

§ 1089. Nongermane matter in conference agreements and amendments in disagreement.

10. (a)(1) A Member, Delegate, or Resident Commissioner may raise a point of order against nongermane matter, as specified in subparagraph (2), before the commencement of debate on—

(A) a conference report;

(B) a motion that the House recede from its disagreement to a Senate amendment reported in disagreement by a conference committee and concur therein, with or without amendment; or

(C) a motion that the House recede from its disagreement to a Senate amendment on which the stage of disagreement has been reached and concur therein, with or without amendment.

(2) A point of order against nongermane matter is one asserting that a proposition described in subparagraph (1) contains specified matter that would violate clause 7 of rule XVI if it were offered in the House as an amendment to the underlying measure in the form it was passed by the House.

(b) If a point of order under paragraph (a) is sustained, a motion that the House reject the nongermane matter identified by the point of order shall be privileged. Such a motion is de-

batable for 40 minutes, one-half in favor of the motion and one-half in opposition thereto.

(c) After disposition of a point of order under paragraph (a) or a motion to reject under paragraph (b), any further points of order under paragraph (a) not covered by a previous point of order, and any consequent motions to reject under paragraph (b), shall be likewise disposed of.

(d)(1) If a motion to reject under paragraph (b) is adopted, then after disposition of all points of order under paragraph (a) and any consequent motions to reject under paragraph (b), the conference report or motion, as the case may be, shall be considered as rejected and the matter remaining in disagreement shall be disposed of under subparagraph (2) or (3), as the case may be.

(2) After the House has adopted one or more motions to reject nongermane matter contained in a conference report under the preceding provisions of this clause—

(A) if the conference report accompanied a House measure amended by the Senate, the pending question shall be whether the House shall recede and concur in the Senate amendment with an amendment consisting of so much of the conference report as was not rejected; and

(B) if the conference report accompanied a Senate measure amended by the House, the pending question shall be whether the House shall insist further on the House amendment.

(3) After the House has adopted one or more motions to reject nongermane matter contained in a motion that the House recede and concur in a Senate amendment, with or without amendment, the following motions shall be privileged and shall have precedence in the order stated:

(A) A motion that the House recede and concur in the Senate amendment with an amendment in writing then available on the floor.

(B) A motion that the House insist on its disagreement to the Senate amendment and request a further conference with the Senate.

(C) A motion that the House insist on its disagreement to the Senate amendment.

(e) If, on a division of the question on a motion described in paragraph (a)(1)(B) or (C), the House agrees to recede, then a Member, Delegate, or Resident Commissioner may raise a point of order against nongermane matter, as specified in paragraph (a)(2), before the commencement of debate on concurring in the Senate amendment, with or without amendment. A point of order under this paragraph shall be disposed of according to the preceding provisions of this clause in the same manner as a point of order under paragraph (a).

The provision (formerly clause 4 of rule XXVIII) addressing nongermane matter in conference reports was included as part of the revision of former rules XX and XXVIII that took place effective at the end of the 92d Congress (H. Res. 1153, Oct. 13, 1972, p. 36023). The same resolution repealed the former clause 3 of rule XX, which had been enacted as part of the Legislative Reorganization Act of 1970 to restrict the authority of House conferees to agree without prior permission of the House to Senate amendments that would violate clause 7 of rule XVI if offered in the House. The provision (formerly clause 5 of rule XXVIII) addressing nongermane matter in

amendments in disagreement was added on April 9, 1974 (H. Res. 998, 93d Cong., pp. 10195–99, which deleted from clause 1 of rule XX and transferred to former clause 5 of rule XXVIII the procedures concerning disposition of Senate nongermane amendments). The provision was amended on April 9, 1974 (H. Res. 998, 93d Cong., pp. 10195–99) in order to make this clause applicable to matters originally contained in Senate bills sent to conference, and not merely to Senate amendments to House bills in conference. The provision was further amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to provide that if the conference report is considered read under this rule, a point of order under this clause must be made immediately upon consideration of the conference report. When the House recodified its rules, it consolidated former clauses 4 and 5 of rule XXVIII under this clause (H. Res. 5, Jan. 6, 1999, p. 47).

§ 1090. Nongermane matter in conference agreements.

The procedure provided in this clause for addressing nongermane matter in conference reports was first utilized on September 11, 1973 (pp. 29243–46), when the Chair sustained two points of order against portions of a conference report that were modifications of portions of a Senate amendment in the nature of a substitute not germane to a House bill. If any motion to reject is adopted under this clause and the matter then pending before the House consists of numbered Senate amendments in disagreement, the pending question is whether to dispose of each Senate amendment not rejected as recommended in the conference report and to insist on disagreement to those amendments that have been rejected.

Where a point of order against a portion of a conference report has been sustained under this clause, the Speaker will not entertain another point of order against the report or against another portion thereof until a motion to reject the portion held nongermane (if made) has been disposed of (Speaker Albert, Dec. 15, 1975, p. 40671). The Member representing the conference committee in opposition to a motion to reject under this clause, and not the proponent of the motion, has the right to close debate thereon (Oct. 15, 1986, p. 31502).

Once a motion to reject a nongermane portion has been adopted by the House and the Speaker has recognized a Member to offer a motion comprising the pending question under this clause, the report is rejected and it is too late to make a point of order against the entire conference report under clause 9 (formerly clause 3) of this rule (Speaker Albert, Dec. 15, 1975, p. 40671).

Where possible, the Speaker rules on points of order against conference reports that, if sustained, will vitiate the entire conference report (as under clause 9 of this rule or under the Congressional Budget Act of 1974) before entertaining points of order under this clause (Speaker Albert, Sept. 23, 1976, p. 32099).

§ 1091. Nongermane matter in amendments in disagreement.

The provisions of this clause addressing nongermane matter in amendments in disagreement was first utilized on July 31, 1974 (p. 26083), when the Chair sustained a point of order against a portion of a motion to recede and concur in a Senate amendment (reported from conference in disagreement) with a further amendment, on the ground that that portion of the Senate amendment contained in the motion was not germane to the House-passed measure, and a motion rejecting that portion of the motion to recede and concur with an amendment was offered and defeated. This clause is not applicable to a provision contained in a motion to recede and concur with an amendment that was not contained in any form in the Senate version and that is not therefore a modification of the Senate provision, the only requirement in such circumstances being that the motion as a whole be germane to the Senate amendment as a whole under clause 7 of rule XVI (Oct. 4, 1978, p. 33502; June 30, 1987, p. 18294). A point of order under clause 4 (formerly clause 5(a)) of rule XXI (appropriations on a legislative bill) against a motion to dispose of a Senate amendment in disagreement (as by concurring therein with a House amendment carrying an appropriation) which, if sustained, would vitiate the entire motion, must be disposed of before a point of order against a nongermane amendment in disagreement under this clause which, if sustained, would merely permit a separate vote on rejection of that portion of the motion (Oct. 1, 1980, pp. 28638–42).

§ 1092. Tax complexity analysis.

11. It shall not be in order to consider a conference report to accompany a bill or joint resolution that proposes to amend the Internal Revenue Code of 1986 unless—

(a) the joint explanatory statement of the managers includes a tax complexity analysis prepared by the Joint Committee on Internal Revenue Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or

(b) the chairman of the Committee on Ways and Means causes such a tax complexity analysis to be printed in the Congressional Record before consideration of the conference report.

The Internal Revenue Service Restructuring and Reform Act of 1998 (sec. 4022, P.L. 105–206) added this provision as a new clause 7 of rule XXVIII. When the House recodified its rules in the 106th Congress, this provision was transferred to clause 11 of rule XXII (H. Res. 5, Jan. 6, 1999, p. 47).

§ 1093. Open conference meetings.

12. (a)(1) Subject to subparagraph (2), a meeting of each conference committee shall be open to the public.

(2) In open session of the House, a motion that managers on the part of the House be permitted to close to the public a meeting or meetings of their conference committee shall be privileged, shall be decided without debate, and shall be decided by the yeas and nays.

(3) In conducting conferences with the Senate, managers on the part of the House should endeavor to ensure—

(A) that meetings for the resolution of differences between the two Houses occur only under circumstances in which every manager on the part of the House has notice of the meeting and a reasonable opportunity to attend;

(B) that all provisions on which the two Houses disagree are considered as open to discussion at any meeting of a conference committee; and

(C) that papers reflecting a conference agreement are held inviolate to change without renewal of the opportunity of all managers on the part of the House to reconsider their decisions to sign or not to sign the agreement.

(4) Managers on the part of the House shall be provided a unitary time and place with access to

at least one complete copy of the final conference agreement for the purpose of recording their approval (or not) of the final conference agreement by placing their signatures (or not) on the sheets prepared to accompany the conference report and joint explanatory statement of the managers.

(b) A point of order that a conference committee failed to comply with paragraph (a) may be raised immediately after the conference report is read or considered as read. If such a point of order is sustained, the conference report shall be considered as rejected, the House shall be considered to have insisted on its amendments or on disagreement to the Senate amendments, as the case may be, and to have requested a further conference with the Senate, and the Speaker may appoint new conferees without intervening motion.

This clause as originally added to former rule XXVIII on January 14, 1975 (H. Res. 5, 94th Cong., p. 20) provided that conference committee meetings be open except where a majority of the managers of the House or Senate voted to close the meeting, and provided that the clause not become effective until the Senate adopted a similar rule. The Senate adopted an identical rule on November 5, 1975 (p. 35203). The clause was substantially changed on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70) to require that conference meetings be open except where the House by record vote determines that a meeting may be closed, to allow a point of order against a conference report where the conferees have violated this clause, and to provide for subsequent disposition of the matter reported from conference should such a point of order be sustained. It was further amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) to provide that if the conference report is considered read under this rule, a point of order under this clause must be made immediately upon consideration of the conference report. Before the House recodified its rules in the 106th Congress, the former version of this provision was found in former clause 6 of rule XXVIII (H. Res. 5, Jan. 6, 1999, p. 47). In the 108th Congress the record vote by which the motion is to be decided was particularized

to be by the yeas and nays (sec. 2(u), H. Res. 5, Jan. 7, 2003, p. 7). Subparagraphs (a)(3) and (4) were added in the 110th Congress (sec. 303(a), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)).

