RULES OF THE HOUSE OF REPRESENTATIVES, WITH NOTES AND ANNOTATIONS

RULE I.

DUTIES OF THE SPEAKER.

§621. Journal; Speaker's approval.

1. The Speaker shall take the Chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting and immediately call the Members to order. The Speaker, having examined the Journal of the proceedings of the last day's sitting and approved the same, shall announce to the House his approval of the Journal, and the Speaker's approval of the Journal shall be deemed to be agreed to subject to a vote on agreeing to the Speaker's approval on the demand of any Member, which vote, if decided in the affirmative, shall not be subject to a motion to reconsider. It shall be in order to offer one motion that the Journal be read only if the Speaker's approval of the Journal is not agreed to, and such motion shall be determined without debate and shall not be subject to a motion to reconsider.

This clause was adopted in 1789, amended in 1811, 1824 (II, 1310), 1971 (Jan. 22, 1971, pp. 14–15, 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).

The hour of meeting is fixed by standing order, and has traditionally been 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. In the 100th through the 103d Congresses, the House adopted a resolution providing that it meet at noon on Mondays and Tuesdays, 2 p.m. on Wednesdays, and 11 a.m. on the balance of the week through May 14, after which the convening time for Wednesdays through Saturdays would advance to 10 a.m. for the remainder of the session (*e.g.,* H. Res. 7, 100th Cong., Jan. 6, 1987, p. 19). In the 104th Congress the House adopted a resolution providing that it meet at 2 p.m. on Mondays, 11 a.m. on Tuesdays and Wednesdays, and 10 a.m. on the balance of the week through May 13, after which the convening time would advance to noon on Mondays and 10 a.m. for the balance of the week for the remainder of the session (H. Res. 8, Jan. 4, 1995, p. ——). In the second session of the 104th Congress and the first session of the 105th Congress, the House adopted a resolution providing that it meet at 2 p.m. on Mondays, 11 a.m. on Tuesdays and Wednesdays, and 10 a.m. on the balance of the week through May 12, after which the convening time would advance to noon on Mondays, 10 a.m. on Tuesdays and Wednesdays and Thursdays, and 9 a.m. on the balance of the week for the remainder of the session (H. Res. 327, Jan. 3, 1996, p. ——; H. Res. 9, Jan. 7, 1997, p. ——). The House retains the right to vary from this schedule by use of the motion to adjourn to a day or time certain 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. ——). Beginning in the second session of the 103d Congress, the House has by unanimous consent agreed to convene at an earlier hour on Mondays and Tuesdays for morning-hour debate and then recess to the hour established for convening under this clause (Feb. 11, 1994, p. ——; May 23, 1994, p. ——; June 8, 1994, p. ——; June 10, 1994, p. ——; Jan. 4, 1995, p. ——; Feb. 16, 1995, p. ——; May 12, 1995, p. ——; see § 753b, *infra*).

Immediately after the Members are called to order 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 6(a)(1) of rule XV). Pursuant to clause 1 of rule I, as in effect in the 95th Congress, directing the Speaker to announce his approval of the Journal "on the appearance of a quorum" after having called the House to order, a point of order of no quorum could be made after the prayer and before the approval of the Journal when the House convened, notwithstanding the provisions of clause 6(e) of rule XV, 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); prior practice had permitted a point of no quorum prior to 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). The current rule specifies that it is not in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote (clause 6(e) of rule XV, as added in the 95th Congress). 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 4 of rule XV is automatic (Feb. 2, 1977, pp. 3342–43). Pursuant to clause 5(b)(1) of this rule as amended in the 98th Congress, the Speaker may postpone until a later time on the same legislative day a record vote on the Chair's approval of the Journal (H. Res. 5, Jan. 3, 1983, p. 34). 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).

Prior to 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 before the 95th Congress, pending the Speaker's announcement of his approval of the Journal and prior to approval by the House, any Member could offer a privileged, non-debatable motion that the Journal be read (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 reading (IV, 2751–2756; VI, 629, 630, 637); not even consideration of a conference report (VI, 630). However, the motion to adjourn (IV, 2757; Speaker Wright, Nov. 2, 1987, p. 30387) and the swearing in of a Member (I, 172) could take precedence, and a question of privilege relating to a breach of privilege (such as an assault) occurring during the reading or approval of the Journal may interrupt its reading or approval (II, 1630).

Once begun, the reading may not be interrupted, even by business so highly privileged as a conference report (V, 6443; rule XXVII); but a parliamentary inquiry (VI, 624), or an arraignment of impeachment may interrupt (VI, 469); and in cases of disorder the reading has been suspended (II, 1630; IV, 2759).

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).

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

2. He 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).

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 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 (83d Cong., p. 2324). 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, p. ——).

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).

While Members are permitted to use exhibits such as charts during debate (subject to the permission of the House under rule XXX), the Speaker may direct the removal of a chart from the well of the House which 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 which would be demeaning to the House, or to any Member of the House, or which 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. ——; Jan. 3, 1996, p. ——). The Speaker has disallowed the use of a person on the floor as a guest of the House as an "exhibit" (Dec. 19, 1995, p. ——; Jan. 22, 1996, p. ——). 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).

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. ——; Mar. 20, 1996, p. ——).

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. 11461). 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, pp. 186–87).

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 to address the House under the "one-minute rule" (Aug. 27, 1980, p. 23456), and may deny further recognition to a Member proceeding out of order beyond the one-minute for which recognized (Mar. 16, 1988, p. 4081). It is a breach of decorum for a Member to continue to speak beyond the time for which the Member has been recognized or yielded to (Mar. 22, 1996, p. ——). Even prior to 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. ——). 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. ——).

3. He shall have general control, except as provided by rule or law, of the Hall of the House, and of the corridors and passages and the disposal of the unappropriated rooms in that part of the Capitol assigned to the use of the House, until further order.

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

This clause was adopted in 1811 and amended in 1824, 1885 (II, 1354), and April 5, 1911 (VI, 261).

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).

4. He shall sign all acts, addresses, joint resolutions, writs, warrants, and subpoenas of, or issued by order of, the House, and decide all questions of order, subject to an appeal by any Member, on which appeal no Member shall speak more than once, unless by permission of the House. The Speaker is authorized to sign enrolled bills whether or not the House is in session.

§624. Speaker's signature to acts, warrants, subpoenas, etc.; and decision of questions of order subject to appeal.

The portion of this rule relating to decisions on points of order was adopted in 1789 and amended in 1811; and the portion relating to the signing of acts, etc., was adopted 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).

Enrolled bills are signed first by the Speaker (IV, 3429). He has declined to sign in the absence of a quorum (IV, 3458), or pending a motion to reconsider (V, 5705); and the report of a committee as to the accuracy of the enrollment

§625. Signing of enrolled bills.

is first submitted, unless, as in rare instances only, the House by consent waives the requirement (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 4 of rule XV; §774a, *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); 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).

§627. 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, 6886–7; VIII, 2912, 3378, 3437), though the Chair may decline to rule until the entire proposition has been read (Dec. 14, 1973, pp. 41716–18). 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; Jan. 24, 1996, p. ——; Sept. 12, 1996, p. ——). 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 (July 18, 1995, p. ——). Members must address the Chair and cannot engage in "colloquies" on the point of order (Sept. 18, 1986, p. 24083). 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, pp. 31873–74; May 15, 1997, p ——). 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. ——, ——). 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. ——).

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. ——; Sept. 19, 1995, p. ——). 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), 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), on the constitutional powers of the House (II, 1255, 1318–1320, 1490; IV, 3507; VI, 250, 251; VIII, 2225, 3031, 3071, 3427; July 21, 1947, pp. 9522, 9551; May 13, 1948, p. 5817), or on the propriety or expediency of a proposed course of action (II, 1275, 1325, 1326, 1337; IV, 3091–3093, 3127). He is not required to decide a question not directly presented by the proceedings (II, 1314), and 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) 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. ——); (3) the admissibility under clause 2 of rule XXI of an amendment already pending, against which all points of order had been waived (July 27, 1995, p. ——); and (4) the admissibility of an amendment at a future date, pending a ruling of the Chair on its immediate admissibility (June 25, 1997, p. ——). The Chair does not take cognizance of complaints relating to pairs (VIII, 3087). He 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 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 rule XXX is not a point of order on which the Chair must rule but, instead, requires that the Chair put the question whether the exhibit may be used, on which no debate is in order (July 31, 1996, p. ——).

Prior to 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. ——; 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 clause 9 of rule XIV, which was adopted in the 104th Congress, 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. ——).

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. ——; Nov. 18, 1993, p. ——; July 27, 1995, p. ——; Jan. 5, 1996, p. ——; Mar. 28, 1996, 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. ——, ——; Oct. 26, 1995, p. ——; Mar. 28, 1996, p. ——); or 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 (Oct. 26, 1995, 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. ——). 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. ——).

Recognition for parliamentary inquiry lies in the discretion of the Chair (VI, 541; Apr. 7, 1992, p. ——). The Speaker may recognize and respond to a parliamentary inquiry although the previous question may have been demanded (Speaker pro tempore Snell, 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). The Chair may take a parliamentary inquiry under advisement, especially where not related to the pending proceedings (VIII, 2174; Apr. 7, 1992, p. ——). 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. ——; Jan. 3, 1996, p. ——).

A proper parliamentary inquiry relates to an interpretation of a House rule, not of a statute; the Chair has declined to anticipate whether bill language would trigger certain executive actions (Sept. 20, 1989, p. 20969). The Chair will neither respond to a parliamentary inquiry involving the propriety of words spoken in debate pending a demand under clause 4 of rule XIV that those words be ''taken down'' as unparliamentary (June 8, 1995, p. ——) nor respond to inquiry as to the veracity of remarks in debate (June 5, 1996, p. ——). The Chair has declined to answer parliamentary inquiries requiring the Chair to reexamine and explain the validity of a prior ruling (Oct. 26, 1995, p. ——); requiring the Chair to judge the accuracy of the content of an exhibit (Nov. 10, 1995, p. ——); and requiring 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. ——). The Chair may clarify a prior response to a parliamentary inquiry (July 31, 1996, p. ——).

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), 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).

§628. Practice, governing appeals.

The right of appeal insures the House against the arbitrary control of the Speaker and can not 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. ——).

Appeals may not be entertained from: responses to parliamentary inquiries (V, 6955; VIII, 3457); when dilatory (V, 5715–5722; VIII, 2822); from decisions on recognition (II, 1425–1428; VI, 292; VIII, 2429, 2646, 2762; July 23, 1993, p. ——; Apr. 4, 1995, p. ——); from decisions on dilatoriness

of motions (V, 5731); while another is pending (V, 6939–6941); on a question on which an appeal has just been decided (IV, 3036; V, 6877); between the motion to adjourn and vote thereon (V, 5361); during a call of the yeas and nays (V, 6051); from the count by the Chair of the number rising to demand tellers (VIII, 3105) or a recorded vote (June 24, 1976, p. 20390) or the yeas and nays (Sept. 12, 1978, p. 28950) or rising to object to a request under a former version of clause 2(i) of rule XI that a committee have permission to sit under the five-minute rule (Sept. 12, 1978, p. 28984); from the Chair's count of a quorum (July 24, 1974, p. 25012); from the Chair's call of a voice vote (July 13, 1994, p. ——; Aug. 10, 1994, p. ——); from decision refusing recapitulation of a vote (VIII, 3128); from the Speaker's refusal under clause 6(e) of rule XV to entertain a point of order of no quorum when a pending question has not been put to a vote (Sept. 16, 1977, p. 29594); or from the Chair's determination that a Member's time in debate has expired (Mar. 22, 1996, p. ——).

An appeal may be entertained from a decision of the Chair on the propriety of an exhibit (Nov. 16, 1995, p. ——); that a Member has engaged in personalities in debate (Sept. 28, 1996, p. ——); or that an amendment proposes to change a portion of the bill already passed in the reading (Sept. 25, 1997, p. ——). The Speaker may vote to sustain his own decision (IV, 4569; V, 5686, 6956, 6957).

The appeal may be debated (VII, 1608; VIII, 2347, 2375, 3453–3455); 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 irrelevancy of debate (V, 5056–5063) is not debatable. In practice in the House, a Member favorable to 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. ——). A motion to postpone an appeal has been held in order (VIII, 2613). 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), and may be closed by motion to close debate or to rise and report (V, 6947, 6950; VIII, 3453).

§629. Putting of the question by the Speaker.

5. (a) He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: "As many as are in favor (as the question may be), say 'Aye'."; and after the affirmative voice is expressed, "As many as are opposed, say 'No'."; if he doubts, or a division is called for, the House shall divide; those in the affirmative of the ques-

tion shall first rise from their seats, and then those in the negative. If any Member requests a recorded vote and that request is supported by at least one-fifth of a quorum, such vote shall be taken by electronic device, unless the Speaker in his discretion orders clerks to tell the names of those voting on each side of the question, and such names shall be recorded by electronic device or by clerks, as the case may be, and shall be entered in the Journal, together with the names of those not voting. A recorded vote taken pursuant to this paragraph shall be considered a vote by the yeas and nays. Members shall have not less than fifteen minutes to be counted from the ordering of the recorded vote or the ordering of clerks to tell the vote.

§630a. Voting viva voce, by division, by electronic device.

This paragraph was first 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. ——). 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" prior to 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 House Resolution on October 13, 1972, and were made effective by adoption of the rules of the 93d Congress (H. Res. 6, Jan. 3, 1973, pp. 26–27). The general provision for demanding a vote by tellers was repealed in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——). The penultimate sentence of this paragraph, 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. ——).

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 prior to entertaining a demand for a recorded vote or the

yeas and nays (Speaker Foley, Mar. 9, 1992, p. ——). 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. See Procedure, ch. 30, sec. 3.1.

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), and the Chair's count of Members demanding a recorded vote is not appealable (June 24, 1976, pp. 20390–91). 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).

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 2(b) of rule XXIII, as added in 96th Cong. by H. Res. 5, Jan. 15, 1979, pp. 7, 16), rather than 20 in both cases as in prior practice (V, 5986; Dec. 20, 1974, p. 41793). The former right to demand tellers was not precluded by the fact that the yeas and nays had been refused (V. 5998; VIII, 3103), that a point of no quorum has been made 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, pp. 27041–42), 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). But only one request for a recorded vote on a pending question is in order (Jan. 21, 1976, p. 508), and a demand for a recorded vote cannot interrupt a vote by division which is in progress (June 10, 1975, p. 18048). 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). Recognition by the Chair for a parliamentary inquiry 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). Where a division vote is demanded on a proposition in the House and the vote thereon is then postponed pursuant to paragraph (b) of this clause 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), whereas a demand for the yeas and nays if refused by the House may not be renewed (Mar. 18, 1980, pp. 5739–40). Ordinarily, however, only one demand for a vote by division on a pending question is in order (July 26, 1984, p. 21259; June 29, 1994, p. ——).

In Committee of the Whole, a request for a recorded vote on an amendment once denied may not be renewed even 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).

§630b. 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 counted without passing between the tellers (V, 5996, 5997; VIII, 3100, 3101).

§631. Postponing rollcall votes on passage.

(b)(1) On any legislative day whenever a recorded vote is ordered or the yeas and nays are ordered, or a vote is objected to under clause 4 of rule XV on any of the following questions, the Speaker may, in his discretion, postpone further proceedings on each such question to a designated time or place in the legislative schedule on that legislative day in the case of the question of agreeing to the Speaker's approval of the Journal, or within two legislative days, in the case of the other questions listed herein:

(A) the question of adopting a resolution;

(B) the question of passing a bill;

(C) the question of agreeing to a motion to instruct conferees as provided in clause 1(c) of rule XXVIII: *Provided, however,* That proceedings shall not resume on said question if the conferees have filed a report in the House;

(D) the question of agreeing to a conference report;

(E) the question of agreeing to a motion to recommit a bill considered pursuant to clause 4 of rule XIII;

(F) the question of ordering the previous question on a question described in subdivision (A), (B), (C), (D), or (E);

(G) the question of agreeing to an amendment to a bill considered pursuant to clause 4 of rule XIII; and

(H) the question of agreeing to a motion to suspend the rules.

(2) At the time designated by the Speaker for further consideration of proceedings postponed under subparagraph (1), the Speaker shall put each question on which further proceedings were postponed, in the order in which that question was considered.

(3) At any time after the vote has been taken on the first question on which the Speaker has postponed further proceedings under this paragraph, the Speaker may, in his discretion, reduce to not less than five minutes the period of time within which a rollcall vote by electronic device on the question may be taken without any intervening business on any or all of the additional questions on which the Speaker has postponed further proceedings under this paragraph.

(4) If the House adjourns before all of the questions on which further proceedings were postponed under this paragraph have been put and determined, then, on the next following legislative day the unfinished business shall be the

disposition of all such questions, previously undisposed of, in the order in which the questions were considered.

Paragraph (b) was added in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 7), and paragraph (b)(1) was amended in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113) to place all authority for the postponing of further proceedings on certain questions into rule I. This consolidation was accomplished with the addition of the authority to postpone further proceedings on reports from the Committee on Rules (formerly clause 4(e) of rule XI) and the authority to postpone further proceedings on motions to suspend the rules and pass bills or resolutions (formerly clause 3(b) of rule XXVII). The authority for the Speaker to postpone further proceedings on agreeing to his approval of the Journal until later that legislative day was added to paragraph (b)(1) in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). The authority for the Speaker to postpone further proceedings on motions to instruct conferees after 20 calendar days in conference was added to paragraph (b)(1) in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72), along with the provision that a question so postponed not be put if the conferees sooner file their report. In the 104th Congress the list of questions susceptible of postponement was reordered and expanded to include a vote on ordering the previous question on another question that is, itself, susceptible of postponement (sec. 223(a), H. Res. 6, Jan. 4, 1995, p. ——). In the 105th Congress paragraph (b)(1) was amended to enable postponement of certain questions during consideration of bills called from the Corrections Calendar, *i.e.,* agreeing to an amendment, ordering the previous question on a motion to recommit, and agreeing to a motion to recommit (H. Res. 5, Jan. 7, 1997, p. ——).

The Speaker first exercised his authority to postpone a rollcall 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 4 of rule XV (Sept. 21, 1993, p. ——). But on questions not enumerated in this paragraph, such as the initial motion to instruct conferees, unanimous consent is required to permit the Speaker to postpone such record votes (Oct. 6, 1986, p. 28704).

Pursuant to 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 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 5(b) 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 rollcall votes (Nov. 14, 1995, p. ——).

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. ——). Once the Speaker has postponed rollcall 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).

Following the first postponed vote on motions to suspend the rules, the Speaker may in his discretion reduce to not less than 5 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). But 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). But where a series of votes has been postponed pursuant to this clause, to occur following a fifteen-minute vote on another measure not a part of that series, the vote on the first postponed measure may be reduced to five minutes only by unanimous consent (May 24, 1983, p. 13595; July 22, 1996, p. ——). By unanimous consent waiving the five-minute minimum set by paragraph (b)(3) of this clause, 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 prior to 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). Under this clause the Speaker is not required to announce his intention to postpone at the beginning of

consideration of a motion to suspend the rules (although that is customarily the courtesy) but may postpone further proceedings after a record vote is ordered or an objection is raised under clause 4 of rule XV (Feb. 23, 1993, p. ——). When the House adjourns on the second legislative day after postponement of a question under this clause without resuming proceedings thereon, the question remains the unfinished business on the next legislative day (Oct. 1, 1997, p. ——).

§632. The Speaker's vote. Tie vote.

6. He shall not be required to vote in ordinary legislative proceedings, except where his vote would be decisive, or where the House is engaged in voting by ballot; and in cases of a tie vote the question shall be lost.

This clause was adopted in 1789, with amendment in 1850 (V, 5964), and 1911.

The Speaker's name is not on the roll from which the yeas and nays are called (V, 5970) and is not called unless on his request (V, 5965). It is then called at the end of the roll (V, 5965; VIII, 3075), the Clerk calling him by name. On an electronic vote, the Chair directs the Clerk to record him and verifies that instruction by submitting a vote card (Oct. 17, 1990, p. 30229). The Chair 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 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); and he also exercises the right to withdraw his vote in case a correction shows it to have been unnecessary (V, 5971). The Speakers have the same right as other Members to vote (V, 5966, 5967) but rarely exercise it (V, 5964, footnote), and the Chair may not vote twice (V, 5964). The Chair may be counted on a vote by tellers (V, 5996, 5997; VIII, 3100, 3101).

§633. Speaker pro tempore.

7. (a) He shall have the right to name any Member to perform the duties of the Chair, but such substitution shall not extend beyond three legislative days, except that with the permission of the House he may name a Member to act as Speaker pro tempore only to sign enrolled bills and joint resolu-

tions for a period of time specified in the designation, notwithstanding any other provision of this clause: *Provided, however,* That in case of his illness, he may make such appointment for a period not exceeding ten days, with the approval of the House at the time the same is made; and in his absence and omission to make such appointment, the House shall proceed to elect a Speaker pro tempore to act during his absence.

§633a. Four-term limit.

(b) No person may serve as Speaker for more than four consecutive Congresses, beginning with the One Hundred Fourth Congress (disregarding for this purpose any service for less than a full session in any Congress).

This clause was adopted in 1811, and amended in 1876 (II, 1377) and in 1920 (VI, 263). Paragraph (b) was added in the 104th Congress (sec. 103(a), H. Res. 6, Jan. 4, 1995, p. ——).

§634a. 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. Elected Speakers pro tempore have signed enrolled bills, appointed committees, etc., functions not exercised by a Speaker pro tempore by designation (II, 1399, 1400, 1404; VI, 274, 277, Sept. 21, 1961, p. 20572; June 21, 1984, p. 17708), but the clause was amended in the 99th Congress (H. Res. 7, Jan. 3, 1985, p. 393) to authorize the Speaker, with House approval, to designate a Speaker pro tempore to sign enrolled bills.

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 his 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 name in open House 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 7 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. ——). Members of the minority have been called to the chair on occasions of ceremony (II, 1383; VI, 270; Jan. 31, 1951, p. 779), but in rare instances on other occasions (II, 1382, 1390; III, 2596; VI, 264).

§634b. Travel authority.

8. He shall have the authority to designate any Member, officer or employee of the House of Representatives to travel on the business of the House of Representatives, as determined by him, within or without the United States, whether the House is meeting, has recessed or has adjourned, and all expenses for such travel may be paid for from the applicable accounts of the House described in clause 1(h)(1) of rule X on vouchers solely approved and signed by the Speaker. However, expenses may not be paid from the applicable accounts of the House described in clause 1(h)(1) of rule X for travel of a Member after the date of the general election of Members in which the Member has not been elected to the succeeding Congress, or in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

This clause was adopted in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20), and the last sentence was added in the 95th Congress (H. Res. 287, Mar. 2, 1977, p. 5941). In the 105th Congress this clause was amended

to update archaic references to the "contingent fund" (H. Res. 5, Jan. 7, 1997, p. ——). See also §719b, *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.

§634c. Broadcasting of House proceedings.

9. (a) He shall devise and implement a system subject to his direction and control for closed circuit viewing of floor proceedings of the House of Representatives in the offices of all Members and committees and in such other places in the Capitol and the House Office Buildings as he deems appropriate. Such system may include other telecommunications functions as he deems appropriate. Any such telecommunications function shall be subject to rules and regulations issued by the Speaker.

(b)(1) He shall devise and implement a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of the House of Representatives. He shall provide for the distribution of such broadcasts and recordings thereof to news media, the storage of audio and video recordings of the proceedings, and the closed captioning of the proceedings for hearing-impaired individuals.

(2) All television and radio broadcasting stations, networks, services, and systems (including cable systems) which are accredited to the House Radio and Television Correspondents' Galleries, and all radio and television correspondents who are accredited to the Radio and

Television Correspondents' Galleries shall be provided access to the live coverage of the House of Representatives.

(3) No coverage made available under this clause nor any recording thereof shall be used for any political purpose.

(4) Coverage made available under this clause shall not be broadcast with commercial sponsorship except as part of bona fide news programs and public affairs documentary programs. No part of such coverage or any recording thereof shall be used in any commercial advertisment.

(c) He may delegate any of his responsibilities under this clause to such legislative entity as he deems appropriate.

This clause was adopted 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 to the second sentence of paragraph (b)(1) 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 to paragraph (a) 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 which: (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 broadcasting 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 (the Legislative Branch Appropriation Bill for fiscal year 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 clause, 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. ——; Speaker Gingrich, Jan. 4, 1995, p. ——). 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 (b)(1) of this clause requires complete and unedited broadcast coverage of the proceedings of the House has 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).

§634d. Office of the Historian.

10. There is established in the House of Representatives an office to be known as the Office of the Historian of the House of Representatives.

This clause was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). 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 non-partisan 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).

§634e. Office of General Counsel.

11. There is established in the House of Representatives an office to be known as the 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.

This clause was added in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——). The previous year, in section 12 of the House Administrative Reform Resolution of 1992 (H. Res. 423, Apr. 9, 1992, p. ——), 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.

§634f. Authority to declare recesses.

12. 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 clause was added in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——).

§634g. Drug testing in the House.

13. 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 of Representatives. The system may provide for the testing of any Member, 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 expenses 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. ——).

RULE II.

ELECTION OF OFFICERS.

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

There shall be elected by a viva voce vote, at the commencement of each Congress, to continue in office until their successors are chosen and qualified, a Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Chaplain, each of whom shall take an oath to support the Constitution of the United States, and for the true and faithful discharge of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House; and each 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.

A rudimentary form of this rule was adopted in 1789, and was amended several times prior to 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 rule to abolish the office of the Postmaster (see §654a, *infra*) and to empower the Speaker to remove elected officers (H. Res. 423, Apr. 9, 1992, p. ——). The 104th Congress made conforming changes to the rule 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. ——). For

a discussion of the former Office of the Doorkeeper, see § 651d, *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 § 651e, *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 rule is not operative at the organization. The House, by order or usage, elects its Speaker viva voce on a roll call (I, 204, 208); but the officers mentioned in the rule are 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 act of 1789 provides that the oath of office shall be administered to the Speaker by any Member and by the Speaker to the Clerk (I, 130). The Speaker also at the same time administers the oath to the other elective officers (I, 81). The Member of longest continuous service has traditionally administered the oath to the Speaker (I, 131). However, on some occasions the Speaker has selected the Member to administer the oath (VI, 6, 7). 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 XLIII).

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. ——), Clerk (Nov. 15, 1975, p. 36901), Chaplain (Mar. 14, 1966, p. 5712), Doorkeeper (Dec. 20, 1974, p. 41855), and Chief Administrative Officer (Jan. 9, 1997, p. ——). A resolution electing a House officer is presented as a question of privilege (July 31, 1997, p. ——).

RULE III.

DUTIES OF THE CLERK.

§637. Clerk's duties at organization.

1. The Clerk shall, at the commencement of the first session of each Congress, call the Members to order, proceed to call the roll of Members by States in alphabetical order, and, pending the election of a Speaker or Speaker pro tempore, preserve order and decorum, and decide all questions of order subject to appeal by any Member.

This portion of the rule was framed in 1880, on a basis furnished by a rule of 1860 (I, 64), and amended in 1911.

As rules are not usually adopted until after the election of Speaker, this rule 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 rule (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 and 60, *supra*.

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).

§638. 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 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).

The Clerk, in presiding before the election of Speaker, recognizes Members (I, 74).

The Members-elect have, before the election of Speaker or adoption of rules, authorized the Clerk and Sergeant-at-Arms of the last House to pre-

serve order (I, 101); but usually such action has not been taken, although an occasion might arise to make it necessary (I, 76, 77).

§639. 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), and the Clerks often declined to make decisions (I, 68–72; V, 5325), although in 1855 occur exceptions to this theory (I, 91). But in 1860 the provisions of the present rule were adopted (I, 64), with a further rule that the rules of one House should apply in the organization of its successor (V, 6743–6747); and under this arrangement the Clerks have made rulings (I, 76, 77; VI, 623). In 1890 the theory that the rules of one House may be made binding on its successor was overthrown (V, 6747). In a case of vacancy arising after the adoption of rules, this rule would be operative and conclude questions as to the Clerk's authority. 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).

§640. Clerk furnishes a list of reports.

2. He shall make and cause to be printed and delivered to each Member, or mailed to his address, at the commencement of every regular session of Congress, a list of the reports which it is the duty of any officer or Department to make to Congress, referring to the act or resolution and page of the volume of the laws or Journal in which it may be contained, and placing under the name of each officer the list of reports required of him to be made.

This rule was adopted in 1822 (I, 252).

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

3. He shall note all questions of order, with the decisions thereon, the record of which shall be printed as an appendix to the Journal of each session; and complete, as soon after the close of the session as possible, the printing and distribution to Members, Delegates, and the Resident Commissioner from Puerto Rico of the Journal of the House, together with an accurate and complete

index; retain in the library at his office, for the use of the Members, Delegates, the Resident Commissioner from Puerto Rico and officers of the House, and not to be withdrawn therefrom, two copies of all the books and printed documents deposited there; send, at the end of each session, a printed copy of the Journal thereof to the executive and to each branch of the legislature of every State as may be requested by such State officials; deliver or mail to any Member, Delegate, or the Resident Commissioner from Puerto Rico an extra copy, in binding of good quality, of each document requested by that Member, Delegate, or the Resident Commissioner which has been printed, by order of either House of the Congress, in any Congress in which he served; attest and affix the seal of the House to all writs, warrants, and subpoenas issued by order of the House; and certify to the passage of all bills and joint resolutions.

§642. Attests and seals process and certifies passage of bills.

Former provisions of this clause 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. ——), 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 §651e, *infra*). A clerical correction was effected at the beginning of the 104th Congress (sec. 223(f), H. Res. 6, Jan. 4, 1995, p. ——). Later in 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. ——).

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

§647a. Official to act as Clerk upon designation.

4. He shall, in case of temporary absence or disability, designate an official in his office to sign all papers that may require the official signature of the Clerk of the House, and to do all other acts, except such as are provided for by statute, that may be required under the rules and practices of the House to be done by the Clerk. Such official acts, when so done by the designated official, shall be under the name of the Clerk of the House. The said designation shall be in writing, and shall be laid before the House and entered on the Journal.

In 1880 several rules, adopted at different periods from 1794 to 1846, were consolidated into this rule; which was amended in 1892 (I, 251) and January 3, 1953, p. 16. Section 3 was amended January 22, 1971 (H. Res. 5, pp. 140–44) to make it clear that the Delegate from the District of Columbia and the Resident Commissioner from Puerto Rico, as well as Members, are entitled to the services rendered the House by the Clerk. It was again revised in 1972 (H. Res. 1153, Oct. 13, 1972, pp. 36013–15), effective at the beginning of the 93d Congress, to extend the services of the Clerk to all Delegates, including those provided for the Territories of Guam and the Virgin Islands by a law enacted in the 92d Congress. Section 4 was adopted January 18, 1912 (VI, 25) and was amended January 3, 1953, p. 16.

Various other administrative duties, similar to those specified in this rule, 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), and to serve as an ex officio member of the Federal Election Commission established pursuant to Public Law 94–283; 2 U.S.C. 437c. Form of

designation of a Clerk pro tempore (VI, 26). Instance of Clerk serving temporarily also as Sergeant-at-Arms (July 8, 1953, p. 8242).

§647b. Authority to receive messages.

5. The Clerk is authorized to receive messages from the President and from the Senate at any time that the House is not in session.

Clause 5, providing standing authority for the Clerk to receive messages, was added 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. Under this clause the Clerk may receive messages during recesses as well as during adjournments (Dec. 22, 1987, p. 37966).

§647c. Administration of vacant Member's office.

6. He shall supervise the staff and manage any office of a Member who is deceased, has resigned, or been expelled until a successor is elected and 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 Member 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 he may appoint, with the approval of the Committee on House Oversight, such staff as is required to operate the office until a successor is elected. He shall maintain on the House payroll and supervise in the same manner staff appointed pursuant to section 800 of Public Law 91–665 (2 U.S.C. 31b–5) for sixty days following the death of a former Speaker.

This clause was added in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). It was amended in the 104th Congress to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——).

§647d. Semi-annual reports.

7. In addition to any other reports required by the Speaker or the Committee on House Oversight, the Clerk shall report to the Committee on House Oversight not later than forty-five 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, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

§647e. Cooperation with others.

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

Clauses 7 and 8 were added in the 104th Congress (sec. 201(b), H. Res. 6, Jan. 4, 1995, p. ——).

RULE IV.

DUTIES OF THE SERGEANT-AT-ARMS.

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

1. It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings, to maintain order under the direction of the Speaker or Chairman, and, pending the election of a Speaker or Speaker pro tempore, under the direction of the Clerk, execute the commands of the

House, and all processes issued by authority thereof, directed to him by the Speaker.

This clause was adopted in 1789, with additions and amendments in 1838, 1877, 1890 (I, 257), April 5, 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 (now House Oversight), 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. ——), 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 § 651e, *infra*). 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 rule IV was rewritten entirely in the 104th Congress, clause 1 was restated without change (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. ——).

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(h)(1) of rule X"), under rules prescribed by the Committee on House Oversight, 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).

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 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 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. ——). Instance where the Senate by resolution removed its Sergeant-at-Arms (VI, 37).

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

2. The symbol of his office shall be the mace, which shall be borne by him while enforcing order on the floor.

This clause was adopted in 1789 (II, 1346). When rule IV was rewritten entirely in the 104th Congress, the clause was restated without change (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. ——). An attempt to enforce order without the mace gave rise to a question of privilege (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).

§ 650a. Doorkeeping.

3. He shall enforce strictly the rules relating to the privileges of the Hall and be responsible to the House for the official conduct of his employees.

4. He shall allow no person to enter the room over the Hall of the House during its sittings; and fifteen minutes before the hour of the meeting of the House each day he shall see that the floor is cleared of all persons except those privileged to remain, and kept so until ten minutes after adjournment.

Clauses 3 and 4 were added 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. ——). For the history of the Office of the Doorkeeper, see § 651d, *infra*.

§650b. Semi-annual reports.

5. In addition to any other reports required by the Speaker or the Committee on House Oversight, the Sergeant-at-Arms shall report to the Committee on House Oversight not later than forty-five days following the close of each semiannual period ending 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, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

§650c. Cooperation with others.

6. 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.

Clauses 5 and 6 were added in the 104th Congress (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. ——).

RULE V.

CHIEF ADMINISTRATIVE OFFICER.

§651a. Duties.

1. The Chief Administrative Officer of the House shall have operational and financial responsibility for functions as assigned by the Committee on House Oversight, and shall be subject to the policy direction and oversight of the Committee on House Oversight.

§651b. Semi-annual reports.

2. In addition to any other reports required by the Committee on House Oversight, the Chief shall report to the Com-

mittee on House Oversight not later than forty-five 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. Each report shall include financial statements, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

§651c. Cooperation with others.

3. The Chief shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

This form of rule V was adopted in the 104th Congress (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. ——). 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. ——). 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 (*id.*).

§651d. Former Office of Doorkeeper.

Before the 104th Congress (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. ——), 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).

§651e. 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 (see §654, *infra*). 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. ——). Section 7(b) of that resolution vested the Committee on House Administration (now House Oversight) 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. ——).

RULE VI.

OFFICE OF INSPECTOR GENERAL.

§654. Inspector General.

1. There is established an Office of Inspector General.

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

3. Subject to the policy direction and oversight of the Committee on House Oversight, the Inspector General shall be responsible only for—

(a) conducting periodic audits of the financial and administrative functions of the House and joint entities;

(b) informing the Officers or other officials who are the subject of an audit of the re-

sults of that audit and suggesting appropriate curative actions;

(c) simultaneously notifying the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority party member of the Committee on House Oversight in the case of any financial irregularity discovered in the course of carrying out responsibilities under this rule;

(d) simultaneously submitting to the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority party member of the Committee on House Oversight a report of each audit conducted under this rule; and

(e) reporting to the Committee on Standards of Official Conduct information involving possible violations by any Member, 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 which may require referral to the appropriate Federal or State authorities pursuant to clause 4(e)(1)(C) of rule X.

This form of rule VI was adopted at the beginning of the 104th Congress (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. ——). Later in the 104th Congress it was amended to effect a technical correction (H. Res. 254, Nov. 30, 1995, p. ——). Its predecessor form was composed in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——) by combining two rules adopted in the House Administrative Reform Resolution of 1992 (H. Res. 423, 102d Cong., Apr. 9, 1992, p. ——). For the history of rule VI before 1992, see §654a, *infra*.

In the form of the rule adopted in the 103d Congress, 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 rule V,

§§651a–e, *supra*), and clause 2 corresponded to an erstwhile rule LIII of the 102d Congress (relating to the Inspector General). In converting clause 2 of the former rule VI into the present rule VI, the 104th Congress: broadened the auditing responsibilities beyond the offices of the elected officers (paragraph (a), formerly clause 2(c)(1)); added requirements for simultaneous reporting (paragraphs (c) and (d), formerly clauses 2(c)(3) and (4)); deleted a provision relating to classification of employees (formerly clause 2(d)); and added the responsibility to report certain information to the Committee on Standards of Official Conduct (paragraph (e)) (sec. 201, H. Res. 6, 104th Congress, p. ——). The 104th Congress also mandated that the Inspector General, in consultation with the Speaker and the Committee on House Oversight, 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. ——).

Pursuant to clause 2(b) of the form of the rule adopted in the 103d Congress, the Speaker, the Majority Leader, and the Minority Leader jointly appointed the first Inspector General of the House of Representatives (Nov. 10, 1993, p. ——).

§654a. Former Office of the Postmaster.

Until the 102d Congress, 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. ——).

RULE VII.

DUTIES OF THE CHAPLAIN.

§655. Duties of the Chaplain.

The Chaplain shall attend at the commencement of each day's sitting of the House and open the same with prayer.

This rule was adopted 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 6(a) (1) of rule XV). 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). 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.

§656. Members required to be present and vote.

§657. 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.

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).

§658. 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 rollcall 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 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).

§659. 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, 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).

§660a. Pairs.

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.

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.

§660b. Voting.

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.

(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).

RULE IX.

QUESTIONS OF PRIVILEGE.

§661. 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, individually, in their representative capacity only.

§661a. 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 article I, section 7, clause 1 of the Constitution, shall have precedence of all other questions except motions to adjourn. A resolution 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 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.

(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 or 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 put in form of definition 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 the privileges of the House (H. Res. 5, Jan. 5, 1993, p. ——).

§662. Questions of privileges of the House.

The body of precedent relating to questions of privilege includes rulings that span the adoption of standing rule IX in 1880.

§662a. Questions relating to organization.

The privileges of the House also 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 as resolutions 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); various questions incidental to the right to a seat (I, 322, 328, 673, 742; II, 1207; III, 2588; VII, 2316), such as a resolution declaring 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); a resolution declaring 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 resolutions directing 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). A resolution electing a House officer is presented as a question of privilege (July 31, 1997, p. ——). A

resolution declaring vacant the office of 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*.

§662b. 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, pp. 31517–18; Oct. 1, 1985, p. 25418; June 16, 1988, p. 14780; June 21, 1988, p. 15425; Aug. 12, 1994, p. ——). 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's Precedents, vol. 3, ch. 13, sec. 14.2; Aug. 19, 1982, p. 22127), but not otherwise (Apr. 6, 1995, p. ——). The constitutional prerogatives of the House also include its function with respect to treaties (II, 1502–1537); impeachments and matters incidental thereto (see § 604, *supra*); bills "pocket vetoed" during an intersession adjournment (Nov. 21, 1989, p. 31156); 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 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). For a discussion of the relationship of the House and its Members to the courts, see §§ 290–291b, *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). For example, a legislative proposition presented as a question of constitutional privilege under the provisions of the 14th amendment was held not to involve a question of privilege (VI, 48). Similarly, 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 (Speaker Gingrich, Feb. 7, 1995, p. ——; Dec. 22, 1995, p. ——; Jan. 3, 1996, p. ——; Jan. 24, 1996, p. ——; Feb. 1, 1996, p. ——). 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, pp. 26203–04).

§662c. 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) a resolution directing the Committee on Standards of Official Conduct to investigate illegal solicitation of political contributions in the House Office Building by unnamed sitting Members (July 10, 1985, p. 18397); (2) a resolution establishing an ad hoc committee to investigate allegations of "ghost" employment in the House (Apr. 9, 1992, p. ——); (3) a resolution to further investigate the conduct of a Member on which it has reported to the House (Aug. 5, 1987, p. 22458); (4) a resolution 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. ——; Nov. 30, 1995, p. ——); (5) a resolution appointing an outside counsel (Sept. 19, 1996, p. ——; Sept. 24, 1996, p. ——); (6) a resolution to commit other matters to an outside counsel already appointed by the committee (June 27, 1996, p. ——); (7) a resolution directing the committee to release the report of an outside counsel (Sept. 19, 1996, p. ——; Sept. 24, 1996, p. ——); (8) a resolution 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, pp. 2768–69); (9) a resolution 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) a resolution making allegations of unauthorized actions by a committee employee to intervene in judicial proceedings (Feb. 5, 1992, p. ——); (11) a resolution 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); and (12) a resolution 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). 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: 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); 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. ——); 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. ——); mandating full and accurate disclosure of pertinent information concerning the operation of that entity (Mar. 12, 1992, p. ——); responding to a subpoena for records of that entity (Apr. 29, 1992, p. ——); responding to a contemporaneous "request" for such records from a Special Counsel (Apr. 29, 1992, p. ——); 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. ——). The latter category included resolutions: 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. ——); to create a select committee to investigate the same matter (Feb. 5, 1992, p. ——); requiring an explanation of a reported interference with authorized access to a committee investigation of that matter (Apr. 9, 1992, p. ——); to redress 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. ——); 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. ——); 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. ——); 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. ——); 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. ——; July 23, 1992, p. ——); directing the Committee on House Administration to redress the inaccurate naming of a Member in minority views accompanying a report on that matter (July 23, 1992, p. ——); 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. ——); 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. ——); and 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. ——).

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. ——). The moratorium was extended through September 10, 1997 (July 30, 1997, p. ——). The task force recommendations ultimately were adopted with certain amendments (H. Res. 168, Sept. 18, 1997, p. ——).

§662d. 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, pp. 26203–04). 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. ——).

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, pp. 10099–100), including: (1) a resolution 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) resolutions 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) resolutions 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

be raised as 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 § 927, *infra*).

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. ——; see also § 291, *supra*). Privileges of the House involving records also include: (1) a resolution furnishing certain requested information to an Independent Counsel investigating covert arms transactions with Iran (June 4, 1992, p. ——); (2) a resolution 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. ——); (3) a resolution 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); and (4) a resolution 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. ——).

A question regarding the accuracy of House documents constitutes a question of privileges of the House (V, 7329), including: (1) a resolution 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) a resolution 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. ——); and (3) a resolution requesting the Senate to return a House-passed bill and accompanying papers to the House if an error had been made by the Clerk in preparing the message to the Senate (Oct. 1, 1982, p. 27172). 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. ——).

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, pp. 7607–08). 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 clause 9 of rule I requires complete and unedited audio and visual coverage of House proceedings and coverage of rollcall votes had not been implemented (Apr. 30, 1985, p. 9821).

Alleged improprieties in committee procedures, including charges of committee inaction (III, 2610), secret committee conferences (VI, 578), refusal to make 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 a determination whether a committee violated House rules by voting to take allegedly defamatory testimony in open session (June 30, 1958, pp. 12690–91), were all held not to give rise to a question of the privileges of the House.

§ 662e. 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).

§ 662f. 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 by a vote of 235 to 53, thereby overruling the 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. ——; Jan. 31, 1996, p. ——), including directions to the Speaker infringing upon his discretionary power of recognition under 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 re-

frain 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. ——). 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 (Speaker Foley, sustained by tabling of appeal, Feb. 3, 1993, p. ——). 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(b) 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 (Speaker Foley, sustained by tabling of appeal, May 20, 1992, p. ——).

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 (Speaker Albert, June 27, 1974, p. 21596; July 31, 1975, p. 26250; Dec. 22, 1996, p. ——; Jan. 3, 1996, p. ——; Jan. 24, 1996, p. ——). For example, 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, does not give rise to a question of the privileges of the House (Jan. 3, 1996, p. ——; Jan. 24, 1996, p. ——). Similarly, a resolution precluding an adjournment of the House until a specified legislative measure is considered does not constitute a question of the privileges of the House (Feb. 1, 1996, p. ——).

See also § 662a, *supra*, for a discussion of legislative propositions purporting to present questions of the privileges of the House.

§ 662g. As distinct from privileged questions.

The clause of the rule giving questions of privilege precedence of all other questions except a motion to adjourn is a recognition of a principle always well understood 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" which 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 mandatory in nature, have been held to have a privilege which 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 (III, 2045–2048, 2051, 2398; July 22, 1986, p. 17294), 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), and a resolution declaring the office of Speaker vacant (VI, 35); but under later decisions certain of these matters which 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 § 662b, *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(h)(1) of rule X") (VI, 395).

§ 663. 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).

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. ——). A Member rose to a question of personal privilege to discuss 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. ——).

A distinction has been drawn between charges made by one Member against another in a newspaper or in a press release (July 28, 1970, p. 26002) or in a "Dear Colleague" letter (Aug. 4, 1989, p. 19139; May 14, 1996, p. ——), 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 re-

sponses 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. ——). 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, which impugn his character or motives (May 15, 1984, pp. 12207 and 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).

§665. Precedence 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.

§665a. Precedence of questions of privileges of House.

