

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) 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. —).

Effective in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53-70), former clause 6(j), 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.

RULE XII.

RESIDENT COMMISSIONER AND DELEGATES.

§ 740. Powers and privileges of Resident Commissioner and Delegates as to committee service. The Resident Commissioner to the United States from Puerto Rico and each Delegate to the House 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.

The rule resumed this form in the 104th Congress (sec. 212, H. Res. 6, Jan. 4, 1995, p. —). The first form of this rule was adopted in 1871, and it was perfected by amendments in 1876, 1880, 1887, 1892 (II, 1297), and on January 2, 1947 (Legislative Reorganization Act of 1946), August 2, 1949 (p. 10618), and February 2, 1951 (p. 883). It was completely revised in the 92d Congress to delete references to Delegates from the former Territories of Alaska and Hawaii, which had achieved statehood in 1959, to add a reference to the Delegate from the District of Columbia, an office established by Public Law 91-405 (84 Stat. 845), and to incorporate the provisions of the Legislative Reorganization Act of 1970 giving the Resident Commissioner (as well as the new Delegate from the District of Columbia) the right to vote in standing committees (H. Res. 5, Jan. 22, 1971, p. 144). The second clause of the rule was again revised in the 93d Congress (H. Res. 6, Jan. 3, 1973, pp. 26-27) to reflect the establishment of offices of

Delegate from the Territories of Guam and the Virgin Islands pursuant to 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 title of the rule was amended in the 102d Congress amended to reflect the current membership in the House of the Resident Commissioner of Puerto Rico and all Delegates (H. Res. 5, Jan. 3, 1991, p. 39). The rule was completely revised again in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. —) 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 clause 2(d) of rule XXIII (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 § 864b, *infra*).

The constitutionality of granting to Delegates the right to vote in the Committee of the Whole under this rule, as circumscribed by former clause 2(d) of rule XXIII, 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 changes effected in the 103d Congress were revoked in the 104th Congress (sec. 212, H. Res. 6, Jan. 4, 1995, p. —).

Under an earlier practice, Delegates did not vote in committee (VI, 243); but this had not always been so (II, 1301).

Prior to the 94th Congress, a Delegate or the Resident Commissioner could not be appointed as a conferee on bills sent to conference with the Senate (Sept. 18, 1973, p. 30144; July 20, 1973, p. 25201), but clause 6(h) of rule X, which became effective January 3, 1975, provided that the Speaker may appoint the Delegates or the Resident Commissioner to any conference committee considering legislation reported from a committee on which they serve (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Clause 6(h) was further amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16) to authorize the Speaker to appoint the Resident Commissioner and Delegates to any select committee; prior to that change they could be appointed to select committees only with the permission of the House (Sept. 21, 1976, p. 31673). In the 103d Congress, clause 6(h) was once again amended to authorize the Speaker to appoint Delegates and the Resident Commissioner to serve on any conference committee (H. Res. 5, Jan. 5, 1993, p. —).

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 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 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 which 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). 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). The rights and prerogatives of a Delegate in parliamentary matters are not limited to legislation affecting his own territory (VI, 240).

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). In the 103d Congress on recorded votes in the Committee of the Whole, their names were listed alphabetically with the names of Members (Feb. 3, 1993, p. —).

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). Prior to the independence of the Philippines it was represented in the House by Resident Commissioners.

The first form of the rule with reference to the Resident Commissioner was adopted in 1904 (II, 1306). The Act of May 17, 1932, changed the name of Porto Rico to Puerto Rico (48 U.S.C. 731a).

RULE XIII.

CALENDARS AND REPORTS OF COMMITTEES.

1. There shall be three calendars to which all business reported from committees shall be referred, viz.:

§ 742. Calendar for reports of committees.