At any time after a bill has been sent to conference, a motion pursuant to this clause authorizing a conference committee to close its meetings to the public is privileged for consideration in the House and must be voted on by a record vote (now the yeas and nays) (Speaker O'Neill, May 23, 1977, pp. 15880–84; Apr. 13, 1978, p. 10128). Although a motion to close a conference committee meeting "to the public" would, under the precedents (see V, 6254, fn.), exclude Members who were not conferees, a motion may be offered as privileged under this clause to authorize a conference committee to close its meetings to the public, except to Members of Congress (Speaker O'Neill, May 23, 1977, pp. 15880–84).

In response to a parliamentary inquiry, the Chair stated that, under the rules and precedents of the House, a conference report must be the product of an actual meeting of the managers appointed by the two Houses (Oct. 30, 2003, p. ——, p. ——). Although the Chair does not normally look behind signatures of conferees to determine the propriety of conference procedure, if proposed conferees have signed a conference report before they have been formally appointed in both Houses and do not meet formally in open session after such appointment, the conference report is subject to a point of order under this clause resulting in an automatic request for a further conference (Dec. 20, 1982, p. 32896). Also, conferees on the part of the House are entitled to reasonable notice of and opportunity to attend a meeting of the conference committee (July 20, 2000, p. 15657). The adoption of paragraphs (a)(3) and (a)(4) in the 110th Congress imposed additional considerations on conference committees. However, a point of order will not lie against a conference report called up under an order of the House that has waived all points of order against consideration of the conference report (July 20, 2000, p. 15654; Oct. 30, 2003, p. ——).

Clause 11(k) of rule X provides that this provision does not apply to conference committee meetings respecting legislation (or any part thereof) reported by the Permanent Select Committee on Intelligence.

§ 1094. Text of conference reports.

13. It shall not be in order to consider a conference report the text of which differs in any way, other than clerical, from the text that reflects the action of the conferees on all of the differences between the two Houses, as recorded by their placement of their signatures (or not) on the sheets prepared to accompany the conference report and joint explanatory statement of the managers.

This clause was added in the 110th Congress (sec. 303(b), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)).

RULE XXIII

CODE OF OFFICIAL CONDUCT

There is hereby established by and for the House the following code of conduct, to be known as the "Code of Official Conduct":

§ 1095. Official conduct of Members, officers, or employees of the House.

1. A Member, Delegate, Resident Commissioner, officer, or employee of the House shall conduct himself at all times in a manner that shall reflect creditably on the House.

2. A Member, Delegate, Resident Commissioner, officer, or employee of the House shall adhere to the spirit and the letter of the Rules of the House and to the rules of duly constituted committees thereof.

3. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in Congress.

4. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept gifts except as provided by clause 5 of rule XXV.

5. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept an honorarium for a speech, a writ-

ing for publication, or other similar activity, except as otherwise provided under rule XXV.

6. A Member, Delegate, or Resident Commissioner—

(a) shall keep his campaign funds separate from his personal funds;

(b) may not convert campaign funds to personal use in excess of an amount representing reimbursement for legitimate and verifiable campaign expenditures; and

(c) except as provided in clause 1(b) of rule XXIV, may not expend funds from his campaign account that are not attributable to bona fide campaign or political purposes.

7. A Member, Delegate, or Resident Commissioner shall treat as campaign contributions all proceeds from testimonial dinners or other fund-raising events.

8. (a) A Member, Delegate, Resident Commissioner, or officer of the House may not retain an employee who does not perform duties for the offices of the employing authority commensurate with the compensation he receives.

(b) In the case of a committee employee who works under the direct supervision of a member of the committee other than a chairman, the chairman may require that such member affirm in writing that the employee has complied with clause 8(a) (subject to clause 9 of rule X) as evidence of compliance by the chairman with this clause and with clause 9 of rule X.

(c)(1) Except as specified in subparagraph (2)—

(A) a Member, Delegate, or Resident Commissioner may not retain his spouse in a paid position; and

(B) an employee of the House may not accept compensation for work for a committee on which his spouse serves as a member.

(2) Subparagraph (1) shall not apply in the case of a spouse whose pertinent employment predates the One Hundred Seventh Congress.

9. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not discharge and may not refuse to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the race, color, religion, sex (including marital or parental status), disability, age, or national origin of such individual, but may take into consideration the domicile or political affiliation of such individual.

10. A Member, Delegate, or Resident Commissioner who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is a member, and a Member should refrain from voting on any question at a meeting of the House or of the Committee of the Whole House on the state of the Union, unless or until judicial or executive pro-

ceedings result in reinstatement of the presumption of his innocence or until he is reelected to the House after the date of such conviction.

11. A Member, Delegate, or Resident Commissioner may not authorize or otherwise allow an individual, group, or organization not under the direction and control of the House to use the words "Congress of the United States," "House of Representatives," or "Official Business," or any combination of words thereof, on any letterhead or envelope.

12. (a) Except as provided in paragraph (b), an employee of the House who is required to file a report under rule XXVI may not participate personally and substantially as an employee of the House in a contact with an agency of the executive or judicial branches of Government with respect to nonlegislative matters affecting any nongovernmental person in which the employee has a significant financial interest.

(b) Paragraph (a) does not apply if an employee first advises his employing authority of a significant financial interest described in paragraph (a) and obtains from his employing authority a written waiver stating that the participation of the employee in the activity described in paragraph (a) is necessary. A copy of each such waiver shall be filed with the Committee on Standards of Official Conduct.

13. Before a Member, Delegate, Resident Commissioner, officer, or employee of the House may have access to classified information, the following oath (or affirmation) shall be executed:

> "I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service with the House of Representatives, except as authorized by the House of Representatives or in accordance with its Rules."

Copies of the executed oath (or affirmation) shall be retained by the Clerk as part of the records of the House. The Clerk shall make signatures a matter of public record, causing the names of each Member, Delegate, or Resident Commissioner who has signed the oath during a week (if any) to be published in a portion of the Congressional Record designated for that purpose on the last legislative day of the week and making cumulative lists of such names available each day for public inspection in an appropriate office of the House.

14. A Member, Delegate, or Resident Commissioner may not, with the intent to influence on the basis of partisan political affiliation an employment decision or employment practice of any private entity—

(a) take or withhold, or offer or threaten to take or withhold, an official act; or

(b) influence, or offer or threaten to influence, the official act of another.

15. (a) Except as provided in paragraph (b), a Member, Delegate, or Resident Commissioner may not use personal funds, official funds, or campaign funds for a flight on an aircraft.

(b) Paragraph (a) does not apply if—

(1) the aircraft is operated by an air carrier or commercial operator certificated by the Federal Aviation Administration and the flight is required to be conducted under air carrier safety rules, or, in the case of travel which is abroad, by an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority and the flight is required to be conducted under air carrier safety rules;

(2) the aircraft is owned or leased by a Member, Delegate, Resident Commissioner or his or her family member (including an aircraft owned by an entity that is not a public corporation in which the Member, Delegate, Resident Commissioner or his or her family member has an ownership interest, provided that such Member, Delegate, or Resident Commissioner does not use the aircraft any more than the Member, Delegate, Resident Commissioner, or family member's proportionate share of ownership allows);

(3) the flight consists of the personal use of an aircraft by a Member, Delegate, or Resident Commissioner that is supplied by

an individual on the basis of personal friendship; or

(4) the aircraft is operated by an entity of the Federal government or an entity of the government of any State.

(c) In this clause—

(1) the term "campaign funds" includes funds of any political committee under the Federal Election Campaign Act of 1971, without regard to whether the committee is an authorized committee of the Member, Delegate, or Resident Commissioner involved under such Act;

(2) the term "family member" means an individual who is related to the Member, Delegate, or Resident Commissioner, as father, mother, son, daughter, brother, sister, husband, wife, father-in-law, or mother-in-law; and

(3) the term "on the basis of personal friendship" has the same meaning as in clause 5 of rule XXV and shall be determined as under clause 5(a)(3)(D)(ii) of rule XXV.

16. A Member, Delegate, or Resident Commissioner may not condition the inclusion of language to provide funding for a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (including an accompanying joint explanatory statement of managers) on any vote cast by

another Member, Delegate, or Resident Commissioner. For purposes of this clause and clause 17, the terms "congressional earmark," "limited tax benefit," and "limited tariff benefit" shall have the meanings given them in clause 9 of rule XXI.

17. (a) A Member, Delegate, or Resident Commissioner who requests a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (or an accompanying joint statement of managers) shall provide a written statement to the chairman and ranking minority member of the committee of jurisdiction, including—

(1) the name of the Member, Delegate, or Resident Commissioner;

(2) in the case of a congressional earmark, the name and address of the intended recipient or, if there is no specifically intended recipient, the intended location of the activity;

(3) in the case of a limited tax or tariff benefit, identification of the individual or entities reasonably anticipated to benefit, to the extent known to the Member, Delegate, or Resident Commissioner;

(4) the purpose of such congressional earmark or limited tax or tariff benefit; and

(5) a certification that the Member, Delegate, or Resident Commissioner or spouse has no financial interest in such congres-

sional earmark or limited tax or tariff benefit.

(b) Each committee shall maintain the information transmitted under paragraph (a), and the written disclosures for any congressional earmarks, limited tax benefits, or limited tariff benefits included in any measure reported by the committee or conference report filed by the chairman of the committee or any subcommittee thereof shall be open for public inspection.

18. (a) In this Code of Official Conduct, the term "officer or employee of the House" means an individual whose compensation is disbursed by the Chief Administrative Officer.