A question of privilege which relates to a breach of privilege (an assault) occurring during the reading of the Journal may interrupt its reading (II, 1630). A question of privilege may interrupt the reading of the Journal (II, 1630; VI, 637), the consideration of a bill under a special order (III, 2524, 2525), a rule providing for a vote "without intervening motion" (VI, 560), a proposition to suspend the rules (III, 2553; VI, 553, 565), the consideration of certain matters on which the previous question has been ordered (III, 2532; VI, 561; VIII, 2688), business in order on Calendar Wednesday (VI, 394; VII, 908–910), reports from the Rules Committee before debate has begun (VIII, 3491; Mar. 11, 1987, p. 5403), 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. ——), and motions to resolve into Committee of the Whole (VI, 554; VIII, 3461). A question of the privileges of the House takes precedence over unfinished business, privileged under clauses 1 and 3 of rule XXIV (Speaker Albert, June 4, 1975, p. 16860). 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). 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). 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 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 refer under clause 1 of rule XVII (Speaker Albert, Feb. 19, 1976, p. 3914; Apr. 28, 1983, p. 10423; Mar. 22, 1990, p. 4996). 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 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).

§665b. 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 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 5 of rule XIV; yet a breach of privilege occurring in 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).

§665c. 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 §771a, *infra*.

§667. 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. ——). 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. ——; Feb. 7, 1995, p. ——), 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. ——); 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. ——). 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 within two legislative days (Feb. 11, 1994, p. ——; Sept. 13, 1994, p. ——; Feb. 3, 1995, p. ——).

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 2(l)(6) of rule XI that reports from committees be available to Members for at least three calendar days prior to their consideration (Speaker Albert, July 13, 1971, pp. 24720–23). But a Member may not, as matter of right, require the reading of a book or paper on 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 he must take this preliminary step in raising a question of general privileges (III, 2546, 2547; VI, 565–569; VII, 3464). 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 has included an hour of debate on a motion to refer under clause 4 of rule XVI; a separate hour of debate on the resolution, itself, under clause 2 of rule XIV; and a motion to commit (not debatable after the ordering of the previous question) under clause 1 of rule XVII (Mar. 12, 1992, p. ——). 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). Debate on a question of personal privilege must be confined to the statements or issues which gave rise to the question of privilege (V, 5075–77; VI, 576, 608; VIII, 2448, 2481; May 31, 1984, p. 14623).

RULE X.

ESTABLISHMENT AND JURISDICTION OF STANDING COMMITTEES.

The Committees and Their Jurisdiction

§669. 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 to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) be referred to such committees, 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 the Committee on Science), 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. ——). 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 Government Reform and Oversight (formerly Government Operations); and matters formerly in the jurisdiction of the Committee on Merchant Marine and Fisheries were transferred to the Committees on Resources (formerly Natural Resources), Transportation and Infrastructure (formerly Public Works and Transportation), National Security (for-

merly Armed Services), and Science (formerly Science, Space, and Technology (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. ——).

A Permanent Select Committee on Intelligence was established on July 14, 1977, and is now carried in rule XLVIII. 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. ——).

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 6(a)(1) of rule X. The rules still specify part of the composition of the Committee on the Budget (clause 1(d)(1) of rule X) as well as the overall size and preferred composition of the Permanent Select Committee on Intelligence (clause 1(a) of rule XLVIII).

The rule is mandatory on the Speaker in referring public bills and on Members in referring private bills and petitions under rule XXII, 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 either by the committee claiming jurisdiction (clause 4 of rule XXII; VII, 2121; Feb. 13, 1918, p. 2070; Jan. 10, 1941, p. 100) or by report of the committee to which the erroneous reference was made (clause 4 of rule XXII), 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), must apply to a bill erroneously referred (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 re-referral of most bills is accomplished by unanimous consent (see Procedure, ch. 17, sec. 17–38).

Prior to the 94th Congress, a bill could not be divided among two or more committees, even though it might contain matters properly within the jurisdiction of several committees (IV, 4372). The Committee Reform Amendments of 1974 added clause 5 of rule X, permitting the Speaker to refer any matter to more than one committee (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Clause 5 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. ——).

A committee having jurisdiction of 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 of 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 remain 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 good when the bill comes up for consideration, either in the House or in Committee of the Whole (IV, 4382–4389; VII, 2116, 2132; VIII, 2262) or at any time prior to 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 2 of rule XXII prohibits the reception or consideration of certain private bills relating to claims, pensions, construction of bridges, correction of military or naval records, etc. The clause was expanded in the 104th Congress to prohibit introduction or consideration of any bill or resolution expressing a commemoration by designation of a specified period of time (sec. 216, H. Res. 6, Jan. 4, 1995, p. ——).

(a) Committee on Agriculture.

§670. 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) Commodities 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, and poultry, and 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 Department 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 International Relations (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. ——).

The Committee has had jurisdiction of 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).

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). It has also exercised jurisdiction of 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. ——). The Committee shares with the Committee on the Judiciary original jurisdiction over a bill comprehensively amending the Immigration and Nationality Act and including food stamp eligibility requirements for aliens (Sept. 19, 1995, p. ——).

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.**

§671a. 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) The amount of new authority to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts; new authority to incur in-

debtedness (other than indebtedness [in][1] incurred under chapter 31 of title 31 of the United States Code) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts; new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974, including bills and resolutions (reported by other committees) which provide new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974 and are referred to the committee under clause 4(a); authority to forego the collection by the United States of proprietary offsetting receipts, the budget authority for which is not provided in advance by appropriation Acts to offset such foregone receipts; and authority to make payments by the United States (including loans, grants, and payments from revolving funds) other than those covered by this subparagraph, the budget authority for which is not provided in advance by appropriation Acts.

The committee shall include separate headings for "Rescissions" and "Transfers of Unexpended Balances" in any bill or resolution as reported from the committee under its jurisdiction specified in subparagraph (2) or (3), with all proposed rescissions and proposed transfers listed therein; and shall include a separate section with respect

[1] Section 10116(a)(6) of Public Law 105–33 amended this provision as shown above. However, the word "in" probably should not have appeared in the matter proposed to be inserted by that public law.

to such rescissions or transfers in the accompanying committee report. In addition to its jurisdiction under the preceding provisions of this paragraph, the committee shall have the fiscal oversight function provided for in clause 2(b)(3) and the budget hearing function provided for in clause 4(a).

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 by an amendment to the rules adopted June 1, 1920 (VII, 1741).

§671b. 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. 683–4), 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); 88 Stat. 320) added to the Committee's jurisdiction, and later perfected by the Committee Reform Amendments of 1974 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), subparagraphs (2), (3), and (4).

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 Congress to conform to changes made by the Budget Enforcement Act of 1997 (sec. 10116, P.L. 105–33).

While 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 6 of rule XXI). General appropriation bills may not be considered in the House until reports and hearings have been available for three days (clause 7 of rule XXI), and other reports from the Committee likewise may not be considered until available for the time prescribed in clause 2(l)(6) of rule XI.

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 general oversight responsibility of the Committee in clause 2(b)(3) of rule X, effective January 3, 1975 (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(f)(1) and (2) of rule XI, through enactment of section 253 of the 1970 Act (84 Stat. 1175).

(c) Committee on Banking and Financial Services.

§672. Banking and Financial Services.

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

(2) Bank capital markets activities generally.

(3) Depository institution securities activities generally, including the activities of any affiliates, except for functional regulation under applicable securities laws not involving safety and soundness.

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

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

(6) International finance.

(7) International financial and monetary organizations.

(8) 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.

(9) Public and private housing.

(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. ——).

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) 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). Prior to 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 International Relations), 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 International Relations, jurisdiction over construction of nursing home facilities to what is now the Committee on 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. ——).

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 of 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).

(d)(1) **Committee on the Budget,** consisting of the following Members:

§673a. Budget, Composition of.

(A) Members who are members of other standing committees, including five Members who are members of the Committee on Appropriations, and five Members who are members of the Committee on Ways and Means;

(B) one Member from the leadership of the majority party; and

(C) one Member from the leadership of the minority party.

No Member other than a representative from the leadership of a party may serve as a member of the Committee on the Budget during more than four Congresses in any period of six successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that an incumbent chairman or ranking minority member having served on the committee for four Congresses and having served as chairman or ranking minority member of the committee for not more than one Congress shall be eligible for reelection to the committee as chairman or ranking minority member for one additional Congress.

§673b. Jurisdiction and duties.

(2) All concurrent resolutions on the budget (as defined in section 3 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.

(3) Measures relating to the budget process, generally.

(4) Measures relating to the 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.

(5) The committee shall have the duty—

(A) to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis;

(C) to request and evaluate continuing studies of tax expenditures; to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and

(D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

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). In addition to the duties contained in clause 1(d)(5), the Committee is also charged with the special oversight function of studying the effect of budget outlays on existing and proposed legislation, and of studying tax policies and coordinating them with budget outlays, and reporting to the House thereon (clause 3(b) of rule X); as well as the additional function set forth in clause 4(b) of rule X of studying programs exempt from inclusion in the budget and recommending termination or modification of such programs.

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).

This paragraph was amended in the 96th Congress to relax the limitation on Members' service on the 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 re-elected 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. ——). 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. ——).

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, Dec. 12, 1985). 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); (2) granting the Committee jurisdiction over the congressional budget process generally in a new subparagraph (3); and (3) granting the Committee jurisdiction over special controls over the federal budget in a new subparagraph (4), including receiving from the former Committee on Government Operations (now Gov-

ernment Reform and Oversight) 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. ——). Three rereferrals from the Committee on Government Reform and Oversight 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 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. ——). In the 105th Congress the jurisdictional statement in subparagraph (3), 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 (H. Res. 5, Jan. 7, 1997, p. ——).

(e) **Committee on Commerce.**

§674. 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) Measures relating to the 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) Measures relating to the conservation of energy resources.

(8) Measures relating to energy information generally.

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

(10) Measures relating to general management of the Department of Energy, and the 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) Securities and exchanges.

(16) 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. In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general over-

sight functions under clause 2(b)(1)), such committee shall have the special oversight functions provided for in clause (3)(h) with respect to all laws, programs, and Government activities affecting nuclear and other energy, and nonmilitary nuclear energy and research and development including the disposal of nuclear waste.

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 again 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 inter-committee memoranda of understanding). In the 104th Congress it was redesignated again as the Committee on Commerce (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. ——).

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, life-saving 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 has jurisdiction over the Panama Canal (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. ——). 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) (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 (now

Science), and jurisdiction over trading with the enemy to the Committee on Foreign Affairs (now International Relations) (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 non-nuclear energy and facilities by the addition of the penultimate sentence to this paragraph (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 relating 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, while the Committee on Commerce obtained exclusive jurisdiction over regulation of the domestic nuclear energy industry (subpara. (13)) from the former Committee on Natural Resources (now Resources) (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. ——).

The Committee has the special oversight responsibility under clause 3(h) of rule X as well as the general oversight responsibility required by clause 2(b). 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. ——), though a conforming change in clause 3(h) was inadvertently omitted.

The Committee formerly reported the river and harbor appropriation bill, but in 1883 a 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 of bills affecting domestic and foreign commerce, except such as may affect the revenue (IV, 4097). It also has jurisdiction of 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, inter-

national 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 of bills proposing construction of bridges across navigable streams which are now banned (§ 852; 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 (now Education and the Workforce) 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. ——). 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 has exercised jurisdiction, with the Committee on Banking, Finance and Urban Affairs (now Banking and Financial Services), over a bill to amend the Federal Reserve Act to impose reserve requirements on the assets of "open-end investment companies" that offer their depositors accounts transacted by negotiable instrument (Mar. 18, 1981, p. 4610), as well as over a Developmental Disabilities Assistance and Bill of Rights Act that focused on health matters rather than job training (June 1, 1981, p. 11028, Nov. 3, 1993, p. ——). 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).

(f) Committee on Education and the Workforce.

(1) Child labor.

(2) Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.

§675. Education and the Workforce.

(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) Measures relating to education or labor generally.

(7) Mediation and arbitration of labor disputes.

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

(9) United States Employees' Compensation Commission.

(10) Vocational rehabilitation.

(11) Wages and hours of labor.

(12) Welfare of miners.

(13) Work incentive programs.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(c) with respect to domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees.

This Committee was established as the Committee on Education and Labor 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. ——). In the 105th Congress the Committee was again redesignated as the Committee on Education and the Workforce (H. Res. 5, Jan. 7, 1997, 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 Resources); jurisdiction of the Committee over international education matters was specifically transferred to the Committee on Foreign Affairs (now International Relations); and its special oversight function was inserted in clause 3(c) of rule X (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470).

The Columbia Institute for the Deaf, Dumb, and Blind was renamed "Gallaudet College" (68 Stat. 265), and Freedmen's Hospital is now a part of Howard University. 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.

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), and compensation for work injuries to Federal employees (Apr. 16, 1975, p. 10339); over bills amending the Community Services Block Grant Act to continue anti-poverty programs originally authorized by the Economic Opportunity Act of 1964 (Nov. 4, 1993, p. ——); 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. ——).

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

§676. Government Reform and Oversight.

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

(2) Measures relating to the 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) The 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 the 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 addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its oversight functions under clause 2(b)(1) and (2)), the committee shall have the function of performing the duties and conducting the studies which are provided for in clause 4(c).

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 again changed to Government Reform and Oversight (sec. 202(a), H. Res. 6, Jan. 4, 1995, 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), 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. ——), the Committee assumed the jurisdictions of the former Committee on the District of Columbia (subpara. (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, Dec. 12, 1985), was transferred to the Committee on the Budget. Three re-referrals from the Committee on Government Reform and Oversight 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 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. ——). 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. ——). The 104th Congress assigned the Committee its responsibilities to coordinate committee oversight plans under clause 2(d)(3) (sec. 203(a), H. Res. 6, Jan. 4, 1995, p. ——). 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. ——).

The Committee has exercised jurisdiction of bills: establishing 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. ——). 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. ——). 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. ——).

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. 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).

(h) **Committee on House Oversight.**

§677a. House Oversight.

(1) Appropriations from accounts for committee salaries and expenses (except for the Committee on Appropriations), House Information Resources, and allowances and expenses of Members, House 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 clerks for Members and committees, and reporters of debates.

(4) Except as provided in clause 1(q)(11), 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.

(5) Except as provided in clause 1(q)(11), matters relating to the Smithsonian Institution and the incorporation of similar institutions.

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

(7) Franking Commission.

(8) Matters relating to printing and correction of the Congressional Record.

(9) Measures relating to accounts of the House generally.

(10) Measures relating to assignment of office space for Members and committees.

(11) Measures relating to the disposition of useless executive papers.

(12) Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.

(13) Measures relating to services to the House, including the House Restaurant, parking facilities and administration of the House office buildings and of the House wing of the Capitol.

(14) Measures relating to the travel of Members of the House.

(15) Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives, of Delegate, and of Resident Commissioner to the United States from Puerto Rico.

(16) Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the function of performing the duties which are provided for in clause 4(d).

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 Resources jurisdiction over erection of monuments to the memory of individuals (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. ——). 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. ——).

§677b. House facilities.

The Committee has jurisdiction over measures relating to the House Restaurant, 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, 40 U.S.C. 174k), and then under the supervision of 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), which was not re-established 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, House Information Resources, and the Office of Placement and Management (the latter formerly within the jurisdiction of the former Joint Committee on Congressional Operations and of the former Select Committee on Congressional Operations).

§677c. Enrolled bills.

The Committee has absorbed the Committee on Enrolled Bills which was established in 1789 by a joint rule of the two Houses. This rule lapsed in 1876 with the other joint rules; but in 1880 the rules of the House were amended to recognize the joint committee (IV, 4350, 4416; VII, 2099). The Committee 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.

§677d. Library.

Under the Reorganization Act the Committee has jurisdiction of 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 Transportation (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.

§677e. Congressional Record.

The Committee has jurisdiction of 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. 1), are elected by resolution each Congress.

The Committee has jurisdiction of 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 a Committee on Election of the President, Vice President, and Representatives in Congress (IV, 4303).

The special oversight function in clause 4(d)(1) of examining enrolled bills was assigned to the Committee by the Committee Reform amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), but its former responsibility to report on Members' travel has been supplanted by the function of providing policy direction to and oversight of the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Inspector General (sec. 201(e), H. Res. 6, Jan. 4, 1995, p. ——; see rules III, IV, V, and VI and § 697c, *infra*).

(i) Committee on International Relations.

§678. International Relations.

(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) Measures relating to the diplomatic service.

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

(12) Measures relating to 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.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight functions provided for in clause 3(d) with respect to customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.

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, pp. 1848–49). In the 104th Congress the name was again changed to International Relations (sec. 202(a), H. Res. 6, Jan. 4, 1995, 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 Banking and Financial Services); international commodity agreements other than 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 Commerce); and international education (subpara. (8)); while transferring jurisdiction over international financial and monetary organizations to the Committee on Banking and Currency (now Banking and Financial Services), and jurisdiction over international fishing agreements to the Committee on Merchant Marine and Fisheries (now Resources) (H. Res. 988, 93d Cong., Oct. 8,

1974, p. 34470). When the legislative jurisdiction in the House of the Joint Committee on Atomic Energy 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)).

It has a 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 has also 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 a general but not exclusive jurisdiction over legislation relating to claims having international relations (IV, 4168; VII, 1882). Pursuant to its jurisdiction over international education, the Committee (and not former 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. ——).

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

(j) Committee on the Judiciary.

§679a. 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) Federal courts and judges, and local courts in the Territories and possessions.

(8) Immigration and naturalization.

(9) Interstate compacts, generally.

(10) Measures relating to claims against the United States.

(11) Meetings of Congress, attendance of Members and their acceptance of incompatible offices.

(12) National penitentiaries.

(13) Patents, the Patent Office, copyrights, and trademarks.

(14) Presidential succession.

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

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

(17) State and territorial boundaries.

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

§679b. 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 the Committee on Government Reform and Oversight) (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)) (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. ——). 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); and combined former subparagraphs (13) and (14) in a new subparagraph (13) (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. ——).

Under subparagraph (14) 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). Where the House has voted impeachment, 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).

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 (IV, 4060; 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 histori-

cally 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), to eliminate racketeering in the interstate sale of cigarettes (Feb. 9, 1972, p. 3429), providing workmen's compensation for non-Federal firemen killed during civil disorder (May 6, 1968, p. 11798), 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) and over the extension of workmen's benefits to non-Federal policemen and firemen (Dec. 12, 1975, p. 40204). The Committee has exercised jurisdiction, with the Committee on Education and Labor (now Education and the Workforce), 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. ——).

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

(k) **Committee on National Security.**

§680. National Security.

(1) Ammunition depots; forts; arsenals; 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, the 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.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(a)

with respect to international arms control and disarmament, and military dependents education.

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. ——).

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(a) and the general oversight function in clause 2(b)(1) 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. ——), and later amended subparagraph (8) to effect a technical correction (H. Res. 254, Nov. 30, 1995, p. ——).

The Committee has jurisdiction over bills: relating to military housing construction (Apr. 18, 1967, p. 9981; Feb. 21, 1962, p. 2684); 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. ——).

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

(l) **Committee on Resources.**

§681. 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) Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.

(9) Measures relating generally to the insular possessions of the United States, 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 the 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 the 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 the Indians and the Indian tribes.

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

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight functions provided for in clause 3(e) with respect to all programs affecting Indians.

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. ——); and to Resources (sec. 202(a), H. Res. 6, Jan. 4, 1995, 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 men working in mines, formerly under the jurisdiction of a Committee on Mines and Mining, in the Committee on Education and Labor (now Education and the Workforce). Until the Reorganization Act, military parks, battlefields, and national cemeteries were under jurisdiction of a 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 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(e).

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 (now House Oversight); 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 Commerce, to the Committee on Commerce (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. ——). At the same time, the statements of special oversight functions in this paragraph and in 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 Commerce, though conforming changes in paragraphs (e) and (h) of clause 3 were inadvertently omitted.

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. ——), 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 bills relating to proceeds from disposal of oil shale on public lands (other than Naval Oil Shale Reserves) (Aug. 3, 1967, p. 21179); bills 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); bills reinstating a U.S. oil and gas lease (Aug. 5, 1959, p. 15190); bills addressing U.S. claims to lands along the Colorado River forming state boundaries (June 28, 1967, p. 17738); bills designating national forest lands created from the public domain as wilderness (May 6, 1969, p. 11459); bills including additional units in the Missouri River Basin project (Sept. 8, 1959, p. 18587); bills establishing a commission on development of Pennsylvania Avenue in D.C. as a national historic site (Oct. 21, 1965, p. 27803); bills authorizing the Secretary of the Interior to conduct a feasibility investigation of potential water resource development (May 1, 1975, p. 12764); bills to establish a commission to consider the creation of a (Hudson) River Compact (July 21, 1975, p. 23653); bills to name a building constructed as part of a federal recreation area (June 8, 1988, p. 13803); bills addressing the siting on Federal parkland of an established national memorial (Sept. 24, 1991, p. 23731); and (with the Committee on Agriculture) bills exchanging a Federal tree nursery for certain State mining patents touching a western forest (Sept. 17, 1991, p. 23193). The Committee on National Security, 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. ——). The Committee on Agriculture, and not this Committee, has jurisdiction over the designation of an agricultural research center (May 14, 1996, 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; see clause 4(a) of rule XI).

(m) **Committee on Rules.**

§682a. Rules.

(1) The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.

(2) Recesses and final adjournments of Congress.

The Committee on Rules is authorized to sit and act whether or not the House is in session.

This Committee, which had existed as a select committee from 1789, became a standing committee in 1880 (IV, 4321; VII, 2047). 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). 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, p. 1271, 1273).

The jurisdiction defined in this paragraph became effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812). The last sentence, formerly designated as subparagraph (3) (H. Res. 5, Jan. 5, 1993, p. ——), is from section 134(c) of the 1946 Act, but the Committee has had authority to sit during sessions of the House since 1893 (IV, 4546), even during the five-minute rule under clause 2(i) of rule XI. 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), for the creation of committees (IV, 4322; VII, 2048), and directing 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 for

all committees to sit and act whether the House is in session or has adjourned, and 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).

§682b. Special orders.

Since 1883 the Committee on Rules has reported special orders providing times and methods for consideration of special bills or classes of bills, thereby enabling the House by majority vote to forward particular legislation, instead of being forced to use for the 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). But before the adoption of rules, and consequently before there is a rule as to the order of business, a Member may offer a special order for immediate consideration (V, 4971, 5450). 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 which 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 House does not present a question of privilege (VIII, 3377, overruling VIII, 3376; see also rule IX and §664, *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 §§729a–731, *infra*.

(n) **Committee on Science.**

§683. Science.

(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) Measures relating to the 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.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(f) with respect to all nonmilitary research and development.

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 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, non-nuclear 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 clause 3(f). 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. ——). The 104th Congress again 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 (now Commerce) (sec. 202(a), H. Res. 6, Jan. 4, 1995, 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 (now National Security) and Interior and Insular Affairs (now 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).

(o) **Committee on Small Business.**

§684. 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.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(g) with respect to the problems of small business.

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 (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 clause 3(g).

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. ——; see also Feb. 9, 1995, p. ——) and later effected a technical correction (H. Res. 254, Nov. 30, 1995, p. ——).

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

(1) Measures relating to the Code of Official Conduct.

§685a. Standards of Official Conduct.

In addition to its legislative jurisdiction under the preceding provision of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in

clause 4(e), and the functions designated in titles I and V of the Ethics in Government Act of 1978 and sections 7342, 7351, and 7353 of title 5, United States Code.

In the 90th Congress the Committee on Standards of Official Conduct was established as a standing committee (H. Res. 418, Apr. 13, 1967, p. ——). 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); (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 (now House Oversight), 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).

In the 95th Congress, several rules relating to the official conduct of Members were adopted outside the confines of rule XLIII, the "Code of Official Conduct," as follows: rule XLV, prohibiting unofficial office accounts; rule XLVI, limiting the use of the frank; and rule XLVII, limiting outside earned income (H. Res. 287, Mar. 2, 1977, pp. 5933–53).

Under clause 4(a) of rule XI, 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 4(e) 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 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 Committee has investigated rollcall 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 also 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 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.

§685b. 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 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. ——). The Select Committee filed one report to the House (H. Rept. 105–1, H. Res. 31, Jan. 21, 1997, p. ——).

(q) **Committee on Transportation and Infrastructure.**

§686. 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 the 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) Measures relating to the Capitol Building and the Senate and House office buildings.

(10) Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.

(11) 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.

(12) Measures relating to merchant marine, except for national security aspects of merchant marine.

(13) Measures relating to the 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.

(19) Roads and the safety thereof.

(20) Transportation, including civil aviation, railroads, water transportation, transportation safety (except automobile safety), 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; see clause 4(a) of rule XI). 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 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 matters from the Committee on Energy and Commerce (now 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. ——).

The Committee has jurisdiction over proposals establishing Treasury revolving funds for the Southeastern and Southwestern Power Administrations (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, and not this Committee, has jurisdiction over a bill renaming an existing post office building (Aug. 4, 1995, p. ——), but this Committee, and not the Committee on Government Reform and Oversight, has jurisdiction over a bill redesignating a general-purpose federal building as a post office (Apr. 24, 1997, p. ——). This Committee, and not the Committee on Ways and Means, has jurisdiction over a bill designating a customs building (Dec. 12, 1995, p. ——). The Committee on 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. ——).

The Committee has shared jurisdiction: with the Committee on Energy and Commerce (now 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 Government Reform and Oversight) 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 (now House Oversight) 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. ——); and with the Committee on Education and Labor (now Education and the Workforce) over bills providing labor protections to workers, including airline employees, in the transportation industry (June 24, 1991, p. 16020; Feb. 24, 1993, p. ——).

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).

The general oversight responsibility of the Committee is set forth in clause 2(b) of rule X.

(r) **Committee on 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.

§687. Veterans' Affairs.

(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 servicemen to civil life.

(7) Soldiers' and sailors' 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' Legislation (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 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 the Workforce. 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).

(s) **Committee on Ways and Means.**

§688. Ways and Means.

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

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to the insular possessions.

(5) The bonded debt of the United States (subject to the last sentence of clause 4(g) of this rule).

(6) The deposit of public moneys.

(7) Transportation of dutiable goods.

(8) Tax exempt foundations and charitable trusts.

(9) National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) 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 Banking and Currency (now Banking and 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, 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 (now Commerce); jurisdiction over work incentive programs to the Committee on Education and Labor (now Education and the Workforce); jurisdiction over general revenue sharing to the Committee on Government Operations (now Government Reform and Oversight); and jurisdiction over renegotiation to the Committee on Banking, Finance and Urban Affairs (now Banking and Financial Services) (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470).

The Committee's jurisdiction over the bonded debt of the United States (subpara. (5)) was made subject to the last sentence of clause 4(g) of rule X in the 96th Congress by Public Law 96–78 (93 Stat. 589).

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 of 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 sold 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. ——).

The Committee has exercised jurisdiction, with the Committee on Energy and Commerce (now 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 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. ——).

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).

The general oversight responsibility set forth in clause 2(b) was assigned to the Committee by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470).

General Oversight Responsibilities

2. (a) In order to assist the House in—

§692a. General oversight.

(1) its analysis, appraisal, and evaluation of (A) the application, administration, execution, and effectiveness of the laws enacted by the Congress, or (B) conditions and circumstances which may indicate the necessity or desirability of enacting new or additional legislation, and

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

the various standing committees shall have oversight responsibilities as provided in paragraph (b).

(b)(1) Each standing committee (other than the Committee on Appropriations and the Committee on the Budget) shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, each such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the

jurisdiction of that committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake futures research and forecasting on matters within the jurisdiction of that committee. Each such committee having more than twenty members shall establish an oversight subcommittee, or require its subcommittees, if any, to conduct oversight in the area of their respective jurisdiction, to assist in carrying out its responsibilities under this subparagraph. The establishment of oversight subcommittees shall in no way limit the responsibility of the subcommittees with legislative jurisdiction from carrying out their oversight responsibilities.

§692b. Oversight subcommittees.

(2) The Committee on Government Reform and Oversight 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.

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

(c) Each standing committee of the House shall have the function of reviewing and studying 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 of the House shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress. Such plans shall be submitted simultaneously to the Committee on Government Reform and Oversight and to the Committee on House Oversight. In developing such plans each committee shall, to the maximum extent feasible

(A) consult with other committees of the House that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction, with the objective of ensuring that such laws, programs, or agencies are reviewed in the same Congress and that there is a maximum of coordination between such committees in the conduct of such reviews; and such plans shall include an explanation of what steps have been and will be taken to ensure such coordination and cooperation;

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

(C) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdictions are subject to review at least once every ten years.

(2) It shall not be in order to consider any committee expense resolution (within the meaning of clause 5 of rule XI), or any amendment thereto, for any committee that has not submitted its oversight plans as required by this paragraph.

(3) 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 Government Reform and Oversight shall report to the House the oversight plans submitted by each committee together with any recommendations that it, or the House leadership group referred to above, may make to ensure the most effective coordination of such plans and otherwise 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). The oversight authority conferred by clause 2(b)(2) on the Committee on Government Operations (now Government Reform and Oversight) was first made effective as part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and the responsibility of the Committee on Appropriations set forth in clause 2(b)(3) 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 Jan. 3, 1953 (pp. 17, 24). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the general oversight responsibilities set forth in the remainder of the clause were incor-

porated into the rule, and on January 14, 1975 (H. Res. 5, 94th Cong., p. 20), the size of those standing committees required by 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. In the 100th Congress, the requirement that representatives from the Committee on Government Operations meet with other committees at the beginning of each Congress to discuss oversight plans and that the Government Operations Committee report to the House its oversight coordination recommendations within sixty days after convening of the first session was deleted (H. Res. 5, Jan. 6, 1987, p. 6). The 104th Congress added paragraph (d) to require 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 and House Oversight. The Committee on Government Reform and Oversight is required to report such plans to the House by March 31, with recommendations to ensure coordination among committees. Consideration of funding for each committee is contingent on submission of its oversight plans to the committees specified under paragraph (d)(1). 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. ——).

Special Oversight Functions

§693. Special oversight.

3. (a) The Committee on National Security shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving international arms control and disarmament and the education of military dependents in schools.

(b) The Committee on the Budget shall have the function of—

(1) making continuing studies of the effect on budget outlays of relevant existing and proposed legislation, and reporting the results of such studies to the House on a recurring basis; and

(2) requesting and evaluating continuing studies of tax expenditures, devising methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and reporting the results of such studies to the House on a recurring basis.

(c) The Committee on Education and the Workforce shall have the function of reviewing, studying, and coordinating, on a continuing basis, all laws, programs, and Government activities dealing with or involving domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees.

(d) The Committee on International Relations shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.

(e) The Committee on Resources shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with Indians.

(f) The Committee on Science shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving nonmilitary research and development.

(g) The Committee on Small Business shall have the function of studying and investigating,

on a continuing basis, the problems of all types of small business.

(h) The Committee on Commerce shall have the function of reviewing and studying, on a continuing basis, all laws, programs and Government activities relating to nuclear and other energy, and nonmilitary nuclear energy and research and development including the disposal of nuclear waste.

(i) The Committee on Rules shall have the function of reviewing and studying, on a continuing basis, the congressional budget process, and the committee shall, from time to time, report its findings and recommendations to the House.

The special oversight responsibilities of the Committee on the Budget set forth in clause 3(b) were made part of the rules effective July 12, 1974 by section 101(c) of the Congressional Budget Act of 1974 (88 Stat. 300). The remainder of the clause became effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470) except that 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) and the name of the Committee on International Relations was changed back to Foreign Affairs (H. Res. 89, Feb. 5, 1979, pp. 1848–49). Paragraph (e) was amended in the 103d Congress to reflect the change from Interior and Insular Affairs to Natural Resources (H. Res. 5, Jan. 5, 1993, p. ——). Paragraph (h) was amended in the 96th Congress to change the name of the Committee on Interstate and Foreign Commerce to the Committee on Energy and Commerce and to expand that committee's special oversight responsibilities over nuclear energy to all energy programs (H. Res. 549, Mar. 25, 1980, pp. 6405–10) effective January 3, 1981. Paragraph (i) was added by section 226 of P.L. 99–177, the Balanced Budget and Emergency Deficit Control Act of 1985 (Dec. 12, 1985). A paragraph (j) was added by section 9 of the House Administrative Reform Resolution of 1992 (H. Res. 423, Apr. 9, 1992, p. ——) to establish 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, and paragraph (j)(3) was rewritten in the 103d Congress to pro-

vide 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. ——), but paragraph (j) was deleted entirely in the 104th Congress (sec. 201(d), H. Res. 6, Jan. 4, 1995, p. ——). The names of the committees addressed in paragraphs (a), (c), (d), (e), (f), and (h) were changed at the beginning of the 104th Congress (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——). Later in the 104th Congress conforming amendments to paragraphs (e) and (h) were adopted to reflect the transfer of jurisdiction over nonmilitary nuclear energy from the Committee on Resources to the Committee on Commerce (H. Res. 254, Nov. 30, 1995, p. ——). In the 105th Congress paragraph (c) was amended to reflect a further committee name change (H. Res. 5, Jan. 7, 1997, p. ——).

Additional Functions of Committees

§694a. Committee on Appropriations; budget hearings.

4. (a)(1)(A) The Committee on Appropriations shall, within thirty days after the transmittal of the Budget to the 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 pursuant to 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.

§694b. Procedure for budget hearings.

(C) Hearings pursuant to 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 roll-call vote that the testimony to be taken at that hearing on that day may be related to a matter of national security: *Provided, however,* That 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 from Puerto Rico.

(D) Hearings pursuant to subdivision (A), or any part thereof, may be held before joint meetings 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).

§694c. Budget Act; 15-day referral to Appropriations.

(2) Whenever any bill or resolution which provides new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974 is reported by a committee of the House and the amount of new budget authority which will be required for the fiscal year involved if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported as described

in clause 4(h) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations with instructions to report it, with the committee's recommendations and (if the committee deems it desirable) with an amendment limiting the total amount of new entitlement authority provided in the bill or resolution, within 15 calendar days (not counting any day on which the House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations fails to report the bill or resolution within such 15-day period, the committee shall be automatically discharged from further consideration of the bill or resolution and the bill or 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 which (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.

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), and was amended in the 95th Congress to correct an error in cross-reference (H. Res. 5, Jan. 4, 1977, pp. 53–70). 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). Subparagraph (2) 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 (Budget Enforcement Act of 1997 (sec. 10116, P.L. 105–33)).

§695. Budget.

(b) The Committee on the Budget shall have the duty—

(1) to review on a continuing basis the conduct by the Congressional Budget Office of its functions and duties;

(2) to hold hearings, and receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as it deems desirable, in developing the concurrent resolutions on the budget for each fiscal year;

(3) to make all reports required of it by the Congressional Budget Act of 1974, including the reporting of reconciliation bills and resolutions when so required;

(4) to study on a continuing basis those provisions of law which exempt Federal agencies or any of their activities or outlays from inclusion in the Budget of the United States Government, and to report to the House from time to time its recommendations for terminating or modifying such provisions; and

(5) to study on a continuing basis proposals designed to improve and facilitate methods of congressional budget-making, and to report to the House from time to time the results of such study together with its recommendations.

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, Dec. 12, 1985) to remove reference to the first concurrent resolution on the budget.

§696. Government Reform and Oversight.

(c)(1) The Committee on Government Reform and Oversight shall have the general function of—

(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the House as it deems necessary or desirable in connection with the subject matter of such reports;

(B) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(C) studying 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 Government Reform and Oversight may at any time conduct investigations of any matter without regard to the provisions of clause 1, 2, or 3 (or this clause) conferring jurisdiction over such matter upon another standing committee. The

committee's findings and recommendations in any such investigation shall be made available to the other standing committee or committees having jurisdiction over the matter involved (and included in the report of any such other committee when required by clause 2(l)(3) of rule XI).

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 on Government Operations (now Government Reform and Oversight) effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The Committee was renamed in the 104th Congress (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——).

§697a. House Oversight.

(d)(1) The Committee on House Oversight shall have the function of—

(A) examining all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examining all bills and joint resolutions which shall have passed both Houses to see that they are correctly enrolled, forthwith presenting those which originated in the House to the President of the United States in person after their signature by the Speaker of the House and the President of the Senate and reporting the fact and date of such presentation to the House;

§697b. Enrolled bills.

(B) providing policy direction for, and oversight of, the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Inspector General; and

§697c. Direction of officers.

(C) accepting a gift, other than as otherwise provided by law, if the gift does not involve any duty, burden, or condi-

§697d. Acceptance of gifts.

tion, or is not made dependent upon some future performance by the House of Representatives and promulgating regulations to carry out this paragraph.

§697e. Approval of certain settlements.

(2) An employing office of the House of Representatives may enter 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 the ranking minority party member of the Committee on House Oversight concerning the amount of such payment.

The requirements set forth in paragraph (d)(1) were originally the responsibility of the Committee on Enrolled Bills created in 1789 (IV, 4350), and became the responsibility of the Committee on House Administration (now House Oversight) when that Committee was created effective January 2, 1947 as part of the Legislative Reorganization Act of 1946 (60 Stat. 812). 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), when paragraph (d)(3) required the Committee to provide a committee scheduling service. The use of that service, provided through House Information Resources, was made mandatory on all committees and subcommittees in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113), but 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. ——) 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 both administrative officials and elected officers. 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. ——). 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. ——). 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. ——). 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 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. ——).

§698. Standards of Official Conduct; additional duties.

(e)(1) The Committee on Standards of Official Conduct is authorized: (A) to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House, and any letter of reproval or other administrative action of the committee pursuant to an investigation under subdivision (B) shall only be issued or implemented as a part of a report required by such subdivision; (B) to investigate, subject to subparagraph (2) of this paragraph, any alleged violation, by a Member, officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities, and after notice and hearing (unless the right to a hearing is waived by the Member, officer, or employee), shall report to the House its findings of fact and recommendations, if any, upon the final disposition of any such investigation, and such action as the committee may deem appropriate in the circumstances; (C) to report to the appropriate Federal or State authorities, either with the approval of the House or by an affirma-

tive vote of two-thirds of the members of the committee, any substantial evidence of a violation, by a Member, officer, or employee of the House, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation; (D) to give consideration to the request of any Member, 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, officer, or employee and, with appropriate deletions to assure the privacy of the individual concerned, to publish such opinion for the guidance of other Members, officers, and employees of the House; and (E) to give consideration to the request of any Member, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XLIII.

(2)(A)(i) No resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, officer, or employee of the House shall be made by the Committee on Standards of Official Conduct, and, except as provided by subdivision (ii), no investigation of such conduct shall be undertaken by such committee, unless approved by the affirmative vote of a majority of the members of the committee.

(ii)(I) Upon the receipt of information offered as a complaint that is in compliance with this rule and the committee rules, the chairman and ranking minority member may jointly appoint

members to serve as an investigative subcommittee.

(II) The chairman and ranking minority member of the committee may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the chairman or ranking minority member has placed on the committee agenda the issue of whether to establish an investigative subcommittee.

(B) 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, officer, or employee of the House of Representatives only—

(i) upon receipt of information offered as a complaint, in writing and under oath, made by a Member of the House and transmitted to the committee by such Member, or

(ii) upon receipt of information offered as a complaint, in writing and under oath, from an individual not a Member of the House provided that a Member of the House certifies in writing to the committee that he or she 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 time periods set forth in the rules of the Committee on Standards of Official Conduct,

then the chairman and ranking minority member shall jointly 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 affirmative vote of a majority of the members of the committee.

(C) No investigation shall be undertaken by the committee of any alleged violation of a law, rule, regulation, or standard of conduct not in effect at the time of the alleged violation; nor shall any investigation be undertaken by the committee of any alleged violation which occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to any alleged violation which occurred in a more recent Congress.

(D) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his or her official conduct. In any case in which a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker of the House shall designate a Member of the House from the same political party as the ineligible member of the committee to act as a member of the committee in any committee proceeding relating to the official conduct of such ineligible member.

(E) A member of the committee may disqualify himself from participating in any investigation of the conduct of a Member, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself. 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 of the House from the same political party as the disqualifying member of the committee to act as a member of the committee in any committee proceeding relating to such investigation.

(F) No information or testimony received, or the contents of a complaint or the fact of its filing, shall be publicly disclosed by any Committee or staff member unless specifically authorized in each instance by a vote of the full Committee.

(3)(A) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards of Official Conduct or any 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.

(B) Notwithstanding clause 2(g)(2) of rule XI, hearings of an adjudicatory subcommittee or sanction hearings held by the Committee on Standards of Official Conduct shall be held in open session unless the subcommittee or com-

mittee, 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.

(4) Before any member, officer, or employee of the Committee on Standards of Official Conduct, including members of any subcommittee of the committee selected pursuant to clause 6(a)(3) 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 of the House as part of the records of the House. This subparagraph establishes a standard of conduct within the meaning of subparagraph (1)(B). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.

(5)(A) 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 af-

firmative vote of a majority of its members, deems appropriate in the circumstances.

(B) 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 paragraph (e) 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 (e)(2)(A) that seven committee members must 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). Paragraph (e)(2)(A) 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. ——). Paragraph (e)(2)(E) 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 (e)(2)(F) was added in the 96th Congress (H. Res. 5, Jan. 15, 1979, p. 8).

Clause 4(e) was amended in several particulars by the Ethics Reform Act of 1989 (P.L. 101–194): (1) paragraph (e)(1)(A) 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) subparagraph (1)(B) 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 subparagraph (1)(E) was added to empower the Committee to consider requests that the rule restricting the acceptance of gifts be waived in exceptional circumstances; and (4) subparagraph (2)(C) was amended to set a general limitation on actions for committee consideration of ethics matters.

In the beginning of the 105th Congress a new subparagraph (3) was added at the end of clause 4(e) 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. ——). The Select Committee filed one report to the House (H. Rept. 105–1, H. Res. 31, Jan. 21, 1997, p. ——). The current form of subparagraph (3) was adopted later in the 105th Congress (sec. 5, H. Res. 168, Sept. 18, 1997, p. ——).

Additional amendments to paragraph (e) were adopted in the 105th Congress as follows: (1) subparagraphs (4) and (5) were adopted (sec. 6 and sec. 19, H. Res. 168, Sept. 18, 1997, p. ——); (2) paragraph (e)(2)(B) 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. ——); and (3) paragraph (e)(1)(C) 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 (sec. 18, H. Res. 168, Sept. 18, 1997, p. ——).

The Ethics Reform Act of 1989 (P.L. 101–194) contains free-standing provisions requiring: (1) that the respective party caucuses nominate seven majority and seven minority members [although in the 104th Congress only five returning majority and five returning minority members were initially elected (H. Res. 41, H. Res. 42, Jan. 20, 1995, p. ——), and in the 105th Congress only the chairman and ranking minority member were elected initially pending recommendations by a 12-member bipartisan task force informally appointed by the Majority and Minority Leaders to conduct a comprehensive review of the House ethics process (H. Res. 12, Jan. 7, 1997, p. ——; H. Res. 44, Feb. 10, 1997, p. ——)]; (2) that the Committee adopt rules establishing investigative and adjudicative subcommittees; and (3) that the Committee adopt rules establishing an Office on Advice and Education (see sec. 803(b), (c), (d), and (i), P.L. 101–194, 2 U.S.C. 29d). The texts of those provisions are set forth below. Section 803(b), (c), and (d) should be read in light of H. Res. 168, adopted in the 105th Congress and described later in this annotation.

"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.".

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. ——). The moratorium was extended through September 10, 1997 (July 30, 1997, p. ——). On September 18, 1997, the House adopted the recommendations of the task force with certain amendments (H. Res. 168, 105th Cong., p. ——), 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. The texts of those free-standing provisions are set forth below.

"H. RES. 168

* * *

"SEC. 3. COMMITTEE AGENDAS.

"The Committee on Standards of Official Conduct 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.

"SEC. 4. COMMITTEE STAFF.

"(a) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that:

"(1)(A) The staff is to 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.

"(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)(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 Committee on House Oversight, 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.

"(3) Outside counsel may be dismissed prior to 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) Only subparagraphs (C), (E), and (F) of paragraph (1) shall apply to shared staff.

"(b) ADDITIONAL COMMITTEE STAFF.—In addition to any other staff provided for by law, rule, or other authority, with respect to the Committee on Standards of Official Conduct, 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.

"SEC. 5. MEETINGS AND HEARINGS.

* * *

"(b) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that—

"(1) all meetings of the committee or any 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 or hearing to the public; and

"(2) 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.

* * *

"SEC. 7. PUBLIC DISCLOSURE.

"The Committee on Standards of Official Conduct 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.

* * *

"SEC. 10. REQUIREMENTS TO CONSTITUTE A COMPLAINT.

"The Committee on Standards of Official Conduct shall amend its 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 5 legislative days, whichever occurs first, to determine whether the information meets the requirements of the committee's rules for what constitutes a complaint.

"SEC. 11. DUTIES OF CHAIRMAN AND RANKING MINORITY MEMBER REGARDING PROPERLY FILED COMPLAINTS.

"(a) COMMITTEE RULES.—The Committee on Standards of Official Conduct 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 committee's rules for what constitutes a complaint, they shall have 45 calendar days or 5 legislative days, whichever is later, after the date that the chairman and ranking minority member determine that information filed meets the requirements of the committee's rules for what constitutes a complaint, unless the committee by an affirmative vote of a majority of its members votes otherwise, to—

"(1) 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;

"(2) establish an investigative subcommittee; or

"(3) request that the committee extend the applicable 45-calendar day or 5-legislative day period by one additional 45-calendar day pe-

riod when they determine more time is necessary in order to make a recommendation under paragraph (1).

* * *

"(c) DISPOSITION OF PROPERLY FILED COMPLAINTS BY CHAIRMAN AND RANKING MINORITY MEMBER IF NO ACTION TAKEN BY THEM WITHIN PRESCRIBED TIME LIMIT.—The Committee on Standards of Official Conduct 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 committee rules for what constitutes a complaint, and the complaint is not disposed of within the applicable time periods under subsection (a), 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 affirmative vote of a majority of the members of the committee.

* * *

"SEC. 12. DUTIES OF CHAIRMAN AND RANKING MINORITY MEMBER REGARDING INFORMATION NOT CONSTITUTING A COMPLAINT.

