

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). The election of a Chaplain emeritus (VI, 31; Jan. 30, 1950, p. 1095).

In the 97th Congress, the House adopted a privileged resolution asserting the constitutional prerogative of the House to establish the office of Chaplain and directing counsel for the Speaker and Chaplain to seek judicial review of a United States Court of Appeals decision (*Murray v. Buchanan*, 729 F.2d 689) holding that no constitutional provision precluded judicial determination whether establishment of the Chaplain violated the establishment clause of the First amendment to the Constitution (H. Res. 413, Mar. 30, 1982, p. 5890).

RULE VIII.

DUTIES OF THE MEMBERS.

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.

§ 656. Members required to be present and vote.

§ 657. Personal interest.

This clause was adopted in 1789, with amendment in 1890 (V, 5941). Leaves of absence are presented pending the motion to adjourn (IV, 3151), and are usually granted by general 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).

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 rollcall vote (V, 5947). The weight of authority also favors the idea that there is no authority in the House to deprive

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

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Rule VIII.

§ 659-§ 660a

a Member of the right to vote (V, 5937, 5952, 5959, 5966, 5967; VIII, 3072). In one or two early instances the Speaker has 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. —), 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 frequently 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).

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, pp. 6359-60; 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). And while a Member should not vote on the direct questions affecting himself, he has sometimes voted on incidental questions (V, 5960, 5961).

§ 659. Nature of disqualifying personal interest.

2. Pairs shall be announced by the Clerk immediately before the announcement by the Chair of the result of the vote, by the House or Committee of the Whole from a written list furnished him, and signed by the Member making the statement to the Clerk, which list shall be published in the Record as a part of the proceedings, immediately following the names of those not voting. However, pairs shall be announced but once during the same legislative day.

§ 660a. Pairs.

This clause 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). This clause 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.

Pairs may not be announced at a time other than that prescribed by the rule (V, 6046), and the voting intentions of an absent Member may not otherwise be announced by a colleague (VIII, 3151). Prior to the 94th Congress pairs were not permitted in Committee of the Whole (V, 5984; Speaker Albert, Jan. 15, 1973, p. 1054). The House does 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 are 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 of the House of Representatives as to pairs, see VIII, 3089.

3. (a) A Member may not authorize any other individual to cast his vote or record his presence in the House or Committee of the Whole.

§ 660b. Voting.

(b) No individual other than a Member may cast a vote or record a Member's presence in the House or Committee of the Whole.

(c) A Member may not cast a vote for any other Member or record another Member's presence in the House or Committee of the Whole.

Clause 3 was added in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113). The Committee on Standards of Official Conduct recommended this addition to the rules in its May 15, 1980, report (H. Rept. 96–991) on voting anomalies which had occurred in the House. Even prior to the addition of this clause, however, "ghost voting" was considered unethical (VII, 1014; Dec. 18, 1987, p. 36274).