(b) An individual whose services are compensated by the House pursuant to a consultant contract shall be considered an employee of the House for purposes of clauses 1, 2, 3, 4, 8, 9, and 13 of this rule. An individual whose services are compensated by the House pursuant to a consultant contract may not lobby the contracting committee or the members or staff of the contracting committee on any matter. Such an individual may lobby other Members, Delegates, or the Resident Commissioner or staff of the House on matters outside the jurisdiction of the contracting committee.

This rule was transferred from rule XLIII to rule XXIV when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). It was redesignated as rule XXIII in the 107th Congress (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24). The rule was originally adopted in the 90th Congress (H. Res. 1099, Apr. 3, 1968, p. 8803). The jurisdiction of the Committee on Standards of Official Conduct was redefined in the same resolution. Clause 4 was entirely rewritten (and definitions for the purpose of clause

4 were deleted) in the 104th Congress to reflect the adoption of a Gift Rule (H. Res. 254, Nov. 30, 1995, p. 35077). Prior to the 104th Congress, clause 4 had been amended in the 95th Congress to change the prohibition against acceptance of gifts of "substantial value" (H. Res. 5, Jan. 4, 1975, p. 20) and definitions for purposes of clause 4 were added in the 96th Congress (H. Res. 287, Mar. 2, 1977, pp. 5933–53). Those definitions were amended in the Ethics Reform Act of 1989 to make conforming changes in the definition of "relative" (P.L. 101–194). Clause 4 was also amended: (1) in the 100th Congress to increase from $35 to $50 the value of personal hospitality of an individual that is not to be counted when computing the aggregate amount of gifts per calendar year (H. Res. 5, Jan. 6, 1987, p. 6); and (2) in the Ethics Reform Act of 1989 to revise the rules governing the acceptance of gifts, including value thresholds and waivers (P.L. 101–194). Those threshold and aggregate values were again adjusted by section 314(d) of the Legislative Branch Appropriations Act for fiscal year 1992 (P.L. 102–90). The Ethics Reform Act of 1989 (P.L. 101–194) amended clause 5 to prohibit the acceptance of honoraria. Clause 6 was amended in the 95th Congress to delete from the second sentence the exception "unless specifically provided by law," which had been added in the 94th Congress (H. Res. 5, Jan. 4, 1975, p. 20) and was again amended in the 109th Congress to conform it to the change in clause 1 of rule XXIV to permit campaign funds to be used to defray certain official expenses (sec. 2(j), H. Res. 5, Jan. 4, 2005, p. ——). Clause 6 was also amended by the Ethics Reform Act of 1989 (P.L. 101–194) to specify that campaign funds be used only for bona fide campaign or political purposes. Clause 7 was amended in the 95th Congress to eliminate an exception permitting sponsors to give notice of purpose (H. Res. 5, Jan. 4, 1975, p. 20). The Ethics Reform Act of 1989 (P.L. 101–194) amended clause 8 to broaden Members' accountability for the pay and performance of staff. Clause 8 was again amended in the 106th Congress to permit telecommuting by House employees (H. Res. 5, Jan. 6, 1999, p. 47). Clause 8(c) was added in the 107th Congress (sec. 2(t), H. Res. 5, Jan. 3, 2001, p. 24). Clause 9 was added in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). Clause 9 was amended in the 100th Congress to prohibit discrimination in employment based upon age (H. Res. 5, Jan. 6, 1987, p. 6) and again in the 101st Congress to conform existing staff antidiscrimination rules to the Fair Employment Practices resolution adopted in the 100th Congress (now contained in the Congressional Accountability Act of 1995 (P.L. 104–1; 2 U.S.C. 1301; see § 1101, *infra*)). Clause 10 was added in the 94th Congress (H. Res. 46, Apr. 16, 1975, p. 10340). Clause 11 was added in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). Clause 12 was added by the Ethics Reform Act of 1989 (P.L. 101–194) to proscribe certain contacts as involving conflicts of interest. Clause 13 was added in the 104th Congress (sec. 220, H. Res. 6, Jan. 4, 1995, p. 468), except the last sentence, which was added in the 107th Congress (sec. 2(t), H. Res. 5, Jan. 3, 2001, p. 24). Clause 18 (which was an undesignated paragraph at the end of the rule before

being numbered as clause 14 when the rules were recodified in the 106th Congress) was amended in the 92d Congress to bring the Delegates and Resident Commissioner within the definition of "Member" (H. Res. 5, Jan. 22, 1971, p. 144; H. Res. 1153, Oct. 13, 1972, pp. 36021–23). It was again amended in the 106th Congress to include consultants among employees covered by certain provisions of the code of conduct (H. Res. 5, Jan. 6, 1999, p. 47) and in the 107th Congress to add the last two sentences of paragraph (b) (sec. 2(v), H. Res. 5, Jan. 3, 2001, p. 24). In the 105th Congress the rule was amended to effect three clerical corrections (H. Res. 5, Jan. 7, 1997, p. 121); in the 106th Congress clerical and stylistic changes were effected when the rules were recodified (H. Res. 5, Jan. 6, 1999, p. 47); and in the 107th Congress conforming changes were made to reflect the redesignation of several rules (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24) and a clerical correction to a cross reference in clause 8(b) was effected (sec. 2(x), H. Res. 5, Jan. 3, 2001, p. 26). Clauses 14 through 17 were added in the 110th Congress (secs. 202, 207, H. Res. 6, Jan. 4, 2007, p. ——; sec. 404(b), H. Res. 6, Jan. 4, 2007, p. —— (adopted Jan. 5, 2007)). Clause 15 was amended in its entirety during the 110th Congress (H. Res. 363, May 2, 2007, p. ——).

For an in-depth discussion of this rule prepared by the Committee on Standards of Official Conduct, see the *House Ethics Manual* (102d Cong., 2d Sess.). The committee also has compiled a complete statement of the rules on gifts and travel, which supersedes Chapter 2 of the 1992 *House Ethics Manual* (*Gifts and Travel,* 106th Cong., 2d Sess.).

It is not a proper parliamentary inquiry to ask the Chair to interpret the application of a criminal statute to a Member's conduct, as it is for the House and not the Chair to judge the conduct of Members (Nov. 17, 1987, p. 32153). In response to a parliamentary inquiry, the Chair advised that the operation of clause 16 was not affected by a special order of the House waiving various points of order against a measure and against its consideration (Mar. 23, 2007, p. ——). The Committee on Standards of Official Conduct has opined that "conviction" in clause 10 includes a plea of guilty or a certified finding of guilty even though sentencing may occur later (H. Rept. 94–76).

RULE XXIV

LIMITATIONS ON USE OF OFFICIAL FUNDS

Limitations on use of official and unofficial accounts

§ 1096. Limitation on accounts.

1. (a) Except as provided in paragraph (b), a Member, Delegate, or Resident Commissioner may not maintain, or

have maintained for his use, an unofficial office account. Funds may not be paid into an unofficial office account.

(b)(1) Except as provided in subparagraph (2), a Member, Delegate, or Resident Commissioner may defray official expenses with funds of his principal campaign committee under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(2) The funds specified in subparagraph (1) may not be used to defray official expenses for mail or other communications, compensation for services, office space, furniture, or equipment, and any associated information technology services (excluding handheld communications devices).

2. Notwithstanding any other provision of this rule, if an amount from the Official Expenses Allowance of a Member, Delegate, or Resident Commissioner is paid into the House Recording Studio revolving fund for telecommunications satellite services, the Member, Delegate, or Resident Commissioner may accept reimbursement from nonpolitical entities in that amount for transmission to the Clerk for credit to the Official Expenses Allowance.

3. In this rule the term "unofficial office account" means an account or repository in which funds are received for the purpose of defraying otherwise unreimbursed expenses allowable under section 162(a) of the Internal Revenue Code of 1986 as ordinary and necessary in the operation of a congressional office, and includes

a newsletter fund referred to in section 527(g) of the Internal Revenue Code of 1986.

This provision (formerly rule XLV) was adopted in the 95th Congress (H. Res. 287, Mar. 2, 1977, pp. 5933–53). It was amended in the 102d Congress to permit Members to receive reimbursements to their expense allowances for recording studio charges attributable to nonpolitical organizations receiving the transmissions (H. Res. 5, Jan. 3, 1991, p. 39). When the House recodified its rules in the 106th Congress, it consolidated former rules XLV and XLVI under clauses 1 through 9 of rule XXV and the second sentence of former clause 8 of rule I and former clauses 2(n)(5) and 5(e) of rule XI under clause 10 of rule XXV (H. Res. 5, Jan. 6, 1999, p. 47). This rule was redesignated as rule XXIV in the 107th Congress (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24). In the 109th Congress clause 1 was amended to permit campaign funds to be used to defray certain official expenses (sec. 2(j), H. Res. 5, Jan. 4, 2005, p. 25).

For an in-depth discussion of this rule prepared by the Committee on Standards of Official Conduct, see the *House Ethics Manual* (102d Cong., 2d Sess.).

Limitations on use of the frank

§ 1097. Limitations on use of frank.

4. A Member, Delegate, or Resident Commissioner shall mail franked mail under section 3210(d) of title 39, United States Code at the most economical rate of postage practicable.

5. Before making a mass mailing, a Member, Delegate, or Resident Commissioner shall submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether the proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

6. A mass mailing that is otherwise frankable by a Member, Delegate, or Resident Commissioner under the provisions of section 3210(e) of title 39, United States Code, is not frankable unless the cost of preparing and printing it is de-

frayed exclusively from funds made available in an appropriation Act.

7. A Member, Delegate, or Resident Commissioner may not send a mass mailing outside the congressional district from which he was elected.

8. In the case of a Member, Delegate, or Resident Commissioner, a mass mailing is not frankable under section 3210 of title 39, United States Code, when it is postmarked less than 90 days before the date of a primary or general election (whether regular, special, or runoff) in which he is a candidate for public office. If the mail matter is of a type that is not customarily postmarked, the date on which it would have been postmarked, if it were of a type customarily postmarked, applies.