"The Committee on Standards of Official Conduct 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 for what constitutes a complaint set forth in the committee rules, they may—

"(1) return the information to the complainant with a statement that it fails to meet the requirements for what constitutes a complaint set forth in the committee's rules; or

"(2) recommend to the committee that it authorize the establishment of an investigative subcommittee.

"SEC. 13. INVESTIGATIVE AND ADJUDICATORY SUBCOMMITTEES.

"The Committee on Standards of Official Conduct shall adopt rules providing that—

"(1)(A) investigative subcommittees shall be comprised of 4 Members (with equal representation from the majority and minority parties) whenever such subcommittee is established pursuant to the rules of the committee; and

"(B) adjudicatory subcommittees shall be comprised of the members of the committee who did not serve on the investigative subcommittee (with equal representation from the majority and minority parties) whenever such subcommittee is established pursuant to the rules of the committee;

"(2) at the time of appointment, the chairman shall designate one member of the subcommittee to serve as chairman and the ranking minority member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee or adjudicatory subcommittee; 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.

"SEC. 14. STANDARD OF PROOF FOR ADOPTION OF STATEMENT OF ALLEGED VIOLATION.

"The Committee on Standards of Official Conduct shall amend its 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 committee that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, 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.

"SEC. 15. SUBCOMMITTEE POWERS.

"(a) SUBPOENA POWER.—

* * *

"(2) COMMITTEE RULES.—The Committee on Standards of Official Conduct 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.

"(b) EXPANSION OF SCOPE OF INVESTIGATIONS.—The Committee on Standards of Official Conduct 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.

"(c) AMENDMENTS OF STATEMENTS OF ALLEGED VIOLATION.—The Committee on Standards of Official Conduct shall adopt rules to provide that—

"(1) 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

"(2) 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.

"SEC. 16. DUE PROCESS RIGHTS OF RESPONDENTS.

"The Committee on Standards of Official Conduct shall amend its 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 counsels 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 committee's rules;

"(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 therefore not 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) that subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; and

"(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.

"SEC. 17. COMMITTEE REPORTING REQUIREMENTS.

"The Committee on Standards of Official Conduct shall amend its 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; and

"(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 7 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 subparagraph (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 respondent's views

previously submitted pursuant to subparagraph (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.

* * *

"SEC. 20. TECHNICAL AMENDMENTS.

"The Committee on Standards of Official Conduct shall—

"(1) clarify its rules to provide that whenever the committee votes to authorize an investigation on its own initiative, the chairman and ranking minority member shall establish an investigative subcommittee to undertake such investigation;

"(2) revise its rules to refer to hearings held by an adjudicatory subcommittee as adjudicatory hearings; and

"(3) make such other amendments to its rules as necessary to conform such rules to this resolution.

"SEC. 21. EFFECTIVE DATE.

"This resolution and the amendments made by it apply with respect to any complaint or information offered as a complaint that is or has been filed during this Congress."

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)(1) of rule XI, to serve subpoenas within or without the United States, and 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. ——), and to disclose further account information respecting Members and former Members having checks held by that entity (Mar.

12, 1992, p. ——); 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. ——). 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. ——).

Under clause 4(e)(2)(D) 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. ——). Under clause 4(e)(2)(E), 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 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.

§699a. Annual appropriations.

(f)(1) Each standing committee of the House shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, insure that appropriations for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. For the

purposes of this paragraph a Government agency includes the organizational units of government listed in clause 7(c) of rule XIII.

(2) Each standing committee of the House shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

The provisions of paragraph (f) 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).

§699b. Concurrent resolution on Budget.

(g) Each standing committee of the House shall, not later than 6 weeks after the President submits his budget, submit to the Committee on the Budget (1) 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 which are within its jurisdiction or functions, and (2) 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 which it intends to be effective during that fiscal year. The views and estimates submitted by the Committee on Ways and Means under the preceding sentence shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt which should be set forth in the concurrent resolution on the budget referred to in such sentence and serve as

the basis for an increase or decrease in the statutory limit on such debt under the procedures provided by rule XLIX.

(h) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, each standing committee of the House (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

§699c. Reconciliation process.

(i) Each standing committee of the House which is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

The requirements of paragraphs (g), (h), and (i) were originally contained in sections 301(c), 302(b), and 310(c) respectively 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 in paragraph (g) 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 1981 (H. Res. 642, Apr. 23, 1980, pp. 8789–90). In the 99th Congress the requirement in paragraph (g) for submissions to the Committee on the Budget by March 15 was changed to February 25 by section 232(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, Dec. 12, 1985). In the 105th Congress a conforming change was made to paragraph (g) by the Budget Enforcement Act of 1997 (sec. 10104, P.L. 105–33). Paragraph (h) 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.

Referral of Bills, Resolutions, and Other Matters to Committees

§700. Referral procedures.

5. (a) Each bill, resolution, or other matter which relates to a subject listed under any standing committee named in clause 1 shall be referred by the Speaker in accordance with the provisions of this clause.

(b) Every referral of any matter under paragraph (a) shall be made in such manner as to assure to the maximum extent feasible that each committee which has jurisdiction under clause 1 over the subject matter of any provision thereof will have responsibility for considering such provision and reporting to the House with respect thereto. Any precedents, rulings, and procedures in effect prior to the 94th Congress shall be applied with respect 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 any matter, the Speaker shall designate a committee of primary jurisdiction; but

also may refer the matter to one or more additional committees, for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the committee of primary jurisdiction; or may refer portions of the matter to one or more additional committees (reflecting different subjects and jurisdictions) for the consideration only of designated portions; or may refer the matter to a special ad hoc committee appointed by the Speaker with the approval of the House (with members from the committees having jurisdiction) for the specific purpose of considering that matter and reporting to the House thereon; or may make such other provisions as may be considered appropriate.

This clause became effective as part of the rules on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). Prior to 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. ——). 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 (now National Security) (military applications of nuclear energy), Interior and Insular Affairs (now Resources) (regulation of the domestic nuclear energy industry, since transferred to the Committee on Commerce in the 104th Congress), Foreign Affairs (now International Relations) (nonproliferation of nuclear energy and international nuclear export agreements), Interstate and Foreign Commerce (now Commerce) (the same jurisdiction over nuclear energy as exercised over other energy), and Science and Technology (now Science) (nondefense nuclear research and development). In addition, the Committee on Interstate and Foreign

Commerce (now 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 paragraph (d) which formerly 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.

An order of the House that no organizational or legislative business be conducted on certain days (first by provision of a concurrent resolution, but extended by unanimous consent) 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; see Jan. 22, 1992, p. ——, and Jan. 28, 1992, p. ——).

Pursuant to his authority under this clause, subject to paragraph (c), 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); 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); may divide a communication or bill for reference where the proposition is divisible by jurisdiction (Speaker Albert, Feb. 4, 1975, p. 2253); may 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); may 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; May 17, 1976, p. 14093); or may limit a sequential referral to matters having a direct effect on subjects within the committee's jurisdiction (Speaker O'Neill, June 7, 1983, p. 14699); and may extend the time period 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); may divide a matter for initial reference to committees and set (pursuant to the clause as amended in the 95th Congress) appropriate time limitations on the initial reference to each committee (Speaker O'Neill, Feb. 16, 1977, p. 4532); may sequentially refer a bill reported by one committee, with a committee amendment, to another committee for consideration of the bill and amendment of the previous committee (Speaker O'Neill, Oct. 13, 1977, p. 33716); may sequentially refer to a third committee a portion of an amendment in the nature of a substitute recommended by one of two committees to which the bill had been referred, after the second committee reports the bill (Speaker O'Neill, May 22, 1985, p. 13126); may refer sequentially to two committees only a portion of the amendment reported by the primary committee for

consideration of such provisions within that portion as fall within their respective jurisdictions (Speaker Wright, Sept. 9, 1987, p. 23648); may discharge a reported bill from the Union Calendar for sequential reference to another committee (Speaker O'Neill, Apr. 27, 1978, p. 11742; June 19, 1986, p. 14741; June 12, 1990, p. 13670); may discharge a committee from the further consideration of a bill not reported by it within the time period for which the bill was referred by the Speaker and place the bill on the appropriate calendar (May 8, 1978, p. 12924); may jointly refer designated portions of a bill to a second committee while referring the entire bill to another committee (Speaker O'Neill, Mar. 3, 1982, p. 3155); may delimit the period for sequential consideration of a bill in terms of legislative days (June 30, 1988, p. 16597); may sequentially refer a bill without day (Sept. 27, 1988, p. 25827); may sequentially refer a bill back to the first-reporting committee when it is 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 (Oct. 4, 1988, p. 28242); and may refer a bill primarily to one committee (as now required by paragraph (c)) 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. ——). A bill initially referred to more than one committee and reported by the primary committee with an amendment in the nature of a substitute may be sequentially referred to yet another committee for consideration of specified portions of the introduced bill (Sept. 12, 1995, p. ——).

The Speaker announced a new application of his authority on sequential referrals in the 97th Congress, namely that the sequential referral of any bills or resolutions from a committee initially reporting a bill would be based upon the subject matter contained in any amendment recommended by the reporting committee, as well as upon the original text of the bill or resolution (Speaker O'Neill, Jan. 5, 1981, pp. 115, 116), or, as announced in the 100th Congress, in certain cases, based only upon the text of a reported substitute amendment in lieu of original text (Speaker Wright, Jan. 6, 1987, p. 22). In the 96th Congress, the Speaker had 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 dictated 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, 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 for consideration of provisions of the committee amendment within their jurisdiction (Speaker O'Neill,

May 20, 1981, p. 10361). Thus the Speaker may sequentially refer a reported bill to another committee solely for consideration of provisions of the first committee's amendment within its jurisdiction and not for consideration of the entire bill (Apr. 5, 1982, p. 6580), may sequentially refer a reported bill to two other committees for different periods of time, solely for consideration of designated sections of the first committee's recommended amendment (May 18, 1982, p. 10418; Aug. 1, 1985, p. 22681), may discharge from the Union Calendar and sequentially refer to another committee a bill solely for consideration of designated portions of the first committee's amendment (May 21, 1982, p. 11169), and may sequentially refer a bill which has been initially referred to several committees but reported only by one, for consideration of the reporting committee's amendment (June 17, 1982, p. 14069; Sept. 5, 1990, p. 23477), and may 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 (June 10, 1988, p. 14079).

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).

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 which 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; Jan. 5, 1993, p. ——). The Speaker may exercise this authority by referring a bill concurrently 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 (Jan. 27, 1983, p. 937; Feb. 2, 1983, p. 1492; 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). In the 98th Congress, 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 pursuant to clause 4(a) of rule XI, to the committee having legislative jurisdiction over a legislative provision in the resolution, without a time limitation on the sequential referral (H.J. Res. 367, Sept. 22, 1983, p. 25523).

Pursuant to the Speaker's authority under 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 clause 5 of rule X 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 (Jan. 3, 1983, p. 54; Jan. 5, 1993, p. ——).

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, Jan. 26, 1976, p. 876; Speaker O'Neill, Jan. 11, 1977, pp. 894–98; Apr. 21, 1977, pp. 11550–56).

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, July 20, 1977, p. 24167). Further, under clause 5(c), the Speaker may divide a bill into two or more parts for initial reference to different committees and may also jointly refer a portion of the bill to some of those committees, and may set appropriate time limitations for reporting by every standing committee to which the bill is initially referred (Speaker O'Neill, May 2, 1977, p. 13184).

Clause 4 of rule XXII provides the mechanism for changes of referrals erroneously made.

Election and Membership of Committees; Chairmen; Vacancies; Select and Conference Committees

§701a. Electing committees.

6. (a)(1) The standing committees specified in clause 1 shall be elected by the House within the seventh calendar day beginning after the commencement of each Congress, from nominations submitted by the respective party caucuses. It shall always be in order to consider resolutions recommended by the respective party caucuses to change the composition of standing committees.

(2) One-half of the members of the Committee on Standards of Official Conduct shall be from

the majority party and one-half shall be from the minority party. No Member shall serve as a member of the Committee on Standards of Official Conduct for more than two Congresses in any period of three successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that a Member having served on the committee for two Congresses shall be eligible for election to the committee as chairman or ranking minority member for one additional Congress. Not less than two Members from each party shall rotate off the committee at the end of each Congress.

(3)(A) At the beginning of each Congress—

(i) the Speaker (or his designee) shall designate a list of 10 Members from the majority party; and

(ii) the Minority Leader (or his designee) shall designate a list of 10 Members from the minority party;

who are not members of the Committee on Standards of Official Conduct and who may be assigned to serve as a member of an investigative subcommittee of that committee during that Congress. Members so chosen shall be announced to the House.

(B) Whenever the chairman and ranking minority member of the Committee on Standards of Official Conduct jointly determine that Members designated under subdivision (A) should be assigned to serve on an investigative subcommittee of that committee, they shall each select the

same number of Members of his respective party from the list to serve on that subcommittee.

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 6 of rule XVI), and is privileged (VIII, 2179, 2183). The requirement that nominations to standing committees be submitted by the respective party caucuses 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's Precedents, vol. 4, ch. 17, sec. 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 in subparagraph (1) by section 227 of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177, Dec. 12, 1985).

Prior to 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 (2) (H. Res. 988, Oct. 8, 1974, p. 34470). The Ethics Reform Act of 1989 added a sentence to limit service on the Committee to three Congresses in any period of five successive Congresses (disregarding service performed for less than a full session in any Congress) (P.L. 101–194, Nov. 30, 1989). The current limitation on service on the Committee was adopted in the 105th Congress (sec. 2, H. Res. 168, Sept. 18, 1997, p. ——). Subparagraph (3) also was adopted in the 105th Congress (sec. 1, H. Res. 168, Sept. 18, 1997, p. ——).

§701b. Party membership as basis for election.

(b)(1) Membership on standing committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference that nominated Members for election to such committees. Should a Member cease to be a member of a particular party caucus or con-

ference, said Member shall automatically cease to be a member of a 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 ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each standing committee on which said Member serves, that in accord with this rule, the Member's election to such committee is automatically vacated.

(2)(A) No Member, Delegate, or Resident Commissioner may serve simultaneously as a member of more than two standing committees or four subcommittees of the standing committees of the House, except that ex officio service by a chairman and ranking minority member of a committee on each of its subcommittees by committee rule shall not be counted against the limitation on subcommittee service. Service on an investigative subcommittee of the Committee on Standards of Official Conduct pursuant to paragraph (a)(3) shall not be counted against the limitation on subcommittee service. Any other exception to these limitations must be approved by the House upon the recommendation of the respective party caucus or conference.

(B) For the purposes of this subparagraph, the term "subcommittee" includes any panel (other than a special oversight panel of the Committee on National Security), task force, special subcommittee, or any subunit of a standing commit-

tee that is established for a cumulative period longer than six months in any 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). In the 104th Congress, paragraph (b)(2) was added to limit each Member to two full committee assignments and four subcommittee assignments, absent House approval of any exception upon recommendation of the respective party caucus (sec. 204, H. Res. 6, Jan. 4, 1995, p. ——; see H. Res. 11, Jan. 4, 1995, p. ——). Paragraph (b)(2) was amended in the 105th Congress to except special service on an investigative subcommittee of the Committee on Standards of Official Conduct from the limitation on subcommittee service (sec. 1, H. Res. 168, Sept. 18, 1997, 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. ——). 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. ——). During the 102d and 103d Congresses, the majority leadership took that responsibility by separate resolution for a Member who had joined neither major party caucus (see, H. Res. 45, Jan. 24, 1991, p. 2171); however, during the 104th Congress, when control of the House shifted, the minority leadership retained responsibility for the committee assignments of such third-party Member.

§701c. Committee chairmen.

(c) One of the Members of each standing committee shall be elected by the House, from nominations submitted by the majority party caucus, at the commencement of each Congress, as chairman thereof. No Member may serve as the chairman of the same standing committee, or as the chairman of the same subcommittee thereof, for more than three consecutive Congresses, beginning with the One Hundred Fourth Congress (disregarding for this purpose any service for less than a full session in any Congress). In the temporary absence of the chairman, the Member next in rank in the

order named in the election of the committee, and so on, as often as the case shall happen, shall act as chairman; and in case of a permanent vacancy in the chairmanship of any such committee the House shall elect another chairman.

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 added the sentence setting term limits for committee and subcommittee chairmen (sec. 103(b), H. Res. 6, Jan. 4, 1995, p. ——). 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. ——).

§701d. Requirement for subcommittees.

(d) No committee of the House shall have more than five subcommittees (except the Committee on Appropriations, which shall have no more than thirteen; the Committee on Government Reform and Oversight, which shall have no more than seven; and the Committee on Transportation and Infrastructure, which shall have no more than six).

The present form of this paragraph was adopted in the 104th Congress (sec. 101(b), H. Res. 6, Jan. 4, 1995, p. ——), 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).

(e) All vacancies in standing committees shall be filled by election by the House from nomina-

tions, submitted by 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 (pp. 368–69) 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 § 701b, *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).

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. ——). 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).

§701e. Select and conference committees.

(f) The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time. At any time after an original appointment, the Speaker may remove Members or appoint additional Members to select and conference committees. In appointing members to conference committees the Speaker shall ap-

point no less than a majority of members who generally supported the House position as determined by the Speaker. The Speaker shall name Members 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 as it passed the House.

The provision of paragraph (f) relating to select committees was adopted in 1880, and the provision in that paragraph 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).

Prior to 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 in fact (IV, 4471–4476).

In the earlier usage of the House the Member moving a select committee was appointed its chairman (II, 1275, III, 2342, IV, 4514–4516); but except for matters of ceremony, the inconvenience and even impropriety of the usage has caused it often to be disregarded in modern practice (IV, 4517–4523, 4671).

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 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). The Speaker may fill a vacancy on a conference committee by appointment but may not accept a resignation from a conference committee absent an order of the House (Nov. 4, 1987, p. 30808).

Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the Speaker was required to appoint a majority of members who generally supported the House position, as determined by him, to all conference committees.

The last sentence of paragraph (f) was added in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70). Under that paragraph as amended, the Speaker must appoint as conferees Members who are "primarily responsible for the legislation," but the exercise of his additional discretionary authority under that clause to (1) determine whether a majority of the conferees generally supported the House position and (2) to appoint to the maximum extent feasible the principal proponents of major provisions of the House-passed bill, is not subject to challenge on a point of order (Speaker O'Neill, Oct. 12, 1977, pp. 33434–35), and is not necessarily affected by a vote on a nonbinding motion to instruct House conferees (May 9, 1990, p. 9830). On June 21, 1977, Speaker O'Neill first exercised his

discretionary authority to appoint a principal proponent of an adopted floor amendment as an additional limited conferee on that issue (p. 20132).

The second sentence of paragraph (f), authorizing the Speaker to add or remove conferees after his initial appointment, was added in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——).

The Speaker may appoint conferees from committees (1) which have not reported a measure, (2) which 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) which 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. ——). 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, pp. 23548–49; 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 paragraph (f) 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). 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. ——).

§701f. Party membership as basis for appointment.

(g) Membership on select and joint committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference the Member was a member of at the time of his appointment to a select or joint committee. Should a Member cease to be a member of that caucus or conference, said Member 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 ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each select or joint committee on which said Member serves, that in accord with this rule, the Member's appointment to such committee is automatically vacated.

This party membership requirement for select and joint committees analogous to paragraph (b) was added in the 98th Congress (H. Res. 5, 1983, Jan. 3, 1983, p. 34).

§701g. Delegates and Resident Commissioner.

(h) The Speaker may appoint the Resident Commissioner from Puerto Rico and Delegates to the House to any select committee and to any conference committee.

Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the Speaker was authorized to appoint the Resident Commissioner from Puerto Rico and Delegates to be conferees by the addition of paragraph (h); that paragraph 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 from Puerto Rico and Delegates to select committees as well, and was further amended in the 103d Congress to authorize the Speaker to appoint Delegates and the Resident Commissioner to serve at any conference (H. Res. 5, Jan. 5, 1993, p. ——).

§702. Aging.

A paragraph (i) of this clause 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 appointed by the Speaker pursuant to paragraph (f). That provision was stricken in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——).

RULE XI.

RULES OF PROCEDURES FOR COMMITTEES.

In General

§703a. Committee procedure.

1. (a)(1) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees.

(2) Each subcommittee of a committee is a part of that committee, and is subject to the authority and direction of that committee and to its rules so far as applicable.

Paragraph (a)(1) was first adopted December 8, 1931 (VIII, 2215), and amended March 23, 1955, pp. 3569, 3585. In the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), paragraph (a)(2) was incorporated into the rules, together with the reference to subcommittees contained in paragraph (a)(1), having been contained in the Legislative Reorganization Act of 1970 (84 Stat. 1140). This clause was amended in the 99th Congress to allow a privileged motion in committee and subcommittee to dispense with the first reading of a measure where printed copies are available (H. Res. 7, Jan. 3, 1985, p. 393). See Jefferson's Manual at § 412, *supra*, for the requirement that a bill or resolution be read in full upon demand, prior to being read by paragraphs of sections for amendment. 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 has also been given subcommittees by the House (III, 1754–1759, 1801, 2499, 2504, 2508, 2517; IV, 4548).

§703b. Investigative authority.

(b)(1) Each committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its re-

sponsibilities under rule X, and (subject to the adoption of expense resolutions as required by clause 5) to incur expenses (including travel expenses) in connection therewith.

(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 of the last regular session of a Congress sine die, an investigative or oversight report may be filed with the Clerk at any time, provided that if a member gives timely notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than seven calendar days in which to submit such views for inclusion with 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. ——).

§703c. Printing and binding.

(c) Each committee is authorized to have printed and bound testimony and other data presented at hearings

held by the committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of a committee shall be paid from the applicable accounts of the House described in clause 1(h)(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 Congress it was amended to update an archaic reference to the "contingent fund" (H. Res. 5, Jan. 7, 1997, p. ——).

§703d. 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 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 pursuant to clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.

(4) After an adjournment of the last regular session of a Congress sine die, the chairman of a committee may file a report pursuant to subparagraph (1) with the Clerk at any time and without approval of the committee, provided that a copy of the report has been available to

each member of the committee for at least seven calendar days and 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. ——). Paragraph (d)(4) was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. ——).

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).

Committee Rules

Adoption of written rules

§704a. Committee rules.

2. (a) Each standing committee of the House shall adopt written rules governing its procedure. Such rules—

(1) shall be adopted in a meeting which is open to the public unless the committee, in open session and with a quorum present, determines by rollcall vote that all or part of the meeting on that day is to be closed to the public;

(2) shall be not inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(3) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

Each committee's rules specifying its regular meeting days, and any other rules of a committee which are in addition to the provisions of this clause, shall be published in the Congressional Record not later than thirty days after the committee is elected in each odd-numbered year. Each select or joint committee shall comply with the provisions of this paragraph unless specifically prohibited by law.

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 subparagraph (1) was amended to permit a rollcall 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 the clause 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). 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). The last two sentences of the clause, providing for 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).

§704b. 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 over-

ruled (see clause 2(g)(5) of rule XI) or the prescribed committee procedures for reporting bills and resolutions (clause 2(l) of rule XI) or failure to adhere to the former prohibition against committees meeting without permission while the House is operating under the five-minute rule (clause 2(i) 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. But a point of order does not ordinarily lie in the House against consideration of a bill by reason of defective committee procedures occurring prior to the time the bill is ordered reported to the House (Procedure, ch. 17, sec. 11.1).

Many of the procedures applicable to committees derive from Jefferson's Manual, which govern the House and its committees in all cases to which they are applicable (rule XLII). 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), 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 and 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 which are in order in the House, such as under clause 4 of rule XVI, and may also employ the motion to limit debate under the five-minute rule on a proposition which has been read.

Regular meeting days

§705. Committee meetings.

(b) Each standing committee of the House shall adopt regular meeting days, which shall be not less frequent than monthly, for the conduct of its business. Each such committee shall meet, for the consideration of any bill or resolution pending before the committee or for 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 or she considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purpose pursuant to that call of the chairman.

(2) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. 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, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, 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, specifying the date and hour of, and the measure or matter to be considered at, that special meeting. 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; and only the measure or matter specified in that notice may be considered at that special meeting.

Vice chairman or ranking majority Member to preside in absence of chairman

(d) A member of the majority party on any standing committee or subcommittee thereof designated by the chairman of the full committee shall be vice chairman of the committee or subcommittee, as the case may be, and shall preside at any meeting during the temporary absence of the chairman. If the chairman and vice chairman of the committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking member of the majority party 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. ——).

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).

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

§706a. Required records.

(e)(1) Each committee shall keep a complete record of all committee action which shall include—

(A) in the case of any 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

(B) a record of the votes on any question on which a rollcall vote is demanded.

§706b. Public availability.

The result of each such rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting, except that in the case of rollcall votes in the Committee on Standards of Official Conduct taken in executive session, the result of any such vote shall not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee.

§706c. Committee files.

(2) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as

chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access thereto, except that in the case of records in the Committee on Standards of Official Conduct respecting the conduct of any Member, officer, or employee of the House, no Member of the House (other than a member of such committee) shall have access thereto without the specific, prior approval of the 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 XXXVI. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule XXXVI, 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, to the maximum extent feasible, make its publications available in electronic form.

The first sentence of paragraph (e)(1) was rewritten entirely in the 104th Congress (sec. 206, H. Res. 6, Jan. 4, 1995, p. ——). 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 the last sentence of paragraph (e)(1) was added in the 105th Congress (sec. 8, H. Res. 168, Sept. 18, 1997, p. ——). 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. ——).

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. ——).

A Member's right to access to committee records under this clause does not entitle him 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). 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). This clause allowing all Members access to committee records and materials which are the property of the House does not necessarily apply to records within the possession of the executive branch which 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). Compare this clause with clause 7(c) of rule XLVIII, which only permits access of non-members of the Select Committee on Intelligence to classified information in the possession of that committee when authorized by that committee.

While all Members have access to committee records under this clause, 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 (§712, *infra*), cannot be released without the consent of the committee (June 26, 1961, p. 11233; see also Procedure, ch. 17, sec. 15).

In implementing clause 2(e)(2), committees may prescribe regulations to govern the manner of access to their records, such as requiring examination only in committee rooms. See, *e.g.*, the rules of the Committees on

the Budget, International Relations, and National Security, as compiled by the Committee on Rules.

Prohibition against proxy voting

§707. Ban on proxies.

(f) No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy.

The 104th Congress adopted paragraph (f) in this form (sec. 104, H. Res. 6, Jan. 4, 1995, p. ——). 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).

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

§708.

(g)(1) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof (except the Committee on Standards of Official Conduct) shall be open to the public, including to radio, television, and still photography coverage, except as provided by clause 3(f)(2), except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger na-

tional security, would compromise sensitive law enforcement information, would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: *Provided, however,* That no person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by clause 4(a)(1) of rule X or by subparagraph (2) of this paragraph.

(2) Each hearing conducted by each committee or subcommittee thereof (except the Committee on Standards of Official Conduct) 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 rollcall 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 the national security, would compromise sensitive law enforcement information, or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony,

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information, or violate clause 2(k)(5) of rule XI; or

(B) may vote to close the hearing, as provided in clause 2(k)(5) of rule XI.

No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, with the exception of the Committee on Standards of Official Conduct, unless the House of Representatives shall by majority vote authorize 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 by the same procedures designated in this subparagraph for closing hearings to the public: *Provided, however,* That the committee or subcommittee may by the same procedure vote to close one subsequent day of hearing except that the Committee on Appropriations, the Committee on National Security, and the Permanent Select Committee on Intelligence and the subcommittees therein may, by the same procedure, vote to close up to five additional consecutive days of hearings.

(3) The chairman of each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any 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 there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the chairman shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of House Information Resources.

(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 oral 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 any 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) No point of order shall lie with respect to any measure reported by any committee on the ground that hearings on such measure were not conducted in accordance with the provisions of this clause; except that a point of order on that ground may be made by any member of the com-

mittee which reported the measure if, in the committee, such point of order was (A) timely made and (B) improperly overruled or not properly considered.

(6) The preceding provisions of this paragraph do not apply to the committee hearings which are provided for by 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 case of a committee 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 non-committee 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)(1) 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, Armed Services (now National Security), and 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 subparagraphs (1) and (2) were amended to require that meetings and hearings open to the public also be open to broadcast and photographic media; subparagraph (1) 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 subparagraph (2) was further amended to specify a new condition (sensitive law enforcement information) for closing hearings (sec. 105, H. Res. 6, Jan. 4, 1995, p. ——). Subparagraph (2) was also amended to reflect the new name of the Committee on National Security (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——). In the 105th Congress subparagraphs (1) and (2) were again amended to reflect an amendment to clause 4(e)(3) of rule X 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. ——).

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. ——). In the 105th Congress subparagraph (3) was amended to effect a technical correction (H. Res. 5, Jan. 7, 1997, p. ——).

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. ——).

Quorum for taking testimony and certain other action

§709. Quorum of two; of one-third.

(h)(1) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence which shall be not less than two.

(2) Each committee (except 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 the reporting of a measure or recommendation which shall be not less than one-third of the members.

This paragraph was 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 (2) was added to authorize committees to fix a quorum less than a majority for certain

other action. Under clause 2(g) of this rule, a majority of a committee or subcommittee must be present when a committee or subcommittee votes to close a meeting or hearing, under clause (m) of this rule a majority of a committee or subcommittee must be present to authorize and issue a subpoena, and under clause 2(l)(2)(A) of this rule, a majority of a committee or subcommittee must be present to order a measure or recommendation reported.

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).

Limitation on committees' sittings

§710. Committees not to sit.

(i) No committee of the House may 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. 14). Effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), the committees exempted from this clause were Appropriations, Budget, and Rules; 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. ——), 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. ——), on which he controlled one hour of debate (Jan. 23, 1995, p. ——). 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. ——).

Calling and interrogation of witnesses

§711. (j)(1) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party Members on 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 in the interrogation of witnesses in any 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 an equal number of its majority and minority party members each to question a witness for a specified period not longer than 30 minutes.

(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.

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. ——).

Investigative hearing procedures

§712.

(k)(1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative 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 that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person,

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 2(g)(2) of this rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, the committee determines

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) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(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 pertinency 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 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. 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. ——). 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 3(a) and 7(c)(2) of rule XLVIII, which provide that executive session material transmitted by the Intelligence Committee 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 clauses 7(c), (d), and (e) of that rule which prohibit disclosure of information provided to committees or Members of the House except in a secret session.

Committee procedures for reporting bills and resolutions

(l)(1)(A) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring the matter to a vote.

§713a. Chairman's duty.

(B) In any event, the report of any committee on a measure which 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 there has been filed with the

§713b. Filing by majority of committee.

clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subdivision does not apply to a report of the Committee on Rules with respect to the rules, joint rules, 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)(A) is 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 (1)(B) 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). Subparagraph (1)(C) was added by the Committee Reform Amendments of 1974, effective Jan. 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, Dec. 12, 1985). An obsolete reference in subdivision (B) to the former subdivision (C) was deleted in the 104th Congress (sec. 223(f), H. Res. 6, Jan. 4, 1995, p. ——).

Absent a special order of the House, committee reports must be submitted while the House is in session, except for committees that honor the guarantee of clause 2(l)(5) of rule XI for composing separate views (§ 714, *infra*) (Dec. 17, 1982, p. 31951).

§ 713c. Requirement of quorum.

(2)(A) No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present.

§713d. Vote on reporting.

(B) With respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the committee report on the measure or matter. The preceding sentence shall not apply to votes taken in executive session by the Committee on Standards of Official Conduct.

Subparagraph (2)(A) 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). 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, clause 2(l)(2)(A) 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. ——), but in the 104th Congress both of those features were deleted from the rule (sec. 207, H. Res. 6, Jan. 4, 1995, p. ——).

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 subparagraph (2)(A) (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*).

The requirement of subparagraph (2)(B) was contained in section 104(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140), was incor-

porated into the rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 144), and was restated 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. ——). The last sentence of subparagraph (2)(B) was adopted in the 105th Congress (sec. 8, H. Res. 168, Sept. 18, 1997, p. ——). If the accompanying report erroneously reflects information required by this paragraph, a bill would be subject to a point of order against its consideration; however, a point of order would not lie if the error was introduced by the Government Printing Office (Jan. 19, 1995, p. ——).

§713e. Content of reports.

(3) The report of any committee on a measure which has been approved by the committee shall include (A) the oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X separately set out and clearly identified; (B) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority (other than continuing appropriations), new entitlement authority as defined in section 3(9) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures, except that the estimates with respect to new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law; (C) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and

(D) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under clause 4(c)(2) of rule X separately set out and clearly identified whenever such findings and recommendations have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

The provisions of subparagraph (3) became effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). The subparagraph 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. ——) to correct the typographical transposition of a phrase. Subdivisions (B) and (C) are requirements of sections 308(a) and 403 of the Congressional Budget Act of 1974 (88 Stat. 297). Subdivision (B) 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, Dec. 12, 1985) 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. ——). At the same time it was also amended to reflect the new name of the Committee on Government Reform and Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——). Subparagraph (3) 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)).

§ 713f. Constitutional authority.

(4) Each report of a committee on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution.

Subparagraph (4) 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. ——). If a point of order were sustained under this subparagraph, the measure would be recommitted to the reporting committee (Feb. 13, 1995, p. ——).

§713g. 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).

§713h. Unfunded mandates.

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4; 109 Stat. 48 *et seq.*) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658–658g) that imposes several requirements on committees with respect to measures effecting "Federal mandates" (secs. 423–424; 2 U.S.C. 659b–c) and establishes points of order to enforce those requirements (sec. 425; 2 U.S.C. 658d). See § 1007, *infra*.

§714. Minority views.

(5) If, at the time of approval of any measure or matter by any committee, other than the Committee on Rules, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. When time guaranteed by

this subparagraph 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. The report of the committee upon that measure or matter shall be printed in a single volume which—

(A) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(B) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subdivisions (C) and (D) of subparagraph (3)) are included as part of the report.

This subparagraph does not preclude—

(i) the immediate filing or printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; or

(ii) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

Subparagraph (5) 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). Subdivision (B) was added under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). 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. ——). In

the 105th Congress it was further amended: (1) to reduce the guaranteed time for composing separate views from three full days to two full days after the day of notice; and (2) to establish standing authority for committees to file reports with the Clerk after honoring the guarantee of the rule (H. Res. 5, Jan. 7, 1997, p. ——).

§715. Three-day layover.

(6) A measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business), shall not be considered in the House until 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 of that committee upon that measure or matter has been available to the Members of the House: *Provided, however,* That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b) of rule XI, a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House.

This subparagraph shall not apply to—

(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress; or

(B) any decision, determination, or action by a Government agency which would become or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

For the purposes of the preceding sentence, a 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.

Subparagraph (6) 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). The rule was amended on October 13, 1972 (H. Res. 1153, 92d Cong., pp. 36013–23), on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), and in the 94th Congress (H. Res. 5, Jan. 14, 1975, p. 20). In the 94th Congress it was amended to require that reports and reported measures be available for two hours but to permit the immediate consideration of a resolution reported from the Committee on Rules waiving this layover requirement (H. Res. 868, Feb. 26, 1976, p. 4625). In the 95th Congress it was amended to permit consideration of a measure on the third day of availability rather than on the third day following availability (H. Res. 5, Jan. 4, 1977, pp. 53–70). In the 96th Congress it was amended to require that copies of a committee report be available for three calendar days rather than two hours before the beginning of consideration of the reported measure (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. ——), 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. ——). 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)).

The availability requirement is not applicable to privileged reports from the Committee on Rules or to bills before the House which have not been reported from committee (Speaker Albert, Aug. 10, 1976, p. 26793), and the exception from the three-day availability requirement for certain reports from the Committee on Rules must be read in light of the broader authority, contained in clause 4(b) of this rule, conferred on that committee

to call up other reports after one day of availability. The Committee on Rules has the authority under 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 provided in the last two sentences of this paragraph 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 which raises 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 Deschler's Precedents, vol. 3, ch. 14, sec. 7.4, fn. 10, with respect to impeachment reports).

§716. One-day layover.

A committee expense resolution reported by the Committee on House Oversight pursuant to clause 5 of rule XI need only be available for one day. However, other resolutions reported from that committee which are privileged (such as a resolution authorizing the printing of material as a House document), but which do not constitute questions of the privileges of the House, are subject to this clause (Speaker Albert, Mar. 6, 1975, p. 5537).

§717.

(7) If, within seven calendar days after a measure has, by resolution, been made in order for consideration by the House, no motion has been offered that the House consider that measure, any member of the committee which reported that measure may be recognized in the discretion of the Speaker to offer a motion that the House shall consider that measure, if that committee has duly authorized that member to offer that motion.

Subaragraph (7) 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). This subparagraph should be read in light of clause 1(b) of rule XXIII, 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.

Power to sit and act; subpoena power

§718. Administration of oaths to witnesses.

(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 5 of rule X), any committee, or any subcommittee thereof, is authorized (subject to subparagraph (2)(A) of this paragraph)—

(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, and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents

as it deems necessary. The chairman of the committee, or any member designated by such chairman, may administer oaths to any witness.

(2)(A) A subpoena may be authorized and issued by a committee or subcommittee under subparagaph (1)(B) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present, except in the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may

be authorized and issued only when authorized by an affirmative vote of a majority of its members. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(B) Compliance with any subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

Prior to 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 subparagraph (2)(A) 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); and in the 95th Congress the clause was altered to permit subcommittees, as well as full committees, to authorize subpoenas and to allow the delegation of such authority to the chairman of the full committee (H. Res. 5, Jan. 4, 1977, pp. 53–70). The special rule in subparagraph (2)(A) 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. ——).

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 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), where the House mandates a possible 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 (2)(B) has been interpreted to require authorization by the full House before a subcommittee chairman could intervene in a law suit in order to gain access to documents subpoenaed by the subcommittee. *In re Beef Industry Antitrust Litigation*, 589 F.2d 786 (5th Cir. 1979).

Use of committee funds for travel

(n)(1) Funds authorized for a committee under clause 5 are for expenses incurred in the committee's activities; however, 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, its territories or possessions. No appropriated funds, including those authorized under clause 5, shall be expended for the purpose of defraying expenses of members of the committee or its employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to travel outside the United States or its territories or possessions:

§719a. Committee travel.

(A) No member or employee of the committee shall receive or expend local currencies for subsistence in any country for any day at a rate in excess of the

maximum per diem set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred by the Member or employee during that day.

§719b. Travel reports.

(B) Each member or employee of the 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, any funds expended for any other official purpose and shall summarize in these categories the total foreign currencies and/or appropriated funds expended. All such individual reports shall be filed no later than sixty days following the completion of travel with the chairman of the committee for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(2) In carrying out the committee's activities outside the United States in any country where local currencies are unavailable, a member or employee of the committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law, or if the member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for

transportation) incurred, by the Member or employee during any day.

(3) A member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside of the United States unless the member or employee has actually paid for the transportation.

(4) The restrictions respecting travel outside of the United States set forth in subparagraphs (2) and (3) shall also apply to travel outside of the United States by Members, officers, and employees of the House authorized under clause 8 of rule I, clause 1(b) of this rule, or any other provision of these Rules of the House of Representatives.

(5) No local currencies owned by the United States may be made available under this paragraph for the use outside of the United States for defraying the expenses of a member of any committee after—

> (A) the date of the general election of Members in which the Member has not been elected to the succeeding Congress; or
>
> (B) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

Prior to the adoption of clause (n) 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 their 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 (now House Oversight) to recommend in expense resolutions expenses for foreign as well as domestic travel. Clause (n)(1)(A) 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. As indicated in clause 1(b), the authority to incur expenses (including travel expenses) is subject to the adoption of expense resolutions reported from the Committee on House Oversight as required by clause 5 of rule XI.

Under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754, as amended by sec. 22, P.L. 95–384), 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. Consolidated 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.

Broadcasting of Committee Hearings and Meetings

§720.

3. (a) It is the purpose of this clause to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings, or committee meetings, which are open to the public may be covered, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage—

(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 of the United States as an organ 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 shall 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.

§721. 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 television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, 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 shall 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 any Member or bring the House, the committee, or any Member into disrepute.

(d) The coverage of committee hearings and meetings by television broadcast, radio broadcast, or still photography shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

§722. When permitted.

(e) Whenever a hearing or meeting conducted by any committee or subcommittee of the House is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, except as provided in paragraph (f)(2). 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).

§723. Committee rules.

(f) Each committee of the House shall adopt written rules to govern its implementation of this clause. Such rules shall include provisions to the following effect:

(1) If the television or radio 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) No witness served with a subpoena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to clause 2(k)(5) of this rule, relating to the protection of the rights of witnesses.

(3) The allocation among the television media of the positions of the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(5) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(7) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.

§724. Press photographers.

(8) 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 the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photographers shall not position themselves, at any time during the course of the

hearing or meeting, between the witness table and the members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(11) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

§725. Accreditation.

(12) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

(13) 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.

——). Later in the 104th Congress clause 3 was again amended to make conforming changes in its heading and in paragraph (f) (H. Res. 254, Nov. 30, 1995, p. ——).

Privileged Reports and Amendments

§726. 4. (a) The following committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Appropriations—on general appropriation bills and on joint resolutions continuing appropriations for a fiscal year if reported after September 15 preceding the beginning of such fiscal year; 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; the Committee on House Oversight—on enrolled bills, contested elections, and all matters referred to it of printing for the use of the House or the two Houses, and on all matters of expenditure of the applicable accounts of the House described in clause 1(h)(1) of rule X, and on all matters relating to preservation and availability of noncurrent records of the House under rule XXXVI; the Committee on Rules—on rules, joint rules, and the order of business; and the Committee on Standards of Official Conduct—on resolutions recommending action by the House of Representatives with respect to an individual Member, officer, or employee of the House of Representatives as a result of any investigation by the committee relating to the official conduct of such Member, officer, or employee of the House of Representatives.

The origins of this rule 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), on February 2, 1951 (p. 883), and 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 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 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 (now House Oversight), 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 (now House Oversight) all matters relating to preservation and availability of noncurrent House records. In the 104th Congress it was amended to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——). In the 105th Congress it was amended to update an archaic reference to the "contingent fund" (H. Res. 5, Jan. 7, 1997, 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). Prior to the original adoption of the provisions contained in clause 2(l)(6) of the rule XI in the 92d Congress (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, 3142–47; VIII, 2291, 2312). However, from that date until the effective date of the present provisions of clause 2(l)(6) on January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), only the Committees on House Administration (now House Oversight), Rules (subject to the two-thirds vote requirement of clause 4(b) of rule XI), 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 4(b) of this rule, reports from the Committee on House Oversight on committee expense resolutions, under clause 5(a) of this rule, and reports constituting questions of privilege (see generally Deschler's Precedents, vol. 3, ch. 14, sec. 7.4, fn. 10, discussing ruling of Speaker Albert, July 13, 1971, on a reported contempt) are exempt from the requirements of clause 2(l)(6) (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). 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).

§727. 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" which 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 which are privileged under the rules (III, 2426–2530; V, 6454; VIII, 3465).

Privileged questions interrupt the regular order of business as established by rule XXIV, 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).

The House may give a committee leave to report at any time only by the process of changing the rules (III, 1770).

§728. 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, pp. 20212–13). 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 which 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, *e.g.*, 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 1 of rule XX be ''hereby'' considered as adopted upon adoption of the special order (Deschler's Precedents, vol. 6, ch. 21, sec. 16.11; Feb. 4, 1993, p. ——); to provide that an amendment containing an appropriation in violation of clause 5(a) of rule XXI be considered as adopted in the House when the reported bill is under consideration (Feb. 24, 1993, p. ——); 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. ——); 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. ——; July 27, 1993, p. ——). The Committee on Rules has also reported as privileged a joint resolution repealing a statutory joint rule (mandatory July adjournment, section 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 Jefferson's section XLIII (reconsideration) because it provided a different scheme for general debate (July 27, 1993, p. ——).

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 not construed to extend to resolutions extending appropriations (VIII, 2282–2284).

Reports from the Committee on House Administration (now House Oversight) authorizing appropriations from the Treasury directly for compensation of employees (IV, 4645) or fixing the salaries of employees are not privileged (VIII, 2302).

§729a. Reports from Committee on Rules.

(b) It shall always be in order to call up for consideration a report from the Committee on Rules on a rule, joint rule, or the order of business (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session), and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced the Speaker shall not entertain any other dilatory motion until the report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which provides that business under clause 7 of rule XXIV shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI, 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 which 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 was adopted in 1892 (IV, 4621), amended on March 15, 1909, the matter in parentheses 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 104th Congress the last sentence of paragraph (b) 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 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. ——). For rulings under the earlier form of the rule, see § 729c, *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 prior to the convening of the House on the next legislative day may be called up for immediate consideration without the two-thirds 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 paragraph 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. Clause 2(l)(6) of rule XI 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 clauses 2(a) and (b) of rule XXVIII provide for the immediate consideration of a resolution from the Rules Committee waiving the requirement that copies of conferences 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 of it, even when the yeas and nays and previous question 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 the proviso to clause 6 of rule XVI. A report from the Committee on Rules takes precedence over a motion to consider a measure which 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 it 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 (V, 5450; Jan. 4, 1995, p. ——).

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 rule-making authority which 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 which 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, Public Law 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).

The Chair has declined to entertain a unanimous-consent request to alter a special order previously adopted by the House to admit an additional (nongermane) amendment during further consideration of a bill unless assured of certain clearances, consistent with the Speaker's announced policy (see § 757, *infra*) of conferring recognition for unanimous-consent requests for the consideration of unreported bills and resolutions only when assured that the majority and minority floor and committee leaderships have no objection (Nov. 14, 1991, p. 32083).

§729b. 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 4(b) prohibiting "dilatory" motions no longer strictly apply; the resolution is subject to amendment, further debate, or a motion to table or refer, and the Member who lead 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 clause 4(b) of rule XI, 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, p. ——), and the motion may not be made when another Member has the floor (Sept. 27, 1993, p. ——). 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. ——; Sept. 28, 1993, p. ——). The Chair has held that a virtually consecutive invocation of rule XXX, resulting in a second pair of votes on use of a chart and on reconsideration thereof, was not dilatory under clause 4(b) (or clause 10 of rule XVI) (July 31, 1996, p. ——).

A motion to recommit a special rule from the Committee on Rules is not in order (VIII, 2270, 2753).

§729c. Restrictions on authority of Committee on Rules.

From 1934 until the amendment of clause 4(b) in the 104th Congress (sec. 210, H. Res. 6, Jan. 4, 1995, p. ——), 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, sustained on appeal, Jan. 11, 1934, pp. 479–83); 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) (sustained by tabling of appeal, Oct. 16, 1990, p. 29657; sustained by tabling of appeal, Feb. 26, 1992, p. ——; Speaker Foley, sustained by tabling of appeal, May 7, 1992, p. ——; Speaker Foley, sustained by tabling of appeal, June 16, 1992, p. ——; Nov. 21, 1993, p. ——; Nov. 22, 1993, p. ——). 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 (Speaker Foley, June 21, 1990, p. 15229). See Deschler's Precedents, vol. 6, ch. 21, sec. 26.11; see generally Deschler's Precedents, vol. 7, ch. 23, sec. 25.

The caveat against including in a special order matter privileged to be reported by another committee (Deschler's Precedents, vol. 6, ch. 21, sec. 17.13) does not extend to a "hereby" resolution (*e.g.*, 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).

A special rule providing that a House bill with Senate amendments be taken from the Speaker's table, that the Senate amendments be disagreed to, that the Senate's request for a conference be agreed to, and that the Speaker appoint conferees without intervening motion, is not in violation of clause 4(b) of rule XI, since not precluding a motion to recommit after the ordering of the previous question on passage of the bill, and since the motion to recommit the conference report would remain available (VIII, 2266); but where such a resolution provided for the appointment of conferees without intervening motion in the case where the House is to ask for a conference, giving the Senate the right of first acting on the conference report, it was held in contravention of the rule because it both precluded a motion to commit the Senate amendment before conference and permitted the Senate to act first on the conference report, thereby denying the minority of the House any opportunity of making a motion to recommit (VIII, 2264).

While the Committee on Rules is forbidden to report special orders abrogating the Calendar Wednesday rule or excluding the motion to recommit after the previous question, a resolution making possible that ultimate result by permitting motions to suspend the rules for a week was held in order (VIII, 2267).

§729d. Unfunded mandates.

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4; 109 Stat. 48 *et seq.*) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658–658g) that, effective on January 1, 1996, or 90 days after appropriations are made available to the Congressional Budget Office pursuant to the 1995 Act (whichever is earlier), imposes several requirements on committees with respect to "Federal mandates" (secs. 423–424; 2 U.S.C. 658b–c), establishes points of order to enforce those requirements (sec. 425; 2

U.S.C. 658d), and precludes the consideration of a rule or order waiving such points of order in the House (sec. 426(a); 2 U.S.C. 658e(a)). See § 1007, *infra*.

§730. Filing reports.

(c) The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when the bill or resolution involved is ordered reported by the committee. If any such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the Member making the report within seven legislative days thereafter, any member of the Committee on Rules may call it up as a question of privilege (but only on the day after the calendar day on which such Member announces to the House his intention to do so) and the Speaker shall recognize any member of the Committee on Rules seeking recognition for that purpose. If the Committee on Rules makes an adverse report on any resolution pending before the committee, providing for an order of business for the consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House such adverse report, and it shall be in order to move the adoption by the House of such resolution adversely reported notwithstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the Member seeking recogni-

tion for that purpose as a question of the highest privilege.

Clause 4(c) 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). 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). In the 100th Congress this paragraph was amended to require the member of the Committee on Rules calling up a report seven legislative days after its filing to have given one calendar day's notice to the House (H. Res. 5, Jan. 6, 1987, p. 6).

§731. Comparative print.

(d) Whenever the Committee on Rules reports a resolution repealing or amending any of the Rules of the House of Representatives or part thereof it shall include in its report or in an accompanying document—

(1) the text of any part of the Rules of the House of Representatives which is proposed to be repealed; and

(2) a comparative print of any part of the resolution making such an amendment and any part of the Rules of the House of Representatives to be amended, showing by an appropriate typographical device the omissions and insertions proposed to be made.

Clause 4(d) 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 clause 3 of rule XIII relating to bills and joint resolutions repealing or amending existing law. This clause is applicable to resolutions reported from the Committee on Rules which 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. ——).

§731a. Specifying waivers.

(e) Whenever the Committee on Rules reports a resolution providing for the consideration of any 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.

Paragraph (e) was adopted in this form in the 104th Congress (sec. 211, H. Res. 6, Jan. 4, 1995, p. ——). In the 95th and 96th Congresses clause 4 included a paragraph (e) relating to the Speaker's authority to postpone proceedings on reports from the Committee on Rules, but that provision was among those consolidated in clause 5(b)(1) of rule I in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98–113).

Committee Expenses

§732a. Primary expense resolution.

5. (a) Whenever any committee, commission, or other entity (except the Committee on Appropriations) is to be granted authorization for the payment of its expenses (including all staff salaries) for a Congress, such authorization initially shall be procured by one primary expense resolution reported by the Committee on House Oversight. 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 Oversight. A primary expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Mem-

§732b. Availability of report.

bers of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—

(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 with respect to the expenditure generally of the funds to be provided to the committee, commission or other entity under the primary expense resolution.

§732c–1. Additional expense resolution.

(b) After the date of adoption by the House of any such primary expense resolution for any such committee, commission, or other entity for any 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 Oversight, as necessary. Any such supplemental expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at

least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—

(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 purpose or purposes for which those additional funds are to be used by the committee, commission or other entity; and

(2) state the reason or 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—

§732c–2. Exception for certain initial funding.

(1) any 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, any committee, commission or other entity at any time from and after the beginning of any odd-numbered year and before the date of adoption by the House of the primary expense resolution providing funds to pay the expenses of that committee, commission or other entity for that Congress; or

(2) any resolution providing in any Congress, for all of the standing committees of the House, 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 originally contained in section 110(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and was 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. ——). 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. ——).

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(h)(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 prior to consideration of a primary expense resolution for all committees for that calendar year (Feb. 5, 1992, p. ——).

Under clause 2(d)(2) of rule X, a committee expense resolution, or an amendment thereto, is not in order for a committee that has not submitted its oversight plans (see § 692b, *supra*).

§732d. Funds for committee staffs; expense resolutions.

(d) From the funds made available for the appointment of committee staff pursuant to any 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 fairly treated in the appointment of such staff.

Paragraph (d) was adopted in this form in the 104th Congress (sec. 101(c)(4), H. Res. 6, Jan. 4, 1995, p. ——). The 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).

§732e. Travel by members not reelected.

(e) No primary expense resolution or additional expense resolution of a committee may provide for the payment or reimbursement of expenses incurred by any member of the committee for travel by the member after the date of the general election of Members in which the Member is not elected to the succeeding Congress, or in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

Paragraph (e) was adopted on March 2, 1977 (H. Res. 287, 95th Cong., pp. 5933–53).

§ 732f. Interim funding.

(f)(1) For continuance of necessary investigations and studies by—

(A) each standing committee and select committee established by these rules; and

(B) except as provided in subparagraph (2), each select committee established by resolution;

there shall be paid out of committee salary and expense accounts of the House such amounts as may be necessary for the period beginning at noon on January 3 and ending at midnight on March 31 in each odd-numbered year.

(2) In the case of the first session of a Congress, amounts shall be made available under this paragraph for a select committee established by resolution in the preceding Congress only if—

(A) a reestablishing resolution for such select committee is introduced in the present Congress; and

(B) no resolution of the preceding Congress provided for termination of funding of investigations and studies by such select committee at or before the end of the preceding Congress.

(3) Each committee receiving amounts under this paragraph shall be entitled, for each month in the period specified in subparagraph (1), to 9 per centum (or such lesser per centum as may be determined by the Committee on House Oversight) of the total annualized amount made

available under expense resolutions for such committee in the preceding session of Congress.

(4) Payments under this paragraph shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, except as provided in subparagraph (5), and approved by the Committee on House Oversight.

(5) 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 involved in that Congress, payments under this paragraph shall be made on vouchers signed by—

(A) the chairman of such committee as constituted at the close of the preceding Congress; or

(B) if such chairman is not a Member in the present Congress, the ranking majority party member of such committee as constituted at the close of the preceding Congress who is a Member in the present Congress.

(6)(A) The authority of a committee to incur expenses under this paragraph shall expire upon agreement by the House to a primary expense resolution for such committee.

(B) Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Oversight.

(C) The provisions of this paragraph shall be effective only insofar as not inconsistent with

any resolution, reported by the Committee on House Oversight and adopted after the date of adoption of these rules.

Paragraph (f) was added to this clause 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, paragraphs (f)(1) and (2) were 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 (now House Oversight) 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 Congress paragraph (f) was amended to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——).

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. ——).

Committee Staffs

6. (a)(1) Subject to subparagraph (2) and paragraph (f), each standing committee may appoint, by majority vote of the committee, not more than thirty professional staff members from the funds provided for the appointment of committee staff pursuant to primary and additional expense resolutions. Each professional staff member appointed under this subparagraph shall be assigned to the chairman and the ranking minority party member of such committee, as the committee considers advisable.

§733a. Thirty professional staff.

§733b. Assignment.

(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing com-

§733c. Minority.

mittee (except the Committee on Standards of Official Conduct and the Permanent Select Committee on Intelligence) so request, not more than ten persons (or one-third of the total professional committee staff appointed under this clause, whichever is less) may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members from among the number authorized by subparagraph (1) of this paragraph. The committee shall appoint any 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 any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons 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 had its origins in section 202 of the Legislative Reorganization Act of 1946 (60 Stat. 812), which allocated up to four non-partisan 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). Also added in 1975 was a requirement 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 clause 6 unless provided in a primary or additional expense resolution. 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 anti-discrimination 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, and set the entitlement of the minority within that number at one-third (sec. 101(c)(5), H. Res. 6, Jan. 4, 1995, p. ——). 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. ——).

Additional clerks of committees are authorized by the Committee on House Oversight 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).

§733d. Consultants and training.

Committees may, with the approval of the Committee on House Oversight, 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)).

§734a. 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 any duties other than those pertaining to committee business.

§734b. "Associate" or "shared" staff.

(2) Subparagraph (1) does not apply to any 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 employee is commensurate with the work performed for the committee, in accordance with the provisions of clause 8 of rule XLIII.

(3) The use of any "associate" or "shared" staff by any committee shall be subject to the review of, and to any terms, conditions, or limitations established by, the Committee on House Oversight in connection with the reporting of any primary or additional expense resolution.

(4) The foregoing provisions of this clause do not apply to the Committee on Appropriations.

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. ——), and later also effected a technical correction in subparagraph (2) (H. Res. 254, Nov. 30, 1995, p. ——).

§735. Pay.

(c) Each employee on the professional and investigative staff of each standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman, which does not exceed the maximum rate of pay, as in effect from time to time, under applicable provisions of law.

This provision 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 under section 5332(a) of Title V, U.S. Code 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, the references in clause 6(c) to particular levels of the executive schedule were deleted (H. Res. 5, Jan. 3, 1989, p. 72). In the 104th Congress paragraph (c) 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. ——).

§736. Staff, Committees on Appropriations.

(d) Subject to appropriations hereby authorized, the Committee on Appropriations may appoint such staff, in addition to the clerk thereof and assistants for the minority, as it determines by majority vote to be necessary, such personnel, other than minority assistants, to possess such qualifications as the committee may prescribe.

Clause 6(d) 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. ——).

§737.

(e) No committee shall appoint to its staff any experts or other personnel detailed or assigned from any department or agency of the Government, except with the written permission of the Committee on House Oversight.

This clause 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 Congress it was amended to reflect

the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——).

(f) If a request for the appointment of a minority professional staff member under paragraph (a) is made when no vacancy exists to which that appointment may be made, the committee nevertheless shall appoint, under paragraph (a), the person selected by the minority and acceptable to the committee. The person so appointed shall serve as an additional member of the professional staff of the committee, and shall be paid from the applicable accounts of the House described in clause 1(h)(1) of rule X, until such a vacancy (other than a vacancy in the position of head of the professional staff, by whatever title designated) occurs, at which time that person shall be deemed to have been appointed to that vacancy. If such 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 that vacancy.

(g) Each staff member appointed pursuant to a request by minority party members under paragraph (a) of this clause, and each staff member appointed to assist minority party members of a committee pursuant to an expense resolution described in paragraph (a) of clause 5, shall be accorded equitable treatment with respect to the fixing of his or her rate of pay, the assignment to him or her of work facilities, and

the accessibility to him or her of committee records.

(h) Paragraph (a) shall not be construed to authorize the appointment of additional professional staff members of a committee pursuant to a request under such paragraph by the minority party members of that committee if ten 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) of this clause 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. ——). 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. ——). In the 105th Congress paragraph (f) was amended to update an archaic reference to the "contingent fund" (H. Res. 5, Jan. 7, 1997, p. ——).

§738. Non-partisan staff.

(i) Notwithstanding paragraph (a)(2), a committee may employ non-partisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, upon an affirmative vote of a majority of the members of the majority party and 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) 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. ——).

§ 739. Reports on staff.

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.

§742. Calendar for reports of committees.

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

First. A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property.

Second. A House Calendar, to which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property.

Third. A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

This clause 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. 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 bills to calendars is governed by text of bills as referred to committees 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 do not remain on the calendar from Congress to Congress, even when a law seems so to provide (IV, 3298–3302). In determining whether a bill should be placed on the House or Union Calendar, clause 3 of rule XXIII 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, mandating 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 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).

§743. Nonprivileged reports filed with the Clerk.

2. All reports of committees, except as provided in clause 4(a) of rule XI, together with the views of the minority, shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker, in accordance with the foregoing clause, and the titles or subject thereof shall be entered on the Journal and printed in the Record: *Provided*, That bills reported adversely shall be laid on the table, unless the committee reporting a bill, at the time, or any Member within three days thereafter, shall request its reference to the calendar, when it shall be referred, as provided in clause 1 of this rule.

§744. Adverse reports.

A technical amendment changing the reference herein to clause 4(a) of rule XI (relating to privileged reports), was effected by the 93d Congress (H. Res. 988, Oct. 8, 1974, p. 34470).

A resolution of inquiry is referred to the House Calendar even when reported adversely (VI, 411).

Under the provisions of clause 2(l)(6) of rule XI, a measure or matter may not be called up for consideration until the third calendar day (excluding Saturdays, Sundays, and legal holidays) on which the report thereon has been available to the Members of the House. Clause 7 of rule XXI places a similar restriction on the consideration of general appropriation bills and adds the requirement that printed hearings on those bills must be available for the same time period. Expense resolutions reported from the Committee on House Oversight have a one-day layover under clause 5(a) of rule XI; and reports from the Committee on Rules may be called up when filed subject to the two-thirds vote requirement of clause 4(b) of rule XI, except that under clause 2(l)(6) of rule XI reports from the

Committee on Rules merely waiving the three day availability requirement may be immediately considered and do not require a two-thirds vote.

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(l)(5) of rule XI for the procedure by which such views may be filed as part of the committee report.

A supplemental report to correct a technical error in a committee report may be filed without the consent of the House (clause 2(l)(5) of rule XI). 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).

§ 745. "Ramseyer Rule."

3. Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document—

(1) The text of the statute or part thereof which is proposed to be repealed; and

(2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions proposed to be made: *Provided, however,* That if a committee reports such a bill or joint resolution with amendments or an amendment in the nature of a substitute for the entire bill, such report shall include a comparative print showing any changes in existing law proposed by the amendments or substitute instead of as in the bill as introduced.

The first part of this paragraph was adopted January 28, 1929 (VIII, 2234), was redesignated as subsection (3) January 3, 1953 (p. 24), and the proviso was added September 22, 1961 (p. 20823).

Failure of a committee report to comply with the rule may be remedied by a supplemental report (VIII, 2247); and 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 2(l)(5) of rule XI. 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). Bills held to be in violation of the rule are automatically recommitted to the respective committees reporting them (VIII, 2237, 2245, 2250). A bill having been recommitted for failure to conform to the rule, further proceedings are de novo and the bill must again be considered and reported by the committee as if no previous report had been made (VIII, 2249). 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 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 of rule XXI, 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). 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 (July 25, 1966, p. 16842; July 30, 1968, pp. 24252–54). 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).

§745a. Corrections Calendar.

4. (a) After a bill has been favorably reported and placed on either the Union or House Calendar, the Speaker may, after consultation with the Minority Leader, file with the Clerk a notice requesting that such bill also be placed upon a special calendar to be known as the "Corrections Calendar." At any time on the second and fourth Tuesdays of each month, after the Pledge of Allegiance, the

Speaker may direct the Clerk to call any bill that has been on the Corrections Calendar for three legislative days.

(b) A bill so called shall be considered in the House, shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the primary committee of jurisdiction reporting the bill, and shall not be subject to amendment except those amendments recommended by the primary committee of jurisdiction or those offered by the chairman of the primary committee or a designee. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

(c) A three-fifths vote of the Members voting shall be required to pass any bill called from the Corrections Calendar but the rejection of any such bill, or the sustaining of any point of order against it or its consideration, shall not cause it to be removed from the Calendar to which it was originally referred.

This clause was amended in the 104th Congress to abolish the Consent Calendar and establish in its place a Corrections Calendar (H. Res. 168, June 20, 1995, p. ——). Later in the 104th Congress several technical changes were effected, and paragraph (b) was amended to admit amendments by a designee of the chairman of the primary committee (H. Res. 254, Nov. 30, 1995, p. ——). In the 105th Congress paragraph (a) 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. ——). The Speaker may discharge a bill from the Corrections Calendar at any time (June 24, 1996, p. ——). 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. ——).

The original form of this clause, 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 working 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 consideration from 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).

§746. Former Consent Calendar.

The former rule did not preclude the Speaker from recognizing Members to suspend the rules before completion of the Consent Calendar (decided by 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).

5. There shall also be a Calendar of Motions to Discharge Committees, as provided in clause 3 of rule XXVII.

§747. Motion to discharge.

The discharge rule was redesignated as clause 3 of rule XXVII in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. 39). A conforming change in this clause was adopted in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——).

§748a. Calendars printed.

6. Calendars shall be printed daily.

This clause was adopted in the 62d Congress, April 5, 1911 (VI, 743), and amended December 8, 1931, pp. 10, 83.

§748b. Estimate of cost.

7. (a) The report accompanying each bill or joint resolution of a public character reported by any committee shall contain—

(1) an estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years);

(2) a comparison of the estimate of costs described in subparagraph (1) of this paragraph made by such committee with any estimate of such costs made by any Government agency and submitted to such committee; and

(3) when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

(b) It shall not be in order to consider any such bill or joint resolution in the House if the report of the committee which reported that bill or joint resolution does not comply with paragraph (a) of this clause.

(c) For the purposes of subparagraph (2) of paragraph (a) of this clause, a 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.

(d) The preceding provisions of this clause do not apply to the Committee on Appropriations, the Committee on House Oversight, the Committee on Rules, and the Committee on Standards

of Official Conduct, and do not apply where 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 timely submitted prior to the filing of the report and included in the report pursuant to clause 2(l)(3)(C) of rule XI.

(e)(1) A report from the Committee on Ways and Means on a bill or joint resolution designated by the Majority Leader (after consultation with the Minority Leader) as major tax legislation may include a dynamic estimate of the changes in Federal revenues expected to result from enactment of the legislation. The Joint Committee on Taxation shall render a dynamic estimate of such legislation only in response to a timely request from the chairman of the Committee on Ways and Means (after consultation with the ranking minority member of the committee). A dynamic estimate pursuant to this paragraph may be used only for informational purposes.

(2) In this paragraph, "dynamic estimate" means a projection based in any part on assumptions concerning probable effects of macroeconomic feedback. A dynamic estimate shall include a statement identifying all such assumptions.

This clause 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. Paragraph (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. Paragraph (a) was amended by the Budget Enforcement Act of 1990 (2 U.S.C. 900 note) to require 5-year estimates of revenue changes in legislative reports. In the 104th Congress paragraph (a) 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. ——). At the same time paragraph (d) was amended to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——). In the 105th Congress paragraph (d) was amended to effect a technical change (Budget Enforcement Act of 1997 (sec. 10116, P.L. 105–33). Paragraph (e) was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. ——). 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. ——).

§ 748c. Unfunded mandates.

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4; 109 Stat. 48 *et seq.*) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658–658g) that 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. 659b–c) and establishes points of order to enforce those requirements (sec. 425; 2 U.S.C. 658d). See § 1007, *infra*, and § 713h, *supra*.

RULE XIV.

OF DECORUM AND DEBATE.

§ 749. Obtaining the floor for debate; and relevancy and decorum therein.

1. When any Member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker", and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality. Debate may include references to actions taken by the Senate or by committees thereof which are a matter of public record, references to the pendency or sponsorship in the Senate of bills, resolutions, and amendments, factual descriptions relating to

Senate action or inaction concerning a measure then under debate in the House, and quotations from Senate proceedings on a measure then under debate in the House and which are relevant to the making of legislative history establishing the meaning of that measure, but may not include characterizations of Senate action or inaction, other references to individual Members of the Senate, or other quotations from Senate proceedings.

This clause was adopted in 1880, but was made up, in its main provisions, from older rules, which dated from 1789 and 1811 (V, 4979). The last sentence of the clause, relating to references to the Senate, had its origins in the 100th Congress (H. Res. 5, Jan. 6, 1987, p. 6) but was amended in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72) to narrowly expand the range of permissible references. This rule, and rulings of the Chair with respect to references in debate to the Senate, are discussed in § 371, *supra*; see also § 361, *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 XXIII, have reminded and advised Members that: (1) clause 1 of rule XIV 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); (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. ——; Nov. 17, 1995, 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 references to the Senate or the President (Jan. 4, 1995, p. ——); and (7) Members should refrain from discussing the President's personal character (May 10, 1994, 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, himself, a Member directs his remarks

to the occupant of the Chair and addresses 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. ——; Jan. 18, 1995, p. ——; Jan. 19, 1995, p. ——). 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. ——).

This clause has also 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. ——; Mar. 29, 1995, p. ——; Oct. 19, 1995, pp. ——, ——; Nov. 17, 1995, p. ——; Mar. 7, 1996, p. ——; Sept. 26, 1996, 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. ——). 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. ——).

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*.

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 make 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). Personal explanations merely are made by unanimous consent (V, 5065).

§ 750. 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. ——). 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. ——), 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). 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). 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 each Member 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. ——). 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. ——; July 29, 1994, p. ——; Dec. 21, 1995, p. ——). Members should not engage in disruption while another is speaking (Dec. 20, 1995, p. ——; June 27, 1996, p. ——).

§751. 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 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).

§752. 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. ——; Mar. 23, 1995, p. ——; Nov. 14, 1995, pp. ——, ——; Dec. 15, 1995, p. ——; Mar. 12, 1996, p. ——).

During debate on a bill a Member must maintain a constant nexus between debate and the subject of the bill (Nov. 14, 1995, p. ——; Mar. 12, 1996, p. ——). 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. ——). 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. ——). 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). 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), since 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. ——; Sept. 20, 1995, p. ——; Dec. 15, 1995, p. ——; May 1, 1996, p. ——; May 8, 1996, p. ——; May 15, 1996, p. ——; Mar. 13, 1997, p. ——). 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, p. ——). 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 which 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 con-

fined to the election of that Member and should not extend to that committee's agenda (July 10, 1995, p. ——).

While the Speakers have entertained appeals from their decisions as to irrelevancy, they have held that such appeals were not debatable (V, 5056–5063).

In Committee of the Whole House on the state of the Union during general debate the Member need not confine himself to the subject (V, 5233–5238; VIII, 2590; June 28, 1974, p. 21743); but this privilege does not extend to the Committee of the Whole House (V, 5239; VIII, 2590). 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; thus, where a general provisions title is pending debate may relate to any agency funded by the bill (June 13, 1991, p. 14692).

§753. Speaker's power of recognition.

2. When two or more Members rise at once, the Speaker shall name the Member who is first to speak; * * *

This clause was adopted in 1789 (V, 4978).

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 which 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 discretion 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 practice which continues (VI, 292; VIII, 2429, 2646, 2762). It has also been determined that a Member may not invoke rule XXV (§900, *infra*), 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).

§753a. 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). When the House has a heavy legislative schedule, the Speaker may refuse to recognize Members for that purpose until the completion of legislative business (Procedure, ch. 21, sec. 7.5; 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).

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. ——). 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 requests for special orders were granted (Speaker O'Neill, Aug. 8, 1984, p. 22963; Jan. 5, 1993, p. ——). But since February 24, 1994, the Speaker's announced policies for recognition for special order speeches has been as follows: (1) recognition does not extend beyond midnight; (2) recognition is granted first for speeches of five minutes or less; (3) recognition for longer speeches is limited (except on Tuesdays) to four hours equally divided between the majority and minority; (4) the first hour for each party is reserved to its respective Leader or his designees; (5) time within each party is allotted in accord with a list submitted to the Chair by the respective Leader; (6) the first recognition within a category alternates between the parties from day to day, regardless of when requests were granted; (7) Members may not enter requests for five-minute special orders earlier than one week in advance; and (8) the respective Leaders may establish additional guidelines for entering requests (Feb. 11, 1994, p. ——; May 23, 1994, p. ——; June 10, 1994, p. ——; Jan. 4, 1995, p. ——; Feb. 16, 1995, p. ——; May 12, 1995, p. ——; Jan. 21, 1997, p. ——).

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 non-partisan manner (Aug. 4, 1982, p. 19319). Prior to 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. ——).

§753b. 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 90 minutes early on Mondays and Tuesdays for morning-hour debate (Feb. 11, 1994, p. ——; May 23, 1994, p. ——; June 8, 1994, p. ——; June 10, 1994, p. ——; Jan. 4, 1995, p. ——; Feb. 16, 1995, p. ——; Jan. 21, 1997, p. ——). On May 12, 1995, the House extended and modified the above order to accommodate earlier convening

times after May 14 of each year. The modified order changes morning hour debates on Tuesdays after May 14 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. ——). 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. 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. ——).

§753c. "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. ——; Mar. 11, 1994, p. ——; May 23, 1994, p. ——; June 8, 1994, p. ——; June 10, 1994, p. ——). Pursuant to that authority the House conducted three "Oxford"-style debates (Mar. 16, 1994, p. ——; May 4, 1994, p. ——; July 20, 1994, p. ——). 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. ——).

§754. 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 may not depart. 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 which 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). Once the proponent of a pending motion has been recognized for debate thereon, a unanimous-consent request to modify the motion may be entertained only if the proponent yields for that purpose (Jan. 5, 1996, p. ——). This principle does not, however, apply to the Chairman of the Committee of the Whole (II, 1453). The Member who originally introduces the bill which a committee reports has no claims 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). And this principle applies to the makers of certain motions. Thus, the Member on whose motion the enacting clause of a bill is stricken out in Committee of the Whole is entitled to prior recognition when the bill is reported to the House (V, 5337; VIII, 2629), and in a case where a Member raised an objection in the joint session to count the electoral vote the Speaker recognized him first when the Houses had separated to consider the objection (III, 1956). 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). 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 which 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. ——) and from such denial there is no appeal (II, 1425; VI, 292; VIII, 2429, 2646, 2762; Feb. 27, 1992, p. ——). Recognition for parliamentary inquiry lies in the discretion of the Chair (VI, 541), who may take a parliamentary inquiry under advisement (VIII, 2174), especially where not related to the pending proceedings (Apr. 7, 1992, p. ——).

§ 755. 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 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. ——).

§756. Prior right of Members of the committee 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 general 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 "forty minutes" of debate on motions for suspension of the rules and the previous question (II, 1442).

§757. Exceptions to the usages constraining the Speaker as to recognitions.

As to motions to suspend the rules, which are in order on Mondays and Tuesdays of each week, the Speaker exercises a discretion to decline to recognize (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. The Speaker has announced and enforced a policy of conferring recognition for unanimous-consent requests for the consideration of unreported bills and resolutions only when assured that the majority and minority floor and committee leaderships have no objection (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. ——; Apr. 4, 1995, p. ——). This policy has been extended to: (1) requests relating to reported bills (July 23, 1993, p. ——); (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 non-suspension day) (Aug. 12, 1986, p. 21126); (4) requests to permit consideration of (nongermane) amendments to bills (Nov. 14, 1991, p. 32083; Dec. 20, 1995, p. ——); (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 3 of rule XXVII (June 5, 1992, p. ——); and (6) requests relating to Senate passed bills on the Speaker's table (Oct. 25, 1995, p. ——; Jan. 3, 1996, p. ——). 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. ——; Jan. 4, 1996, p. ——; Deschler's Precedents, vol. 6, ch. 21, sec. 1.23). 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. ——). The Speaker's enforcement of this policy is not subject to appeal (Apr. 4, 1995, 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. ——).

§ 758. The hour rule in debate.

2. * * * and no Member shall occupy more than one hour in debate on any question in the House or in committee, except as further provided in this rule.

This clause dates from 1841, when the increase of membership had made it necessary to prevent the making of long speeches which sometimes occupied three or four hours each (V, 4978).

It applies to debate on a question of privilege, as well as to debate on other questions (V, 4990; VIII, 2448); and when the time of 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). 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 (July 12, 1971, pp. 24594, 24603; Feb. 9, 1966, p. 2794). In the 104th Congress the Speaker announced his intention to strictly enforce time limitations on debate (Jan. 5, 1995, p. ——).

For a discussion of "morning-hour debates" and "Oxford" style debates, see §§ 753b–c, *supra*.

§759. The opening and closing of general debate.

3. The Member reporting the measure under consideration from a committee may open and close, where general debate has been had thereon; and if it shall extend beyond one day, he shall be entitled to one hour to close, notwithstanding he may have used an hour in opening.

This clause was adopted in 1847 and perfected in 1880 (V, 4996).

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).

§760. The call to order for words spoken in debate.

4. If any Member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any Member may, call him to order; in which case he shall immediately sit down, unless permitted, on motion of another Member, to explain, and the House shall, if appealed to, decide on the case without debate; if the decision is in favor of the Member called to order, he shall be at liberty to proceed, but not otherwise; and, if the case requires it, he shall be liable to censure or such punishment as the House may deem proper.

5. If a Member is called to order for words spoken in debate, the Member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened.

Clause 4 was adopted in 1789 and amended in 1822 and 1880 (V, 5175). Clause 5 was adopted in 1837 and amended in 1880, although the practice of writing down objectionable words had been established in 1808.

§761. 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 clause 5 (Sept. 12, 1996, pp. ——, ——; Sept. 17, 1996, p. ——; Sept. 18, 1996, p. ——; Sept. 25, 1996, p. ——). 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. ——). Except for naming the offending Member, the Speaker may not otherwise censure or punish him (II, 1345; VI, 237; Sept. 18, 1996, p. ——; see also §366, *supra*). The House may by proper motions under clauses 4 and 5 of this rule dictate the consequences of a ruling by the Chair that a Member was out of order (May 26, 1983, p. 14048).

As discussed in §374, *supra*, it is customary for the Chair to initiate the call to order a Member who criticizes the actions of the Senate, its Members, or its committees, whether in debate or through an insertion in the Record (Speaker Albert, Apr. 17, 1975, p. 10458; Oct. 7, 1975, p. 32055; Feb. 27, 1997, p. ——). On the other hand, the Chair customarily awaits an initiative from the floor to call to order a Member engaging in personalities in debate with respect to another Member of the House (June 29, 1987, p. 18072; Jan. 4, 1995, p. ——; Feb. 27, 1997, p. ——). The Chair may take initiative to call to order a Member engaging in verbal outburst following expiration of his recognition for debate (Mar. 16, 1988, p. 4081). The Chair may deny further recognition to an offending Member, 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. ——; Sept. 18, 1996, p. ——). The Chair may admonish a Member for words spoken in debate and request that they be removed from the Record even prior to a demand that the words be taken down (Sept. 24, 1992, p. ——).

Clause 5 prohibits the taking down of words after intervening business (V, 5177; VIII, 2536; Sept. 16, 1991, p. ——; Mar. 28, 1996, 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). Unanimous

consent is not required for a Member to withdraw his demand that words be taken down prior to a ruling by the Chair (June 18, 1986, p. 14232).

While a demand that a Member's words be taken down is pending, that Member should be seated immediately (July 29, 1994, p. ——; Jan. 25, 1995, p. ——), and no Member may engage the Chair until the demand has been disposed of (Nov. 9, 1995, p. ——; Nov. 15, 1995, p. ——). 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. ——). 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 rules I and XIV, 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 (see §366, *supra*; Sept. 12, 1996, p.——; Sept. 17, 1996, p. ——; Sept. 18, 1996, p. ——).

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. ——). When a Member denies that the words taken down are the exact words used by himself, 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. ——). A decision of the Chair on a point of order that a Member is engaging in personalities is subject to appeal (Sept. 28, 1996, p. ——).

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, pp. 40442–43).

If words taken down are ruled out of order, the Member loses the floor (V, 5196–5199; Jan. 25, 1995, p. ——) and may not proceed on the same day without the permission of the House (Jan. 29, 1946, p. 533; Aug. 21, 1974, pp. 29652–53; Jan. 25, 1995, p. ——; Apr. 17, 1997, p. ——), even on yielded time (V, 5147), and may not insert unspoken remarks in the Record (Jan. 25, 1995, p. ——), 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. ——). 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. ——; July 25, 1996, p. ——) or offered by any Member (July 25, 1996, p. ——). The motion is not inconsistent with the immediate consequence of the call to order because 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. ——) 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. ——; Sept. 17, 1996, p. ——; Sept. 18, 1996, p. ——; Sept. 25, 1996, p. ——).

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, pp. 29652–53), is often stated on the initiative of the Chair (May 10, 1990, p. 9992), 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), although that Member may ask unanimous consent to withdraw his words (VIII, 2528, 2538, 2540, 2543, 2544).

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 al-

leged to be treasonable (II, 1252), or when a Member has uttered an attack on the Speaker (II, 1248; Jan. 4, 1995, p. ——; Jan. 19, 1995, p. ——).

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 rule XXX, §915, *infra*.

§762. Member to speak but once to the same question; right to close controlled debate.

6. No Member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer, or introducer of the matter pending, in which case he shall be permitted to speak in reply, but not until every Member choosing to speak shall have spoken.

This clause was adopted in 1789, and amended in 1840 (V, 4991).

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 that a Member has spoken already if no one claims the floor until he has made some progress in his speech (V, 4992). This clause is often circumscribed by special orders of business that vest control of debate in designated Members and permit them to yield more than once to other Members. For a discussion of the right of a Member to speak more than once under the five-minute rule, see §873a, *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 which he did not report (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).

Ordinarily the manager of a bill or other representative of the committee position and not the proponent of an amendment has the right to close debate on an amendment on which debate has been limited and allocated under the five-minute rule in Committee of the Whole (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, pp. 9961–62), including the minority manager (June 29, 1984, p. 20253; Aug. 14, 1986, p. 21660; July 26, 1989, p. 16403). 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. ——), where an unreported compromise text is made in order as original text in lieu of committee amendments (Oct. 19, 1995, p. ——), or where the committee reported the measure without recommendation (Feb. 12, 1997, p. ——). Where the pending text includes a provision rec-

ommended by a committee of sequential referral, a member of that committee is entitled to close debate against an amendment thereto (June 15, 1989, pp. 12084–87). By recommending an amendment in the nature of a substitute, a reporting committee implicitly opposes a further amendment that could have been included therein, such that a committee representative who controls time in opposition may close debate thereon (June 4, 1992, pp. —— and ——; June 13, 1995, p. ——). 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 against an amendment thereto (Sept. 18, 1997, p. ——).

Under certain circumstances, however, the proponent of the amendment may close debate, as where he represents the position of the reporting committee (Aug. 14, 1986, p. 21660) or where no committee representative opposes the amendment (Aug. 15, 1986, p. 22057). 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, p. ——). Similarly, the proponent of the amendment may close debate where no representative from the reporting committee opposes an amendment to a multi-jurisdictional bill (Mar. 9, 1995, p. ——); 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. ——).

§763. Decorum of Members in the Hall.

7. While the Speaker is putting a question or addressing the House no Member shall walk out of or across the hall, nor, when a Member is speaking, pass between him and the Chair; and during the session of the House no Member shall wear his hat, or remain by the Clerk's desk during the call of the roll or the counting of ballots, or smoke upon the floor of the House; and the Sergeant-at-Arms is charged with the strict enforcement of this clause. Neither shall any person be allowed to smoke or to use any personal, electronic office

equipment (including cellular phones and computers) upon the floor of the House at any time.

Until the 104th Congress this clause 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 the prohibition against using personal electronic office equipment was added (secs. 201 and 223, H. Res. 6, Jan. 4, 1995, p. ——). The prohibition was affirmed by response to a parliamentary inquiry (Feb. 23, 1995, p. ——). Originally Members wore their hats during sessions, as in Parliament, and the custom was not abolished until 1837 (II, 1136). In the 103d Congress the Speaker announced that the prohibition against Members wearing hats included doffing the hat in tribute to a group (Speaker Foley, June 22, 1993, p. ——; June 10, 1996, p. ——). 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 non-complying Members the privilege of the floor (July 17, 1979, pp. 19008, 19073). 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).

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. ——). 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. ——; Jan. 4, 1995, p. ——). In the 104th Congress the Speaker announced: (1) that Members should not traffic, or linger in, the well of the House while another Member is speaking (Feb. 3, 1995, p. ——; Mar. 3, 1995, p. ——; Dec. 15, 1995, p. ——); and (2) that Members should not engage in disruption while another Member is speaking (Dec. 20, 1995, p. ——).

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. ——). 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. ——).

§764. Gallery occupants not to be introduced.

8. It shall not be in order for any Member to introduce to or to bring to the attention of the House during its sessions any occupant in the galleries of the House; nor may the Speaker entertain a request for the suspension of this rule by unanimous consent or otherwise.

This clause was adopted April 10, 1933 (VI, 197).

§764a. Revisions of remarks in debate.

9. (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 making the remarks involved.

(b) Unparliamentary remarks may be deleted only by permission or order of the House.

§764b. Standard of conduct.

(c) This clause establishes a standard of conduct within the meaning of clause 4(e)(1)(B) of rule X.

This clause was adopted in the 104th Congress (sec. 213, H. Res. 6, Jan. 4, 1995, p. ——). Under clause 9(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. ——). Clause 9(a) also applies to statements and rulings of the Chair (Jan. 20, 1995, p. ——).

RULE XV.

ON CALLS OF THE ROLL AND HOUSE.

§765. Call of the roll for the yea-and-nay vote.

1. Subject to clause 5 of this rule, upon every roll call the names of the Members shall be called alphabetically by surname, except when two or more have the same surname, in which case the name of the State shall be added; and if there be two such Members from the same State, the whole name shall be called, and after the roll has been once called, the Clerk shall call in their alphabetical order the names of those not voting. Members appearing after the second call, but before the result is announced, may vote or announce a pair.

The first form of this clause 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). The final amendment, which became effective immediately prior to noon on January 3, 1973, introduced the concept and use of the electronic voting system into the provisions of rule XV.

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 which 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 rule, as under clause 4 of rule XV, 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 pair. Under the former practice, prior to 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).

§765a. 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, pp. 701–02):

Tellers—one ring and one light on left. Since teller votes were discontinued at the beginning of the 103d Congress, this signal is no longer utilized.

Recorded vote, yeas and nays, or automatic rollcall vote taken either by electronic system or by use of tellers with ballot cards—two bells and two lights on left indicate a vote in House or in Committee of the Whole 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 5(b)(3) of rule I the House authorized the Speaker to put remaining postponed questions to two-minute electronic votes, two bells were rung (Oct. 4, 1988, pp. 28126, 28148).

Recorded vote, yeas and nays, or automatic rollcall electronic vote on recommittal to be immediately followed by possible five-minute vote on final passage (clause 5 of rule XV)—two bells rung at beginning of motion to recommit, 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 on final passage or adoption. Two bells repeated five minutes after first ring.

Recorded vote, yeas and nays, or automatic rollcall electronic vote on the first of several amendments reported to the House from the Committee of the Whole (clause 5 of rule XV)—two bells rung at beginning of first amendment on which separate vote is demanded, followed by five bells, indicate that Chair will order five-minute vote if recorded vote, yeas and

nays, or automatic vote is ordered on additional amendments on which separate votes have been demanded. Two bells repeated five minutes after first ring. Five bells on each subsequent amendment if roll call ordered.

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 under the provisions of clause 1 of rule XV 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 utilized.

Regular quorum call in Committee of the Whole, which will possibly be immediately followed by five-minute electronic recorded vote (clause 2 of rule XXIII)—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.

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 2 of rule XXIII 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.

Postponed votes on (a) motions to suspend the rules; (b) final votes on bills, resolutions, or conference reports; or (c) previous question on questions that are, themselves, susceptible of postponement (clause 5(b) of rule I)—two bells, followed by five bells, indicate start of 15-minute vote on first postponed question in each such series. Two bells repeated five minutes after first ring. Five bells on all subsequent five-minute votes in each series on which Speaker has reduced vote time.

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).

§766. 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). But 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). But 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. ——).

§767. 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), 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). But it is interrupted for the reception of messages and by the arrival of the hour fixed for adjournment sine die (V, 6715–6718). 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 the 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).

§768. The call of the House.

2. (a) In the absence of a quorum, fifteen Members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent members; and those for whom no sufficient excuse is made may, by order of a majority of those present,

subject to clause 6(e)(2) of this rule, be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged. Members who voluntarily appear shall, unless the House otherwise direct, be immediately admitted to the Hall of the House, and they shall report their names to the Clerk to be entered upon the Journal as present.

The essential portions of paragraph (a) of this clause 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 in rule XV, including this clause, were amended to reflect the implementation of the electronic voting system (H. Res. 1123, Oct. 13, 1972, pp. 36005–012). The provisions of clause 2(a) relating to the calling of the roll by the Clerk were deleted. Calls of the House are now taken by the electronic device unless the Speaker, in his discretion (see clause 5) orders the use of the alternative procedure in clause 2(b). Together with clause 6(e)(2) of this rule, this paragraph 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 6(e) of this rule, which prohibits the point of order that a quorum is not present unless the Speaker has put a question to a vote.

§769. 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 de-

manded (IV, 2933). But 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).

§ 770. 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 issues 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 leave for a committee to sit during sessions does 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). Form of resolution for the arrest of Members absent without leave (VI, 686). 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); is neither debat-

able 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, pp. 42504–05).

§771a. Motions during a call.

During the call, which in later practice has been invoked only in absence of a quorum, incidental motions may be agreed to by less than a quorum (IV, 2994, 3029; VI, 681), and under clause 6(a)(4) of rule XV a point of order of no quorum may not be made during the offering, consideration, 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). 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).

§771b. Quorum call by clerks.

(b) Subject to clause 5 of this rule, when a call of the House in the absence of a quorum is ordered, the Speaker shall name one or more clerks to tell the Members who are present. The names of those present shall be recorded by such clerks, and shall be entered in the Journal and the absentees noted, but the doors shall not be closed except when so ordered by the Speaker. Members shall have not less than fifteen minutes from the ordering of a call of the House to have their presence recorded.

This paragraph was adopted as part of the general revision of rule XV which was required by the implementation of the electronic voting system (H. Res. 1123, 92d Cong., Oct. 13, 1972, p. 36012). 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's Precedents, vol. 5, ch. 20, sec. 6.3). Clause 2(b) does not give the Speaker the authority to lock the doors during a recorded vote (June 11, 1997, p. ——).

§772. Count of those not voting to make a quorum of record on a roll call.

3. On the demand of any 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 and recorded in the Journal, and 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 4 of this rule the necessity for its use has disappeared to a large extent. 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).

§773. The call of the House in the new form.

4. Subject to clause 5 of this rule, whenever a quorum fails to vote on any question, and a quorum is not present and objection is made for that cause, unless the House shall adjourn there shall be a call of the House, and the Sergeant-at-Arms shall forthwith proceed to bring in absent Members, and the yeas and nays on the pending question shall at the same time be con-

sidered as ordered. The Clerk shall call the roll, and each Member as he answers to his name may vote on the pending question, and, after the roll call is completed, each Member arrested 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 shall 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 majority of those voting shall appear. And thereupon further proceedings under the call shall be considered as dispensed with. At any time after the roll call has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present, to be ascertained by actual count by the Speaker; and if the House adjourns, all proceedings under this section shall be vacated.

This clause was adopted in 1896 (IV, 3041; VI, 690); and amended in 1972 to make its provisions subject to clause 5 of this rule (H. Res. 1123, 92d Cong., p. 36012). 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 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 which 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 had 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). But where the announced absence of a quorum has resulted in a rollcall 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 rollcall 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).

§774a. Conduct of the call in the new form.

Under this clause the roll is called over 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 which 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). An automatic roll call results under this rule when the objection that a quorum is not present and voting is made after a viva voice 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 5(b) of rule I, where the Speaker has announced that

he will postpone further proceedings on motions to suspend the rules on that day if any votes are objected to under clause 4 of rule XV, and objection is then made to any such votes under that clause, further proceedings are automatically postponed and the question is put de novo when that vote recurs as unfinished business, when further proceedings are postponed, the point of order that a quorum is not present is considered as withdrawn, since no longer in order (a question not being pending after the Speaker's announcement of postponement). See clause 6(e)(1) of rule XV, *infra*.

§774b–1. Use of electronic equipment in recording roll calls.

5. (a) Unless, in his discretion, the Speaker orders the calling of the names of Members in the manner provided for under the preceding provisions of this rule, upon any roll call or quorum call the names of such Members voting or present shall be recorded by electronic device. In any such case, the Clerk shall enter in the Journal and publish in the Congressional Record, in alphabetical order in each category, a list of names of those Members recorded as voting in the affirmative, of those Members recorded as voting in the negative, and of those Members answering present, as the case may be, as if their names had been called in the manner provided for under such preceding provisions. Members shall have not less than fifteen minutes from the ordering of the roll call or quorum call to have their vote or presence recorded.