9. In this rule the term "mass mailing" means, with respect to a session of Congress, a mailing of newsletters or other pieces of mail with substantially identical content (whether such pieces of mail are deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces of mail in that session, except that such term does not include a mailing—

(a) of matter in direct response to a communication from a person to whom the matter is mailed;

(b) from a Member, Delegate, or Resident Commissioner to other Members, Delegates, the Resident Commissioner, or Senators, or to Federal, State, or local government officials; or

(c) of a news release to the communications media.

This provision (formerly rule XLVI) was adopted in the 95th Congress (H. Res. 287, Mar. 2, 1977, pp. 5933–53). In the 102d Congress it was extensively amended to conform to restrictions on franking and mass mailings included in the legislative branch appropriations acts for fiscal years 1990 and 1991 (P.L. 101–163 and 101–520, respectively) (H. Res. 5, Jan. 3, 1991, p. 39). Clause 7 (formerly clause 4) was rewritten in the 103d Congress to conform to the statutory prohibition against mass mailings outside the congressional district from which a Member was elected. Before the House recodified its rules in the 106th Congress, this provision was found in former rule XLVI (H. Res. 5, Jan. 6, 1999, p. 47). In the 109th Congress clause 8 was amended to expand the window during which a mass mailing is not frankable to 90 days before the date of an election (from 60 days), thereby conforming the rule to section 3210 of title 39, United States Code (sec. 2(j), H. Res. 5, Jan. 4, 2005, p. ——).

For an in-depth discussion of this rule prepared by the Committee on Standards of Official Conduct, see the *House Ethics Manual* (102d Cong., 2d Sess.).

Prohibition on use of funds by Members not elected to succeeding Congress

§ 1098. Travel by Members not reelected.

10. Funds from the applicable accounts described in clause 1(j)(1) of rule X, including funds from committee expense resolutions, and funds in any local currencies owned by the United States may not be made available for travel by a Member, Delegate, Resident Commissioner, or Senator after the date of a general election in which he was not elected to the succeeding Congress or, in the case of a Member, Delegate, or Resident Commissioner who is not a candidate in a general election, after the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

This provision was added in the 95th Congress (H. Res. 287, Mar. 2, 1977, p. 5941). In the 105th and 106th Congresses this clause was amended to update archaic references to the "contingent fund" (H. Res. 5, Jan. 7, 1997, p. 121; H. Res. 5, Jan. 6, 1999, p. 47). When the House recodified its rules in the 106th Congress, it consolidated the second sentence of former clause 8 of rule I and former clauses 2(n)(5) and 5(e) of rule XI

under clause 10 of former rule XXV (redesignated as rule XXIV in the 107th Congress) (H. Res. 5, Jan. 6, 1999, p. 47). A conforming change was effected in the 109th Congress (sec. 2(a), H. Res. 5, Jan. 4, 2005, p. ——).

RULE XXV

LIMITATIONS ON OUTSIDE EARNED INCOME AND ACCEPTANCE OF GIFTS

Outside earned income; honoraria

§ 1099. Income limitations.

1. (a) Except as provided by paragraph (b), a Member, Delegate, Resident Commissioner, officer, or employee of the House may not—

(1) have outside earned income attributable to a calendar year that exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of that calendar year; or

(2) receive any honorarium, except that an officer or employee of the House who is paid at a rate less than 120 percent of the minimum rate of basic pay for GS–15 of the General Schedule may receive an honorarium unless the subject matter is directly related to the official duties of the individual, the payment is made because of the status of the individual with the House, or the person offering the honorarium has interests that may be substantially affected by the performance or nonperformance of the official duties of the individual.

(b) In the case of an individual who becomes a Member, Delegate, Resident Commissioner, of-

ficer, or employee of the House, such individual may not have outside earned income attributable to the portion of a calendar year that occurs after such individual becomes a Member, Delegate, Resident Commissioner, officer, or employee that exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of that calendar year multiplied by a fraction, the numerator of which is the number of days the individual is a Member, Delegate, Resident Commissioner, officer, or employee during that calendar year and the denominator of which is 365.

(c) A payment in lieu of an honorarium that is made to a charitable organization on behalf of a Member, Delegate, Resident Commissioner, officer, or employee of the House may not be received by that Member, Delegate, Resident Commissioner, officer, or employee. Such a payment may not exceed $2,000 or be made to a charitable organization from which the Member, Delegate, Resident Commissioner, officer, or employee or a parent, sibling, spouse, child, or dependent relative of the Member, Delegate, Resident Commissioner, officer, or employee, derives a financial benefit.

2. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not—

(a) receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity that pro-

vides professional services involving a fiduciary relationship except for the practice of medicine;

(b) permit his name to be used by such a firm, partnership, association, corporation, or other entity;

(c) receive compensation for practicing a profession that involves a fiduciary relationship except for the practice of medicine;

(d) serve for compensation as an officer or member of the board of an association, corporation, or other entity; or

(e) receive compensation for teaching, without the prior notification and approval of the Committee on Standards of Official Conduct.

Copyright royalties

3. (a) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not receive an advance payment on copyright royalties. This paragraph does not prohibit a literary agent, researcher, or other individual (other than an individual employed by the House or a relative of a Member, Delegate, Resident Commissioner, officer, or employee) working on behalf of a Member, Delegate, Resident Commissioner, officer, or employee with respect to a publication from receiving an advance payment of a copyright royalty directly from a publisher and solely for the benefit of that literary agent, researcher, or other individual.

(b) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not

receive copyright royalties under a contract entered into on or after January 1, 1996, unless that contract is first approved by the Committee on Standards of Official Conduct as complying with the requirement of clause 4(d)(1)(E) (that royalties are received from an established publisher under usual and customary contractual terms).

Definitions

4. (a)(1) In this rule, except as provided in subparagraph (2), the term "officer or employee of the House" means an individual (other than a Member, Delegate, or Resident Commissioner) whose pay is disbursed by the Chief Administrative Officer, who is paid at a rate equal to or greater than 120 percent of the minimum rate of basic pay for GS–15 of the General Schedule, and who is so employed for more than 90 days in a calendar year.

(2)(A) When used with respect to an honorarium, the term "officer or employee of the House" means an individual (other than a Member, Delegate, or Resident Commissioner) whose salary is disbursed by the Chief Administrative Officer.

(B) When used in clause 5 of this rule, the terms "officer" and "employee" have the same meanings as in rule XXIII.

(b) In this rule the term "honorarium" means a payment of money or a thing of value for an appearance, speech, or article (including a series of appearances, speeches, or articles) by a Mem-

ber, Delegate, Resident Commissioner, officer, or employee of the House, excluding any actual and necessary travel expenses incurred by that Member, Delegate, Resident Commissioner, officer, or employee (and one relative) to the extent that such expenses are paid or reimbursed by any other person. The amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not so paid or reimbursed.

(c) In this rule the term "travel expenses" means, with respect to a Member, Delegate, Resident Commissioner, officer, or employee of the House, or a relative of such Member, Delegate, Resident Commissioner, officer, or employee, the cost of transportation, and the cost of lodging and meals while away from his residence or principal place of employment.

(d)(1) In this rule the term "outside earned income" means, with respect to a Member, Delegate, Resident Commissioner, officer, or employee of the House, wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered, but does not include—

(A) the salary of a Member, Delegate, Resident Commissioner, officer, or employee;

(B) any compensation derived by a Member, Delegate, Resident Commissioner, officer, or employee of the House for personal services actually rendered before the adoption of this rule or before he became a Member, Delegate, Resident Commissioner, officer, or employee;

(C) any amount paid by, or on behalf of, a Member, Delegate, Resident Commissioner, officer, or employee of the House to a tax-qualified pension, profit-sharing, or stock bonus plan and received by him from such a plan;

(D) in the case of a Member, Delegate, Resident Commissioner, officer, or employee of the House engaged in a trade or business in which he or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by the Member, Delegate, Resident Commissioner, officer, or employee, so long as the personal services actually rendered by him in the trade or business do not generate a significant amount of income; or

(E) copyright royalties received from established publishers under usual and customary contractual terms; and

(2) outside earned income shall be determined without regard to community property law.

(e) In this rule the term "charitable organization" means an organization described in section 170(c) of the Internal Revenue Code of 1986.

The rule on outside earned income (formerly rule XLVII) was adopted in the 95th Congress (H. Res. 287, Mar. 2, 1977, pp. 5933–53). It was amended for the first time in the 96th Congress to increase the limit on a single honorarium from $750 to $1000 (H. Res. 5, Jan. 15, 1979, pp. 7–16). The rule was amended further in the 97th Congress to (1) increase the limitation on outside earned income for a calendar year from 15 to 30 percent of a Member's salary; (2) strike the $1000 limitation on a single honorarium; and (3) provide that honoraria shall be attributable to the calendar year in which payment is received (H. Res. 305, Dec. 15, 1981, p. 31529). In the 99th Congress, the rule was amended to delete the 30 percent of aggregate salary limitation on outside earned income and to conform the limitation to that contained in law (2 U.S.C. 31–1 provides

that a Member of Congress may not accept honoraria in excess of 40 percent of his aggregate salary) (H. Res. 427, Apr. 22, 1986, p. 8328). The next day, the House adopted a resolution vacating the proceedings by which that resolution had been adopted and laying that resolution on the table (H. Res. 432, Apr. 23, 1986, p. 8474). The Ethics Reform Act of 1989: (1) amended the title of the rule; (2) amended clause 1 to effect for 1991 and future years the elimination of honoraria not assigned to charity and closer restrictions on outside earned income (including limitation to 15 percent of Executive Level II pay); (3) amended clause 2 to effect for 1991 and future years new limits on outside employment; and (4) amended clause 3 to revise certain definitions (P.L. 101–194). That Act also established a civil cause of action against an individual who violates the limitations on outside earned income and employment (5 U.S.C. app. 504). In the 102d Congress clause 2 was further amended to specify that the ban on affiliation with a firm applies only if compensation is received and only with respect to a professional services firm, and clause 3 was further amended to specify the applicability of outside earned income restrictions to officers and employees of the House (H. Res. 5, Jan. 3, 1991, p. 39). In the 104th Congress a new clause was added to prohibit the receipt of advance payments on copyright royalties and the receipt of any payments on copyright royalties under future contracts unless approved in advance by the Committee on Standards of Official Conduct (H. Res. 299, Dec. 22, 1995, p. 38488). In the 106th Congress the rule was amended to permit certain House employees to receive honoraria; the parenthetical in clause 4(b) was adopted; and, when the House recodified its rules, it consolidated former rules XLI, XLVII, and LI under rule XXVI (H. Res. 5, Jan. 6, 1999, p. 47). This rule was redesignated as rule XXV in the 107th Congress (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24). Clause 4(a)(1) (and clause 5(e)) were amended in the 107th Congress to conform the definition of "officer or employee" to rule XXIII (sec. 2(w), H. Res. 5, Jan. 3, 2001, p. 26). Clause 2 was amended in the 108th Congress to except the practice of medicine from the restriction against outside earned income received from providing professional services that involve a fiduciary relationship (sec. 2(q), H. Res. 5, Jan. 7, 2003, p. 7).