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 electronic system was first utilized in the House on January 23, 1973 (p. 1793). The clause in its essential form was adopted the next year (H. Res. 1123, Oct. 13, 1972, p. 36012).

The Speaker has the discretion to continue to use the electronic system, even though the electronic display panels are temporarily inoperative, where the voting stations continue in operation and Members are able to verify their votes, or to use a backup voting procedure, such as calling

the roll, where voting stations are inoperative (Speaker O'Neill, Sept. 19, 1985, p. 24245).

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 back-up 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 clauses 4 and 5 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). 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), but 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 (June 11, 1981).

On a call of the House 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 before announcing the result (June 6, 1973, p. 18403), and since this clause is incorporated by reference into 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 clause 2 of rule XXIII at any time during the conduct of the call (July 17, 1974, p. 23673). Since 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 (*i.e.*, 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 (Speaker pro tempore Meeds, Mar. 14, 1978, pp. 6838–39), and 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. ——). In the 104th Congress the Speaker announced that each occupant of the Chair would have his 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. ——); however, the Chair will not close a vote while a Member is in the well attempting to vote (Feb. 10, 1995, p. ——; June 22, 1995, p. ——). 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).

§774b–2. "15-and-5" voting.

(b) The Speaker may, in his discretion, reduce to not less than five minutes the time within which a rollcall vote by electronic device may be taken—

(1) after a rollcall vote has been ordered on a motion for the previous question, on any underlying question that follows without intervening business;

(2) after a rollcall vote has been ordered on an amendment reported from the Committee of the Whole House on the state of the Union, on any subsequent amendment to that bill or resolution reported from the Committee of the Whole; or

(3) after a rollcall vote has been ordered on a motion to recommit a bill, resolution, or conference report thereon, on the question of passage or adoption, as the case may be, of such bill, resolution, or conference report thereon, if the question of passage or adoption follows without intervening business the vote on the motion to recommit.

The authority now found in paragraph (b)(3) was first added as an undesignated last sentence of clause 5 in the 96th Congress (H. Res. 5, Jan.

15, 1979, pp. 7–16) to permit the Speaker to reduce to five minutes the vote on final passage immediately following a 15-minute recorded vote on a motion to recommit. The authority now found in paragraph (b)(2) was first added as an undesignated penultimate sentence of clause 5 in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72) to permit the Speaker to reduce to five minutes any rollcall votes on amendments reported to the House from Committee of the Whole after a 15-minute vote on the first of such amendments. When the authority found in paragraph (b)(1) was added in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——) to permit the Speaker to reduce to five minutes the vote on adoption of a special order of business resolution immediately following a 15-minute recorded vote on ordering the previous question thereon, clause 5 was organized into paragraphs (a) and (b). In the 104th Congress paragraph (b)(1) was broadened to cover any previous question situation (sec. 223(e), H. Res. 6, Jan. 4, 1995, p. ——).

Five-minute votes are now permitted at the discretion of the Chair in six circumstances: (1) under clause 5(b) of rule I, on additional questions on which the Speaker has postponed further proceedings immediately following a 15-minute vote on the first such postponed question; (2) under clause 5(b)(1) of rule XV, on an underlying question immediately following a 15-minute recorded vote on ordering the previous question thereon; (3) under clause 5(b)(2) of rule XV, on second and subsequent separate votes in the House on amendments reported from Committee of the Whole immediately following a 15-minute vote on the first such separate vote; (4) under clause 5(b)(3) of rule XV, on final passage immediately following a 15-minute recorded vote on recommittal; (5) under clause 2(a) of rule XXIII, on a pending question immediately following a regular quorum call in Committee of the Whole; and (6) under clause 2(c) of rule XXIII, on any or all pending amendments immediately following a 15-minute recorded vote on the first such pending amendment in Committee of the Whole. Clause 5(b) 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, and the Chair will not entertain a unanimous-consent request to reduce that vote to five minutes after Members had already left the Chamber with the expectation that the next vote would be a 15-minute vote (June 29, 1994, p. ——). A 15-minute vote on the question of tabling the motion to reconsider the vote on ordering the previous question is not such intervening business as to prevent the Chair from reducing to five minutes the vote on the underlying question (June 29, 1995, p. ——; July 24, 1997, p. ——). Similarly, an intervening vote on the question of tabling the motion to reconsider the vote on the motion to recommit does not prevent the Chair from reducing the vote on final passage (July 24, 1997, p. ——).

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).

6. (a) It shall not be in order to make or entertain a point of order that a quorum is not present—

§774c. Quorum; when not required.

(1) before or during the offering of prayer;

(2) during the administration of the oath of office to the Speaker or Speaker pro tempore or a Member, Delegate, or Resident Commissioner;

(3) during the reception of any message from the President of the United States or the United States Senate; and

(4) during the offering, consideration, and disposition of any motion incidental to a call of the House.

(b) A quorum shall not be required in Committee of the Whole for agreement to a motion that the Committee rise.

(c) After the presence of a quorum is once ascertained on any day on which the House is meeting, a point of order of no quorum may not be made or entertained—

(1) during the reading of the Journal;

(2) during the period after a Committee of the Whole has risen after completing its consideration of a bill or resolution and before the Chairman of the Committee has reported the bill or resolution back to the House; and

(3) during any period of a legislative day when the Speaker is recognizing Members (including a Delegate or Resident Commissioner) to address the House under special orders,

with no measure or matter then under consideration for disposition by the House.

(d) When the presence of a quorum is ascertained, a further point of order that a quorum is not present may not thereafter be made or entertained until additional business intervenes. For purposes of this paragraph, the term "business" does not include any matter, proceeding, or period referred to in paragraph (a), (b), or (c) of this clause for which a quorum is not required or a point of order of no quorum may not be made or entertained.

(e)(1) Except as provided by subparagraph (2), it shall not be in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote.

§774d. Speaker's discretion to recognize for motion for call of House.

(2) Notwithstanding subparagraph (1), it shall always be in order for a Member to move a call of the House when recognized for that purpose by the Speaker, and when a quorum has been established pursuant to a call of the House, further proceedings under the call shall be considered as dispensed with unless the Speaker, in his discretion, recognizes for a motion under clause 2(a) of this rule or for a motion to dispense with further proceedings under the call.

Paragraphs (a) through (d) were added in the 93d Congress (H. Res. 998, Apr. 9, 1974, pp. 10195–99) and paragraph (e) in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70).

Under clause 6(e)(1), 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. ——). 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, since the Chair has not put the question on a pending proposition to a vote (June 18, 1980, pp. 15316–17). But under clause 6(e)(2) 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. ——), even, for example, prior to the call of the Private Calendar, which under clause 6 of rule XXIV is in order after approval of the Journal and disposition of business on the Speaker's table (July 8, 1987, p. 18972). Clause 6(e)(2) was amended 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.

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, pp. 29562–63). During debate on a measure in the House the Speaker will not respond to an inquiry as to the number of Members present in the Chamber, since a point of no quorum is not admissible unless he has put the pending question to a vote (Oct. 28, 1987, p. 29682).

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

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

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

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

RULE XVI.

ON MOTIONS, THEIR PRECEDENCE, ETC.

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

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

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

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

§ 776. Stating and withdrawing of motions.

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

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

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

organization of the House declined to put a question, a Member-elect put the question from the floor (I, 67).

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

§777. Conditions of withdrawal of motions.

Even after the affirmative side has been taken on a division the withdrawal of a motion has been permitted (V, 5348), also after a viva voce vote and the ordering and appointment of tellers (V, 5349). While the House was dividing on a second of the previous question (this second is no longer required) on a motion to refer a resolution, the Member was permitted to withdraw the resolution (V, 5350); also a motion was once withdrawn after the previous question had been ordered on an appeal from a decision on a point of order as to the motion (V, 5356). A motion to suspend the rules could be withdrawn at any time before a second was ordered (V, 6844; VIII, 3405, 3419), even on another suspension day (V, 6844) but not after a second was ordered, except by unanimous consent (VIII, 3420); but where a second is not required on a motion to suspend the rules under clause 2 of rule XXVII, the motion may be withdrawn at any time before action is taken thereon (July 27, 1981, p. 17563). A motion may be withdrawn although an amendment may have been offered and be pending (V, 5347; VI, 373; VIII, 2639), and in the House an amendment, whether simple or in the nature of a substitute, may be withdrawn at any time before an amendment is adopted thereto or decision is had thereon (VI, 587; VIII, 2332, 2764); and the same right to withdraw an amendment exists in the House as in Committee of the Whole (IV, 4935; June 26, 1973, p. 21315); but unanimous consent to withdraw an amendment is required in Committee of the Whole (V, 5221, 5753; VI, 570; VIII, 2465, 2859, 3405). Withdrawal of a pending resolution is not in order when the absence of a quorum has been announced by the Chair (Oct. 14, 1970, pp. 36665–69). A motion that the House resolve into the Committee of the Whole for the consideration of a bill may be withdrawn pending a point of order against consideration of the bill, and if the motion is withdrawn the Chair is not obligated to rule on the point of order (VIII, 3405; Dec. 3, 1979, p. 34385). Unanimous consent is not required to withdraw a pending unanimous-consent request (Speaker O'Neill, Dec. 16, 1985, p. 36575).

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

for an hour notwithstanding the fact that the resolution has been previously considered, debated, and then withdrawn before action thereon (Apr. 8, 1964, pp. 7303–08).

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

A Member having the right to withdraw a motion before a decision thereon has the resulting power to modify the motion (V, 5358; Oct. 23, 1990, p. 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. ——). A motion being withdrawn, all proceedings on an appeal arising from a point of order related to it fell thereby (V, 5356).

§778. The question of consideration.

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

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

§779. Raising the question of consideration.

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

(V, 4967, 4968). The question of consideration being pending, a motion to refer is not in order (V, 5554).

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

§780. Questions subject to the question of consideration.

The question of consideration may be demanded against a matter of the highest privilege, such as the right of a Member to his seat (V, 4941), a question involving the privilege of the House (VI, 560), against the motion to reconsider (VIII, 2437), but not against a bill returned with the President's objection (V, 4960, 4970). It may not be raised against a proposition before the House for reference merely, as a petition (V, 4964). It may not be demanded against a class of business in order under a special order or rule, but may be demanded against each bill individually (IV, 3308, 3309; V, 4958, 4959). It may be raised against a bill which has been made a special order (IV, 3175; V, 4953–4957), unless the order provides for immediate consideration (V, 4960), and it may be raised against a bill on the Union Calendar on Calendar Wednesday before resolving into the Committee of the Whole even after one Wednesday has been devoted to it (VIII, 2447); but it may not be raised against a report from the Committee on Rules relating to the order of considering individual bills (V, 4961–4963; VIII, 2440, 2441).

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

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

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

may be demanded before points of order are raised against the substance of the report (VIII, 2439; Speaker Albert, Sept. 28, 1976, p. 33019).

§ 781a. Unfunded mandates.

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

§ 782. Precedence of privileged motions.

4. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question. After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution. However, with respect to any motion to recommit with instructions after the previous question shall have been ordered, it always shall be in order to debate such motion for ten minutes before the vote is taken on that motion, except that on demand of the floor manager for the majority it shall be in

order to debate such motion for one hour. One half of any debate on such motions shall be given to debate by the mover of the motion and one half to debate in opposition to the motion. It shall be in order at any time during a day for the Speaker, in his discretion, to entertain motions that (1) the Speaker be authorized to declare a recess; and (2) when the House adjourns it stand adjourned to a day and time certain. Either motion shall be of equal privilege with the motion to adjourn provided for in this clause and shall be determined without debate.

The first form of this clause appears in 1789, but amendments have been made at various times (V, 5301; VIII, 2757). That portion of the clause relating to debate on the motion to recommit with instructions was included as section 123 of the Legislative Reorganization Act of 1970 and was made a part of the standing rules in the 92d Congress (H. Res. 5, Jan. 22, 1971, p. 14). The final two sentences of the clause were added in the 93d Congress to enable a privileged, nondebatable motion to fix the adjournment (H. Res. 6, Jan. 3, 1973, pp. 26–27), and amended in the 102d Congress to enable a privileged, nondebatable motion for recess authority (H. Res. 5, Jan. 3, 1991, p. 39). The clause was also amended in the 99th Congress to provide that on the demand of the majority floor manager of a bill or joint resolution, the ten minutes of debate on a motion to recommit with instructions, the previous question having been ordered, may be extended to one hour, equally divided and controlled (H. Res. 7, Jan. 3, 1985, p. 393).

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

§783. The motion to adjourn.

The motion to adjourn not only has the highest precedence when a question is under debate, but, with certain restrictions, it has the highest privilege under all other conditions. Even questions of privilege (III, 2521), such as a motion privileged under the Constitution (VIII, 2641), the filing of a privileged report pursuant to clause 4(a) of rule XI (Apr. 29, 1985, p. 9699), a motion to suspend the rules (Aug. 11, 1992, p. ——), and the motion to reconsider yield to it (V, 5605), and a conference report may defer it only until the

report is before the House (V, 6451–6453). The motion may be made after the yeas and nays are ordered and before the roll call has begun (V, 5366), before the reading of the Journal (IV, 2757) or the Speaker's approval thereof (Speaker Wright, Nov. 2, 1987, p. 30386), pending a motion to reconsider (Sept. 20, 1979, pp. 25512–13), after the House rejects a motion to table a motion to instruct conferees and before the vote occurs on the motion to instruct (May 29, 1980, pp. 12717–19), or when the Speaker is absent and the Clerk is presiding (I, 228), and in the absence of a quorum has precedence over the motion for a call of the House (VIII, 2642), takes priority of a motion to dispense with further proceedings under the call (VIII, 2643), and takes precedence of a motion directing the Sergeant-at-Arms to arrest absentees during a call of the House (June 6, 1973, p. 18403). But the motion to adjourn may not interrupt a Member who has the floor (V, 5369, 5370; VIII, 2646; Mar. 25, 1993, p. ——; Oct. 1, 1997, p. ——) as, for example, by virtue of unanimous consent permission to announce to the House the legislative program (Dec. 14, 1982, p. 30549), or a call of the yeas and nays (V, 6053), or the actual act of voting by other means (V, 5360), or be made after the House has voted to go into Committee of the Whole (IV, 4728; V, 5367, 5368), or defer the right of a Member to take the oath (I, 622) and may not be repeated in the absence of intervening business (Speaker Albert, July 31, 1975, p. 26243); and when no question is under debate it may not displace a motion to fix the day to which the House shall adjourn (V, 5381). The Speaker has refused to recognize for a motion to adjourn pending a vote on a proposition, where a special order provided that the House vote thereon "without intervening motion" (IV, 3211–3213).

When the House has fixed the hour of daily meeting, the simple motion to adjourn may neither be amended (V, 5754) by specifying a particular day (V, 5360) or hour (V, 5364) (but see § 784, *infra*, for a discussion of the equally privileged motion to fix the day and time to which the House shall adjourn); nor by stating the purposes of adjournment (V, 5371, 5372; VIII, 2647). However, when the hour of daily meeting is not fixed, the motion to adjourn may fix it (V, 5362, 5363). A motion to adjourn is in order in simple form only (VIII, 2647), is not debatable (V, 5359), may not be laid on the table (Aug. 3, 1990, p. 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. ——).

§784. 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 of rule XVI and given privileged status in the 93d Congress (H. Res. 6, Jan. 3, 1973, pp. 26–27). At several times during the 19th Century the motion to fix the day to which the House should adjourn was included within the rule as to the precedence of motions but was dropped because of its use in obstructive tactics (V, 5301, 5379). The following precedents relate to the use of the motion in its earlier form: No question being under debate, a motion to fix the day to which the House should adjourn, already made, was held not to give way to a motion to adjourn (V, 5381). But if the motion to adjourn be made first, the motion to fix the day or for a recess is not entertained (V, 5302). The motion to fix the day is not debatable under the practice of the House (V, 5379, 5380; VIII, 2648, 3367), requires a quorum for adoption (IV, 2954; June 19, 1975, p. 19789; June 22, 1976, p. 19755), and is only in order if offered on the day on which the adjournment applies (Speaker pro tempore O'Neill, Sept. 23, 1976, p. 32104). The House may convene and adjourn twice on the same calendar day pursuant to a motion under this clause that when the House adjourn it adjourn to a time certain later in the day, thereby meeting for two legislative days on the same calendar day (Nov. 17, 1981, p. 27771; Oct. 29, 1987, p. 29933; June 29, 1995, p. ——). When the Speaker exercises his discretion to entertain "at any time" a motion that when the House adjourn it stand adjourned to a day and time certain, the motion is of equal privilege with the simple motion to adjourn and takes precedence over a pending question on which the vote has been objected to for lack of a quorum (Nov. 17, 1981, p. 27770). The motion is not subject to the motion to lay on the table since it is not debatable and the precedence conferred on the motion to table only applies to a question that is "under debate" (Nov. 17, 1981, p. 27770).

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. ——).

§785. Motion to lay on the table.

The motion to lay on the table is used in the House for a final, adverse disposition of a matter without debate (V, 5389), and is in order before the Member entitled to prior recognition for debate has begun his remarks (V, 5391–5395; VIII, 2649, 2650). Under the explicit terms of this clause, the motion is not debatable (Oct. 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. ——), an appeal from a decision of the Chair (VIII, 3453), a motion to discharge a committee from a resolu-

tion of inquiry (VI, 415), a motion that the Journal be approved as read (Sept. 13, 1965, p. 23600), 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, pp. 25512–13).

When a bill is laid on the table, pending motions connected therewith go to the table also (V, 5426, 5427); and when a proposed amendment is laid on the table the pending bill goes there also (V, 5423; VIII, 2656), and if a pending amendment to a special order reported from the Committee on Rules were tabled, it would carry the resolution with it and is thus considered dilatory under clause 4(b) of rule XI (Sept. 25, 1990, p. 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 another resolution with which it is connected, or a preamble (V, 5248, 5430); and a petition does not accompany the motion to receive it when the latter is laid on the table (V, 5431–5433); a bill does not accompany a motion to instruct conferees which is laid on the table (VIII, 2658).

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

The motion is not in order in Committee of the Whole (IV, 4719, 4720; VIII, 2330, 2556a, 3455; Mar. 16, 1995, p. ——), or on motions to go into the Committee of the Whole (VI, 726). It may not be amended (V, 5754), for example, to operate for a specified time (Oct. 17, 1991, p. 26749), or applied to the motions for adjournment (Aug. 3, 1990, p. 22195), the previous question (V, 5410–5411; Oct. 4, 1994, p. ——), to suspend the rules (V, 5405), to commit after the previous question is ordered (V, 5412–5414; VIII, 2653, 2655), or to any motion relating to the order of business (V,

5403, 5404). It may not be applied to a motion to discharge a committee under rule XXVII (June 11, 1945, p. 5892) but may be applied to the motion to discharge a committee from consideration of a resolution of inquiry (V, 5407). It is generally not applicable to motions that are neither debatable nor amendable and hence cannot be applied to a motion to dispense with further proceedings under a call of the House (Speaker McCormack, Aug. 27, 1962, pp. 17651–54), or to a motion that when the House adjourn it stand adjourned to a day and time certain (Nov. 17, 1981, p. 27770). The motion to lay on the table is applicable to debatable secondary or privileged motions for disposal of another matter; thus a motion to refer (V, 5433; Aug. 13, 1982, pp. 20969, 20975–78) or a motion to recede and concur in a Senate amendment in disagreement may be laid on the table (Speaker O'Neill, Feb. 22, 1978, p. 4072) without carrying the pending matter to the table. The motion is not applicable to a conference report (V, 6540).

§786. The motions to postpone.

As indicated in the rule, the motions to postpone are two in number and distinct: One to postpone to a day certain; the other to postpone indefinitely. Each must apply to the whole and not a part of the pending proposition (V, 5306). Neither may be entertained after the previous question is ordered (V, 5319–5321; VIII, 2616, 2617), or be applied to a special order providing for the consideration of a class of bills (V, 4958); but when a bill comes before the House under the terms of a special order that assigns a day merely, a motion to postpone may be applied to the bill (IV, 3177–3182). Business postponed to a day certain is in order on that day immediately after the approval of the Journal and disposition of business on the Speaker's Table, unless displaced by more highly privileged business (VIII, 2614). Where consideration of a measure postponed to a day certain resumes as 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, the remainder of the day is devoted to business in order under the Calendar Wednesday rule (VII, 970). The motion is not used in Committee of the Whole, but a motion that a bill be reported with the recommendation that it be postponed is in order in the Committee of the Whole proceeding under the general rules of the House (IV, 4765; VIII, 2372), is debatable (VIII, 2372), and is a preferential motion (VIII, 2372, 2615), but debate is confined to the advisability of postponement only (VIII, 2372). It has been held in order to postpone an appeal (VIII, 2613). A bill under consideration in the morning hour may not be made a special order by a motion to postpone to a day certain (IV, 3164).

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

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

§787. The motions to refer.

The parliamentary motion to refer is explicitly recognized and given status in four different situations under House rules: The ordinary motion provided for in the first sentence of this clause; the motion to recommit with or without instructions after the previous question has been ordered on a bill or joint resolution to final passage, provided in the second sentence of this clause; the motion to commit, with or without instructions, pending the motion for or after ordering of the previous question as provided in clause 1 of rule XVII (V, 5569) and the motion to refer, with or without instructions, pending a vote in the House to strike out the enacting clause as provided in clause 7 of rule XXIII. The terms "refer," "commit," and "recommit" are sometimes used interchangeably (V, 5521; VIII, 2736), but when used in the precise manner and situation contemplated in each rule, reflect certain differences based upon whether the question to which applied is "under debate," whether the motion itself is debatable, whether a Minority Member or a Member opposed to the question to which the motion is applied is entitled to a priority of recognition, and whether the prohibition in clause 4(b) of rule XI against a special order reported from the Committee on Rules denying a motion to recommit a bill or joint resolution pending final passage is applicable. The motion may not be used in direct form in Committee of the Whole (IV, 4721; VIII, 2326); and where a bill is being considered under the provisions of a resolution stating that "at the conclusion of the consideration of the bill for amendment under the five-minute rule the Committee shall rise and report the bill back to the House with such amendments as may have been adopted," a motion that the Committee rise and report to the House with the recommendation that the bill be recommitted to the legislative committee reporting it is not in order (Aug. 10, 1950, p. 12219). It may be made after the engrossment and third reading of a bill, even though the previous question may not have been ordered (V, 5562, 5563).

If the previous question is rejected on a preferential motion to dispose of Senate amendments in disagreement, the preferential motion remains "under debate" and the motion to refer may be offered under this clause (Speaker Albert, Sept. 16, 1976, pp. 30887–88). A motion to refer takes

precedence over motion to amend when a question is under debate (such as where the previous question has been rejected), and the Chair recognizes the Member seeking to offer the preferential motion before the less preferential motion is read (Aug. 13, 1982, pp. 20969, 20975–78).

The simple motion to refer under the first sentence of this clause is debatable within narrow limits (V, 5054) and may be offered by any Member (who need not qualify as being in opposition to the pending question) when that question is "under debate," *i.e.*, when the previous question has not been moved or ordered, but the merits of the proposition sought to be referred may not be brought into the debate (V, 5564–5568; VI, 65, 549; VIII, 2740). The motion to refer with instructions is also debatable (V, 5561); but the previous question is preferential (Mar. 22, 1990, p. 4997), and when the previous question is ordered on a bill to final passage, debate on a straight motion to recommit under the second sentence of this clause is no longer in order and only a motion to recommit with instructions is debatable for the ten minutes specified in the rule (June 22, 1995, p. ——). Prior to the amendment of clause 4 of rule XVI in the 92d Congress, no debate was permitted on a motion to recommit with instructions after the previous question was ordered (V, 5561, 5582–5584; VIII, 2741). The ten minutes' debate provided under this clause on motions to recommit with instructions does not apply to a motion to recommit with instructions a simple or concurrent resolution or conference report, since the clause limits its applicability to bills and joint resolutions (Nov. 15, 1973, p. 37151; Mar. 29, 1976, p. 8444; Speaker O'Neill, June 19, 1986, p. 14698). The manager of a bill or joint resolution and not the proponent of a motion to recommit with instructions has the right to close controlled debate on a motion to recommit (Speaker Wright, Dec. 3, 1987, p. 34066); the Member recognized for five minutes in favor of the motion may not reserve time (Speaker Wright, June 29, 1988, p. 16510; June 29, 1989, p. 13938).

§788. Instructions with the motion to refer.

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

others cannot be ruled out as interfering with the right of the minority to move recommitment (VIII, 2759). The Member offering a motion to recommit a bill with instructions may, at the conclusion of the ten minutes of debate thereon, yield to another Member to offer an amendment to the motion if the previous question has not been ordered on the motion to recommit (Speaker Albert, July 19, 1973, p. 24967).

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

It is not in order to propose as instructions anything that might not be proposed directly as an amendment (V, 5529–5541; VIII, 2705), such as to eliminate an amendment adopted by the House (VIII, 2712), strike out an amendment that has been adopted and insert something in its place (VIII, 2715), to amend an adopted amendment (VIII, 2720, 2721, 2724), to propose an amendment containing legislation on a general appropriation bill (Sept. 1, 1976, pp. 28883–84), or to propose instructions to add a limitation to a general appropriation bill except pursuant to clause 2(d) of rule XXI (Sept. 19, 1983, p. 24646; Speaker Foley, Aug. 1, 1989, p. 17159, and Aug. 3, 1989, p. 18546, each time sustained by tabling of appeal; July 1, 1992, p. ——; June 22, 1995, p. ——); but it has been held in order to re-offer an amendment rejected by the House (VIII, 2728); and where a special rule providing for the consideration of a bill prohibited the offering of amendments to a certain title of the bill during its consideration (in both the House and the Committee of the Whole), it was held not in order to offer a motion to recommit with instructions to incorporate an amendment in the restricted title (Jan. 11, 1934, pp. 479–83). Where an amendment in the nature of a substitute has been adopted, and no motion to recommit with an amendment is in order, the minority has sometimes used a motion that directs a committee to study an issue and to report "promptly" its recommendations (Mar. 29, 1990, p. 1834). Instructions must be germane to the bill regardless of whether they directly propose an amendment thereto (Sept. 23, 1992, p. ——). In the 104th Congress clause 4(b) of rule XI was amended to preclude the Committee on Rules from reporting a special order that would prevent the Minority Leader or his designee from offering a motion to recommit with instructions to report back an amendment otherwise in order (but for the adoption of a prior amendment). See § 729a, *supra*.

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

As stated in the second sentence of clause 4 of rule XVI, recognition to offer the motion to recommit, whether a "straight" motion or with instructions, is the prerogative of a Member who is opposed to the bill or joint resolution (Speaker Martin, Mar. 19, 1954, p. 3967); and the Speaker looks first to the Minority Leader or his designee (as imputed by the form of clause 4(b) of rule XI adopted in the 104th Congress), then to minority members of the committee reporting the bill, in order of their rank on the committee (Speaker Garner, Jan. 6, 1932, p. 1396; Speaker Byrns, July 2, 1935, p. 10638), then to other Members on the minority side (Speaker Rayburn, Aug. 16, 1950, p. 12608). Until a qualifying Minority Member has had his motion read by the Clerk, he is not entitled to the floor so as to prevent another qualifying senior Minority Member from the reporting committee from seeking recognition to offer the motion to recommit (Speaker O'Neill, Apr. 24, 1979, pp. 8360–61). If no Member of the minority qualifies, a majority Member who is opposed to the bill may be recognized (Speaker Garner, Apr. 1, 1932, p. 7327). The priority of recognition of a Member of the minority who is opposed is not diminished by the fact that the minority party may have successfully led the opposition to the previous question on the special order governing consideration of the bill and offered a "modified closed rule" permitting only minority Members to offer perfecting amendments to the majority text (June 26, 1981, p. 14740). But while the motion to recommit is the prerogative of the minority if opposed, a Member who in the Speaker's determination leads the opposition to the previous question on the motion to recommit, such as the chairman of the committee reporting the bill, is entitled to offer an amendment to the motion to recommit, regardless of party affiliation (June 26, 1981, pp. 14791–93). A Member who is opposed to the bill "in its present form" (*i.e.*, in the form before the House when the motion is made) qualifies to offer the motion (Speaker Martin, Apr. 15, 1948, p. 4547; Speaker McCormack, Mar. 12, 1964, p. 5147; Speaker Albert, Feb. 19, 1976, p. 3920). The Chair does not assess the degree of a Member's opposition (Oct. 23, 1991, p. 28258). These principles of recognition have been applied to motions to

"commit" or "recommit" simple or concurrent resolutions as well under clause 1 of rule XVII in situations where the resolution or a similar measure has been reported from committee (Nov. 28, 1979, p. 33914).

§ 789. Repetition of motions.

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

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

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

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

§ 791. Division of the question.

6. On the demand of any Member, before the question is put, a question shall be divided if it includes propositions so distinct in substance that one being taken away a substantive proposition shall remain: *Provided*, That any motion or resolution to elect the members or any portion of the members of the standing committees of the House and the joint standing committees shall not be divisible, nor shall any resolution or order reported by the Committee on Rules, providing a special order of business be divisible.

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

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

§792. Principles governing the division of the question.

The principle that there must be at least two substantive propositions in order to justify division is insisted on rigidly (V, 6108–6113), as failure to do so produces difficulties (III, 1725). The question may not be divided after it has been put (V, 6162), or after the yeas and nays have been ordered (V, 6160, 6161); but division of the question may be demanded after the previous question is ordered (V, 5468, 6149; VIII, 3173). In passing on a demand for division the Chair considers only substantive propositions and not the merits of the question presented (V, 6122). It seems to be most proper, also, that the division should depend on grammatical structure rather than on the legislative propositions involved (I, 394; V, 6119), but a question presenting two propositions grammatically is not divisible if either does not constitute a substantive proposition when considered alone (VII, 3165). Thus a resolution censuring a Member and adopting a report of a committee thereon, which recommends censure on the basis of the committee's findings, is not divisible since those questions are substantially equivalent (Speaker O'Neill, Oct. 13, 1978, pp. 37016–17); and an adjournment resolution that also authorizes the receipt of veto messages from the President during the adjournment is not subject to a division of the question, as the receipt authority would be nonsensical standing alone (June 30, 1976, p. 21702); however, a concurrent resolution on the budget is subject to a demand for a division of the question if, for example, the resolution grammatically and substantively relates to different fiscal years (May 7, 1980, pp. 10185–87), or includes a separate, hortatory section having its own grammatical and substantive meaning (Speaker Foley, Mar. 5, 1992, p. ——). Decisions have been made that a resolution affecting two individuals may be divided, although such division may involve a reconstruction of the text (I, 623; V, 6119–6121). The better practice seems to be, however, that this reconstruction of the text should be made by the adoption of a substitute amendment of two branches, rather than by interpretation of the Chair (II, 1621). But merely formal words, such as "resolved," may be supplied by interpretation of the Chair (V, 6114–6118). A resolution with two resolve clauses separately certifying the contemptuous conduct of two individuals is divisible (Feb. 27, 1986, p. 3040).

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

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

A measure containing a series of simple resolutions may be divided (V, 6149), and a division of the question may be demanded on a resolution confirming several nominations (Speaker Albert, Mar. 19, 1975, p. 7344). Where an amendment is offered to an appropriation bill providing that no part of the appropriation may be paid to named individuals, the amendment may be divided for a separate vote on each name (Feb. 5, 1943, p. 645). An amendment (to a joint resolution making continuing appropriations) containing separate paragraphs appropriating funds for different programs may be substantively and grammatically divisible although preceded by the same prefatory language applicable to all the paragraphs, and the Clerk will read each paragraph as including the prefatory language prior to the Chair's putting the question thereon (Nov. 8, 1983, p. 31495). An amendment proposing to change a figure in one paragraph of an appropriation bill and also to insert a new ("fetch-back") paragraph at another point in the bill is divisible (July 15, 1993, p. ——). A division may be demanded on the motion to recede from disagreement to a Senate amendment and concur therein (see § 525, *supra*; V, 6209; VIII, 3197–3199, 3203), on a proposition to strike out various unrelated phrases (VIII, 3166; Mar. 28, 1984, p. 6898), on a resolution of impeachment (VI, 545), but may not be demanded on Senate amendments when sending to conference (V, 6151–6156; VIII, 3175). A division of the question may not be demanded, with respect to a motion to concur in a Senate amendment with an amendment, between concurring and amending (VIII, 3176), and may not be demanded on separate parts of the proposed amendment if it is not properly divisible under the same tests that apply to any other amendment (Aug. 3, 1973, pp. 28124–26; Oct. 11, 1984, p. 32188). Thus a proposed amendment to a Senate amendment is not divisible under clause 7 of this rule if in the form of a motion to strike out and insert (Oct. 15, 1986, p. 32135). Each Senate amendment must be voted on as a whole (VIII, 3175) but the Committee of the Whole having reported a Senate amendment with the recommendation that it be agreed to with an amendment, a separate vote was had on the amendment to the Senate amendment (VIII, 2420). When Senate amendments to a House bill are considered in the House a separate vote may be had on each amendment (VIII, 2383, 2400, 3191), and separate votes may be had on nongermane portions of Senate amendments as provided in clause 5 of rule XXVIII.

When a motion is made to lay several connected propositions on the table a division is not in order (V, 6138–6140), nor is a division in order where the previous question is moved on two related propositions, as on a special order reported from the Committee on Rules and a pending amendment thereto (Sept. 25, 1990, p. 25575). On a motion to commit

with instructions it is not in order to demand a separate vote on the instructions or various branches thereof (V, 6134–6137; VIII, 2737, 3170; Speaker Rayburn, Apr. 11, 1956, p. 6157; June 29, 1993, p. ——). However, an amendment reported forthwith pursuant to instructions contained in a successful motion to recommit may be divided on the question of its adoption if composed of substantively and grammatically distinct propositions (June 29, 1993, p. ——). A motion to recommit a bill to conference with various instructions may not be divided (Sept. 29, 1994, p. ——). However, a motion to instruct conferees after 20 days of conference (when multiple motions are in order) may be divided (Speaker Byrns, May 26, 1936, p. 7951), provided that separate substantive propositions are presented (Speaker Rayburn, May 9, 1946, p. 4750).

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

On a decision of the Speaker involving two distinct questions, there may be a division on appeal (V, 6157). After the vote on the first member of the question, the second is open to debate and amendments, unless the previous question is ordered (see § 482, *supra*). Where a division of the question is demanded on a portion of an amendment, the Chair puts the question first on the remaining portions of the amendment, and that portion on which the division is demanded remains open for further debate and amendment (Oct. 21, 1981, pp. 24785–89). However, where no further debate or amendment is in order on the divided portion, the Chair may put the question first on the divided portion(s) and then immediately on the remaining portion (Aug. 17, 1972, Deschler's Precedents, vol. 9, ch. 27, sec. 22.14; June 8, 1995, p. ——). Where a division of the question is demanded on more than one portion of an amendment, the Chair may put the question first on the remaining portions of the amendment (if any), then (after further debate) on the first part on which a division is demanded, and then (after further debate) on the last part on which a division

is demanded (Oct. 21, 1981, pp. 24785–89). Where a motion to concur in a Senate amendment is divided pursuant to a special rule permitting that procedure, the Chair puts the question first on the first portion of the Senate amendment, and then on the remaining portion (Mar. 4, 1993, p. ——). Where the question on adopting an amendment is divided by special rule (rather than on demand 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. ——).

Absent a contrary order, the question may be divided on an amendment en bloc comprising discrete instructions to amend, even though unanimous consent has just been granted for the en bloc consideration (July 25, 1990, p. 19174; July 18, 1991, p. 18851). A demand for a division of the question on a separate portion of an amendment may be withdrawn before the question is put on the first portion thereof (July 15, 1993, p. ——), but once the Chair has put the question on the first portion of the amendment, a demand for a division may be withdrawn only by unanimous consent (Sept. 9, 1976, pp. 29538–40).

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

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

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

When it is proposed to strike out and insert not one but several connected matters, it is not in order to demand a separate vote on each of those matters (V, 6124, 6125), as when an amendment in the nature of a substitute containing several resolutions is proposed; but after this amendment has been agreed to, it is in order to demand a division of the original resolution as amended (V, 6127, 6128). When, however, an amendment simply adding or inserting is proposed, it is in order to divide the amendment (V, 6129–6133). To a motion to strike certain words and insert others, a simple motion to strike out the words may not be offered as a substitute, as it would have the effect of dividing the motion to strike out and insert (June 29, 1939, pp. 8282, 8284–85; June 19, 1979, pp. 15566–68).

§ 794. Germane amendments.

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

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

It introduced a principle not then known to the general parliamentary law (V, 5825), but of high value in the procedure of the House (V, 5866).

Prior to the adoption of rules, when the House is operating under general parliamentary law, as modified by the usage and practice of the House, an amendment may be subject to the point of order that it is not germane to the proposition to which offered (Jan. 3, 1969, p. 23). The principle of the rule applies to a proposition by which it is proposed to modify the pending bill, and not to a portion of the bill itself (V, 6929); thus a point of order will not lie that an appropriation in a general appropriation bill is not germane to the rest of the bill (Dec. 16, 1963, p. 24753). In general, an amendment simply striking out words already in a bill may not be ruled out as not germane (V, 5805; VIII, 2918) unless such action would change the scope and meaning of the text (VIII, 2917–2921; Mar. 23, 1960, p. 6381); and a pro forma amendment "to strike out the last word" has been considered germane (July 28, 1965, p. 18639). While a committee may report a bill or resolution embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment (V, 5825). The rule that amendments should be germane applies to amendments reported by committees (V, 5806), but a resolution providing for consideration of the bill with committee amendments may waive points of order (Oct. 10, 1967, p. 28406), and the point of order under this rule does not apply to a special order reported from the Committee on Rules "self-executing" the adoption in the House of a nongermane amendment to a bill, since the amendment is not separately before the House during consideration of the special order (Feb. 24, 1993, p. ——; July 27, 1993, p. ——). A resolution reported from the Committee on Rules providing for the consideration of a bill relating to a certain subject may be amended neither by an amendment that would substitute the consideration of an unrelated proposition (V, 5834–5836; VIII, 2956; Sept. 14, 1950, p. 14844) nor an amendment that would permit the additional consideration of a non-germane amendment to the bill (May 29, 1980, pp. 12667–73; Aug. 13, 1982, p. 20972). The Chair will not interpret as a point of order under a specific rule of the House, on which he must rule, an objection to a substitute as "narrowing the scope" of a pending amendment, absent some stated or necessarily implied reference to the germaneness or other rule (June 25, 1987, p. 17415). The burden of proof is on the proponent of an amendment to establish its germaneness (VIII, 2995), and where an amendment is equally susceptible to more than one interpretation, one of which will render it not germane, the Chair will rule it out of order (June 20, 1975, p. 19967).

§795. Proposition to which amendment must be germane.

Under the later practice an amendment should be germane to the particular paragraph or section to which it is offered (V, 5811–5820; VIII, 2922, 2936; Oct. 14, 1971, pp. 36194, 36211; Sept. 19, 1986, p. 24729), without reference to subject matter of other titles not yet read (July 31, 1990, p. 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, pp. 8508–09), and when offered as a separate paragraph is not required to be germane to the paragraph immediately preceding or following it (VII, 1162; VIII, 2932–2935).

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. ——).

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

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

An amendment adding a new section to a bill being read by titles must be germane to the pending title (Sept. 17, 1975, p. 28925), but where a bill is considered as read and open to amendment at any point, an amendment must be germane to the bill as a whole and not to a particular section (Sept. 29, 1975, p. 30761; Jan. 30, 1986, p. 1052). Where a title of a bill is open to amendment at any point, the germaneness of an amendment perfecting one section therein depends on its relationship to the title as a whole and not merely on its relationship to the one section (June 25, 1991, p. 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, pp. 18601–02; Oct. 8, 1985, pp. 26548–51). While the heading of the final title of a bill as "miscellaneous" does not thereby permit amendments to that title which are not germane thereto, the inclusion of sufficiently diverse provisions in such title affecting various provisions in the bill may permit further amendments which need only be germane to the bill as a whole (Apr. 10, 1979, pp. 8034–37).

Under clause 4 of rule XXVIII, a portion of a conference report incorporating part of a Senate amendment in the nature of a substitute to a House bill, or incorporating part of a Senate bill that the House has amended, must be germane to the bill in the form passed by the House; thus where a House-passed bill contained several sections and titles amending diverse

portions of the Internal Revenue Code relating to tax credits, a modified Senate provision adding a new section dealing with another tax credit was held germane to the House-passed measure as a whole (Speaker Albert, Mar. 26, 1975, p. 8900); but a Senate provision in a conference report, on a Senate bill with a House amendment in the nature of a substitute, which authorized appointment of a special prosecutor for any criminal offenses committed by certain Federal officials was held not germane to the bill as passed by the House, which related to offenses directly related to official duties and responsibilities of Federal officials (Oct. 12, 1978, pp. 36459–61).

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

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

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

§796. Instructions to committees and amendments thereto.

The rule that amendments must be germane applies to amendments to the instructions in a motion to instruct conferees (VIII, 3230, 3235), and the test of an amendment to a motion to instruct conferees is the relationship of the amendment to the subject matter of the House or Senate version of the bill (Deschler-Brown Precedents, vol. 11, ch. 28, sec. 28.2). The rule of germaneness similarly applies to the instructions in a motion to recommit a bill to a committee of the House, as it is not in order to propose as part of a motion to recommit any proposition that would not have been germane if proposed as an amendment to the bill in the House (V, 5529–5541; VIII, 2708–2712; Mar. 2, 1967, p. 5155), and

the instructions must be germane to the bill as perfected in the House (Nov. 19, 1993, p. ——), even where the instructions do not propose a direct amendment to the bill but merely direct the committee to pursue an unrelated approach (Speaker O'Neill, Mar. 2, 1978, p. 5272; July 16, 1991, p. 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).

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

In the consideration of Senate amendments to a House bill an amendment must be germane to the particular Senate amendment to which it is offered (V, 6188–6191; VIII, 2936; May 14, 1963, p. 8506; Dec. 13, 1980, p. 34097), and it is not sufficient that an amendment to a Senate amendment is germane to the original House bill if it is not germane to the subject matter of a Senate amendment that merely inserts new matter and does not strike out House provisions (V, 6188; VIII, 2936). But where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken, as well as those to be inserted, by the Senate amendment (June 8, 1943, p. 5511; June 15, 1943, p. 5899; Dec. 12, 1974, pp. 39272–73). The test of the germaneness of an amendment to a motion to concur in a Senate amendment with an amendment is the relationship between the amendment and the motion, and not between the amendment and the Senate amendment to which the motion has been offered (Aug. 3, 1973, Deschler-Brown Precedents, vol. 11, ch. 28, sec. 27.6). Formerly, a Senate amendment was not subject to the point of order that it was not germane to the House bill (VIII, 3425), but under changes in the rules points of order may be made and separate votes demanded on portions of Senate amendments and conference reports containing language that would not have been germane if offered in the House. Clause 4 of rule XXVIII permits points of order against language in a conference report which was originally in the Senate bill or amendment and which would not have been germane if offered to the House-passed version, and permits a separate motion to reject such portion of the conference report if found non-germane (Oct. 15, 1986, pp. 31498–99). For purposes of that rule, the House-passed version, against which Senate provisions are compared, is that finally committed to conference, taking into consideration all amendments adopted by the House, including House amendments to Senate amendments (July 28,

1983, p. 21401). Clause 5 of rule XXVIII permits points of order against motions to concur or concur with amendment in non-germane Senate amendments, the stage of disagreement having been reached, and, if such points of order are sustained, permits separate motions to reject such non-germane matter. Clause 5 of rule XXVIII is not applicable to a provision contained in a motion to recede and concur with an amendment (the stage of disagreement having been reached) which is not contained in any form in the Senate version, the only requirement in such circumstances being that the motion as a whole be germane to the Senate amendment as a whole under clause 7 of rule XVI (Oct. 4, 1978, pp. 33502–06; June 30, 1987, p. 18294).

§ 798a. Subject matter as test of germaneness.

An amendment must relate to the subject matter under consideration. To a bill seeking to eliminate wage discrimination based on the sex of the employee, an amendment to make the provisions of the bill applicable to discrimination based on race was ruled out as not germane (July 25, 1962, p. 14778). To a bill establishing an office in the Department of the Interior to manage biological information, an amendment addressing socioeconomic matters was held not germane (Oct. 26, 1993, p. ——). To a bill authorizing military assistance to Israel and funds for the United Nations Emergency Force in the Middle East, an amendment expressing the sense of Congress that the President conduct negotiations to obtain a peace treaty in the Middle East and the resumption of diplomatic and trade relations between Arab nations and the U.S. and Israel was held not germane (Dec. 11, 1973, pp. 40842–43). To a concurrent resolution expressing Congressional concern over certain domestic policies of a foreign government and urging that government to improve those internal problems in order to enhance better relations with the United States, amendments expressing the necessity for U.S. diplomatic initiatives as a consequence of that foreign government's policies are not germane (July 12, 1978, pp. 20500–05). To a resolution amending several clauses of a rule of the House but confined in its scope to the issue of access to committee hearings and meetings, an amendment to another clause of that rule relating to committee staffing was held not germane (Mar. 7, 1973, p. 6714). To a title of a bill that only addresses the administrative structure of a new department and not its authority to carry out transferred programs, an amendment prohibiting the department from withholding funds to carry out certain objectives is not germane (June 12, 1979, pp. 14485–86). To an amendment authorizing the use of funds for a specific study, an amendment naming any program established in the bill for an unrelated purpose for a specified Senator was held not germane (Aug. 15, 1986, p. 22075). 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 was held not germane (June 25, 1997, p. ——). To a bill reauthorizing the National Sea Grant College Program, a proposal to amend existing law to provide for automatic con-

tinuation of appropriations in the absence of timely enactment of a regular appropriation bill was held not germane (June 18, 1997, 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 proposition directing a feasibility investigation, an amendment requiring the submission of legislation to implement that investigation (Dec. 14, 1973, pp. 41747–48); 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, pp. 5436–37); to a bill providing for an interoceanic canal by one route, an amendment providing for a different route (V, 5909); to a bill providing for the reorganization of the Army, an amendment providing for the encouragement of marksmanship (V, 5910); to a proposition to create a board of inquiry, an amendment specifying when it shall report (V, 5915); to a bill relating to "oleomargarine and other imitation dairy products," an amendment on the subject of "renovated butter" (V, 5919); and to a resolution rescinding an order for final adjournment, an amendment fixing a new date therefor (V, 5920).

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, pp. 41688–89). 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 assistance, including food stamps and soup kitchen programs, was held not germane (Feb. 26, 1996, p. ——).

§ 798b. Fundamental purpose as test of germaneness.

Whether or not an amendment is germane should be judged from the provisions of its text rather than from the motives that circumstances may suggest (V, 5783, 5803; Dec. 13, 1973, pp. 41267–69; Aug. 15, 1974, pp. 28438–39). Thus an amendment that does relate to the subject matter of the bill is not subject to challenge solely on the basis that it may be characterized as private legislation benefitting certain individuals, offered to a public bill (May 30, 1984, p. 14495). The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII, 2911). Thus for a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that additional provisions not contained in the original bill were merely incidental conditions or exceptions that were related to the fundamental purpose of the bill (Aug. 2, 1973, pp. 27673–75; July 8, 1975, p. 21633;

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

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

However, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane. Thus, to a

bill to aid in the control of crime through research and training an amendment to accomplish that result through regulation of the sale of firearms was held not germane (Aug. 8, 1967, pp. 21846–50); to a bill providing relief to foreign countries through government agencies, an amendment providing for relief to be made through the International Red Cross was held not germane (Dec. 10, 1947, pp. 11242–44); and to a bill conserving energy by civil penalties on manufacturers of autos with low gas mileage, an amendment conserving energy by tax rebates to purchasers of high-mileage autos was held not germane (June 12, 1975, p. 18695). To a bill authorizing financial assistance to unemployed individuals for employment opportunities, an amendment providing instead for tax incentives to stimulate employment was held not germane as employing an unrelated method within the jurisdiction of a different committee of the House (Sept. 21, 1983, p. 25145); to a bill to promote technological advancement by fostering Federal research and development, and amendment exhorting to do so by changes in tax and antitrust laws was held not germane (July 16, 1991, p. 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 was held not germane (Sept. 17, 1991, p. 23156); to an amendment to achieve a national production goal for synthetic fuels for national defense needs by loans and grants and development of demonstration synthetic fuel plants, a substitute to require by regulation that any fuel sold in commerce require a certain percentage of synthetic fuels was held not germane, as broader in scope and an unrelated method (June 26, 1979, pp. 16663–74); to a proposition whose fundamental purpose was registration and public disclosure by, but not regulation of the activities of, lobbyists, amendments prohibiting lobbying in certain places, restricting monetary contributions by lobbyists, and providing civil penalties for violating rules of the House in relation to floor privileges, were held not germane (Sept. 28, 1976, pp. 33070–71), but to a similar bill, an amendment requiring disclosure of any lobbying communication made on the floor of the House or Senate or in adjoining rooms, but not regulating such conduct, was held germane (Apr. 26, 1978, pp. 11641–42); to a bill providing assistance to Vietnam war victims, amendments containing foreign policy declarations as to culpability in the Vietnam war were held not germane (Apr. 23, 1975, p. 11510); to a bill authorizing foreign military assistance programs, an amendment authorizing contributions to an international agency for nuclear missile inspections was held not germane (Mar. 3, 1976, p. 5226); and to a bill seeking to accomplish a purpose by one method (creation of an executive branch agency), an amendment accomplishing that result by a method not contemplated in the bill (creation of office within Legislative Branch as function of committee oversight) was ruled not germane (Nov. 5, 1975, p. 35041). A motion to recommit a joint resolution, proposing a constitutional amendment for representation of the District of Columbia in Congress, with instructions that the Committee on the Judiciary consider a resolution retroceding pop-

ulated portions of the District to Maryland, was held not germane (Speaker O'Neill, Mar. 2, 1978, p. 5272). To a bill to provide financial assistance to domestic agriculture through price support payments, an amendment to protect domestic agriculture by restricting imports in competition therewith was not germane as proposing an unrelated method of assistance within the jurisdiction of another committee (Oct. 14, 1981, p. 23899). It is not germane to change a direct appropriation of new budget authority from the general fund into a reappropriation (in effect a rescission) of funds previously appropriated for an entirely different purpose in a special reserve account (Feb. 28, 1985, p. 4146). To a proposition changing Congressional budget procedures to require consideration of balanced budgets, an amendment changing concurrent resolutions on the budget to joint resolutions, bringing executive enforcement mechanisms into play, was held not germane (July 18, 1990, p. 17920).

§798c. Committee jurisdiction as test of germaneness.

An amendment when considered as a whole should be within the jurisdiction of the committee reporting the bill, although committee jurisdiction over the subject of an amendment and of the original bill is not the exclusive test of germaneness (Aug. 2, 1973, pp. 27673–75), and the Chair relates the amendment to the bill in its perfected form (Aug. 17, 1972, p. 28913). To a bill reported from the Committee on Agriculture providing price support programs for various agricultural commodities, an amendment repealing price control authority for all commodities under an act reported from the Committee on Banking and Currency is not germane (July 19, 1973, pp. 24950–51). To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that Act and also affecting budget and appropriation procedures (matters within the jurisdiction of other House committees) was held not germane (Nov. 7, 1973, pp. 36240–41). To a bill relating to intelligence activities of the Executive Branch, an amendment effecting a change in the rules of the House by directing a committee to impose an oath of secrecy on its members and staff was held not germane (May 1, 1991, p. 9669). To a bill reported by the Committee on Government Operations creating an executive agency to protect consumers, an amendment conferring on Congressional committees with oversight over consumer protection the authority to intervene in judicial or administrative proceedings (a rule-making provision within the jurisdiction of the Committee on Rules) was ruled not germane (Nov. 6, 1975, p. 35373). Similarly, to a bill reported from the Committee on Government Operations creating a new department, transferring the administration of existing laws to it and authorizing appropriations to carry out the Act subject to provisions in existing law, an amendment prohibiting the use of funds so authorized to carry out a designated funding program transferred to the department is not necessarily germane, where the purpose of the authorization is to allow appropriations in general appropria-

tion bills for the department to carry out its functions, but where changes in the laws to be administered by the department remain within the jurisdiction of other committees of the House (June 19, 1979, pp. 15570–71). To a bill reported by the Committee on Public Works authorizing funds for highway construction and mass transportation systems using motor vehicles, an amendment relating to urban mass transit (then within the jurisdiction of the Committee on Banking and Currency) and the railroad industry (then within the jurisdiction of the Committee on Interstate and Foreign Commerce) was held not germane (Oct. 5, 1972, p. 34115). To a bill reported from the Committee on Science and Technology authorizing environmental research and development activities of an agency, an amendment expressing the sense of Congress with respect to that agency's regulatory and enforcement authority, within the jurisdiction of the Committee on Energy and Commerce, was held not germane (Feb. 9, 1984, p. 2423); to a bill authorizing environmental research and development activities of an agency for two years, an amendment adding permanent regulatory authority for that agency by amending a law not within the jurisdiction of the committee reporting the bill was held not germane (June 4, 1987, p. 14757); and to a bill addressing various research programs and authorities, an amendment addressing matters of fiscal and economic policy and regulation was held not germane (July 16, 1991, p. 18391; Sept. 22, 1992, pp. —— and ——). To a bill reported from the Committee on Armed Services amending several laws within that committee's jurisdiction on military procurement and policy, an amendment to the Renegotiation Act, a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs and not solely related to military contracts was held not germane (June 26, 1985, pp. 17417–19), as was an amendment requiring reports on Soviet Union compliance with arms control commitments, a matter exclusively within the jurisdiction of the Committee on Foreign Affairs (Deschler-Brown Precedents, vol. 10, ch. 28, sec. 4.26). To a bill reported from the Committee on Energy and Commerce relating to mentally ill individuals, an amendment prohibiting the use of General Revenue Sharing funds (within the jurisdiction of the Committee on Government Operations) was held not germane (Jan. 30, 1986, p. 1053). To a bill reported from the Committee on Merchant Marine and Fisheries authorizing various activities of the Coast Guard, an amendment urging the Secretary of State in consultation with the Coast Guard to elicit cooperation from other nations concerning certain Coast Guard and military operations (a matter within the jurisdiction of the Committee on Foreign Affairs) was held not germane (July 8, 1987, p. 19013). To a bill reauthorizing programs administered by two agencies within one committee's jurisdiction, an amendment more general in scope affecting agencies within the jurisdiction of other committees is not germane (May 12, 1994, p. ——). 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 ju-

risdiction of the Committee on Appropriations, is not germane (Nov. 30, 1995, p. ——).

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, pp. 23167–68; 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 permitting further similar amendments to be germane (July 11, 1985, pp. 18601–02; Sept. 19, 1986, p. 24769). To a bill reported from the Committee on Agriculture relating to the food stamp program, an amendment requiring the collection from certain recipients of the money value of food stamps received, by the Secretary of the Treasury after consultation with the Secretary of Agriculture, was held germane since the performance of new duties by the Secretary of the Treasury and by the Internal Revenue Service that do not affect the application of the Internal Revenue Code, is not a matter solely within the jurisdiction of the Committee on Ways and Means (July 27, 1977, pp. 25249–52).

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

ity of mortgage interest), a matter within the jurisdiction of the Committee on Ways and Means, was held not germane (Aug. 1, 1990, p. 21256).

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

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

The test of the germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee (Aug. 2, 1973, p. 27673; June 1, 1976, pp. 16021–25). However, the House may by adopting a special rule allow a point of order that a section of a committee amendment in the nature of a substitute would not have been germane if offered separately to the bill as introduced (May 23, 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, to a bill reported from the Committee on Foreign Affairs addressing U.S. claims against Iraq, a motion to recommit with instructions to prohibit the admission of former members of Iraq's armed forces to the United States as refugees (a matter within the jurisdiction of the Committee on the Judiciary) is not germane (Apr. 28, 1994, p. ——).

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

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

relating to commerce between the States, an amendment relating to commerce within the several States (V, 5841); to a proposition to relieve destitute citizens of the United States in Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality (V, 5897); to a proposition for the appointment of a select committee to investigate a certain subject, an amendment proposing an inquiry of the Executive on that subject (V, 5891); to a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the Government (V, 5887); to a provision for the erection of a building for a mint, an amendment to change the coinage laws (V, 5884); to a resolution proposing expulsion, an amendment proposing censure (VI, 236); to a resolution authorizing the administration of the oath to a Member-elect, an amendment authorizing such oath administration but adding several conditions of punishment predicated on acts committed in a prior Congress (Jan. 3, 1969, pp. 23–25); to a general tariff bill, an amendment creating a tariff board (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).

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

One individual proposition may not be amended by another individual proposition even though the two belong to the same class (VIII, 2951–2953, 2963–2966, 3047; Jan. 29, 1986, p. 684; Oct. 22, 1990, p. ——; Oct. 24, 1991, p. 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); to a measure earmaking funds in an appropriation bill, an amendment authorizing the program for which the appropriation is made (Nov. 15, 1989, p. 29019); to a bill for the relief of one individual, an amendment proposing similar relief for another (V, 5826–5829); to a resolution providing a special order for one bill, an amendment to include another bill (V, 5834–5836); to a provision for extermination of the cotton-boll weevil, an amendment including the gypsy moth (V, 5832); to a provision for a clerk for one committee, an amendment for a clerk to another committee (V, 5833); to a Senate amendment dealing with use of its contingent fund for art restoration in that body, a proposed House amendment for use of the House contingent fund for a similar but broader purpose (May 24, 1990, p. 12203); to a bill prohibiting transportation of messages relative to dealing in cotton futures, an amendment adding wheat, corn, etc. (VIII, 3001); to a bill prohibiting cotton futures, an amendment prohibiting wheat futures (VIII, 3001); to a bill for the relief of certain aliens, an amendment for the relief of other persons who are not aliens (May 14, 1975, p. 14360);

to a bill providing relief for agricultural producers, an amendment extending such relief to commercial fishermen, another class within the jurisdiction of another committee (Apr. 24, 1978, pp. 11080–81); to a bill governing the political activities of federal civilian employees, an amendment to cover members of the uniformed services (June 7, 1977, pp. 17713–14); to a bill covering the civil service system for federal civilian employees, an amendment bringing other classes of employees (postal and District of Columbia employees) within the scope of the bill (Sept. 7, 1978, pp. 28437–39; Oct. 9, 1985, pp. 26951–54); to a portion of an appropriation bill containing funds for a certain purpose to be expended by one agency, an amendment containing funds for another agency for the same purpose (July 24, 1981, p. 17226); to an amendment exempting national defense budget authority from the reach of a proposed Presidential rescission authority, an amendment exempting social security (Feb. 2, 1995, p. ——); to a Senate amendment striking an earmarking from an appropriation bill, a House amendment reinserting part of the amount but adding other earmarking for unrelated programs (Nov. 15, 1989, p. 29019); to a Senate amendment relating to a feasibility study of a land transfer in one state, a House amendment requiring an environmental study of land in another state (Nov. 15, 1989, p. 29035); to a bill prohibiting certain uses of polygraphy in the private sector, an amendment applying the terms of the bill to the Congress (Nov. 4, 1987, p. 30870); to a bill to determine the equitability of federal pay practices under statutory systems applicable to agencies of the executive branch, an amendment to extend the scope of the determination to pay practices in the legislative branch (ruling sustained by Committee of Whole, Sept. 28, 1988, p. 26422); to a special appropriation bill providing funds and authority for agricultural credit programs but containing no transfers of funds, reappropriations, or rescissions, an amendment (contained in a motion to recommit) deriving funds for the bill by transfer of unobligated balances in the Energy Security Reserve and thus decreasing and transferring funds provided for a program unrelated to the subject matter or method of funding provided in the bill (Feb. 28, 1985, p. 4146); to a bill prohibiting importation of goods "made in whole or in part by convict, pauper, or detained labor, or made in whole or in part from materials that have been made in whole or in part in any manner manipulated by convict or prison labor," an amendment prohibiting importation of goods produced by child labor, a second discrete class (VIII, 2963); similarly, to an amendment authorizing grants to states for purchase of one class of equipment (photographic and fingerprint equipment) for law enforcement purposes, an amendment including assistance for the purchase of a different class of equipment (bulletproof vests) (Oct. 12, 1979, pp. 28121–24); to a bill repealing section 14(b) of the National Labor Relations Act and making conforming changes in two related sections of labor law—all pertaining solely to the so-called "right-to-work" issue—an amendment excluding from the applicability of certain labor-management agreements members of religious groups (July 28, 1965, p. 18633); to a bill relating

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

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

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

casting to all Dictatorships in the Caribbean Basin (Aug. 10, 1982, pp. 20256–57); and to a bill prohibiting a certain class of abortion procedures, an amendment prohibiting any or all abortion procedures (Mar. 20, 1997, p. ——).

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

To a bill limited in its applicability to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane (Sept. 27, 1967, p. 26957). Thus, to a bill establishing an office without regulatory authority in the Department of the Interior to manage biological information, an amendment addressing requirements of compensation for Constitutional takings by other regulatory agencies was held not germane (Oct. 26, 1993, p. ——); and to a bill amending an authority of an agency under an existing law, an amendment independently expressing the sense of Congress on regulatory agencies generally was held not germane (May 14, 1992, p. ——). To a proposition authorizing activities of certain government agencies for a temporary period, an amendment permanently changing existing law to cover a broader range of government activities is not germane (May 5, 1988, p. 9938), and to a bill proposing a temporary change in law, an amendment making permanent changes in that law is not germane (Nov. 19, 1991, p. 32893). To a joint resolution continuing funding within one executive department, neither an amendment addressing funding for other departments nor one addressing the compensation of Federal employees on government-wide bases is germane (Dec. 20, 1995, pp. ——, ——).

To a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment temporarily suspending other requirements of all other environmental protection laws was held not germane (Dec. 14, 1973, pp. 41751–52). To a joint resolution proposing an amendment to the Constitution prohibiting the U.S. or any state from denying persons 18 years of age or older the right to vote, an amendment requiring the U.S. and all states to treat persons 18 years and older as having reached the age of majority for all purposes under the law was ruled out as not germane (Mar. 23, 1971, p. 7567). To a bill authorizing Federal funding for qualifying State national service programs, an amendment conditioning a portion of such funding on the enactment of State laws immunizing volunteers in nonprofit or public programs, generally, from certain legal liabilities was held not germane (July 28, 1993, p. ——). To a bill to enable the Department of HEW to investigate and prosecute fraud and abuse in medicare and medicaid health programs, a committee amendment to prohibit any officer or employee from disclosing any identifiable medical

record absent patient approval was held not germane (Sept. 23, 1977, pp. 30534–35). To an amendment to a budget resolution changing one functional category only, an amendment changing several other categories as well as that category, and covering an additional fiscal year, is not germane (May 2, 1979, pp. 9556–64). For an amendment striking from a bill one activity from those covered by the law being amended, a substitute striking out the entire subsection of the bill, thereby eliminating the applicability of existing law to a number of activities, is not germane (Sept. 23, 1982, pp. 24963–64). To a bill relating to aircraft altitude over units of the national park system, an amendment relating to aircraft collision avoidance generally is not germane (Sept. 18, 1986, p. 24084). To a Senate amendment prohibiting the use of funds appropriated for a fiscal year for a specified purpose, a proposed House amendment prohibiting the use of funds appropriated for that or any prior fiscal year for an unrelated purpose is not germane (June 30, 1987, p. 18294). To a Senate amendment raising an employment ceiling for one year, a House amendment proposing also to address in permanent law a hiring preference system for such employees is not germane (Oct. 11, 1989, p. 24089). To a Senate amendment providing for a training vessel for one state maritime academy, a proposed House amendment relating to training vessels for all state maritime academies is not germane (June 30, 1987, p. 18296). To a bill amending an existing law to authorize a program, an amendment restricting authorizations under that or any other act is beyond the scope of the bill and not germane (Dec. 10, 1987, p. 34676). To a proposition waiving a requirement in existing law that an authorizing law be enacted prior to the obligation of certain funds, an amendment affirmatively enacting bills containing not only that authorization but also other policy matters is not germane as beyond the issue of funding availability (Sept. 28, 1988, p. 26108). To a proposition pertaining only to a certain appropriation account in a bill, an amendment relating not only to that account but also to funds in other acts is more general in scope and therefore not germane (Sept. 30, 1988, p. 27148). To an omnibus farm bill, with myriad programs to improve agricultural economy, an amendment to the Animal Welfare Act but not limited to agricultural pursuits was held not germane (Aug. 1, 1990, p. 21573).

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

A general subject may be amended by specific propositions of the same class (VIII, 3002, 3009, 3012; see also Procedure, ch. 28, sec. 9). Thus, the following have been held to be germane: To a bill admitting several Territories into the Union, an amendment adding another Territory (V, 5838); to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities (V, 5840); to a resolution embodying two distinct phases of international relationship, an amendment embodying a third (V, 5839); to an amendment prohibiting indirect assistance to several countries, an amendment to include additional countries within that prohibition (Aug. 3, 1978, p. 24244); and to a portion of a bill providing two categories

of economic assistance to foreign countries, an amendment adding a further specific category is germane (Apr. 9, 1979, pp. 7755–57). And where a bill seeks to accomplish a general purpose (support of arts and humanities) by diverse methods, an amendment that adds a specific method to accomplish that result (artist employment through National Endowment for Arts) may be germane (Apr. 26, 1976, p. 11101; see also June 12, 1979, p. 14460). But to a resolution authorizing a class of employees in the service of the House, an amendment providing for the employment of a specified individual was held not to be germane (V, 5848–5849). To a proposition relating in many diverse respects to the political rights of the people of the District of Columbia, an amendment conferring upon that electorate the additional right of electing a nonvoting Delegate to the Senate was held germane (Oct. 10, 1973, pp. 33656–57). To a bill bringing two new categories within the coverage of existing law, an amendment to include a third category of the same class was held germane (Nov. 27, 1967, p. 33769). To a bill containing definitions of several of the terms used therein, an amendment modifying one of the definitions and adding another may be germane (Sept. 26, 1967, p. 26878). To a bill authorizing a broad program of research and development, an amendment directing specific emphasis in the administration of the program is germane (Dec. 19, 1973, p. 42607). To a bill providing for investigation of relationships between environmental pollution and cancer, an amendment to investigate the impact of personal health habits, such as cigarette smoking, on that relationship was held germane (Sept. 15, 1976, pp. 30496–98). To a supplemental appropriation bill containing funds for several departments and agencies, an amendment in the form of a new chapter providing funds for capital outlays for subway construction in the District of Columbia was held germane (May 11, 1971, p. 14437). To a proposal authorizing military procurement, including purchase of food supplies, an amendment authorizing establishment that fiscal year of a military preparedness grain reserve was held germane as a more specific authorization (July 20, 1982, pp. 17073, 17074, 17092, 17093). To a Senate amendment providing for prepayment of loans by those within a certain class of borrowers who meet a specified criterion, a proposed House amendment eliminating the criterion to broaden the applicability of the Senate amendment to additional borrowers within the same class was held germane (June 30, 1987, p. 18308). To an amendment addressing a range of criminal prohibitions, an amendment addressing another criminal prohibition within that range was held germane (Oct. 17, 1991, p. 26767). To a bill addressing violent crimes, an amendment addressing violent crimes involving the environment was held germane (May 7, 1996, p. ——).

§ 799. Amendments to bills amending existing law.

To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was ruled not to be germane (V, 5808; VIII, 2707, 2708); thus a bill amending several sections of one title of the United States Code does not necessarily

bring the entire title under consideration so as to permit an amendment to any portion thereof (Oct. 11, 1967, p. 28649), and where a bill amends existing law in one narrrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not germane (Aug. 16, 1967, p. 22768; VIII, 2709, 2839, 3013, 3031; May 12, 1976, p. 13532). To a bill narrowly amending an anti-discrimination provision in the Education Amendments of 1972 only to clarify the definition of a discriminating entity subject to the statutory penalties (denial of federal funding), amendments re-defining a class of discrimination (sex), expanding the definition of persons who are the subject of discrimination (to include the unborn), and deeming a new entity (Congress) to be a recipient of federal assistance (a class not necessarily covered by the class covered by the bill), were ruled not to be germane (June 26, 1984, pp. 18847, 18857, and 18861). But to the same bill, an amendment merely defining a word used in the bill was held germane (June 26, 1984, p. 18865). Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends on its relationship to the subject of the bill and not to the entire law being amended (Oct. 28, 1975, p. 34031). But a bill amending several sections of an existing law may be sufficiently broad to permit amendments that are germane to other sections of that law not mentioned in the bill (Feb. 19, 1975, p. 3596; Sept. 14, 1978, pp. 29487–88). To a bill continuing and re-enacting an existing law amendments germane to the existing act sought to be continued have been held germane to the pending bill (VIII, 2940, 2941, 2950, 3028; Oct. 31, 1963, p. 20728; June 1, 1976, pp. 16045–46); but where a bill merely extends an official's authority under existing law, an amendment permanently amending that law has been held not in order (Sept. 29, 1969, pp. 27341–43). Thus where a bill authorized appropriations to an agency for one year but did not amend the organic law by extending the existence of that agency, an amendment extending the life of another entity mentioned in the organic law was held not germane (May 20, 1976, pp. 14912–13). An amendment making permanent changes in the law relating to organization of an agency is not germane to a title of a bill only authorizing appropriations for such agency for one fiscal year (Nov. 29, 1979, p. 34090); to a general appropriation bill providing funds for one fiscal year, an amendment changing a permanent appropriation in existing law and changing Congressional procedures for consideration of that general appropriation bill in future years is more general in scope and in part within the jurisdiction of the Committee on Rules and therefore is not germane (June 29, 1987, p. 18083); and to a temporary authorization bill prescribing the use of an agency's funds for two years but not amending permanent law, an amendment permanently changing the organic law governing that agency's operations is not germane (Dec. 2, 1982, pp. 28537–38, concerning Sept. 28, 1982, p. 25465). However, to a bill authorizing appropriations for a department for one fiscal year, where the effect of the department's activities pursuant to that authorization may extend be-

yond such year, an amendment directing a specific use of those funds to perform an activity that may not be completed within the fiscal year was nevertheless germane, since limited to funds in the bill (Oct. 18, 1979, pp. 28763–64). Similarly, to a one-year authorization bill containing diverse limitations and directions to the agency in question during such year, an amendment further directing the agency to obtain information from the private sector, and to make such information public during such year, was held germane (Oct. 18, 1979, pp. 28815–17). While an amendment making a permanent change in existing law has been held not germane to a bill proposing a temporary change in that law, where it is apparent that the fundamental purpose of the amendment is to have only temporary effect and to accomplish the same result as the bill it may be germane. Thus to a bill providing a temporary extension of existing authority, an amendment achieving the same purpose by providing a nominally permanent authority was held germane where both the bill and the amendment were based on reported economic projections under which either would achieve the same, necessarily temporary result by method of direct or indirect amendment to the same existing law (May 13, 1987, p. 12344). However, to a proposal continuing the availability of appropriated funds and also imposing diverse legislative conditions upon the availability of appropriations, an amendment directly and permanently changing existing law as to the eligibility of recipients of funds was held to be nongermane (Dec. 10, 1981, pp. 30536–38). To a bill extending an existing law in modified form, an amendment proposing further modification of that law may be germane (Apr. 23, 1969, p. 10067; Feb. 19, 1975, p. 3596). But to a bill amending a law in one particular, an amendment repealing the law is not germane (Jan. 14, 1964, p. 423). To a bill amending a general law in several particulars, an amendment providing for the repeal of the whole law was held germane (V, 5824), but the bill amending the law must so vitally affect the whole law as to bring the entire act under consideration before the Chair will hold an amendment repealing the law or amending any section of the law germane to the bill (VIII, 2944; Apr. 2, 1924, p. 5437). Where a bill repeals a provision of law, an amendment modifying that provision rather than repealing it may be germane (Oct. 30, 1969, p. 32466); but the modification must relate to the provision of law being repealed (July 28, 1965, p. 18636). Generally to a bill amending one existing law, an amendment changing the provisions of another law or prohibiting assistance under any other law is not germane (May 11, 1976, p. 13419; Aug. 12, 1992, p. ——). To a bill amending the Bretton Woods Act in relation to the International Monetary Fund, an amendment prohibiting the alienation of gold to the IMF or to any other international organization or its agents was held not germane (July 27, 1976, pp. 24040–41). However, to a bill comprehensively amending several laws within the same class, an amendment further amending one of those laws on a subject within that class is germane (May 12, 1976, p. 13530); and to a bill authorizing funding for the intelligence community for one fiscal year and making di-

verse changes in permanent laws relating thereto, an amendment changing another permanent law to address accountability for intelligence activites was held germane (Oct. 17, 1990, p. 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 Committee on Agriculture to require the adoption of a minimum standard for the contents of ice cream was held germane since restricted to the authority of the Secretary of Agriculture (July 22, 1977, pp. 24558–70). But to a section of a bill amending a section of the National Labor Relations Act dealing with procedural rules governing labor elections and organizations, an amendment changing the same section of law to require promulgation of rules defining certain conduct as an unfair labor practice was held not germane, where neither the pending section nor the bill itself addressed the subject of unfair labor practices dealt with in another section of the law (Oct. 5, 1977, pp. 32507–08). To a bill narrowly amending one subsection of existing law dealing with one specific criminal activity, an amendment postponing the effective date of the entire section, affecting other criminal provisions and classes of persons as well as the one amended by the bill, or an amendment to another subsection of the law dealing with a related but separate prohibition was held not germane (May 16, 1979, pp. 11470–72), but to an amendment adding sundry punitive sections to the Federal criminal code, an amendment creating an exception to the prohibition of another such section was held germane (Oct. 17, 1991, p. 26767).

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

Restrictions, qualifications, and limitations sought to be added by way of amendment must be germane to the provisions of the bill. Thus, to a bill authorizing the funding of a variety of programs that satisfy several stated requirements, in order to accomplish a general purpose, an amendment conditioning the availability of those funds upon implementation by their recipients of another program related to that general purpose is germane (June 18, 1973, pp. 20100–01); an amendment delaying operation of a proposed enactment pending an ascertainment of a fact is germane when the fact to be ascertained relates solely to the subject matter of the bill (VIII, 3029; Dec. 15, 1982, pp. 30957–61); to a bill authorizing funds for military procurement and construction, an amendment declaring that none of the funds be used to carry out military operations in North Vietnam was held germane (Mar. 2, 1967, p. 5143). To a bill authorizing the insurance of vessels, an amendment denying such insurance to vessels charging exorbitant rates is germane (VIII, 3023), and to a bill authorizing changes in railroad rates, an amendment is germane which provides that such changes shall not include increases in rates (VIII, 3022). To a bill authorizing humanitarian and evacuation assistance to war refugees, an amendment making such authorization contingent on a report to Congress on costs of a portion of the evacuation program (but not requiring implementation of any new program) is germane (Apr. 23,

1975, p. 11529), and to a bill authorizing an agency to undertake certain activities, an amendment allowing Congress to disapprove regulations issued pursuant thereto is a germane restriction if the disapproval mechanism does not amend the rules or procedures of the House (May 4, 1976, p. 12348). An amendment proposing changes in the rules of the House by providing a privileged procedure for expedited review of an agency's regulations is not germane to a proposition not containing such changes (Aug. 13, 1982, pp. 20969, 20975–78); to a bill directing the furnishing of certain intelligence information to the House but not amending any House procedure, an amendment imposing relevant conditions of security on the handling of such information in committee for the period covered by the bill may be germane, so long as not amending a rule of the House (June 11, 1991, p. 14204). To a title of a bill limiting in several respects an official's authority to construe legal authorities transferred to him in the bill, an amendment further restricting his authority to construe under any circumstances certain other laws to be administered by him was held germane as an additional, although more restrictive, curtailment of existing authorities transferred by the bill (June 11, 1979, pp. 14226–38). 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 directly changing the compact may be germane (Oct. 7, 1997, p. ——).

But it is not in order to amend a bill to delay the effectiveness of the legislation pending an unrelated contingency (VIII, 3035, 3037), such as the enactment of state legislation (June 29, 1967, p. 17921; July 28, 1993, p. ——). Thus an amendment delaying the bill's effectiveness or availability of authorizations pending unrelated determinations involving agencies and committee jurisdictions not within the purview of the bill is not germane (Feb. 7, 1973, pp. 3708–09; July 8, 1981, p. 15010; July 9, 1981, p. 15218), and to a bill authorizing military assistance to Israel and funds for a U.N. Emergency Force in the Middle East, an amendment postponing the availability of funds to Israel until the President certifies the existence of a designated level of domestic energy supplies is not germane (Dec. 11, 1973, p. 40837). An amendment conditioning the availability of funds to certain recipients based upon their compliance with Federal law not otherwise applicable to them and within the jurisdiction of other House committees may be ruled out as not germane (conditioning defense funds for procurement contracts with foreign contractors on their compliance with domestic law regarding discrimination) (June 16, 1983, p. 16060). An amendment delaying the availability of an appropriation pending the enactment of certain revenue legislation into law is an unrelated contingency and is not germane (Oct. 25, 1979, pp. 29639–40). An amendment conditioning the use of funds on the conduct of Congressional hearings addressing an unrelated subject is not germane (July 22, 1994, p. ——). However, an amendment to an authorization bill that conditions the expenditure of funds covered by the bill by restricting their availability during months in which

there is an increase in the public debt may be germane as long as the amendment does not directly affect other provisions of law or impose contingencies predicated upon other unrelated actions of Congress (Sept. 25, 1979, pp. 26150–52); an amendment proposing a conditional restriction on the availability of funds to carry out an activity, that merely requires observation of similar activities of another country, which similar conduct already constitutes the policy basis for the funding of that governmental activity, may be germane as a related contingency (May 16, 1984, p. 12510); and an amendment restricting the payment of Federal funds in a bill to States that enact certain laws relating to the activities being funded may be germane (July 28, 1993, p. ——). Likewise, an amendment that conditions the obligation or expenditure of funds authorized in the bill by adopting as a measure of their availability the expenditure during the fiscal year of a comparable percentage of funds authorized by other acts is germane as long as the amendment does not directly affect the use of other funds (July 26, 1973, p. 26210). Similarly, to a bill authorizing certain housing programs, an amendment restricting the amounts of direct spending in the bill to the levels set in the concurrent resolution on the budget was held germane as merely a measure of availability of funds in the bill and not a provision directly affecting the Congressional budget process (June 11, 1987, p. 15540).

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

To a bill regulating immigration, an amendment providing that the operation of the act should not conflict with an agreement with Japan is not germane (VIII, 3050), to a bill proposing relief for women and children in Germany, an amendment delaying the effectiveness of such relief until a soldier's compensation act shall have been enacted is not germane (VIII, 3035), and to a bill authorizing radio broadcasting to Cuba, an amendment prohibiting the use of those funds until Congress has considered a Constitutional Amendment mandating a balanced budget is not germane (Aug. 10, 1982, p. 20250). To a proposition conditioning the availability of funds upon the enactment of an authorizing statute for the enforcing agency, a sub-

stitute conditioning the availability of some of those funds upon a prohibition of certain imports into the U.S. is not germane, a contingency unrelated to that to which offered (Nov. 7, 1985, pp. 30984–85). It is not germane to condition assistance to a particular class of recipient covered by the bill upon an unrelated contingency such as action or inaction by another class of recipient or agent not covered by the bill (Mar. 5, 1986, p. 3613). However, while a bill relating to benefits based on indemnification of liability arising out of an activity does not ordinarily admit as germane amendments relating to regulation of that activity, an amendment conditioning benefits upon agreement by its recipient to be governed by certain safety regulations may be germane if related to the activity giving rise to the liability (July 29, 1987, p. 21448).

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

Where a proposition confers broad discretionary power on an executive official, an amendment is germane which directs that official to take certain actions in the exercise of the authority. Thus to an amendment in the nature of a substitute authorizing the Federal Energy Administrator to restrict exports of certain energy resources, an amendment directing that

official to prohibit the exportation of petroleum products for use in Indochina military operations was held germane (Dec. 14, 1973, p. 41753). But it is not in order by way of amendment to a bill authorizing funds for military assistance to certain foreign countries, to make the availability of those funds contingent upon efforts by those countries to control narcotic traffic to the U.S., and to authorize the President to offer the assistance of federal agencies for that purpose, where the subjects of narcotics and the accessibility of federal agencies are not contained in the bill (June 17, 1971, pp. 20589–90).

Where a provision delegates certain authority, an amendment proposing to limit such authority is germane (VIII, 3022); to a provision conferring presidential authority to establish priorities among users of petroleum products and requiring priority to education and transportation users, an amendment restricting such regulatory authority by requiring that petroleum products allocated for public school transportation be used only between the student's home and the closest school was held germane (Dec. 13, 1973, pp. 41267–69). Similarly, a bill providing for the deportation of aliens may be amended to exempt a portion of such aliens from deportation (VIII, 3029), a bill providing aid to shipping may be amended to limit such aid to ships equipped with saving devices (VIII, 3027), a bill prohibiting the issuance of injunctions by the courts in labor disputes may be amended to except all labor disputes affecting public utilities (VIII, 3024), and to a proposition denying benefits to recipients failing to meet a certain qualification, a substitute denying the same benefits to some recipients but excepting others is germane (July 28, 1982, pp. 18355–58, 18361). To a bill extending the authorities of one government agency, including requirements for consultation with several other agencies, an amendment requiring that agency to perform a function based upon an analysis furnished by yet another agency was held germane as an additional limitation on the authority of the agency being extended which did not separately mandate the performance of an unrelated function by another entity (July 27, 1978, pp. 23107–08). To a proposition authorizing a program to be undertaken, a substitute providing for a study to determine the feasibility of undertaking the same type of program may be germane as a more limited approach involving the same agency (June 26, 1985, pp. 17453, 17458, and 17460) (in effect overruling VIII, 2989).

An amendment seeking to restrict the use of funds must be limited to the subject matter and scope of the provisions sought to be amended; to a bill authorizing funds for foreign assistance, an amendment placing restrictions on funds authorized or appropriated in prior years is not germane (Aug. 24, 1967, p. 24002), and to an amendment changing a dollar amount in a bill, a substitute therefor not only changing the figure but also restricting the use of any funds in furtherance of a certain activity is not germane (June 7, 1972, p. 19920). To a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of funds to a subcategory of the same recipients is germane

(Sept. 25, 1979, pp. 26135–43), and to a bill authorizing appropriations for an agency, an amendment to prohibit the use of such funds for any purpose to which the funds may otherwise be applied is germane (Nov. 5, 1981, p. 26716). To a provision authorizing funds for a fiscal year, an amendment restricting the availability of funds appropriated pursuant thereto for a specified purpose until enactment of a subsequent law authorizing that purpose is germane (July 21, 1983, p. 20198). To an amendment precluding the availability of an authorization for part of a fiscal year and then permitting availability for the remainder of the year based upon a contingency, an amendment constituting a prohibition on the availability of the same funds for the entire fiscal year is a germane alternative (May 16, 1984, p. 12567). A legislative amendment to an appropriation bill must not only retrench expenditures under clause 2 of rule XXI but must also be germane to the provisions to which offered. A limitation must apply solely to the money of the appropriation under consideration (VII, 1596, 1600), and may not be made applicable to a trust fund provided (IV, 4017) or to money appropriated in other acts (IV, 3927; VII, 1495, 1597–1599). Thus to a general appropriation bill providing funds for the Department of Agriculture and including specific allocation of funds for pest control, an amendment was germane that prohibited the use of funds for use of presticides prohibited by state or local law (May 26, 1969, p. 13753). But to a provision prohibiting aid to a certain country unless certain conditions were met, an amendment prohibiting aid to another country until that nation took certain acts, and referring to funds provided in other acts, was not germane (Nov. 17, 1967, p. 32968). To a proposal to restrict availability of agency funds for a year and amending the organic law as it relates to the internal functions thereof, an amendment further restricting funding but also applying "with respect to the use of funds in the bill" provisions of criminal and other laws not applicable thereto was held not germane (Oct. 26, 1989, p. 26269). See also Procedure, ch. 28, secs. 22–27.

§801. Dilatory motions pending motions to suspend rules.

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

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

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

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

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

Although clause 4(a) of rule XI was amended by the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470), to eliminate the authority of the Committee on Ways and Means to report as privileged bills raising revenue (see § 726, *supra*), this clause was not changed, but the privileged nature of the motion under this clause with respect to revenue bills was derived from and was dependent upon the former privilege conferred upon the Committee on Ways and Means under clause 4(a) of rule XI to report revenue measures to the House at any time (IV, 3076). Ultimately, this clause was amended to delete as obsolete the reference to bills raising revenue (H. Res. 254, Nov. 30, 1995, p. ——). When both types of reports were privileged under that rule prior to the 94th Congress, motions to consider revenue bills and appropriation bills were of equal privilege (IV, 3075, 3076). The motion may designate the particular appropriation bill to be considered (IV, 3074). The motion is privileged at any time after the approval of the Journal (subject to relevant report and hearing availability requirements), but only if offered at the direction of the committee (July 23, 1993, p. ——). The motion is in order on District Mondays (VI, 716–718; VII, 876, 1123); and takes precedence of the motion to go into Committee of the Whole House to consider the Private Calendar (IV, 3082–3085; VI, 719, 720). Before the adoption of clause 4 of rule XIII (the former Consent Calendar) it could be made on a "suspension day" as on other days (IV, 3080). On Wednesdays the privilege of the motion is limited by clause 7 of rule XXIV. It may not be amended (VI, 52, 723), debated (VI, 716), laid on the table, or indefinitely postponed (VI, 726), and the previous question may not be demanded on it (IV, 3077–3079). Although highly privileged, it may not take precedence of a motion to reconsider (IV, 3087), or a motion to change the reference of a bill (VII, 2124). The motion is less highly privileged than the motion to discharge a committee from further consideration of a bill under clause 3 of rule XXVII (VII, 1011, 1016), and on consent days the call of the former Consent Calendar (abolished in the 104th Congress) took precedence (VII, 986).

§803. Dilatory motions.

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

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

The Speaker has declined to entertain debate or appeal on a question as to the dilatoriness of a motion, as to do so would be to nullify the rule (V, 5731); but has recognized that the authority conferred by the rule should not be exercised until the object of the dilatory motion "becomes apparent to the House" (V, 5713–5714). For example, the Chair has held that a virtually consecutive invocation of rule XXX, resulting in a second pair of votes on use of a chart and on reconsideration thereof, was not dilatory under clause 10 of rule XVI (or clause 4(b) of rule XI) (July 31, 1996, p. ——). Usually, but not always, the Speaker awaits a point of order from the floor before acting (V, 5715–5722). The rule has been applied to the motions to adjourn (V, 5721, 5731–5733; VIII, 2796, 2813), to reconsider (V, 5735; VIII, 2797, 2815, 2822), to fix the time of five-minute debate in Committee of the Whole (V, 5734; VIII, 2817), and to lay on the table (VIII, 2816); and to the question of consideration (V, 5731–5733). The point of "no quorum" has also been ruled out (V, 5724–5730; VIII, 2801, 2808), and clause 6 of rule XV, as adopted in the 93d Congress and as amended in the 95th Congress prevents the making of a point of no quorum under certain circumstances. A demand for tellers has been held dilatory (V, 5735, 5736; VIII, 2436, 2818–2821); but the constitutional right of the Member to demand the yeas and nays may not be overruled (V, 5737; VIII, 3107). (For ruling by Speaker Gillett construing dilatory motions, see VIII, 2804.) See also §729a, *supra*, for discussion of dilatory motions pending consideration of Rules Committee report, and §874, *infra*, for rule prohibiting offering of dilatory amendments printed in Record.

RULE XVII.

PREVIOUS QUESTION.

§804. The previous question.

1. There shall be a motion for the previous question, which, being ordered by a majority of Members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered

upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

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

§805. Effect of previous question on debate.

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). Forty minutes of debate are allowed whenever the previous question is ordered on a proposition on which there has been no debate (V, 6821; VIII, 2689; Sept. 13, 1965, p. 23602; see clause 2 of rule XXVII); but if there has been debate, even though brief, before the ordering of the previous question, the forty minutes are not allowed (V, 5499–5501). This preliminary debate should be on the merits of the question if the forty minutes of debate are to be denied for reason of it (V, 5502). The forty minutes should be demanded before division has begun on the main question (V, 5496). It may not be demanded on incidental motions, but is confined to the main question (V, 5497, 5498; VIII, 2687). It may not be demanded on a proposition that has been debated in Committee of the Whole (V, 5505), or on a conference report if the subject matter of the report was debated before being sent to conference (V, 5506, 5507). When the previous question is ordered merely on an amendment that has not been debated, the forty minutes are allowed (V, 5503); but the same liberty of debate is not allowed

when the question covers both an undebated amendment and the original proposition (V, 5504). It was also denied on a resolution to correct an error in an enrolled bill (V, 5508). The forty minutes is divided, one half to those favoring and the other half to those opposing (V, 5495).

§806. 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 except by the unanimous consent of the House (V, 5461–5465), or on motions to agree to a conference report and also to dispose of differences not included in the report (V, 5464) and when ordered on a motion to send to conference 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). When a bill is reported from the Committee of the Whole with the recommendation that the enacting words be stricken out, 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 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 undebatable propositions to prevent amendment (V, 5473, 5490), but may not be moved on a motion that is both undebatable and unamendable (IV, 3077). It applies to questions of privilege as to other questions (II, 1256; V, 5459, 5460; VIII, 2672).

§807. 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), but the motion of higher privilege must be put first (V, 5480; VIII, 2609, 2684), and 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). And 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 pend-

ing 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, another Member may move the previous question before the Member offering the amendment is recognized to debate it (Nov. 8, 1971, p. 39944; 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 1, 2, 4, and 5 of rule XXVIII), 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).

§808. The motion to commit in relation to the previous question.

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). Although 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), a motion to commit under this rule 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, pp. 30887–88).

The motion to commit may be made pending the demand for the previous question on the passage, whether a bill or resolution be under consideration (V, 5576); but when the demand covers all stages of the bill to the final passage the motion to commit is made only after the third reading, and is not in order pending the demand or before the engrossment or third reading (V, 5578–5581). When separate motions for the previous question are made, respectively, on the third reading and on the passage of a bill, the motion to commit should be made only after the previous question is ordered on the passage (V, 5577). 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). It was formerly held that the opponents of a bill had no claim to prior recognition to make the motion (II, 1456), but under clause 4 of rule XVI the prior right to recognition is given to an opponent on a bill or joint resolution pending final passage. The right to move 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). When the House refused to order a bill to be engrossed and read a third time the motion to commit may not be made (V, 5602, 5603).

An opponent has priority in recognition to offer a motion to commit a simple or concurrent resolution under this clause, and the Speaker looks first to the Minority Leader or his designee (as he would for a motion to recommit governed by clause 4 of rule XVI), and then to minority members on the committee of jurisdiction in order of seniority (VIII, 2764; Nov. 28, 1979, p. 33914; Procedure, ch. 23, sec. 13.1), except that recognition to offer a motion under this clause to commit a resolution called up 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).

The motion to refer under this rule after the previous question is ordered is not debatable (V, 5582), except as provided in clause 4 of rule XVI; but may be amended, as by adding instructions, unless such amendment be precluded by moving the previous question (V, 5582–5584; VIII, 2695). Unless the previous question is ordered, an amendment (including one in the nature of a substitute) is in order on a motion to commit with instructions (VIII, 2698, 2759), but the amendment should be germane (V, 6888; VIII, 2711).