For an in-depth discussion of this rule prepared by the Committee on Standards of Official Conduct, see the *House Ethics Manual* (102d Cong., 2d Sess.).

Before its coverage was restricted to the Senate in the Ethics Reform Act of 1989 (sec. 601(b), P.L. 101–194), a separate provision of law (2 U.S.C. 441i) provided criminal penalties for any elected or appointed Federal employee who accepts an honorarium of more than $2000 per speech. A statutory ceiling of $25,000 from honoraria in a calendar year was repealed in 1981 (P.L. 97–51). The Senate repealed its rule on outside earned income in the 97th Congress (S. Res. 512, Dec. 14, 1982, p. 30640) and reinstated it in the 102d Congress (S. Res. 192, Oct. 31, 1991, p. 29567).

For provisions of the Federal criminal code restricting postemployment activities, see 18 U.S.C. 207, which was originally enacted in title V of the Ethics in Government Act of 1978 (P.L. 95–521).

Gifts

§ 1100. Gift rule.

5. (a)(1)(A)(i) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not knowingly accept a gift except as provided in this clause.

(ii) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not knowingly accept a gift from a registered lobbyist or agent of a foreign principal or from a private entity that retains or employs registered lobbyists or agents of a foreign principal except as provided in subparagraph (3) of this paragraph.

(B)(i) A Member, Delegate, Resident Commissioner, officer, or employee of the House may accept a gift (other than cash or cash equivalent) not prohibited by subdivision (A)(ii) that the Member, Delegate, Resident Commissioner, officer, or employee reasonably and in good faith believes to have a value of less than $50 and a cumulative value from one source during a calendar year of less than $100. A gift having a value of less than $10 does not count toward the $100 annual limit. The value of perishable food sent to an office shall be allocated among the individual recipients and not to the Member, Delegate, or Resident Commissioner. Formal recordkeeping is not required by this subdivision, but a Member, Delegate, Resident Commissioner, of-

ficer, or employee of the House shall make a good faith effort to comply with this subdivision.

(ii) A gift of a ticket to a sporting or entertainment event shall be valued at the face value of the ticket or, in the case of a ticket without a face value, at the highest cost of a ticket with a face value for the event. The price printed on a ticket to an event shall be deemed its face value only if it also is the price at which the issuer offers that ticket for sale to the public.

(2)(A) In this clause the term "gift" means a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(B)(i) A gift to a family member of a Member, Delegate, Resident Commissioner, officer, or employee of the House, or a gift to any other individual based on that individual's relationship with the Member, Delegate, Resident Commissioner, officer, or employee, shall be considered a gift to the Member, Delegate, Resident Commissioner, officer, or employee if it is given with the knowledge and acquiescence of the Member, Delegate, Resident Commissioner, officer, or employee and the Member, Delegate, Resident Commissioner, officer, or employee has reason to believe the gift was given because of his official position.

(ii) If food or refreshment is provided at the same time and place to both a Member, Delegate, Resident Commissioner, officer, or employee of the House and the spouse or dependent thereof, only the food or refreshment provided to the Member, Delegate, Resident Commissioner, officer, or employee shall be treated as a gift for purposes of this clause.

(3) The restrictions in subparagraph (1) do not apply to the following:

(A) Anything for which the Member, Delegate, Resident Commissioner, officer, or employee of the House pays the market value, or does not use and promptly returns to the donor.

(B) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) that is lawfully made under that Act, a lawful contribution for election to a State or local government office, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(C) A gift from a relative as described in section 109(16) of title I of the Ethics in Government Act of 1978 (5 U.S.C. App. 109(16)).

(D)(i) Anything provided by an individual on the basis of a personal friendship unless the Member, Delegate, Resident Commissioner, officer, or employee of the House has reason to believe that, under the circumstances, the gift was provided because of his official position and not because of the personal friendship.

(ii) In determining whether a gift is provided on the basis of personal friendship, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall consider the circumstances under which the gift was offered, such as:

(I) The history of his relationship with the individual giving the gift, including any previous exchange of gifts between them.

(II) Whether to his actual knowledge the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

(III) Whether to his actual knowledge the individual who gave the gift also gave the same or similar gifts to other Members, Delegates, the Resident Commissioners, officers, or employees of the House.

(E) Except as provided in paragraph (e)(3), a contribution or other payment to a legal expense fund established for the benefit of a Member, Delegate, Resident Commissioner, officer, or employee of the House that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.

(F) A gift from another Member, Delegate, Resident Commissioner, officer, or employee of the House or Senate.

(G) Food, refreshments, lodging, transportation, and other benefits—

(i) resulting from the outside business or employment activities of the Member, Dele-

gate, Resident Commissioner, officer, or employee of the House (or other outside activities that are not connected to his duties as an officeholder), or of his spouse, if such benefits have not been offered or enhanced because of his official position and are customarily provided to others in similar circumstances;

(ii) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(iii) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such organization.

(H) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(I) Informational materials that are sent to the office of the Member, Delegate, Resident Commissioner, officer, or employee of the House in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(J) Awards or prizes that are given to competitors in contests or events open to the public, including random drawings.

(K) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and as-

sociated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(L) Training (including food and refreshments furnished to all attendees as an integral part of the training) if such training is in the interest of the House.

(M) Bequests, inheritances, and other transfers at death.

(N) An item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

(O) Anything that is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

(P) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.

(Q) Free attendance at an event permitted under subparagraph (4).

(R) Opportunities and benefits that are—

(i) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

(ii) offered to members of a group or class in which membership is unrelated to congressional employment;

(iii) offered to members of an organization, such as an employees' association or con-

gressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

(iv) offered to a group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(v) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(vi) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(S) A plaque, trophy, or other item that is substantially commemorative in nature and that is intended for presentation.

(T) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

(U) Food or refreshments of a nominal value offered other than as a part of a meal.

(V) Donations of products from the district or State that the Member, Delegate, or Resident Commissioner represents that are intended primarily for promotional purposes,

such as display or free distribution, and are of minimal value to any single recipient.

(W) An item of nominal value such as a greeting card, baseball cap, or a T-shirt.

(4)(A) A Member, Delegate, Resident Commissioner, officer, or employee of the House may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

(i) the Member, Delegate, Resident Commissioner, officer, or employee of the House participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to his official position; or

(ii) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, Delegate, Resident Commissioner, officer, or employee of the House.

(B) A Member, Delegate, Resident Commissioner, officer, or employee of the House who attends an event described in subdivision (A) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

(C) A Member, Delegate, Resident Commissioner, officer, or employee of the House, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a

charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event unless—

(i) all of the net proceeds of the event are for the benefit of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;

(ii) reimbursement for the transportation and lodging in connection with the event is paid by such organization; and

(iii) the offer of free attendance at the event is made by such organization.

(D) In this paragraph the term "free attendance" may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees.

(5) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept a gift the value of which exceeds $250 on the basis of the personal friendship exception in subparagraph (3)(D) unless the Committee on Standards of Official Conduct issues a written determination that such exception applies. A determination under this subparagraph is not required for gifts given on the basis of the family relationship exception in subparagraph (3)(C).

(6) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

(b)(1)(A) A reimbursement (including payment in kind) to a Member, Delegate, Resident Commissioner, officer, or employee of the House for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, factfinding trip, or similar event in connection with his duties as an officeholder shall be considered as a reimbursement to the House and not a gift prohibited by this clause when it is from a private source other than a registered lobbyist or agent of a foreign principal or a private entity that retains or employs registered lobbyists or agents of a foreign principal (except as provided in subdivision (C)), if the Member, Delegate, Resident Commissioner, officer, or employee—

(i) in the case of an employee, receives advance authorization, from the Member, Delegate, Resident Commissioner, or officer under whose direct supervision the employee works, to accept reimbursement; and

(ii) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk within 15 days after the travel is completed.

(B) For purposes of subdivision (A), events, the activities of which are substantially recreational in nature, are not considered to be in connection with the duties of a Member, Delegate, Resident

Commissioner, officer, or employee of the House as an officeholder.

(C) A reimbursement (including payment in kind) to a Member, Delegate, Resident Commissioner, officer, or employee of the House for any purpose described in subdivision (A) also shall be considered as a reimbursement to the House and not a gift prohibited by this clause (without regard to whether the source retains or employs registered lobbyists or agents of a foreign principal) if it is, under regulations prescribed by the Committee on Standards of Official Conduct to implement this provision—

(i) directly from an institution of higher education within the meaning of section 101 of the Higher Education Act of 1965; or

(ii) provided only for attendance at or participation in a one-day event (exclusive of travel time and an overnight stay).

Regulations prescribed to implement this provision may permit a two-night stay when determined by the committee on a case-by-case basis to be practically required to participate in the one-day event.