It is not in order to do indirectly by a motion to commit with instructions what may not be done directly by way of amendment such as to propose an amendment that is not germane (V, 5529–5541, 5834, 5889; VIII, 2707, 2708); to propose to strike out or amend what has already been inserted by way of amendment (V, 5531; VIII, 2712, 2714, 2715, 2723); to propose an amendment in violation of clauses 2, 5, or 6 of rule XXI (V, 5533–5540); or to grant a committee leave to report at any time (V, 5543). Where a special rule providing for the consideration of a bill prohibited the offering of amendments to a certain title of the bill during its consideration (in both the House and the Committee of the Whole), it was held not in order to offer a motion to recommit with instructions to incorporate an amendment in the restricted title (Jan. 11, 1934, pp. 479–83).

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. ——). The motion may not be laid on the table after the previous

question has been ordered (V, 5412–5414). Only one motion to commit is in order (V, 5577, 5582, 5585; VIII, 2763), but 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). And where one motion to recommit was ruled out of order, the Speaker entertained a proper motion to recommit (VIII, 2763).

When a special order declares that at a certain time the previous question shall be considered as ordered on a bill to the final passage, it has usually, but not always, been held that a motion to commit is precluded (IV, 3207–3209). Under clause 4(b) of rule XI the Committee on Rules is prohibited from reporting such special order that precludes the motion to recommit in clause 4 of rule XVI (§729(a); VIII, 2260, 2262–2264). Clause 4(b) 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 (sec. 210, H. Res. 6, Jan. 4, 1995, p. ——). 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).

§809. Relation of the previous question to other motions.

The motion to lay on the table may not be applied to the previous question (V, 5410, 5411); nor may it 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).

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).

§810. Relation of previous question to failure of a quorum.

2. A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the Speaker that a quorum is not present.

This clause of the rule was adopted in 1860 (V, 5447).

§811. Questions of order pending the motion for the previous question.

3. All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

This clause was adopted in 1837 to prevent delay by debate on points of order after the demand for the previous question (V, 5448). Under the present practice, since debate on points or order is entirely within the control of the Chair, he may recognize and respond to a parliamentary inquiry although the previous question may have been demanded (Speaker pro tempore Snell, 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 thrown open to debate after the ordering of the previous question (III, 2532).

RULE XVIII.

RECONSIDERATION.

§812. The motion to reconsider.

1. When a motion has been made and carried or lost, it shall be in order for any member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any Member may call it up for consideration: *Provided*, That such motion, if made during the last six days of a session, shall be disposed of when made.

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).

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). But 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).

§813. 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 Resident Commissioner may not make the motion in the House (rule XII; 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. ——); 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 (Speaker pro tempore Wright, Aug. 15, 1986, p. 22139).

§814. 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 go 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). But 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 which 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). While 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 which 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, pp. 12663–64). 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 an action taken on a bill on Tuesday may be entered but may not be considered on Calendar Wednesday (VII, 905); is subject to the question of consideration (VIII, 2437), and may be laid on the table (VIII, 2652, 2659). The motion to reconsider is in order in the procedure of 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).

§815. 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). 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 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 go 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, pp. 10990–91). 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. ——). 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. ——), although it is in order to reconsider an affirmative vote on that motion (Sept. 28, 1996, p. ——). 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 the 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, pp. 25512–13). 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*.

§816. 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). But 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, footnote). 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), but 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); 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 recorded vote, the Speaker put the question de novo and entertained a new demand for a recorded vote (Sept. 20, 1979, pp. 25512–13).

§817. 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). But one motion to reconsider the yeas and nays having been acted on, another motion to reconsider is not in order (V, 6037).

§818. 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, pp. 16497–98); 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).

§819. Debate on the motion to reconsider.

A motion to reconsider is debatable only if the motion 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 debat-

able (Sept. 25, 1990, p. 25575) and the application of the previous question makes a motion to reconsider undebatable (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).

§820. Application of motion to reconsider to bills in committees.

2. No bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, shall be brought back into the House on a motion to reconsider; * * *

This clause 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). 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).

§821. Requirement that reports of committees be in writing and be printed.

2. * * * and all bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.

This clause was adopted in 1880 (V, 5647).

The House insists on observance of this rule (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), but see clause 7 of rule XXI, which states that no general appropriation bill shall be considered until printed hearings and report thereon have been available for three calendar days, and clause 2(l) of rule XI, pertaining to the consideration of matters reported by committees, and clause 2 of rule XXVIII, pertaining to the requirement that conference reports and amendments reported in disagreement from conference be available before consideration.

RULE XIX.

OF AMENDMENTS.

§822. Amendments to text and to title.

When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon. Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate.

This rule 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).

§823. 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), and two independent amendments may be voted on at once only by unanimous consent of the House (V, 5779). Amendments en bloc, once pending, are open to perfecting amendment at any point (June 12, 1991, p. 14337). 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, pp. 25970–71). 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. ——; May 27, 1993, p. ——). Discrete propositions to strike out and insert provisions on diverse pages and lines of a bill and to insert a new section on a separate subject may constitute separate amendments which may be offered en bloc only by unanimous consent, even when the bill has been considered as read and open to amendment at any point (Sept. 16, 1981, Deschler's Precedents, vol. 9, ch. 27, sec. 11.26). But the four motions specified by the rule may be pending at one and the same time (V, 5793; VIII, 2883, 2887). 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 prior to voting on substitutes for the original amendment and amendments thereto (July 26, 1984, p. 21253). 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 substitute for an amendment to a substitute (V, 5791; VIII, 2889). However, a substitute amendment may be amended by striking out all after its first word and inserting a new text (V, 5793, 5794), as this, while in effect a substitute, is not technically so, for the substitute always proposes to strike out all after the enacting or resolving words in order to insert a new text (V, 5785, footnote) or to replace all the words of an amendment; and the Chair will not look behind the form of the amendment in determining whether it is a perfecting amendment or a substitute (June 13, 1994, p. ——). To qualify as a substitute an amendment must treat in the same manner the same subject carried by the amendment for which offered (VIII, 2879), and for an amendment inserting new text in a bill, a proposition not only inserting similar language but also striking out original text of the bill is not in order as a substitute (VIII, 2880; Sept. 8, 1976, pp. 29237–38). 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 (Apr. 26, 1984, p. 10213). Where, pursuant to a special rule, a committee amendment in the nature of a substitute, printed in the bill, 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). 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, 5753, 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). But when it is proposed to offer a single substitute for several paragraphs of a bill that is being considered by paragraphs, 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, pp. 21218–19). The substitute amendment, 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 Procedure, ch. 27, sec. 13.8). An amendment in the nature of a substitute having been agreed to, the vote is then taken on the original proposition as amended (II, 983; V, 5799, 5800), and no further amendment is in order (Speaker O'Neill, Mar. 26, 1985, pp. 6274–75). 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). 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). An amendment offered as a substitute and rejected may again be offered as an original amendment without presenting an equivalent question, since 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), and an amendment considered with others en bloc and rejected may be offered separately at a subsequent time (Deschler's Precedents, vol. 9, ch. 27, sec. 35.15; Nov. 4, 1991, p. 29932). Thus, while an amendment that is amended by a substitute and then adopted as amended may not be reoffered in its original form if it would directly change the amended portion of the bill, where an amendment inserting new language in a bill is amended by a substitute inserting language in a different part of the bill and then adopted as amended, the original amendment may again be offered to the bill notwithstanding its displacement by the substitute, as 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). 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. ——). 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. ——).

§ 823a. Relation of point of order to motion to amend.

A point of order against an amendment is timely if made or reserved prior to formal recognition of the proponent to commence debate thereon (July 16, 1991, p. 18391), but thereafter comes too late (V, 6894, 6898–6899). To preclude a point of order, debate should be on the merits of the proposition (V, 6901). 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 press a point of order (V, 6906; July 18, 1990, p. 17930).

§824. 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 (V, 5221; VIII, 2564, 2859).

§825. 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 to offer amendments to perfect it in preference to 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).

§826. 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).

RULE XX.

OF AMENDMENTS OF THE SENATE.

§827. Consideration of Senate amendments in Committee of the Whole; motion for conference.

1. Any amendment of the Senate to any House bill shall be subject to the point of order that it shall 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

that point: *Provided, however,* That a motion to disagree with the amendments of the Senate to a House bill or resolution and request or agree to a conference with the Senate, or a motion to insist on the House amendments to a Senate bill or resolution and request or agree to a conference with the Senate, shall always be in order if the Speaker, in his discretion, recognizes for that purpose and if the motion is made by direction of the committee having jurisdiction of the subject matter of the bill or resolution.

The first part of this rule was adopted in 1880 to prevent Senate amendments of the class described from escaping consideration in Committee of the Whole (IV, 4796). The first sentence of the proviso, 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 clause 5 of rule XXVIII (H. Res. 998, Apr. 9, 1974, pp. 10195–99).

§828a–1. Consideration of Senate amendments in Committee of the Whole.

While a Senate amendment that is merely a modification of a House proposition, like 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 which 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 in the House an amendment is offered to provide an appropriation for another purpose than that of the Senate amendment, the House goes 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 are voted on severally on which a separate vote is demanded (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 to raise a point of order that Senate amendments should have been considered in Committee of the Whole after the House has disagreed thereto and the amendments reported from conference in disagreement (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's Precedents, vol. 6, ch. 21, sec. 16.11; Feb. 4, 1993, p. ——).

§828a–2. 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 jointly referred and reported in the House, the motion must be authorized by all committees reporting thereon (Sept. 26, 1978, p. 31623), but a committee discharged from a sequential referral need not authorize a motion made by direction of the committee that reported the bill (Oct. 4, 1994, p. ——). 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 (Oct. 3, 1972, pp. 33502–03; see also Procedure, ch. 32, sec. 5). The motion to send to conference is in order only if the Speaker in his discretion recognized for that purpose, and the Speaker will not recognize for the motion where he has referred a non-germane 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).

§828b. 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 (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, pp. 38728–29). 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).

§829. Conferees may not agree to certain Senate amendments.

2. No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of rule XXI, if said amendment had originated in the House, nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.

This clause of the rule was adopted on June 1, 1920 (pp. 8109, 8120).

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 is 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, pp. 41504–05; Aug. 1, 1979, pp. 22007–11; Speaker O'Neill, Dec. 12, 1979, pp. 35520–21; June 30, 1987, p. 18308).

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 being sustained against

the conference report should the managers on the part of the House violate the provisions of clause 2 of rule XX (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 clause 2 of rule XXI 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, pp. 20280–81); 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 which 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 which was permitted to remain and which 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 U.S. 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).

RULE XXI.

ON BILLS.

§ 830. Reading, engrossment, and passage of bills.

1. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state the question to be: Shall the bill be engrossed and read a third time? and, if decided in the affirmative, it shall be read the third time by title, and the question shall then be put upon its passage.

This rule was adopted in 1789, amended in 1794, 1880 (IV, 3391), and on Jan. 4, 1965 (H. Res. 8, 89th Cong.). This latest amendment eliminated the provision which permitted a Member to demand the reading in full of the engrossed copy of a House bill.

§ 831. 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, thus carrying out the real purposes of the rule.

The second reading of a bill is in full and occurs when the bill is considered in the House (IV, 3391) or in the Committee of the Whole (Apr. 28, 1977, p. 12635). The initial step of consideration in the Committee of the Whole is sometimes referred to as the "first reading" and is customarily dispensed with by unanimous consent or special rule. Thus, the second reading of a bill comprises its reading for amendment in the Committee of the Whole (Apr. 28, 1977, p. 12635). Any Member may demand a full reading of a bill before general debate begins in the Committee of the Whole or, if considered in the House, when first taken up for action (IV, 3391, 4738). However, the second reading is normally affected by unanimous consent, suspension of the rules, or a special rule providing for the consideration of the bill. A motion to dispense with the reading of a bill in full is not in order (VIII, 2335, 2436). The Speaker may object to a request for unanimous consent that a bill may be acted on without being read (IV, 3390; VII, 1054).

§832. 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 only immediately after it had passed to be engrossed and before it had been read a third time by title (IV, 3400, 3403, 3404; VII, 1061); or 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).

§833. 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, a similar but not identical bill on the same subject was afterwards held to be in order (IV, 3384).

§834a. Unauthorized appropriations in reported general appropriation bills or amendments thereto.

2. (a) No appropriation shall be reported in a general appropriation bill, or shall be in order as an amendment thereto, for any expenditure not previously authorized by law, except to continue appropriations for public works and objects which are already in progress.

§834b. Legislation in reported general appropriation bills; exceptions.

(b) No provision changing existing law shall 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 ap-

propriation, 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 subject matter thereof, and except rescissions of appropriations contained in appropriation Acts.

§834c. Legislation or limitations in amendments to general appropriation bills.

(c) No amendment to a general appropriation bill shall 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), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation.

§834d. Motion to rise and report as preferential to limitation or retrenchment amendments.

(d) After a general appropriation bill has been read for amendment, motions that the Committee of the Whole 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 further amend the bill. If any such motion is rejected, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments which retrench expenditures by reduction of

amounts of money covered by the bill may be considered; but after the vote on any such amendment, the privileged motion made in order under this paragraph may be renewed.

§834e. Designated emergencies in reported appropriation bills.

(e) No provision shall be reported in any appropriation bill or joint resolution containing an emergency designation for purposes of section 251(b)(2)(D) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act, or shall be in order as an amendment thereto, if the provision or amendment is not designated as an emergency, unless the provision or amendment rescinds budget authority or reduces direct spending, or reduces an amount for a designated emergency.

§834f. Offsetting amendments en bloc to appropriation bills.

(f) During the reading of any appropriation bill for amendment in the Committee of the Whole, 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 pursuant to this paragraph, such amendments may amend portions of the bill not yet read for amendment (following the disposition of any points of order against such portions) and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

§834g. Clause 2 of rule XXI, generally.

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 which 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 re-inserted through the 53d Congress until 1894. It was again dropped in the 54th Congress from 1895 until re-inserted 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).

Paragraph (a) retained the prohibition against unauthorized appropriations in general appropriation bills and amendments thereto except in continuation of works in progress.

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 contract authority provided by a law other than an appropriation Act (Sept. 22, 1993, p. ——; p. ——; May 15, 1997, p. ——; July 23, 1997, p. ——). 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. ——).

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. ——). The exception for limitations is strictly construed to apply 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). Although the Committee on Appropriations may include a limitation in its reported bill, if it is stricken with other legislative language on a point of order it may be reinserted during the reading only if in compliance with clause 2(c) or in accordance with clause 2(d) (June 18, 1991, p. 15199).

Paragraph (d) provided a new procedure for consideration of retrenchment and other limitation amendments only when 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 its preferential motion to rise and report to the Majority Leader or his designee (sec. 215(a), H. Res. 6, Jan. 4, 1995, p. ——). 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. ——). 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)) prior to 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 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. ——). 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 (sustained on appeal, Sept. 19, 1983, p. 24647). 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 (Sept. 23, 1993, p. ——). A motion that

the Committee of the Whole rise and report to the House with the recommendation that the enacting clause be stricken out takes precedence over the motion to amend under clause 7 of rule XXIII and thus over the motion to rise and report under clause 2(d) (July 24, 1986, p. 17641).

Paragraphs (e) and (f) were added in the 104th Congress (sec. 215, H. Res. 6, Jan. 4, 1995, p. ——).

§ 835. Points of order on general appropriation bills.

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 rule (VII, 1122). Neither a resolution providing an appropriation for a single government agency (Jan. 31, 1962, p. 1352), nor a joint resolution only containing continuing appropriations for diverse agencies to provide funds until regular appropriation bills are enacted (Sept. 21, 1967, p. 26370), nor 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, pp. 29627–28), nor a joint resolution transferring funds already appropriated from one specific agency to another (Mar. 26, 1980, pp. 6716–17), nor 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), are "general appropriation bills" within the purview of this clause. 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. ——).

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.

Prior to the adoption of clause 8 of rule XXI in the 104th Congress (see § 848a, *infra*), it was necessary that some 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; Chairman Chindblom, 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 over-

ruled on the ground that the Chairman of the Committee of the Whole lacked authority to pass upon the question (Apr. 8, 1943, pp. 3150–51, 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, pp. 28883–84) or a limitation not considered in the Committee of the Whole (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. ——).

By unanimous consent the Committee of the Whole may vacate proceedings under specified points of order (June 7, 1991, p. 13973).

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 is made against a portion of a paragraph does not prevent another point against the whole paragraph (V, 6882; July 31, 1985, p. 21895). If a portion of a proposed amendment is out of order, it is sufficient for the rejection of the whole amendment (V, 6878–6880); and 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 which 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). Where a point is sustained against the whole of a paragraph the whole must go out, but it is otherwise when the point 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's Precedents, vol. 8, ch. 26, sec. 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 prior to 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 the bill is considered as having been read and open to amendment by unanimous consent, points of order against provisions in the bill must be made before amendments are offered, and cannot be reserved pending subsequent action on amendments (Dec. 1, 1982, p. 28175). 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).

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). Thus the burden of proving the authorization for language carried in an appropriation bill, or that the language in the bill constitutes a valid limitation which does not change existing law, falls on the proponents and managers of the bill (May 28, 1968, p. 15357; Nov. 30, 1982, p. 28062). Where a provision is susceptible to more than one interpretation, 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. ——). 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 (pursuant to clause 3 of rule XXI) as directly or indirectly changing the application of existing law are presumably legislation, absent rebuttal by the committee (May 31, 1984, p. 14591). The burden of proof to show that an appropriation contained in an amendment is authorized by law is on the proponent of the amendment (May 11, 1971, p. 14471; Oct. 29, 1991, p. 28791; July 26, 1995, p. ——; July 27, 1995, pp. ——, ——; July 31, 1995, p. ——; May 15, 1997, p. ——) and the burden is on the proponent of an amendment to a general appropriation bill to prove that language offered under the guise of a limitation does not change existing law (July 17, 1975, p. 23239; June 16, 1976, pp. 18666–67; July 18, 1995, p. ——). If the amendment is susceptible to more than one interpretation, it is incumbent upon the proponent to show that it is not in violation of the rule (Procedure, ch. 25, sec. 6.3; July 28, 1980, pp. 19924–25). 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, pp. 25606–07). 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).

Where an unauthorized appropriation or legislation is permitted to remain in a general appropriation bill by failure to raise or by waiver of 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 (July 27, 1954, p. 12287; Oct. 1, 1975, p. 31058; June 8, 1977, pp. 17941–42; July 17, 1985, p. 19435), but an amendment adding further unauthorized items of appropriation or earmarking for another unauthorized purpose or adding legislation in the form of new duties or broadening the application of a legislative provision permitted to remain to other funds is not in order (Dec. 8, 1971, p. 45487; Aug. 7, 1978, pp. 24710–12; July 30, 1985, p. 21532; July 17, 1986, p. 16918; July 23, 1986, p. 17446; June 26, 1987, p. 17655; May 25, 1988, p. 12256; June 28, 1988, pp. 16203, 16213).

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 in nature (June 22, 1983, p. 16851). An amendment to a general appropriation bill is not subject to a point of order as adding legislation if containing, verbatim, a legislative provision already contained in the bill and permitted to remain (Aug. 27, 1980, p. 23519).

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 which 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. ——). An amendment adding a new paragraph indirectly increasing an unauthorized amount contained in a prior paragraph passed in the reading is subject to a point of order because the new paragraph is adding a further unauthorized amount not textually protected by the waiver (July 12, 1995, p. ——; July 16, 1997, p. ——, p.——; Sept. 9, 1997, p. ——). 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. ——). To a legislative provision in a general appropriation bill, permitted to remain, exempting cases where the life of the mother would be endangered if a fetus were carried to term from a denial of funds for abortions, an amendment exempting 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 amendment did not therefore require any different or more onerous determinations (June 27, 1984, p. 19113).

The inclusion of funds in a general appropriation bill in the form of a "not to exceed" limitation does not obviate a point of order that the funds are not authorized by law (June 21, 1988, p. 15440). 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. ——; July 24, 1996, p. ——). 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.——).

§ 836. Authorization of law for appropriations.

The authorization by existing law required in the rule to justify appropriations may be made also by a treaty if it has been ratified by both 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. ——). 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, pp. 20595–96). 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 which 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 au-

thorizing 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, pp. 38854–55). By a general provision of law appropriations for investigations and the acquisition and diffusion of information by the Agricultural 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), or cooperation with state investigations (IV, 3650; VII, 1301, 1302), or 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 of a general appropriation bill both establishing and funding a commission was ruled out as constituting legislation and carrying unauthorized appropriations (June 29, 1988, p. 16470). 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. ——). 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. ——).

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). But 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. ——). 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. ——). 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. ——).

Pursuant to 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.

§ 837. 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). But 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). But 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).

§ 838. 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. ——). But 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 is not construed 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" (Procedure, ch. 25, sec. 5.5), but where language in the bill limits use of the lump sum both to projects "authorized by laws" 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).

§839. Continuation of a public work by appropriations.

The rule requiring appropriations to be authorized by existing law excepts those "in continuance of appropriations for such public works and objects as are already in progress" (IV, 3578); and the "works in progress" exception has historically been applied only in cases of general revenue funding (Sept. 22, 1993, pp. ——; Sept. 23, 1993, pp. ——). But 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, pp. ——; June 8, 1983, Deschler's Precedents, vol. 8, ch. 26, sec. 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. ——). 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, pp. ——; Sept. 23, 1993, pp. ——). 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 been 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). By "public works and objects already in progress" are meant tangible matters like buildings, roads, etc., and 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 cannot be admitted as a work in progress (VII, 1333), nor can an extension of an existing road (Sept. 22, 1993, p. ——). Concerning reappropriation for continuation of public works in progress, see §847, *infra*.

§840. 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 investiga-

tions (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. ——; Sept. 23, 1993, pp. ——), extension of an existing road (Sept. 22, 1993, p. ——), 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). But 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). Nor is it 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 established has been admitted under this principle (IV, 3766–3773) and also additions to existing buildings in cases where no limits of cost have been shown (IV, 3774, 3775). But 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).

§841a. 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.

§841b. 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; Chairman Lehlbach, 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 (Chairman Lehlbach, 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 dry docks (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).

§842a. Legislation on appropriation bills generally.

The provision of the rule forbidding in any general appropriation bill a "provision changing existing law" is construed to mean the enactment of law where none exists (IV, 3812, 3813), such as permitting funds to remain available until expended or beyond the fiscal year covered by the bill, where existing law permits no such availability (Aug. 1, 1973, pp. 27288–89), or immediately upon enactment (July 29, 1986, p. 17981; June 28, 1988, p. 16255) or merely permits availability to the extent provided in advance in appropriation Acts but not explicitly beyond the fiscal year in question (July 21, 1981, p. 16687). Language waiving the provisions of existing law that did not specifically permit inclusion of such a waiver in an appropriation bill (Nov. 13, 1975, p. 36271; June 20, 1996, p. ——), has been ruled out, 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). 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. ——). 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. ——; July 24, 1996, p. ——).

Existing law may be repeated verbatim in an appropriation bill (IV, 3814, 3815), but the slightest change of the text causes it be ruled out (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, pp. 19843–44; Aug. 3, 1978, p. 24249); and while language merely reciting the applicability of current law to the use of earmarked funds is permitted, an amendment that elevates existing guidelines to mandates for spending has been ruled out (July 12, 1989, p. 14432).

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). The fact that an item has been carried in appropriation bills for many years does not exempt it from a point of order as being legislation (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), or contracts authorized (IV, 3868–3870; May 14, 1937, p. 4595).

The Chair may examine legislative history established during debate on an amendment against which a point of order has been reserved to resolve any ambiguity therein when ruling on the eventual point of order (June 14, 1978, p. 17651), and may inquire after its author's intent when attempting to construe an ambiguous amendment (Oct. 29, 1991, p. 28818).

§842b. Contingencies and congressional actions.

An amendment making an appropriation contingent upon a recommendation (June 27, 1979, pp. 17054–55) or action not specifically required by law (July 23, 1980, pp. 19295–97; July 29, 1980, pp. 20098–20100) is legislation. For example, a provision limiting the use of funds in a bill "unless" or "until" an action contrary to existing law is taken constitutes legislation (Deschler's Precedents, vol. 8, ch. 26, sec. 47.1; July 24, 1996, p. ——). Where existing law requires an agency to furnish certain information to congressional committees upon request, without a subpoena, it is not in order on an appropriation bill to make funding for that agency contingent upon its furnishing information to subcommittees upon request (July 29 and July 30, 1980, pp. 20475–76), 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 on a general appropriation bill to condition funds on legal determinations to be made by a federal court and an executive department (June 28, 1988, p. 16261; see Deschler's Precedents, vol. 8, ch. 26, sec. 47.2).

Amendments making the availability of funds in a general appropriation bill contingent upon subsequent Congressional action have, under the most recent precedents, been ruled out as legislation. An amendment prohibiting the availability of funds to enforce certain executive orders, unless those orders were approved by concurrent resolutions of the Congress, was held to be legislation imposing new requirements of further legislative action (June 30, 1942, p. 5826). An amendment providing that a certain appropriation did not grant authority for a certain use of funds unless specific approval of Congress was subsequently granted was held to be legislation (May 15, 1947, p. 5378). Two subsequent rulings upholding the admissibility of amendments making the availability of funds in a general appropriation bill contingent upon subsequent Congressional action (June 11, 1968, p. 16692; Sept. 6, 1979, pp. 23360–61) have, in turn, been superseded by four more recent rulings. A provision making the availability of certain funds contingent upon subsequent Congressional action on legislative proposals resolving the policy issue was held to constitute legislation (Nov. 18, 1981, p. 28064); an amendment making the availability of funds therein contingent upon subsequent enactment of legislation containing specified findings was ruled out as legislation requiring new legislative and execu-

tive branch policy determinations not required by law (Nov. 2, 1983, p. 30503); an amendment changing a permanent appropriation in existing law to restrict its availability until all general appropriation bills are presented to the President was held to constitute legislation (June 29, 1987, p. 18083); and an amendment limiting funds in the bill for certain peacekeeping operations unless authorized by Congress was held to constitute legislation (June 27, 1994, p. ——).

It is not in order on a general appropriation bill to require a congressional committee to promulgate regulations to limit the use of an appropriation (June 13, 1979, pp. 14670–71), or otherwise to direct the activities of a committee (June 24, 1992, pp. ——); nor is it in order to direct the Selective Service Administration to issue regulations to bring its classifications into conformance with a Supreme Court decision (July 20, 1989, p. 15405). Also a proposition to change a rule of the House is subject to the point of order (IV, 3819). A provision constituting Congressional disapproval of a deferral of budget authority proposed by the President pursuant to the Impoundment Control Act 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). An amendment making the availability of funds in a general appropriation bill contingent upon a substantive determination by a state or local government official or agency which is not otherwise required by existing law has been ruled out as legislation (July 25, 1985, p. 20569).

§842c. 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, pp. 4747–48; 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 affirmative direction not required by law, does not destroy the validity of the 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 non-current case law (June 7, 1978, p. 16655). A paragraph of a general appropriation bill changing existing law concerning Federal diversity jurisdiction is legislation (July 1, 1987, p. 18638).

A provision in an appropriation bill prescribing a rule of construction is legislation (Deschler's Precedents, vol. 8, ch. 26, sec. 25.15) as is a provi-

sion construing a limitation in a bill by affirmatively declaring the meaning of the prohibition (May 17, 1988, p. 11305). Similarly, a limitation that prescribes definitions for terms contained in the limitation may be legislation (Deschler's Precedents, vol. 8, ch. 26, secs. 25.7, 25.11). On the other hand, language excepting certain appropriations from the sweep of a broader limitation may be in order (Deschler's Precedents, vol. 8, ch. 26, sec. 25.2). It also has been held in order to except from the operation of a specific limitation on expenditures certain of those expenditures which are authorized by law by prohibiting a construction of the limitation in a way which would prevent compliance with that law (Deschler's Precedents, vol. 8, ch. 26, sec. 25.10; June 18, 1991, p. 15218).

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, pp. 25606–07; 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 since requiring 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).

§ 842d. Imposing duties or requiring determinations.

Propositions to establish affirmative directions for executive officers (IV, 3854–3859; VII, 1443; July 31, 1969, p. 21675; June 18, 1979, pp. 15286–87; July 1, 1987, pp. 18654 and 18655; June 27, 1994, p. ——), even in cases where they may have discretion under the law so to do (IV, 3853; June 4, 1970, p. 18401; Aug. 8, 1978, pp. 24959–60), or to affirmatively take away an authority or discretion conferred by law (IV, 3862, 3863; VII, 1975; Mar. 30, 1955, pp. 4065–66; June 21, 1974, p. 20600; July 31, 1985, p. 21909), are subject to the point of order. While any limitation in an appropriation bill (see § 483, *supra*) places some minimal duties on Federal officials, who must determine the effect of such a limitation on appropriated funds, an amendment or language in an appropriation bill may not impose additional duties, not required by law, or make the appropriation contingent upon the performance of such duties (May 28, 1968, p. 15350). Language in the form of a conditional limitation requiring determinations by Federal officials will be held to change existing law unless the proponent can show that the new duties are merely incidental to functions already required by law and do not involve substantive new determinations (July 26, 1985, p. 20807).

Where an amendment to or language in a general appropriation bill implicitly places new duties on officers of the government or implicitly requires them to make investigations, compile evidence, or make judgments and determinations not otherwise required of them by law, such as to judge intent or motives, then it assumes the character of legislation and is subject to a point of order (July 31, 1969, pp. 21653, 21675, where

the words "in order to overcome racial imbalance" were held to impose additional duties, and Nov. 30, 1982, p. 28062, where the words "to interfere with" the rulemaking authority of any regulatory agency were held to implicitly require the Office of Management and Budget to make determinations not discernibly required by law in evaluating and executing its responsibilities). An amendment limiting funds for an agency or any "successor agency" requires a determination of "successor agency" status (Sept. 26, 1997, p. ——).

An amendment authorizing the President to reduce each appropriation in the bill by not more than ten percent was ruled out as legislation conferring new authority on the President (May 31, 1984, p. 14617; June 6, 1984, p. 15120). A limitation on the use of funds, or an exception therefrom, may not be accompanied by language stating or requiring a finding of a motive or purpose in carrying out the limitation (Aug. 8, 1978, pp. 24969–70; July 22, 1980, pp. 19087–88; Sept. 16, 1980, p. 25604; Sept. 22, 1981, p. 21577). 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 is legislation, since requiring Federal officials to make new determinations and judgments not required of them by law, regardless whether private or State officials administering the funds in question routinely make such determinations (June 17, 1977, p. 1969; June 30, 1993, p. ——). 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). But to such a provision permitted to remain in a general appropriation bill, an amendment exempting 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 by requiring any different or more onerous determinations (June 27, 1984, p. 19113). An amendment prohibiting the use of funds in an appropriation bill for the General Services Administration to dispose of U.S.-owned "agricultural" land declared surplus was ruled out as legislation, since the determination whether surplus lands are "agricultural" was not required by law (Aug. 20, 1980, pp. 22156–58); but a limitation precluding 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. ——). The fact that an executive official may have been directed by an executive order to consult another executive official prior to 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, pp. 19087–88).

An amendment limiting use of funds in a bill may not 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); may not require new determinations of full Federal compliance with mandates imposed upon States (July 22, 1981, p. 16829); may not require the evaluation of the theoretical basis of a program (July 22, 1981, p. 16822); may not 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) or incorporate by reference determinations already made in administrative processes not affecting programs funded by the bill (Oct. 6, 1981, p. 23361); may not require new determinations of rates of interest payable (July 29, 1982, p. 18624; Dec. 9, 1982, p. 29691); may not apply standards of conduct to foreign entities where existing law requires such conduct only by domestic entities (July 17, 1986, p. 16951); may not require the enforcement of a standard where existing law only requires inspection of an area (July 30, 1986, p. 18189); may not prohibit the availability of funds for the purchase of "nondomestic" goods and services (Sept. 12, 1986, p. 23178); may not mandate contractual provisions (May 18, 1988, p. 11389); may not 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. ——); may not 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. ——); may not mandate reductions in various appropriations by a variable percentage calculated in relation to "overhead" (Deschler's Precedents, vol. 8, ch. 26, sec. 5.6; June 24, 1992, p. ——); may not require an agency to investigate and determine whether private airports are collecting certain fees for each enplaning passenger (Sept. 23, 1993, p. ——); and may not 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. ——).

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 simply and passively addressed the state of knowledge of the official (VII, 1695; *cf.* Aug. 1, 1989, p. 17156, and June 22, 1995, p. —— [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. ——). 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. ——; July 15, 1997, p. ——; July 24, 1997, p. ——).

§842e. Mandating expenditures.

A provision which 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. ——), as is an amendment which by such a mandate interferes with an executive official's discretionary authority (Mar. 12, 1975, p. 6338), as in an amendment requiring 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), or where an amendment earmarks appropriated funds to the arts to require 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 is 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 which 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 6 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. ——). 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. ——).

§842f. 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). A paragraph which proposes legislation or an unauthorized appropriation being permitted to remain, by special order or by failure to raise a point of order, may be perfected by germane amendment (IV, 3823–3835, 3838; VII, 1405, 1413–1415; June 9, 1954, pp. 5963–64; Sept. 11, 1985, p. 23398; June 14,

1988, p. 14341), but this does not permit an amendment which adds additional legislation (IV, 3836, 3837, 3862; VII, 1402–1436; Dec. 9, 1971, pp. 4595–96; Aug. 1, 1973, pp. 27291–92; June 10, 1977, p. 1802; June 28, 1988, pp. 16203, 16213; Aug. 2, 1989, p. 18172; Nov. 15, 1989, p. 29004), or earmarks for unauthorized purposes (July 17, 1985, p. 19435; July 17, 1986, p. 16918; July 26, 1995, p. ——; June 5, 1996, p. ——), or earmarks by directing a new use of funds not required by law (July 26, 1985, pp. 20811, 20813), or increases an unauthorized amount indirectly by inserting new language at another portion of the bill (July 12, 1995, p. ——). An amendment to a general appropriation bill is not subject to a point of order as adding legislation if containing, verbatim, a legislative provision already contained in the bill and permitted to remain (Aug. 27, 1980, p. 23519). To a paragraph permitted to remain though 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). An amendment in the form of a motion to strike that would extend the legislative reach of the pending text was held to propose additional legislation (July 17, 1996, p. ——). To a legislative title permitted to remain, which placed certain restrictions on recipients of a defined set of Federal payments and benefits, an amendment extending the restrictions to persons benefiting from a certain tax status determined on wholly unrelated criteria was held to add further legislation (Aug. 3, 1995, p. ——).

§ 842g. 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 2 of rule XX (§ 829, *supra*) prohibits House conferees from agreeing to a Senate amendment which proposes legislation on an appropriation bill without specific authority from the House. But where a Senate amendment proposing legislation on a general appropriation bill is, pursuant to the edict of clause 2 of rule XX, 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, pp. 41504–05; Aug. 1, 1979, pp. 22007–11; Speaker O'Neill, Dec. 12, 1979, pp. 35520–21; June 30, 1987, p. 18308).

§ 843a. Limitations on appropriation bills generally.

Although the rule forbids on any general appropriation bill a provision "changing existing law," which is construed to mean legislation generally, the practice of the House has established the principle that certain "limitations" may be admitted. Just as the House may decline to appro-

priate 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). The language of the limitation provides that no part of the appropriation under consideration shall be used for a certain designated purpose (IV, 3917–3926; VII, 1580). And 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 the House may specify that no part of the appropriation shall go to recipients lacking certain qualifications (IV, 3942–3952; VII, 1655; June 4, 1970, pp. 18412–13; June 27, 1974, p. 21662; Oct. 9, 1974, p. 34712; June 9, 1978, p. 16990). The limitation must apply solely to the money of the appropriation under consideration (VII, 1597, 1600, 1720; Feb. 26, 1958, p. 2895), and may not be made applicable to money appropriated in other acts (IV, 3927, 3928; VII, 1495, 1525; June 28, 1971, pp. 22442–43; June 27, 1974, pp. 21670–72; May 13, 1981, p. 9663), and may not require funds available to an agency in any future fiscal year for a certain purpose be subject to limitations specified in advance in appropriations Acts (May 8, 1986, p. 10156). 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. ——).

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 Procedure, ch. 25, secs. 9–17). 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). Nor may a proposition to construe a law be admitted (IV, 3936–3938). Care should also 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). A provision limiting the use of funds in a bill "unless" or "until" a specified action not required by existing law has been taken constitutes legislation (Deschler's Precedents, vol. 8, ch. 26, sec. 47.1; July 24, 1996, p. ——).

§843b. Effect of limitation on executive discretion.

The limitation may not be applied directly to the official functions of executive officers (IV, 3957–3966; VII, 1673, 1678, 1685), but it may restrict executive discretion so far as this may be done by a simple negative on the use of the appropriation (IV, 3968–3972; VII, 1583, 1653, 1694; Sept. 14, 1972, pp. 30749–50; June 21, 1974, pp. 20601–02; Oct. 9, 1974, p. 34716). An appropriation may be withheld from a designated object by a negative limitation on the use of funds, although contracts

may be left unsatisfied thereby (IV, 3987; July 10, 1975, p. 22005); but coupling a denial of an appropriation with a negative restriction on official duties constitutes by reason of the use of a double negative an affirmative direction and is not in order (VII, 1690–1692). Similarly, using a double negative to limit the availability of funds to prohibit the obligation of funds for an unauthorized project (effectively authorizing an unauthorized project) is not in order (Sept. 23, 1993, p. ——).

But such limitations must not give affirmative directions (IV, 3854–3859, 3975; VII, 1637), and must not impose new duties upon an executive officer (VII, 1676; June 11, 1968, p. 16712; July 31, 1969, pp. 21631–33); and may not 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).

In construing a proposed limitation, if the Chair finds the purpose to be legislative, in that the intent is to restrict executive discretion to a degree that may be fairly termed a change in policy rather than a matter of administrative detail, he should sustain the point of order, as where a limitation is accompanied by language stating a legislative motive or purpose in carrying out the limitation (Aug. 8, 1978, p. 24969), or where existing law and the Constitution require a census to be taken of all persons and an amendment seeks to preclude the use of funds to exclude another class "known" to the Secretary (Aug. 1, 1989, p. 17156). However, language in a general appropriation bill may, by negatively refusing to include funds for all or part of an authorized executive function, thereby affect policy to the extent of its denial of availability of funds (VII, 1694; Oct. 9, 1974, p. 34716).

It is not in order, even by language in the form of a limitation, to restrict not the use or amount of appropriated funds but the discretionary authority conferred by law to administer their expenditure, such as by limiting the percentage of funds that may be apportioned for expenditure within a certain period of time (Deschler's Precedents, vol. 8, ch. 26, sec. 51.23), or by precluding the obligation of certain funds in the bill until funds provided by another Act have been obligated (Deschler's Precedents, vol. 8, ch. 26, sec. 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's Precedents, vol. 8, ch. 26, secs. 64.23 and 80.5).

As long as a limitation on the use of funds 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 which would have to be accounted for separately in carrying out the limitation (Aug. 20, 1980, pp. 22171–72). 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).

§843c. Limitations consistent with existing law.

An amendment denying the use of funds in the bill to pay the salaries of Federal officials who perform certain functions under existing law is a proper limitation if the description of those duties precisely follows existing law and does not require them to perform new duties (June 24, 1976, p. 20373), just as an amendment denying such funds to a Federal official not in compliance with an existing law which he is charged with enforcing is a valid limitation placing no new duties on that Federal official (Sept. 10, 1981, p. 20110). The fact that a limitation on the use of funds 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 directly amend existing law and is descriptive of functions and findings already required to be undertaken by existing law. As it is in order by way of a limitation to deny the use of funds for implementation of an executive order, an amendment precisely describing the contents of the executive order does not constitute legislation solely for that reason (Mar. 16, 1977, p. 7748). And the fact that the regulation for which funds are denied may have been promulgated pursuant to court order and pursuant to constitutional provisions is an argument on the merits of the amendment and does not render it legislative in nature (Aug. 19, 1980, pp. 21981–84). An amendment prohibiting the use of funds to carry out any ruling of the Internal Revenue Service which rules that taxpayers are not entitled to certain charitable deductions was held in order as a limitation, since 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). An amendment reducing the availability of funds for trade adjustment assistance by amounts of unemployment insurance entitlements was held in order 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, pp. 15355–56). A limitation precluding 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. ——). A limitation precluding 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 was held not to impose new duties on FAA officials because existing regulations already required the FAA to determine the origin of withdrawn slots (Sept. 23, 1993, p. ——). An exception stating that the limitation does not prohibit the use of funds for designated Federal activities which are already authorized by law in

more general terms, was held in order as not containing legislation (June 27, 1979, pp. 17033–35), as was an exception from a valid limitation prohibiting construction of that limitation in such a way as to prevent funding of a particular authorized activity (Mar. 24, 1944, p. 3095; June 18, 1991, p. 15218). An amendment prohibiting the use of funds in the bill by the Forest Service to construct roads or prepare timber sales in certain roadless areas was held not to impose new duties, 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. ——). The following amendments also have been in order as merely constricting the range of objects for which funds might be used: denying use of funds to eliminate an existing legal requirement for sureties on custom bonds (June 27, 1984, p. 19101); denying use of funds by any Federal official in any manner which would prevent a provision of existing law from being enforced (relating to import restrictions) (June 27, 1984, p. 19101); denying use of funds for any reduction in Customs Service regions or for any consolidation of Customs Service offices (June 27, 1984, p. 19102); denying use of funds to carry out (or pay the salaries of persons who carry out) tobacco crop and insurance programs (July 20, 1995, p. ——). An amendment in the form of a limitation prohibiting the use of funds in a general appropriation bill 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). Similarly, language in a general appropriation bill 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).

"HOLMAN RULE" ON RETRENCHING EXPENDITURES

§ 844a. 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 which are deemed to be legislation (see §§ 842

and 843, *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 which does not legislate but is merely a negative limitation citing but not changing existing law (June 18, 1980, pp. 15355–56).

A paragraph containing legislation reported in an appropriation bill to be in order must on its face show a retrenchment of a type which conforms to the requirements of the rule (Chairman Lehlbach, 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's Precedents, vol. 8, ch. 26, sec. 5.6; June 24, 1992, p. ——). An amendment authorizing the President to reduce each appropriation in the bill by not more than ten 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 which requires 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 must also 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 new determination and since constituting a retrench-

ment 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 Public 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 which 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. But 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 §834, *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. ——). 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 which 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.

§844b. Content of reports on appropriation bills.

3. A report from the Committee on Appropriations accompanying any general appropriation bill making an appropriation for any purpose shall contain a concise statement describing fully the effect of any provision of the accompanying bill which directly or indirectly changes the application of existing law, and shall contain a list of all appropriations contained in the bill for any expenditure not previously authorized by law

(except for classified intelligence or national security programs, projects, or activities).

This clause 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), and the subsequent clauses of this rule were renumbered at that time. This clause 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 the last requirement concerning unauthorized items (sec. 215(d), H. Res. 6, Jan. 4, 1995, p. ——).

§ 845. Restriction on the reference of claims.

4. No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following committees, namely: To the Committee on International Relations or to the Committee on the Judiciary.

The present form of this clause was made effective January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), was further amended on March 19, 1975 to reflect the change of the name of the Committee on Foreign Affairs to International Relations by H. Res. 163 (p. 7343), was again amended on February 5, 1979 to change International Relations back to Foreign Affairs (H. Res. 89, pp. 1848–49), and was once again amended on January 4, 1995, to change the name back to International Relations (sec. 202(b), H. Res. 6, 104th Cong., 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 (now International Relations) and the Judiciary. Certain private bills, resolutions and amendments are barred (see § 852, *infra*). Under this clause 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 International Relations (May 4, 1978, p. 12615).

§ 846a. Restriction of power to report appropriations.

5. (a) No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation

be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

This portion of the rule was adopted June 1, 1920 (VII, 2133).

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 to an appropriation bill (VII, 1572), but it may be directed against an item of appropriation in a Senate bill (VII, 2136, 2147; July 30, 1957, pp. 13056, 13181–82), and 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 of 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 which 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 to a reported bill 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. ——).

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, pp. 12043–44), 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 prior to its adoption (Apr. 23, 1975, p. 12043). But 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 2 of rule XX)

is limited to language originally contained in a Senate amendment 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 point of order provided for in this clause is not applicable to propositions 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), and is not applicable to language exempting loan guarantees in a legislative bill from statutory limitations on expenditures (July 16, 1974, p. 23344). Legislation authorizing the availability of certain loan receipts is not an appropriation 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). 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). 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. ——), is not in order. An amendment expanding the definition in existing law of recipients under a Federal subsidy program was held to permit a new use of funds already appropriated in violation of this clause (May 11, 1976, pp. 13409–11); and a provision in a legislative bill authorizing the use, without a subsequent appropriation, of funds directly appropriated by a previous statute for a new purpose constitutes an appropriation prohibited by this clause (Oct. 1, 1980, pp. 28637–40). But 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). A direction to a departmental officer to pay a certain sum out of unexpended balances is equivalent to an appropriation and not in order (VII, 2154). Language authorizing the

use of funds of the Shipping Board is not in order (VII, 2147). A direction to pay out of Indian trust funds is not in order (VII, 2149). A provision in an authorization bill making excess foreign currencies immediately available for a new purpose is in violation of clause 5 of rule XXI (Aug. 3, 1971, pp. 29109–10). Provisions authorizing the collection of fees or user charges by Federal agencies and making the revenues collected therefrom available without further appropriation have been ruled out in violation of this clause (June 17, 1937, pp. 5915–18; Mar. 29, 1972, pp. 10749–51), and the transfer of existing Federal funds into a new Treasury trust fund to be immediately available for a new purpose has been construed as an appropriation (June 20, 1974, pp. 20273–75), as has a provision in a legislative bill transferring unexpended balances of appropriations from an existing agency to a new agency created therein (Apr. 9, 1979, pp. 7774–75). A provision in an omnibus reconciliation bill reported by the Budget Committee (pursuant to section 310(c)(2) of the Budget Act upon recommendation from the Energy and Commerce Committee) making a direct appropriation to carry out a part of the Energy Security Act was ruled out in violation of this clause (Oct. 24, 1985, p. 28812). An amendment 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, may nevertheless be in violation of clause 5(a) as an appropriation on a legislative bill (Aug. 10, 1988, p. 21719).