(2) Each advance authorization to accept reimbursement shall be signed by the Member, Delegate, Resident Commissioner, or officer of the House under whose direct supervision the employee works and shall include—

(A) the name of the employee;

(B) the name of the person who will make the reimbursement;

(C) the time, place, and purpose of the travel; and

(D) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

(3) Each disclosure made under subparagraph (1)(A) shall be signed by the Member, Delegate, Resident Commissioner, or officer (in the case of travel by that Member, Delegate, Resident Commissioner, or officer) or by the Member, Delegate, Resident Commissioner, or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

(A) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

(B) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

(C) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

(D) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

(E) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in subparagraph (4);

(F) a description of meetings and events attended; and

(G) in the case of a reimbursement to a Member, Delegate, Resident Commissioner, or

officer, a determination that the travel was in connection with his duties as an officeholder and would not create the appearance that the Member, Delegate, Resident Commissioner, or officer is using public office for private gain.

(4) In this paragraph the term "necessary transportation, lodging, and related expenses"—

(A) includes reasonable expenses that are necessary for travel for a period not exceeding four days within the United States or seven days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

(B) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in subdivision (A);

(C) does not include expenditures for recreational activities, nor does it include entertainment other than that provided to all attendees as an integral part of the event, except for activities or entertainment otherwise permissible under this clause; and

(D) may include travel expenses incurred on behalf of a relative of the Member, Delegate, Resident Commissioner, officer, or employee.

(5) The Clerk of the House shall make all advance authorizations, certifications, and disclosures filed pursuant to this paragraph available

for public inspection as soon as possible after they are received.

(c)(1)(A) Except as provided in subdivision (B), a Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept a reimbursement (including payment in kind) for transportation, lodging, or related expenses for a trip on which the traveler is accompanied on any segment by a registered lobbyist or agent of a foreign principal.

(B) Subdivision (A) does not apply to a trip for which the source of reimbursement is an institution of higher education within the meaning of section 101 of the Higher Education Act of 1965.

(2) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept a reimbursement (including payment in kind) for transportation, lodging, or related expenses under the exception in paragraph (b)(1)(C)(ii) of this clause for a trip that is financed in whole or in part by a private entity that retains or employs registered lobbyists or agents of a foreign principal unless any involvement of a registered lobbyist or agent of a foreign principal in the planning, organization, request, or arrangement of the trip is de minimis under rules prescribed by the Committee on Standards of Official Conduct to implement paragraph (b)(1)(C) of this clause.

(3) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept a reimbursement (including payment in kind) for transportation, lodging, or related ex-

penses for a trip (other than a trip permitted under paragraph (b)(1)(C) of this clause) if such trip is in any part planned, organized, requested, or arranged by a registered lobbyist or agent of a foreign principal.

(d) A Member, Delegate, Resident Commissioner, officer, or employee of the House shall, before accepting travel otherwise permissible under paragraph (b)(1) of this clause from any private source—

(1) provide to the Committee on Standards of Official Conduct before such trip a written certification signed by the source or (in the case of a corporate person) by an officer of the source—

(A) that the trip will not be financed in any part by a registered lobbyist or agent of a foreign principal;

(B) that the source either—

(i) does not retain or employ registered lobbyists or agents of a foreign principal; or

(ii) is an institution of higher education within the meaning of section 101 of the Higher Education Act of 1965; or

(iii) certifies that the trip meets the requirements specified in rules prescribed by the Committee on Standards of Official Conduct to implement paragraph (b)(1)(C)(ii) of this clause and specifically details the extent of any involvement of a registered lobbyist or agent of a foreign principal in the planning, organization, re-

quest, or arrangement of the trip considered to qualify as de minimis under such rules;

(C) that the source will not accept from another source any funds earmarked directly or indirectly for the purpose of financing any aspect of the trip;

(D) that the traveler will not be accompanied on any segment of the trip by a registered lobbyist or agent of a foreign principal (except in the case of a trip for which the source of reimbursement is an institution of higher education within the meaning of section 101 of the Higher Education Act of 1965); and

(E) that (except as permitted in paragraph (b)(1)(C) of this clause) the trip will not in any part be planned, organized, requested, or arranged by a registered lobbyist or agent of a foreign principal; and

(2) after the Committee on Standards of Official Conduct has promulgated the regulations mandated in paragraph (i)(1)(B) of this clause, obtain the prior approval of the committee for such trip.

(e) A gift prohibited by paragraph (a)(1) includes the following:

(1) Anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, Delegate, Resident Commissioner, officer, or employee of the House.

(2) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal on the basis of a designation, recommendation, or other specification of a Member, Delegate, Resident Commissioner, officer, or employee of the House (not including a mass mailing or other solicitation directed to a broad category of persons or entities), other than a charitable contribution permitted by paragraph (f).

(3) A contribution or other payment by a registered lobbyist or an agent of a foreign principal to a legal expense fund established for the benefit of a Member, Delegate, Resident Commissioner, officer, or employee of the House.

(4) A financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of Members, Delegates, the Resident Commissioner, officers, or employees of the House.

(f)(1) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal in lieu of an honorarium to a Member, Delegate, Resident Commissioner, officer, or employee of the House is not considered a gift under this clause if it is reported as provided in subparagraph (2).

(2) A Member, Delegate, Resident Commissioner, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of an honorarium described in subparagraph (1) shall report within 30 days after such designation or recommendation to the Clerk—

(A) the name and address of the registered lobbyist who is making the contribution in lieu of an honorarium;

(B) the date and amount of the contribution; and

(C) the name and address of the charitable organization designated or recommended by the Member, Delegate, or Resident Commissioner.

The Clerk shall make public information received under this subparagraph as soon as possible after it is received.

(g) In this clause—

(1) the term "registered lobbyist" means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute;

(2) the term "agent of a foreign principal" means an agent of a foreign principal registered under the Foreign Agents Registration Act; and

(3) the terms "officer" and "employee" have the same meanings as in rule XXIII.

(h) All the provisions of this clause shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is au-

thorized to issue guidance on any matter contained in this clause.

(i)(1) Not later than 45 days after the date of adoption of this paragraph and at annual intervals thereafter, the Committee on Standards of Official Conduct shall develop and revise, as necessary—

(A) guidelines on judging the reasonableness of an expense or expenditure for purposes of this clause, including the factors that tend to establish—

(i) a connection between a trip and official duties;

(ii) the reasonableness of an amount spent by a sponsor;

(iii) a relationship between an event and an officially connected purpose; and

(iv) a direct and immediate relationship between a source of funding and an event; and

(B) regulations describing the information it will require individuals subject to this clause to submit to the committee in order to obtain the prior approval of the committee for any travel covered by this clause, including any required certifications.

(2) In developing and revising guidelines under paragraph (1)(A), the committee shall take into account the maximum per diem rates for official Government travel published annually by the General Services Administration, the Department of State, and the Department of Defense.

This provision originally was adopted in the 104th Congress as rule LII (H. Res. 250, Nov. 16, 1995, p. 33433). It was amended in the 106th Congress to permit acceptance of a gift having a value of less than $50 and a cumulative value from any one source in the calendar year of less than $100 (H. Res. 9, Jan. 6, 1999, p. 237). In the 105th Congress it was redesignated as rule LI (H. Res. 5, Jan. 7, 1997, p. 121), and when the House recodified its rules in the 106th Congress, this provision was consolidated with former rules XLI and XLVIII under former rule XXVI (redesignated as rule XXV in the 107th Congress) (H. Res. 5, Jan. 6, 1999, p. 47). Clause 5(e) (now 5(g)) and clause 4(a)(1) were amended in the 107th Congress to conform the definition of "officer or employee" to rule XXIII (sec. 2(w), H. Res. 5, Jan. 3, 2001, p. 26). In the 108th Congress clause 5(a)(1)(B) was amended to allocate the value of perishable food sent to an office among the individual recipients rather than to the Member (sec. 2(r), H. Res. 5, Jan. 7, 2003, p. 7) and clause 5(a)(4)(C) was amended to permit, under specified circumstances, a Member to be reimbursed for transportation and lodging to attend a charity event (sec. 2(s), H. Res. 5, Jan. 7, 2003, p. 7). In the 109th Congress, clause 5(b)(4)(D) was amended to expand the definition of "necessary transportation, lodging, and related expenses" to include travel expenses of a relative of a Member (rather than only a spouse or child) (sec. 2(j), H. Res. 5, Jan. 4, 2005, p. ——). In the 110th Congress, clause 5 was amended as follows: (1) to add subdivision (ii) to paragraph (a)(1)(A), with a corresponding cross reference in paragraph (a)(1)(B)(i); (2) to add subdivision (ii) to paragraph (a)(1)(B); (3) to include as gifts reimbursement for transportation and lodging expenses from entities that retain registered lobbyists or agents of a foreign principal in paragraph (b)(1)(A) with an exception in a new subdivision (C) for reimbursements from institutions of higher education or for participation in one-day events (effective March 1, 2007); (4) to shorten from 30 to 15 days the time in which disclosure is made to the Clerk under paragraph (b)(1)(A)(ii) (effective March 1, 2007); (5) to add subdivision (F) to paragraph (b)(3); (6) to make a conforming amendment to paragraph (b)(3) (effective March 1, 2007); (7) to include additional certifications and disclosures in paragraph (b)(5) (effective March 1, 2007); (8) to add paragraphs (c) and (d) (effective March 1, 2007); and (9) to add paragraph (i) (effective March 1, 2007)). Subdivision (Q) was amended during the 110th Congress to clarify the events for which a gift of free attendance is not prohibited (sec. 4, H. Res. 437, May 24, 2007, p. ——). Subdivision (Q) was amended during the 110th Congress to clarify the events for which a gift of free attendance is not prohibited (sec. 4, H. Res. 437, May 24, 2007, p. ——). The Committee on Standards of Official Conduct has compiled a complete statement of the rules on gifts and travel, which supersedes Chapter 2 of the 1992 *House Ethics Manual* (*Gifts and Travel,* 106th Cong., 2d Sess.). The history of earlier rules bearing the designation LI or LII follow.

§ 1101. Former rules on employment practices and application of certain laws.

The earliest form of the rule on "employment practices" was designated as rule LI. It grew out of the Fair Employment Practices Resolution first adopted in the 100th Congress (H. Res. 558, Oct. 3, 1988, p. 27840) and renewed in the 101st Congress (H. Res. 15, Jan. 3, 1989, p. 85). The terms of that resolution were incorporated by reference in a standing rule LI in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. 39), and were codified in full text, with certain amendments, in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49). The Employment Practices rule was overtaken by the earliest form of "application of certain laws," which was originally designated as LII in the 103d Congress (H. Res. 578, Oct. 7, 1994, p. 29326). The Application of Laws rule, in turn, was overtaken by the Congressional Accountability Act of 1995 (P.L. 104–1; 2 U.S.C. 1301). Certain savings provisions appear in section 506 of that Act (2 U.S.C. 1435). A later form of the rule designated as LII (gift rule) was adopted in the 104th Congress (H. Res. 250, Nov. 16, 1995, p. 33433). In the 105th Congress the Gift Rule was redesignated as rule LI (H. Res. 5, Jan. 7, 1997, p. 121).

Claims against the Government

§ 1102. Officers and employees not to be agents of claims.

6. A person may not be an officer or employee of the House, or continue in its employment, if he acts as an agent for the prosecution of a claim against the Government or if he is interested in such claim, except as an original claimant or in the proper discharge of official duties.

This provision was adopted in 1842 (V, 7227). It was renumbered January 3, 1953 (p. 24). It was amended by the Ethics Reform Act of 1989 to include employees in the prohibition against prosecuting or having an interest in any claim against the Government, to specify the inapplicability of that prohibition to the discharge of official duties, and to delete an obsolete reference to the Committee on House Administration (P.L. 101–194). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XLI (H. Res. 5, Jan. 6, 1999, p. 47).

In addition to rules XXIII through XXVI, several provisions of the Federal criminal code also address the conduct of Members, officers, and employees with respect to bribery of public officials (18 U.S.C. 201–203), claims against the Government (18 U.S.C. 204, 205, 207(e), 216), and public officials acting as agents of foreign principals (18 U.S.C. 219).

RULE XXVI

FINANCIAL DISCLOSURE

§ 1103. Financial report disclosing certain financial interests.

1. The Clerk shall send a copy of each report filed with the Clerk under title I of the Ethics in Government Act of 1978 within the seven-day period beginning on the date on which the report is filed to the Committee on Standards of Official Conduct. By August 1 of each year, the Clerk shall compile all such reports sent to him by Members within the period beginning on January 1 and ending on June 15 of each year and have them printed as a House document, which shall be made available to the public.

2. For the purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be considered Rules of the House as they pertain to Members, Delegates, the Resident Commissioner, officers, and employees of the House.

The original version of this rule (formerly rule XLIV) was adopted in the 90th Congress, in the same resolution that redefined the jurisdiction of the Committee on Standards of Official Conduct (H. Res. 1099, Apr. 3, 1968, p. 8803). In the 91st Congress the rule was amended, effective for years after 1970, to require public disclosure of: (1) honoraria from a single source totaling $300 or more; and (2) each creditor to whom was owed an unsecured loan or other indebtedness of $10,000 or more outstanding for at least 90 days in the preceding calendar year (H. Res. 796, May 26, 1970, p. 17019). It was further amended in the 92d Congress to bring the Delegates and Resident Commissioner within the definition of "Members" in the final sentence of the rule (H. Res. 5, Jan. 22, 1971, p. 144; H. Res. 1153, Oct. 13, 1972, pp. 36021–23), and was amended in the 95th Congress to delete an obsolete reference (H. Res. 5, Jan. 4, 1977, pp. 53–70). The rule was completely amended in the 95th Congress, effective July 1, 1977, to: (1) broaden the sources and minimum amounts of income reported; (2) require reports to be filed with the Clerk as well as with the Committee on Standards of Official Conduct; and (3) make reports

available to the public as printed House documents rather than having them maintained by the Committee on Standards of Official Conduct (H. Res. 287, Mar. 2, 1977, pp. 5933–53). The rule was again amended in the 96th Congress to incorporate by reference the relevant provisions of title I of the Ethics in Government Act of 1978 as they pertain to Members, officers, and employees of the House (H. Res. 5, Jan. 15, 1979, pp. 7–16). Clause 1 was amended by the Ethics Reform Act of 1989 to make conforming changes in certain dates (P.L. 101–194). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XLIV (H. Res. 5, Jan. 6, 1999, p. 47). This rule was redesignated as rule XXVI in the 107th Congress (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24).

For an in-depth discussion of this rule prepared by the Committee on Standards of Official Conduct, see the *House Ethics Manual* (102d Cong., 2d Sess.).

Pertinent provisions of title I of the Ethics in Government Act of 1978 (5 U.S.C. App. 101–111) follow:

TITLE I—FINANCIAL DISCLOSURE REQUIREMENTS OF FEDERAL PERSONNEL

PERSONS REQUIRED TO FILE

SEC. 101. (a) Within thirty days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) within thirty days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

* * *

(c) Within thirty days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the Office of President, Vice President, or Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President, Vice President, or Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or

office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f).

(f) The officers and employees referred to in subsections (a), (d), and (e) are— * * *

(9) a Member of Congress as defined under section 109(12);

(10) an officer or employee of the Congress as defined under section 109(13);

* * *

(g)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed ninety days. * * *

(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), the congressional ethics committees, or the Judicial Conference, is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year, except that if such individual performs the duties of his office or position for more than sixty days in a calendar year—

(1) the report required by subsections (a) and (b) shall be filed within fifteen days of the sixtieth day, and

(2) the report required by subsection (e) shall be filed as provided in such subsection.

(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than one hundred and thirty days in a calendar year, but only if the supervising ethics office determines that—

(1) such individual is not a full-time employee of the Government,

(2) such individual is able to provide services specially needed by the Government,

(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

(4) public financial disclosure by such individual is not necessary in the circumstances.

CONTENTS OF REPORTS

SEC. 102. (a) Each report filed pursuant to section 101 (d) and (e) shall include a full and complete statement with respect to the following:

(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $200 or more in value and, effective January 1, 1991, the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and the reporting individual shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

(i) not more than $1,000,
(ii) greater than $1,000 but not more than $2,500,
(iii) greater than $2,500 but not more than $5,000,
(iv) greater than $5,000 but not more than $15,000,
(v) greater than $15,000 but not more than $50,000,
(vi) greater than $50,000 but not more than $100,000,
(vii) greater than $100,000 but not more than $1,000,000,
(viii) greater than $1,000,000 but not more than $5,000,000, or
(ix) greater than $5,000,000.

(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

(B) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, and received during the preceding calendar year.

(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds

$1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $10,000 at any time during the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year exceeds $1,000—

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of $5,000 in any of the two calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

(i) the identity of each source of such compensation; and

(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust, unless the trust instrument was executed prior to July 24, 1995 and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.

(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by—

(A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than thirty-one days before the filing date, and

(C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

(2)(A) In lieu of filling out one or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

(c) In the case of any individual described in section 101(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), (5), and (8) of subsection (a) are as follows:

(A) not more than $15,000;

(B) greater than $15,000 but not more than $50,000;
(C) greater than $50,000 but not more than $100,000;
(D) greater than $100,000 but not more than $250,000;
(E) greater than $250,000 but not more than $500,000;
(F) greater than $500,000 but not more than $1,000,000;
(G) greater than $1,000,000 but not more than $5,000,000;
(H) greater than $5,000,000 but not more than $25,000,000;
(I) greater than $25,000,000 but not more than $50,000,000; and
(J) greater than $50,000,000.

(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(F) For purposes of this section, categories with amounts or values greater than $1,000,000 set forth in sections 102(a)(1)(B) and 102(d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than $1,000,000 shall be categorized only as an amount or value greater than $1,000,000.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust (as defined in paragraph (3));

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any dependent child, and

(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

(3) For purpose of this subsection, the term "qualified blind trust" includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(III) is not a relative of any interested party.

(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(III) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

(E) For purposes of this subsection, "interested party" means a reporting individual, his spouse, and any minor or dependent child;

"broker" has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and "investment adviser" includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

(F) Any trust qualified by a supervising ethics office before the effective date of title II of the Ethics Reform Act of 1989 shall continue to be governed by the law and regulations in effect immediately before such effective date.

(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that—

(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to the effective date of this Act which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

* * *

(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such dissolution, and

(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 105 and the provisions of that section shall apply with respect to such documents and lists.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this para-

graph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $10,000.

(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(7) Any trust may be considered to be a qualified blind trust if—

(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

(A)(i) the fund is publicly traded; or

(ii) the assets of the fund are widely diversified; and

(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

(h) A report filed pursuant to subsection (a), (d), or (e) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

(i) A reporting individual shall not be required under this title to report—

(1) financial interests in or income derived from—

(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

(2) benefits received under the Social Security Act.

FILING OF REPORTS

SEC. 103. (a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 101(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

* * *

(g) Each supervising Ethics Office shall develop and make available forms for reporting the information required by this title.

(h)(1) The reports required under this title shall be filed by a reporting individual with—

(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Clerk of the House of Representatives, an officer or employee of the Architect of the Capitol, United States Capitol Police, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

* * *

(ii) in the case of an officer or employee of the Congress as described under section 101(f)(10) who is employed by an agency or commission established in the legislative branch after the date of the enactment of the Ethics Reform Act of 1989—

(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in

even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years;

* * *

(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

(i) A copy of each report filed under this title by a Member or an individual who is a candidate for the Office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 316(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day period beginning on the day the report is filed with the Clerk or Secretary.

(j)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.

* * *

(k) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

FAILURE TO FILE OR FILING FALSE REPORTS

SEC. 104. (a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $10,000.

(b) The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each congressional ethics committee, or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

(c) The President, the Vice President, the Secretary concerned, the head of each agency, the Office of Personnel Management, a congressional ethics

committee, and the Judicial Conference of the United States, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of $200. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the supervising ethics office in the executive branch to other agencies in the executive branch.

(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 105. (a) Each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or office or with the Clerk or the Secretary of the Senate.

* * *

(b)(1) Except as provided in the second sentence of this subsection, each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within thirty days after any report is received under this title by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The agency, office, Clerk, or Secretary of the Senate, as the case may be may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

(A) that person's name, occupation and address;

(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109(8) or 109(10) of this Act if a finding is made by the Judicial Conference, in consultation with United States Marshall Service, that revealing personal and sensitive information could endanger that individual.

(B) A report may be redacted pursuant to this paragraph only—

(i) to the extent necessary to protect the individual who filed the report; and

(ii) for as long as the danger to such individual exists.

(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate an annual report with respect to the operation of this paragraph including—

(i) the total number of reports redacted pursuant to this paragraph;

(ii) the total number of individuals whose reports have been redacted pursuant to this paragraph; and

(iii) the types of threats against individuals whose reports are redacted, if appropriate.

(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

(E) This paragraph shall expire on December 31, 2005, and apply to filings through calendar year 2005.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1)

of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

REVIEW OF REPORTS

SEC. 106. (a)(1) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within sixty days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within sixty days after the date of transmittal.

(2) Each congressional ethics committee and the Judicial Conference shall make provisions to ensure that each report filed under this title is reviewed within sixty days after the date of such filing.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, after reviewing any report under subsection (a)—

(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

(3) If the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by a congressional ethics committee, or a person designated by the Judicial Conference, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208(b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position in the executive branch (other than in the Foreign Service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency, the congressional ethics committee, or the Judicial Conference, for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

(7) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS

SEC. 107. (a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

AUTHORITY OF COMPTROLLER GENERAL

SEC. 108. (a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

(b) No later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

DEFINITIONS

SEC. 109. For the purposes of this title, the term—

(1) "congressional ethics committees" means the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives;

(2) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986;

(3) "designated agency ethics official" means an officer or employee who is designated to administer the provisions of this title within an agency;

* * *

(5) "gift" means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;

(6) "honoraria" has the meaning given such term in section 505 of this Act;

(7) "income" means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

* * *

(11) "legislative branch" includes—

(A) the Architect of the Capitol;

(B) the Botanic Gardens;

(C) the Congressional Budget Office;

(D) the Government Accountability Office;

(E) the Government Printing Office;

(F) the Library of Congress;

(G) the United States Capitol Police;

(H) the Office of Technology Assessment; and

(I) any other agency, entity, office, or commission established in the legislative branch;

(12) "Member of Congress" means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(13) "officer or employee of the Congress" means—

(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives;

(B)(i) each officer or employee of the legislative branch who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and

(ii) at least one principal assistant designated for purposes of this paragraph by each Member who does not have an employee who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

(14) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(15) "reimbursement" means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(16) "relative" means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

* * *

(18) "supervising ethics office" means—

(A) the Senate Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers or employees of the legislative branch required to file financial disclosure reports with the Secretary of the Senate pursuant to section 103(h) of this title;

(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with the Clerk of the House of Representatives pursuant to section 103(h) of this title;

(C) the Judicial Conference for judicial officers and judicial employees; and

(D) the Office of Government Ethics for all executive branch officers and employees; and

(19) "value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS

SEC. 110. (a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, the appropriate committee of the Senate, the congressional ethics committee, or the Judi-

cial Conference, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than three months after the date of the agreement, if no date for action is so specified.

(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

ADMINISTRATION OF PROVISIONS

SEC. 111. The provisions of this title shall be administered by * * *

* * *

(2) the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (9) and (10) of section 101(f).

* * *

RULE XXVII

STATUTORY LIMIT ON PUBLIC DEBT

§ 1104. Public debt limit.

1. Upon adoption by Congress of a concurrent resolution on the budget under section 301 or 304 of the Congressional Budget Act of 1974 that sets forth, as the appropriate level of the public debt for the period to which the concurrent resolution relates, an amount that is different from the amount of the statutory limit on the public debt that otherwise would be in effect for that period, the Clerk shall

prepare an engrossment of a joint resolution increasing or decreasing, as the case may be, the statutory limit on the public debt in the form prescribed in clause 2. Upon engrossment of the joint resolution, the vote by which the concurrent resolution on the budget was finally agreed to in the House shall also be considered as a vote on passage of the joint resolution in the House, and the joint resolution shall be considered as passed by the House and duly certified and examined. The engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action.

2. The matter after the resolving clause in a joint resolution described in clause 1 shall be as follows: "That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof '$_____'.", with the blank being filled with a dollar limitation equal to the appropriate level of the public debt set forth pursuant to section 301(a)(5) of the Congressional Budget Act of 1974 in the relevant concurrent resolution described in clause 1. If an adopted concurrent resolution under clause 1 sets forth different appropriate levels of the public debt for separate periods, only one engrossed joint resolution shall be prepared under clause 1; and the blank referred to in the preceding sentence shall be filled with the limitation that is to apply for each period.

3. (a) The report of the Committee on the Budget on a concurrent resolution described in

clause 1 and the joint explanatory statement of the managers on a conference report to accompany such a concurrent resolution each shall contain a clear statement of the effect the eventual enactment of a joint resolution engrossed under this rule would have on the statutory limit on the public debt.

(b) It shall not be in order for the House to consider a concurrent resolution described in clause 1, or a conference report thereon, unless the report of the Committee on the Budget or the joint explanatory statement of the managers complies with paragraph (a).

4. Nothing in this rule shall be construed as limiting or otherwise affecting—

(a) the power of the House or the Senate to consider and pass bills or joint resolutions, without regard to the procedures under clause 1, that would change the statutory limit on the public debt; or

(b) the rights of Members, Delegates, the Resident Commissioner, or committees with respect to the introduction, consideration, and reporting of such bills or joint resolutions.

5. In this rule the term "statutory limit on the public debt" means the maximum face amount of obligations issued under authority of chapter 31 of title 31, United States Code, and obligations guaranteed as to principal and interest by the United States (except such guaranteed obligations as may be held by the Secretary of the Treasury), as determined under section 3101(b) of such title after the application of section

3101(a) of such title, that may be outstanding at any one time.

This rule was added in the 96th Congress by Public Law 96–78 (93 Stat. 589) and was originally applicable to concurrent resolutions on the budget for fiscal years beginning on or after October 1, 1980 (fiscal year 1981). However, in the 96th Congress (H. Res. 642, Apr. 23, 1980, p. 8800), the provisions of that public law amending the Rules of the House were made applicable to the third concurrent resolution on the budget for fiscal year 1980 as well as the first concurrent resolution on the budget for fiscal year 1981 (H. Con. Res. 307, June 12, 1980, pp. 14505–19; see H.J. Res. 569 and H.J. Res. 570, June 13, 1980, p. 14609). Conforming changes were made in clauses 2 and 5 of this rule with the codification of title 31, United States Code, by Public Law 97–258 (96 Stat. 1066). The rule was amended in the 98th Congress (H. Res. 241, June 23, 1983, p. 17162) to reflect the enactment into law (P.L. 98–34) of a new permanent, rather than temporary, debt limit. Clause 2 was rewritten, and clause 1 modified, to change the form of the joint resolution engrossed pursuant to the rule in order to delete references to a temporary debt limit and to reflect instead changes in a permanent debt limit. The rules change also provided that where a budget resolution contains more than one public debt limit figure (for the current and the next fiscal year), only one joint resolution be engrossed, containing the debt limit figure for the current fiscal year with a time limitation, and the debt limit figure for the following fiscal year as the permanent limit. Another conforming change in clause 1 was made in the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177, Dec. 12, 1985, p. 36209) to delete reference to a second concurrent resolution on the budget (no longer required under section 310 of the Budget Act). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XLIX. Recodification placed it as rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47). The rule was repealed in the 107th Congress (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24) and reinstated in the 108th Congress as rule XVII (sec. 2(t), H. Res. 5, Jan. 7, 2003, p. 7).

This rule has been ordered inapplicable to a conference report on a concurrent resolution on the budget (*e.g.*, H. Res. 131, Mar. 25, 1999, p. 5671; H. Res. 446, Mar. 23, 2000, p. 3442). The date of final House action in adopting the conference report on the concurrent resolution on the budget, rather than the date of final Senate action, when later, is the appropriate date under this rule for deeming the House to have passed the joint resolution (July 14, 1986, p. 16316; Speaker Wright, June 25, 1987, p. 17424).

RULE XXVIII

GENERAL PROVISIONS

§ 1105. Relations of Jefferson's Manual and Legislative Reorganization Act of 1946 to the Rules of the House.

1. The provisions of law that constituted the Rules of the House at the end of the previous Congress shall govern the House in all cases to which they are applicable, and the rules of parliamentary practice comprised by Jefferson's Manual shall govern the House in all cases to which they are applicable and in which they are not inconsistent with the Rules and orders of the House.

2. In these rules words importing the masculine gender include the feminine as well.

Clause 1 was adopted in 1837 (V, 6757), and amended January 3, 1953, p. 24, when it was also renumbered. When the House recodified its rules in the 106th Congress, clause 1 was transferred from former rule XLII and was modified to reference all provisions of law comprising House rules at the end of the previous Congress (a compilation of which is included in §§ 1127–1130, *infra*); and clause 2 was added (H. Res. 5, Jan. 6, 1999, p. 47). This rule was redesignated as rule XXVII in the 107th Congress (sec. 2(s), H. Res. 5, Jan. 3, 2001, p. 24) and redesignated as rule XXVIII in the 108th Congress (sec. 2(t), H. Res. 5, Jan. 7, 2003, p. 7). The importance of Jefferson's Manual as an authority in congressional procedure has been discussed (VII, 1029, 1049; VIII, 2501, 2517, 2518, 3330).