An amendment increasing the duties of a commission is not necessarily an appropriation (VII, 1578). Language authorizing payment from an appropriation to be made or authorizing payment from an appropriation that has not yet been made is in order (Jan. 31, 1923, p. 2794). Section 401(a) of the Congressional Budget Act of 1974 (88 Stat. 317) prohibits consideration in the House of any bill or resolution or amendment which 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 §1007, *infra*). See also Procedure, ch. 25, sec. 3, addressing appropriations on legislative bills generally.

§846b. Restriction on bills and amendments carrying taxes or tariffs.

(b) No bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposed by the Senate carrying a tax or tariff measure be in order during the consideration of a bill or joint resolution reported by a committee

not having that jurisdiction. A question of order on a tax or tariff measure in any such bill, joint resolution, or amendment thereto may be raised at any time.

Paragraph (b) was added in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34). 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 a 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; see also Jan. 5, 1993, p. ——).

Although in the case of most points of order against provisions in bills or against amendments the burden is on the proponent of the provision to show that it does not violate the cited rule, in the case of a point of order under clause 5(b) 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), the burden is on the Member making the point of order to show 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, pp. 18649–50; July 13, 1990, p. 17473; June 18, 1991, p. 15189). Thus, in determining whether a limitation in a general appropriation bill constitutes a tax or tariff measure proscribed by clause 5(b), 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). Similarly, in determining whether an amendment to a general appropriation bill proposing a change in IRS funding priorities constitutes a tax measure proscribed by clause 5(b), the Chair will consider 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 clause 5(b) 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. ——); 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 clause 5(b) 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 clause 5(b) 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) containing a recommendation from the Committee on Education and Labor (now the Committee on Education and the Workforce) 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) containing 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 (now the Committee on Education and the Workforce) 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 (now the Committee on International Relations) 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. ——). 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. ——). To a bill reported by the Committee on Science, Space, 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. ——).

§ 846c. Three-fifths vote to increase income tax rates.

(c) No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting. For purposes of the preceding sentence, 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.

Paragraph (c) was added in the 104th Congress (sec. 106(a), H. Res. 6, Jan. 4, 1995, p. ——). In the 105th Congress it was amended to clarify the definition of "Federal income tax rate increase" (H. Res. 5, Jan. 7, 1997, p. ——) . 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 this paragraph (Apr. 5, 1995, p. ——). This paragraph does not apply to a concurrent resolution (Speaker Gingrich, May 18, 1995, p. ——). A resolution reported from the Rules Committee waiving clause 5(c) may be adopted by majority vote (Oct. 26, 1995, p. ——). The Speaker rules on the applicability of clause 5(c) 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 waiving that provision (Oct. 26, 1995, p. ——).

§846d. Prohibition against retroactive income tax rate increase.

(d) It shall not be in order to consider any bill, joint resolution, amendment, or conference report carrying a retroactive Federal income tax rate increase. For purposes of the preceding sentence—

(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 prior to the enactment of the provision.

Paragraph (d) was added in the 104th Congress (sec. 106(b), H. Res. 6, Jan. 4, 1995, p. ——). In the 105th Congress it was amended to clarify the definition of "Federal income tax rate increase" (H. Res. 5, Jan. 7, 1997, p. ——) .

§847. Reappropriations prohibited.

6. No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced, and shall not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated, reported by the Committee on Appropriations.

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, Dec. 12, 1985) to permit the Committee on Appropriations to report certain transfers of unexpended balances. Consistent with clause 2 of rule XXI, violations of this clause are enforced only against specific provisions in general appropriation bills containing reappropriations rather than against consideration of the bill (see, *e.g.,* Procedure, ch. 25, sec. 18).

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 6 of rule XXI (Aug. 20, 1951, pp. 10393–94; Mar. 29, 1960, p. 6862; June 17, 1960, p. 13138; June 20, 1973, pp. 20530–31; 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, pp. 27424–25). An amendment to a general appropriation bill making any appropriations which are available for the current fiscal year available for certain new purposes was held out of order under this clause since it was not confined to the funds in the bill and would permit reappropriation of unexpended balances (Oct. 1, 1975, p. 31090). That appropria-

tions 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. ——).

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 XI (Mar. 3, 1988, p. 3239).

The return of an unexpended balance to the Treasury is in order (IV, 3594).

§848. Printed hearings and reports on appropriation bills.

7. No general appropriation bill shall be considered in the House until printed committee hearings and a committee report thereon have been available for the Members of the House for at least three calendar days (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).

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 counting the "three calendar days" specified in the clause, 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, pp. 13720–21). Clause 2(l)(6) of rule XI became applicable to all other reports from the Committee on Appropriations under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). 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. ——).

§848a. Reservation of points of order.

8. At the time any appropriation bill is reported, all points of order shall be considered as reserved.

Clause 8 was added in the 104th Congress (sec. 215(e), H. Res. 6, Jan. 4, 1995, p. ——), 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 § 835, *supra*).

RULE XXII.

OF PETITIONS, MEMORIALS, BILLS, AND RESOLUTIONS.

§ 849a. Introduction and reference of petitions, memorials, and private bills.

1. Members having petitions or memorials or bills of a private nature to present may deliver them to the Clerk, endorsing their names and the reference or disposition to be made thereof; and said petitions and memorials and bills of a private nature, except such as, in the judgment of the Speaker, are of an obscene or insulting character, shall be entered on the Journal, with the names of the Members presenting them, and the Clerk shall furnish a transcript of such entry to the official reporters of debates for publication in the 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).

§ 849b. 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 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).

§850. 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 5 of rule X.

§851. 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).

§852. Certain private and commemorative bills prohibited.

2. (a) No private bill or resolution (including so-called omnibus claims or pension bills), and no amendment to any bill or resolution, authorizing or directing (1) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Tort Claims Procedure as provided in Title 28, United States Code, or for a pension (other than to carry out a provision of law or treaty stipulation); (2) the construction of a bridge across a navigable stream; or (3) the correction of a military or naval record, shall be received or considered in the House.

(b)(1) No bill or resolution, and no amendment to any bill or resolution, establishing or expressing any commemoration may be introduced or considered in the House.

(2) For purposes of this paragraph, the term "commemoration" means any remembrance, cele-

bration, or recognition for any purpose through the designation of a specified period of time.

Paragraph (a) 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). The 104th Congress added the prohibition against commemorative legislation and directed the Committee on Government Reform and Oversight 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. ——). The prohibition in paragraph (a) relating to correction of a miltary 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).

§853. Correction of errors in reference; and relation to jurisdiction.

3. Any petition or memorial or bill or resolution excluded under this rule shall be returned to the Member from whom it was received; and petitions and private bills which have been inappropriately referred may, by the direction of the committee having possession of the same, be properly referred in the manner originally presented; and an erroneous reference of a petition or private bill under this clause shall not confer jurisdiction upon the committee to consider or report the same.

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. ——).

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 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).

§854. Introduction, reference, and change of reference of public bills, memorials, and resolutions.

4. (a) All other bills, memorials, and resolutions may, in like manner, be delivered, endorsed with the names of Members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules shall be entered on the Journal and printed in the Record of the next day, and correction in case of error of reference may be made by the House, without debate, in accordance with rule X on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred. Two or more Members may introduce jointly any bill, or resolution to which this paragraph applies.

(b)(1) The name of any Member shall be added as a sponsor of any bill or resolution to which paragraph (a) applies, and shall appear as a sponsor in the next printing of that bill or resolution: *Provided*, That a request signed by such Member is submitted by the first sponsor to the Speaker (in the same manner as provided in paragraph (a)) no later than the day on which the last committee authorized to consider and report such bill or resolution reports it to the House.

(2) The name of any Member listed as a sponsor of any such bill or resolution may be deleted by unanimous consent, but only at the request of such Member, and such deletion shall be indicated in the next printing of the bill or resolution (together with the date on which such name was deleted). Such consent may be granted no later than the day on which the last committee authorized to consider and report such bill or resolution reports it to the House: *Provided, however,* That the Speaker shall not entertain a request to delete the name of the first sponsor of any bill or resolution.

(3) The addition of the name of any Member, or the deletion of any name by unanimous consent, of a sponsor of any such bill or resolution shall be entered on the Journal and printed in the Record of that day.

(4) Any such bill or resolution shall be reprinted (A) if the Member whose name is listed as the first sponsor submits to the Speaker a written request that it be reprinted, and (B) if twenty or more Members have been added as sponsors of that bill or resolution since it was last printed.

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 Congress paragraph (a) was amended to effect a technical correction (H. Res. 5, Jan. 7, 1997, 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). And 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 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 prime 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. ——). 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) clause 4(b) was added to allow unlimited co-sponsorship and to provide a mechanism for Members to add their names as co-sponsors to bills or resolutions which 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 co-sponsors pursuant to the new clause (Speaker O'Neill, Jan. 15, 1979, p. 19).

Although paragraph (b)(2) of this clause only permits a co-sponsoring Member himself to request unanimous consent for his deletion as a co-sponsor, the prime sponsor of a measure may be permitted to request unanimous consent to delete the name of a co-sponsor he has inadvertently or erroneously listed (Feb. 9, 1982). By unanimous consent a Member may add his own name as a co-sponsor of an unreported bill where the original 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 co-sponsors where the actual first sponsor is no longer a Member (June 23, 1989, p. 13271), but the Chair will not otherwise entertain a request to add co-sponsors by a Member other than the first sponsor, whether to include only himself (Mar. 5, 1991, p. 5026; Oct. 25, 1995, p. ——) or to include all Members (Dec. 18, 1985, p. 37765). The Chair will not entertain a unanimous-consent request to list a Member as an additional original co-sponsor as of the date of original introduction where his name had been omitted by the original sponsor (Jan. 28, 1985, p. 1141; May 23, 1985, p. 13421). Unanimous consent requests to delete Members' names as co-sponsors are not entertained after the last committee authorized to consider the bill has reported to the House (Oct. 8, 1985, p. 26668), and the Speaker has vacated unanimous consent orders of the House to delete co-sponsors 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 co-sponsor of an unreported bill during its consideration under suspension of the rules and prior to a final vote thereon (June 9, 1986, p. 12979). An order of the House that no organizational or legislative business be conducted on certain days (first by provision of a concurrent resolution, but extended by unanimous consent) 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; see Jan. 22 and 28, 1992, pp. —— and ——).

At its organization for the 104th Congress the House resolved that each of the first twenty 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 first sponsor (sec. 223(g), H. Res. 6, Jan. 4, 1995, p. ——); and the Speaker stated that all "first" sponsors' signatures would be required on the bills (Speaker Gingrich, Jan. 4, 1995, p. ——). A Member was subsequently added as a "first" sponsor by unanimous consent (Jan. 18, 1995, p. ——).

5. All resolutions of inquiry addressed to the heads of executive departments shall be reported to the House within fourteen legislative days after presentation.

§855. Resolution of inquiry.

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 fourteen legislative days in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34).

§856. 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).

§857. Privileged status of resolutions of inquiry.

The practice of the House gives to resolution 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" and took precedence of the former Consent Calendar (VI, 409) before its abolishment in the 104th Congress (H. Res. 168, June 20, 1995, p. ——), but are not in order on Calendar Wednesday (VII, 896–898). And 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).

§858. 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 fourteen days) of the reference, and this time is construed to be legislative days (VIII, 3368; Speaker Rayburn, Feb. 9, 1950, p. 1755) exclusive of either the first or last day (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 privilege 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, 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 during that time (July 7, 1971, pp. 23807–10; Oct. 20, 1971, pp. 37055–57).

§ 859. 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 which 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).

§ 860. Introduction of bills, resolutions, or memorials by request.

6. When a bill, resolution, or memorial is introduced "by request", these words shall be entered upon the Journal and printed in the Record.

This rule was adopted in 1888 (IV, 3366).

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.

RULE XXIII.

OF COMMITTEES OF THE WHOLE HOUSE.

§ 861a. Selection of Chairman of Committee of the Whole; and his power to preserve order.

1. (a) In all cases, in forming a Committee of the Whole House, the Speaker shall leave his chair after appointing a Member as Chairman to preside, who shall, in case of disturbance or disorderly conduct in the galleries or lobby, have power to cause the same to be cleared.

This provision, 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. ——), but that authority was repealed in the 104th Congress (sec. 212(b), H. Res. 6, Jan. 4, 1995, p. ——). Delegates presided

in two instances during the 103d Congress (Oct. 6, 1994, p. ——; Oct. 7, 1994, p. ——).

§861b. 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). His decisions on questions of order may be appealed; and 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?" and a majority vote sustains the ruling (Aug. 1, 1989, p. 17159). 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). While 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). 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. ——). He recognizes for debate (V, 5003); but like the Speaker is forbidden to recognize for requests to suspend the rule of admission to the floor (V, 7285). He 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); but 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).

§862. Speaker's declaration into Committee of the Whole pursuant to special order.

(b) After the House has adopted a special order of business resolution reported by the Committee on Rules providing 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 within his discretion, when no question is pending before the House, declare the House resolved into the Committee of the Whole House on the state of the Union for the consideration of that measure without inter-

vening motion, unless the resolution in question provides otherwise.

Paragraph (b) was added in the 98th Congress (H. Res. 5, Jan. 3, 1983, p. 34).

§ 863. Failure of a quorum in Committee of the Whole.

2. (a) A quorum of a Committee of the Whole shall consist of one hundred Members. The first time that a Committee of the Whole finds itself without a quorum during any day, the Chairman shall invoke the procedure for the call of the roll under clause 5 of rule XV, unless, in his discretion, he orders a call of the Committee to be taken by the procedure set forth in clause 1 or clause 2(b) of rule XV: *Provided,* That the Chairman may in his discretion refuse to entertain a point of order that a quorum is not present during general debate only. If on such call, a quorum shall appear, the Committee shall continue its business; but if a quorum does not appear, the Committee shall rise and the Chairman shall report the names of the absentees to the House. After the roll has been once called to establish a quorum during such day, the Chairman may not entertain a point of order that a quorum is not present unless the Committee is operating under the five-minute rule and the Chairman has put the pending motion or proposition to a vote; and if the Chairman sustains a point of order that a quorum is not present after putting the question on such a motion or proposition, he may announce that following a regular quorum call conducted pursuant to the previous provisions of this clause, he will reduce to not

less than five minutes the period of time within which a recorded vote on the pending question may be taken if such a vote is ordered. If, at any time during the conduct of a quorum call in a Committee of the Whole, the Chairman determines that a quorum is present, he may, in his discretion and subject to his prior announcement, declare that a quorum is constituted. Proceedings under the call shall then be considered as vacated, and the Committee shall not rise but shall continue its sitting and resume its business.

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 was adopted. The rule was amended in 1880, again in 1890 (which included the concept that a quorum in the Committee should be one hundred 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, and on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70) clause 2 was substantially changed to allow quorum calls only under the five-minute rule where the Chairman has put the question on a pending proposition, after a quorum of the Committee of the Whole has been once established on that day. 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. ——), 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).

The clause was amended again in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16) 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 Chairman to reduce to five minutes the period for a recorded vote immediately following a regular quorum call. A vote by division is not such intervening business as would preclude a five-minute vote

under this clause (July 22, 1994, p. ——). In the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98) the rule was amended to allow the Chairman the discretion whether or not to entertain a point of order of no quorum during general debate only.

The last two sentences of the clause, permitting the Chair to vacate proceedings under the call in his discretion when a quorum appears, were added in the 93d Congress (H. Res. 998, Apr. 9, 1974, pp. 10195–99). The Speaker interpreted the last two sentences of this clause 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, pp. 14148–49).

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 5 of rule XV (July 17, 1974, p. 23673).

Under the modern practice, when a Committee of the Whole finds itself without a quorum, 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 1 of rule XV (alphabetical call of the roll) or clause 2(b) of rule XV (clerk tellers) (for the use of clerk tellers for a "notice" quorum call in Committee of the Whole, see July 13, 1983, p. 18858).

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). 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 which must appear to permit the committee to continue its business is a quorum of the committee and not of the House (IV, 2970, 2971) but if such quorum fails to appear, a quorum of the House is required (VI, 674). It was formerly held that after the committee has risen and reported its roll call, a motion to adjourn is 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 Chairman'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 he may count those present and not voting in determining whether a quorum is present (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 4 of rule XV) 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 prior to 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 or teller vote remains possible, the question remains pending and the Chair is obligated to entertain a point of order of no quorum under clause 2(a) of rule XXIII (June 6, 1979, p. 13648).

§864. Rising and reports of Committee of the Whole.

The presence of a quorum is not necessary for adoption of a motion that the Committee of the Whole rise (IV, 2975, 2976, 4914; clause 6(b) of rule XV; Mar. 5, 1980, pp. 4801–02; Oct. 3, 1985, p. 26096; May 21, 1992, p. ——); but when the committee rises without a quorum, it may not report the bills it has acted on (IV, 2972, 2973), and such bills as have been laid aside to be reported remain in the committee until the next occasion, when the committee rises without question as to a quorum (IV, 4913). A simple motion that the Committee of the Whole rise is privileged (VIII, 2369) and takes precedence over a motion to amend (May 21, 1992, p. ——); however the motion cannot interrupt a Member who has the floor (VIII, 2370–2371) and may be ruled out when dilatory (VIII, 2800). For a further discussion of the motion to rise, see § 334, *supra*.

Under clause 6 of rule XV, as added in the 93d Congress (H. Res. 998, Apr. 9, 1974, p. 10199), 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 of the Committee has reported the bill or resolution back to the House. The fact that the vote whereby the committee rises does not show a quorum (IV, 4914) or that a point of no quorum has been made without an ascertainment thereof (IV, 2974), does not prevent a report of the bills already acted on. 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 record vote had disclosed a quorum (IV, 2972).

(b) In the Committee of the Whole, the Chair shall order a recorded vote on request supported by at least twenty-five Members.

This clause was adopted in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16).

§ 864a. Five-minute votes on amendments in sequence.

(c) In the Committee of the Whole, the Chairman may, in his discretion, reduce to not less than five minutes the period of time within which a rollcall vote by electronic device may be taken without any intervening business or debate on any or all pending amendments after the vote has been taken on the first pending amendment.

This paragraph was added in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. 39). A vote by division is not such intervening business as would preclude a five-minute vote under this clause (July 22, 1994, p. ——).

§ 864b. Former provision for de novo vote where Delegates decisive.

When the 103d Congress enabled voting by the Delegates and the Resident Commissioner in the Committee of the Whole, it also added a paragraph (d) to clause 2 of rule XXIII to provide for immediate reconsideration in the House of questions resolved in the Committee of the Whole House on the state of the Union by a margin within which the votes of Delegates and the Resident Commissioner have been decisive (H. Res. 5, Jan. 5, 1993, p. ——). When the 104th Congress repealed the authority for the Delegates and the Resident Commissioner to vote in the Committee of the Whole, it also repealed clause 2(d) (sec. 212(c), H. Res. 6, Jan. 4, 1995, p. ——).

Under the former paragraph (d), whether the votes cast by the delegates were decisive was determined by a "but for" test, the question being whether the result would have been different if their votes were not counted (May 19, 1993, p. ——). An amendment adopted by immediate proceedings de novo in the House under the former paragraph (d) did 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. ——).

§865. Subjects requiring consideration in Committee of the Whole.

3. All motions or propositions involving a tax or charge upon the people, all proceedings touching appropriations of money, or bills making appropriations of money, or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

The first form of this rule was adopted in 1794, and it has been perfected by amendments in 1874 and 1896 (IV, 4792).

§866. Construction of the rule, requiring consideration in Committee of the Whole.

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), but 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. 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). Resolutions reported by the Committee on House Administration (now House Oversight) appropriating from the contingent fund (now referred to as "applicable accounts of the House described in clause 1(h)(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 which is to be borne otherwise than by the Government (IV, 4831; VIII, 2400), or relating to money in the Treasury in trust (IV, 4835, 4836, 4853; VIII, 2413), is not governed by the rule. But 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 also bills ultimately authorizing officials in certain contingencies to part with property belonging to the United States (VIII, 2399). 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). Under the later practice general (as well as private and special) bills providing for the adjudication and payment of claims are held to be within the requirements of the rule (IV, 4856–4859).

§867. Subjects not requiring consideration in Committee of the Whole.

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). While conference reports were formerly considered in Committee of the Whole, they may not be sent there on the suggestion of the point of order that they contain matter ordinarily requiring consideration therein (V, 6559–6561). When a bill is made a special order (IV, 3216–3224), or when unanimous consent is given for its consideration (IV, 4823; VIII, 2393), the effect is to discharge the Committee of the Whole and bring the bill before the House itself for its consideration (IV, 3216; VII, 788), and in such event the bill is considered "in the House as in the Committee of the Whole" (VIII, 2393). 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).

§868. General practice as to consideration in Committee of the Whole.

Provisions placing liability jointly on the United States and the District of Columbia (IV, 4833), granting an easement on public lands or in 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 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). And while a bill removing the rate of postage has been held to be within the rule as "involving a tax or charge" (IV, 4861), taxes on bank circulation have not been so considered (IV, 4854, 4855).

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, where the Member making the point of order is on his feet seeking recognition (July 16, 1991, p. 18391; see Procedure, ch. 31, sec. 5.7).

§869. Order of business in Committee of the Whole.

4. In Committees of the Whole House business on their calendars may be taken up in regular order, or in such order as the committee may determine, unless the bill to be considered was determined by the House at the time of going into committee, but bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors shall have precedence.

This rule applies to the two committees of the whole which have been established by the practice of the House (IV, 4705), the Committee of the Whole House on the state of the Union, which considers public bills, and the Committee of the Whole House, which considers private business (IV, 3115). 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). The latter portion of the rule is rarely used, since the ordinary practice is to consider general appropriation bills under clause 9 of rule XVI, which gives privilege to motions to go into committee to consider a designated bill of this class (IV, 3072).

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 wherein 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).

§870. General debate and amendment under the five-minute rule in Committee of the Whole.

5. (a) When general debate is closed by order of the House, any Member shall be allowed five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and 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; and neither an amendment nor an amendment to an amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the committee. Upon the offering of any amendment by a Member, when the House is meeting in the Committee of the Whole, the Clerk shall promptly transmit to the majority committee table five copies of the amendment and five copies to the minority committee table. Further, the Clerk shall deliver at least one copy of the amendment to the majority cloak room and at least one copy to the minority cloak room.

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, although 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; but in 1841 the rule that no Member should speak more than an hour was applied both to the Committee of the Whole and 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 to 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 when once offered (V, 5221). In the 104th Congress the Speaker announced his intention to strictly enforce time limitations on debate (Jan. 4, 1995, p. ——). The last two sentences of this clause, placing upon the Clerk the responsibility for providing copies of amendments, 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). 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).

§871. Motion to close general debate in Committee of the Whole.

The motion to close general debate in Committee of the Whole, successor in the 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); and though not debatable, the previous question is sometimes ordered on it to prevent amendment (V, 5203); and in case the previous question is ordered, the 40 minutes debate under 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 it is in order in the House (V, 5204–5206). The motion may not apply to a series of bills (V, 5209) and the motion in the House to limit debate on a bill in the Committee of the Whole must 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 absence of an order by the House, the Committee of the Whole may by unanimous consent determine as to 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). The general debate must close before amendments may be offered (IV, 4744; V, 5221); and it 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). Motions for disposition of the bill are not in order before general debate is closed (IV, 4778); nor may a Member, in time yielded to him for general debate, move that the Committee rise (May 25, 1967, p. 14121) or yield to another for such motion (Feb. 22, 1950, p. 2178).

§872. Reading and amendment under the five-minute rule.

The reading of the bill for amendment is not specifically required by the present form of the rule; but is done under a practice which 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). Revenue, general appropriation, lighthouse, and river and harbor bills are generally read by paragraphs; other bills by sections (IV, 4738, 4740); and while the matter is very largely in the discretion of the Chair (VIII, 2341, 2344, 2346), the Committee of the Whole has overruled his decision (VIII, 2347). 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 Senate amendment, however, is read in entirety, and not by either paragraphs or sections (V, 6194) and an amendment in the nature of a substitute offered from the floor

must also be read in its entirety and is then open to amendment at any point, and a unanimous-consent request in Committee of the Whole that it be read by sections for amendment is not in order (Mar. 25, 1975, p. 8490). 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. ——). 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's Precedents, vol. 8, ch. 26, sec. 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). 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 subsquent amendments to previous sections of the bill (Apr. 17, 1986, p. 7861). But 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 should be made before the next paragraph is read (V, 6931; VIII, 2351). 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 it (IV, 4751). In this debate recognitions are governed by the conditions of the pending question rather than by the general relations of majority and minority (V, 5223). The Member recognized may not yield time (V, 5035–5037; May 8, 1987, p. 11832; Dec. 10, 1987, p. 34686) and 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 five-minute rule is abrogated and 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. ——).

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. ——; May 27, 1993, p. ——).

§ 873a. 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); but a pro forma amendment must be voted on unless withdrawn (VIII, 2874). A Member who has occupied five minutes on a pro forma amendment may not lengthen this time by making another pro forma amendment (V, 5222; VIII, 2560), nor may he then extend this 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 by the Chair (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. ——); and a Member who has debated a substantive amendment may thereafter rise in opposition to a pro forma amendment thereto (July 20, 1951, p. 8566). 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 amendment, 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. ——). 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. ——). 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. ——).

§873b. Motion to dispense with reading.

(b) It shall be in order to move in the Committee of the Whole to dispense with the reading of an amendment if the amendment has been printed in the bill as reported from a committee, or if any Member shall have caused the amendment to be printed in the Congressional Record, and to be submitted to the clerk, or to any responsible staff member designated by the Chairman, of the reporting committee or committees, at least one day prior to floor consideration, and said motion shall be decided without debate.

Paragraph (b) 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.

§873c. Unfunded mandates.

(c)(1) In the Committee of the Whole, 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.

(2) In this paragraph, "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.

Paragraph (c) 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. ——), and in the 105th Congress to clarify that it applies to intergovernmental mandates (H. Res. 5, Jan. 7, 1997, p. ——).

§874a. Closing the five-minute debate in Committee of the Whole.

6. The committee may, by the vote of a majority of the Members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph or, at its election, upon the pending amendments only (which motion shall be decided without debate); but this shall not preclude further amendment, to be decided without debate. However, if debate is closed on any section or paragraph under this clause before there has been debate on any amendment which any Member shall have caused to be printed in the Congressional Record at least one day prior to floor consideration of such amendment, the Member who caused such

amendment to be printed in the Record shall be given five minutes in which to explain such amendment, after which the first person to obtain the floor shall be given five minutes in opposition to it, and there shall be no further debate thereon; but such time for debate shall not be allowed when the offering of such amendment is dilatory. Material placed in the Record pursuant to this provision shall indicate the full text of the proposed amendment, the name of the proponent Member, the number of the bill to which it will be offered and the point in the bill or amendment thereto where the amendment is intended to be offered, and shall appear in a portion of the Record designated for that purpose. All amendments to a specified measure submitted for printing in that portion of the Record shall be given numerical designations in the order printed.

This clause was adopted in 1860, with amendments in 1880 and 1885 (V, 5221, 5224). The second sentence of the clause, permitting ten 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 sentence was amended to accommodate the printing of amendments to measures not yet reported (H. Res. 5, Jan. 7, 1997, p. ——). The third sentence, relating to the procedure for submitting and the 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. ——).

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. ——). 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 7 of this rule is preferential to the motion to close debate (June 28, 1995, p. ——; July 13, 1995, p. ——). 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), 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 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. ——). 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, pp. 28459–60; Nov. 9, 1971, pp. 40060–61); but where debate has been limited to a time certain, such activities as reading and voting obviously consume time otherwise allocable to Members wishing to speak (May 6, 1970, p. 14452; Oct. 7, 1976, pp. 26305–06). 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: (1) by motion, 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) by unanimous-consent request or motion, 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, either: (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). 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 the Committee of the Whole has limited time for debate 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 (July 16, 1981, p. 16044). 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. ——).

Except as indicated in §762, *supra*, the manager of the bill, and not the proponent of the pending amendment, has the right to close controlled debate on an amendment (July 16, 1981, p. 16043), even where he is also the proponent of a pending amendment to the amendment (Mar. 16, 1983, p. 5792).

§875. The motion to strike out the enacting words of a bill.

7. A motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered equivalent to its rejection. Whenever a bill is reported from a Committee of the Whole with an adverse recommendation and such recommendation is disagreed to by the House, the bill shall stand recommitted to the said committee without further action by the House, but before the question of concurrence is submitted it is in order to entertain a motion to refer the bill to any committee, with or without instructions, and when the same 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 for the first time 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). 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).

§876a. Practice as to use of the motion to strike out the enacting clause.

The motion may not be made until the first section of the bill has been read (V, 5327; VIII, 2619). Having precedence of a motion to amend, it 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. ——; July 13, 1995, p. ——). 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 which 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, in Committee of the Whole, 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. ——). 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), but 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 (June 20, 1975, p. 19966). For more concerning debate on the motion, see Deschler's Precedents, vol. 5, ch. 19, sec. 12.

A second motion on the same legislative day to strike out the enacting clause is not entertained 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. ——).

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. ——). 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. ——). When the enacting words of a bill are stricken out the bill is rejected (V, 5326); and 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 out, the House automatically resolves itself into Committee of the Whole for its further consideration (VII, 943). When the bill is thus again taken up in Committee of the Whole it is taken up as unfinished business and is open to amendment, and the motion to strike out the enacting words may be again offered (VIII, 2633).

§876b. Reading concurrent resolution on budget for amendment.

8. At the conclusion of general debate in a Committee of the Whole on any concurrent resolution on the budget pursuant to section 305(a) of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as having been read for amendment. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or any amendment to an amendment thereto, unless the concurrent resolution as amended by such amendment or amendments (a) would be mathematically consistent (except to the extent that the amendment involved is limited by the third sentence of this clause); and (b) would contain all

the matter set forth in paragraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or any amendment to an amendment thereto, which changes the amount of the appropriate level of the public debt set forth in the concurrent resolution as reported; except that the amendments to achieve mathematical consistency which are permitted under section 305(a)(6) of the Congressional Budget Act of 1974 may include an amendment, offered by or at the direction of the Committee on the Budget, to adjust the amount of such level to reflect any changes made in the other figures contained in the resolution.

The first sentence of this clause was added to the rules on January 4, 1977 (H. Res. 5, 95th Cong., pp. 53–70). The second sentence was adopted in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). In the 96th Congress the second sentence was amended further and the third sentence 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 (fiscal 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).

§877. Application of rules of the House to the Committee of the Whole.

9. The rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable.

This clause was adopted in 1789 (IV, 4737).

§877a. Modification of special orders.

Unanimous consent requests may not be entertained in the Committee of the Whole by the Chair if their effect is to materially modify procedures required by a special rule or order adopted by the House. For example, the following unan-

imous-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 sections 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); (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 control (Oct. 9, 1986, p. 29984) or duration (Aug. 1, 1989, p. 17143; Mar. 12, 1991, p. 5799; Mar. 17, 1993, p. ——) of general debate specified by the House; (6) to reduce below 15 minutes the minimum time for recorded votes in the Committee of the Whole (June 18, 1987, p. 16764); (7) to postpone and cluster votes on amendments (July 13, 1995, p. ——; Sept. 27, 1995, p. ——); (8) 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. ——; July 13, 1995, p. ——); (9) 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. ——); (10) 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. ——); (11) to permit consideration of an additional amendment or to authorize a supplemental report from the Committee on Rules in lieu of the original report referred to in the special order (July 28, 1988, p. 19491; (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); or (13) to permit a division of the question on an amendment rendered indivisible by a special order (July 16, 1996, 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 (Sept. 1, 1976, p. 28877; Nov. 19, 1993, p. ——; July 24, 1996, p. ——); (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. ——); (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. ——; June 27, 1995, p. ——; Nov. 2, 1995, 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. ——); (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. ——); and (8) to permit the offering of pro forma amendments for the purposes of debate under a "modified-closed" special order limiting both amendments and debate thereon (July 17, 1996, p. ——; July 24, 1996, 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. ——).

RULE XXIV.

ORDER OF BUSINESS.

1. The daily order of business shall be as follows:

§878. The rule for the order of business in the House.

First. Prayer by the Chaplain.

Second. Reading and approval of the Journal, unless postponed pursuant to the provisions of clause 5(b)(1) of rule I.

Third. The Pledge of Allegiance to the Flag.

Fourth. Correction of reference of public bills.

Fifth. Disposal of business on the Speaker's table.

Sixth. Unfinished business.

Seventh. The morning hour for the consideration of bills called up by committees.

Eighth. Motions to go into Committee of the Whole House on the state of the Union.

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 in an endeavor so to arrange the business as to give the House as large a 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. ——).

The Speaker does not entertain a point of no quorum before the prayer is offered (VI, 663). Under clause 6 of rule XV, a point of no quorum may not be entertained before or during the offering of prayer or unless a question is pending (see § 774c, *supra*).

§ 879. 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 4(a) of rule XI, clause 9 of rule XVI, and rule XXVIII) permits the interruption of the order of business by matters which, in fact, often supplant it entirely for days at a time. But on any day, when the order of business is interrupted by a privileged matter, the business in order goes on from the place of interruption (IV, 3070, 3071) unless the House adjourn. 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 going 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 is contained in clauses 6 and 7 of rule XXIV, 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 is enabled to give 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.

§ 880. The privileged matters which may interrupt the order of business.

The privileged matters which may interrupt the order of business are as follows:

(1) General appropriation bills (clause 9 of rule XVI; IV, 3072).

(2) Conference reports (clause 1(a) of rule XXVIII; V, 6443) and motions to discharge or instruct conferees (clause 1(b) of rule XXVIII).

(3) Special orders reported by the Committee on Rules for consideration by the House (clause 4(b) of rule XI; 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 (clause 4(a) of rule XI; IV, 3142–3144, 4621; clause 5 of rule XXII).

(7) Call of committees on Wednesdays for bills on House and Union Calendars (clause 7 of rule XXIV).

(8) Private business on Tuesday (clause 6 of rule XXIV).

(9) Motions on the second and fourth Mondays of the month to discharge committees on public bills and resolutions (clause 3 of rule XXVII), and consideration of District of Columbia business (clause 8 of rule XXIV; IV, 3304).

(10) Consideration of bills on the Corrections Calendar (clause 4 of rule XIII), and motions to suspend the rules and pass bills out of the regular order (clause 1 of rule XXVII; 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 XX; 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). 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).

§881. 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 Speaker, 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. ——). 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. ——). 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 XIV and are discussed in § 757, *supra*. 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 clause 4 of rule XIII, a Consent Calendar was established, which was abolished in the 104th Congress (H. Res. 168, June 20, 1995, p. ——). For discussion of unanimous-consent requests and reservations of objections, see Procedure, ch. 23, sec. 2, and § 757, *supra*. 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).

§ 882. Disposal of business on the Speaker's table.

2. Business on the Speaker's table shall be disposed of as follows: Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments, and other communications addressed to the House, 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 presented by Members; but House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee.

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).

§883. 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 and such portions of Senate messages as, being House bills with Senate amendments, do not require consideration in Committee of the Whole are laid before the House for action; but communications other than messages from the President, 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) are referred to the appropriate standing committees under direction of the Speaker without action by the House (IV, 3107, 3111; VI, 727). 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). The usual practice, however, is to take from the Speaker's table and send to conference by unanimous consent (VI, 732). 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 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 §757, *supra*. 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" has been placed on the House Calendar (IV, 3096; VI, 727, 736, 738). 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).

§884. 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).

§885. Unfinished business.

3. The consideration of the unfinished business in which the House may be engaged at an adjournment, except business in the morning hour, 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, and 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 un-

satisfactory, because of delays caused by it, and in 1890 the present form was adopted (IV, 3112).

§886. Construction of rule as to unfinished business.

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. ——; Sept. 28, 1993, p. ——). When the House adjourns on the second legislative day after postponement of a question under this clause without resuming proceedings thereon, the question remains the unfinished business on the next legislative day (Oct. 1, 1997, p. ——). When the House adjourns while a motion to instruct under clause 1 of rule XXVIII is pending, the motion to instruct becomes unfinished business on the next day and does not need to be renoticed (Oct. 1, 1997, p. ——).

§887. 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 motions 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).

The rule excepts by its terms certain classes of business which are considered in periods set apart for classes of business, viz:

§ 888. Business unfinished in periods set apart for classes of business.

(*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, the Corrections Calendar, 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). Private bills unfinished on a Tuesday go over to the next Tuesday, and must be considered before the motion to go into Committee of the Whole House to consider other private bills. But when public business is considered on a Tuesday the unfinished business goes over until the next legislative day.

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 5 of rule I, a motion to suspend the rules, which 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).

§ 889. 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, and each committee when named may call up for consideration any bill reported by it on a previous day and on the House Calendar, and if the Speaker shall not complete the call of the Committees before the House passes to other business, he shall resume the next call where he left off, giving preference to the last bill under consideration: *Provided*, That whenever any committee shall have occupied the morning hour on

two days, it shall not be in order to call up any other bill 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 7 of rule XXIV), the "morning hour" has been used but rarely.

§890. Procedure in the morning hour.

Originally the morning hour was a fixed period of sixty minutes (IV, 3118); but under the present rules (clause 4 of rule XXIV) 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 sixty minutes votes to go into Committee of the Whole House on the state of the Union (clause 5 of rule XXIV; IV, 3134), or unless other privileged matter intervenes (IV, 3131, 3132). Before the expiration of the sixty 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 is 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 which 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 actually be on the House Calendar, and properly there, in order to be considered (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 its decision on statements from the chairman and other members of the committee (IV, 3128).

§891. Interruption of the call of committees by motion to go into Committee of the Whole House on the state of the Union.

5. After one hour shall have been devoted to the consideration of bills called up by committees, it shall be in order, pending consideration or discussion thereof, to entertain a motion to go into Committee of the Whole House on the state of the Union, or, when authorized

by a committee, to go into the Committee of the Whole House on the state of the Union to consider a particular bill, to which motion one amendment only, designating another bill, may be made; and if either motion be determined in the negative, it shall not be in order to make either motion again until the disposal of the matter under consideration or discussion.

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).

§ 892. Conditions of the motion to go into Committee of the Whole at the end of one hour.

The words of the rule "one hour after" have been interpreted to mean a less time in case 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 non-privileged 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 (such as general appropriation bills, which have priority for consideration under clause 9 of rule XVI, and bills reported under the leave to report to the House at any time pursuant to clause 4(a) of rule XI).

§ 893. Interruption of the regular order on Tuesdays for consideration of the Private Calendar.

6. On the first Tuesday of each month after disposal of such business on the Speaker's table as requires reference only, the Speaker shall direct the Clerk to call the bills and resolutions on the Private Calendar. Should objection be made by two or more Members to the consideration of any bill or resolution so called, it shall be recommitted to the committee which

reported the bill or resolution, and no reservation of objection shall be entertained by the Speaker. Such bills and resolutions, if considered, shall be considered in the House as in the Committee of the Whole. No other business shall be in order on this day unless the House, by two-thirds vote on motion to dispense therewith, shall otherwise determine. On such motion debate shall be limited to five minutes for and five minutes against said motion.

On the third Tuesday of each 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 to be given to omnibus bills containing bills or resolutions which have previously been objected to on a call of the Private Calendar. All bills and resolutions on the Private Calendar so called, if considered, shall be considered in the House as in the Committee of the Whole. Should objection be made by two or more members to the consideration of any bill or resolution other than an omnibus bill, it shall be recommitted to the committee which reported the bill or resolution and no reservation of objection shall be entertained by the Speaker.

Omnibus bills shall be read for amendment by paragraph, and no amendment shall be in order except to strike out or to reduce amounts of money stated or to provide limitations. Any item or matter stricken from an omnibus bill shall not thereafter during the same session of Congress be included in any omnibus bill.

Upon passage of any such omnibus bill, said bill shall be resolved into the several bills and resolutions of which it is composed, and such original bills and resolutions, with any amendments adopted by the House, shall be engrossed, where necessary, and proceedings thereon had as if said bills and resolutions had been passed in the House severally.

In the consideration of any omnibus bill the proceedings as set forth above shall have the same force and effect as if each Senate and House bill or resolution therein contained or referred to were considered by the House as a separate and distinct bill or resolution.

§ 894. Tuesday as a day for private business.

This provision 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. 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. ——; June 17, 1997, p. ——). Clause 2 of rule XXII prohibits consideration of certain private bills. Under clause 6(e)(2) of rule XV, the Speaker may in his discretion recognize a Member to move a call of the House prior to the call of the Private Calendar (July 8, 1987, p. 18972).

§ 895. 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 (Speaker pro tempore O'Connor, 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, 3894–95).

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 which was included therein (by unanimous consent) (Sept. 17, 1968, pp. 27184–85).

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, when the call of the Calendar is within the discretion of the Chair, is likewise in order in the Chair's discretion (although this clause only specifically provides for a motion to dispense with the call on the first Tuesday of each month), since 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 (appeal from the Chair's ruling laid on the table) (Nov. 17, 1981, pp. 27770–71).

§897. Calendar Wednesday business.

7. On Wednesday of each week no business shall be in order except as provided by clause 4 of this rule unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine. On such a motion there may be debate not to exceed five minutes for and against. On a call of committees under this rule bills may be called up from either the House or the Union Calendar, excepting bills which are privileged under the rules; but bills called up from the Union Calendar shall be considered in the Committee of the Whole House on the state of the Union. This rule shall not apply during the last two weeks of the session. It shall not be in order for the Speaker to entertain a motion for a recess on any Wednesday except during the last two weeks of the session: *Provided*, That not more

than two hours of general debate shall be permitted on any measure called up on Calendar Wednesday, and all debate must be confined to the subject matter of the bill, the time to be equally divided between those for and against the bill: *Provided further,* That whenever any committee shall have occupied one Wednesday it shall not be in order, unless the House by a two-thirds vote shall otherwise determine, to consider any unfinished business previously called up by such committee, unless the previous question had been ordered thereon, upon any succeeding Wednesday until the other committees have been called in their turn under this rule: *Provided,* That when, during any one session of a Congress, all of the committees of the House are not called under the Calendar Wednesday rule, at the next session of that Congress the call shall commence where it left off at the end of the preceding session.

§ 898. Decisions on Calendar Wednesday.

The first portion of this rule was adopted March 1, 1909, and amended March 15, 1909. The first and second provisos were adopted January 18, 1916. The last proviso 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). 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 prior to the consideration of District of Columbia business under clause 8 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 in the House before automatically going 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 XXIV, the morning hour, and another under clause 7 of rule XXIV, Calendar Wednesday (VII, 944). Prior to the adoption of the second proviso of the rule, 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 the second proviso of the rule, one committee can 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 which 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 which 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 the second proviso of the Calendar Wednesday rule is in order prior to 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(l)(1)(A) 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 (IV, 3128; VII, 928, 929; Feb. 22, 1950, p. 2162; Feb. 1, 1984, p. 1193; Sept. 12, 1984, p. 25100). Prior to the Legislative Reorganization Act of 1946 and the subsequent adoption of 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). A Member not authorized to do so may not call up such bill under the Calendar Wednesday rule (IV, 3128; VII, 928, 929).

§ 899. District of Columbia.

8. The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only, shall, when claimed by the Committee on Government Reform and Oversight, be set apart for the consideration of such business relating to the District of Columbia as may be presented by said committee.

The first rule allocating a fixed day for District of Columbia business was adopted in 1870. In 1890 the rule was amended (IV, 3304). It was again amended December 8, 1931 (VII, 872). In the 104th Congress clause

8 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 (sec. 202, H. Res. 6, Jan. 4, 1995, p. ——).

The Committee on Government Reform and Oversight 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 are not so privileged as to prevent their being take 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).

RULE XXV.

PRIORITY OF BUSINESS.

§900. Decision of questions as to priority of business without debate.

All questions relating to the priority of business shall be decided by a majority without debate.

This rule was adopted in 1803 to prevent obstructive debate (IV, 3061). 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 XXVI.

UNFINISHED BUSINESS OF THE SESSION.

§901. Resumption of business of a preceding session.

All business before committees 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 rule which dated from 1818. 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).

The business of conferences between the two Houses is not interrupted by an adjournment of a session which 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 XXVII.

CHANGE OR SUSPENSION OF RULES.

§902. Motions to suspend the rules.

1. No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend

the rules except on Mondays and Tuesdays, and during the last six days of a session.

This rule has been built up gradually on an old rule of 1794, which provided that no rule should be rescinded without one day's notice. In 1822 a clause was added that no rule should be suspended except by a two-thirds vote; and in 1828 it was provided that the "order of business, as established by the rules," should not be changed except by a two-thirds vote. This rule marks the great purpose of the motion, which was to give a means of getting consideration for bills which could not get forward under the rule for the order of business. Originally in order on any day, the motion was, in 1847, restricted 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 the Speaker to recognize for such motions 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 has preference (H. Res. 6, Jan. 3, 1973, pp. 26, 27); and in the 95th Congress, the rule was amended to permit the Speaker to recognize for such motions on every Monday and Tuesday (H. Res. 5, Jan. 4, 1977, 95th Cong., pp. 53–70). Originally of great use in establishing the order of business, when the older and more defective rules for the order of business existed, the use of the motion has changed since the House in 1890 adopted rules for the order of business which enables the House on any day to go to any public bills on its calendars. Also about the same time the perfection of the process of getting bills before the House out of order by a majority vote through a report from the Committee on Rules still further diminished the importance of the motion to suspend the rules (V, 6790).

§903. Nature of the motion to suspend the rules.

While originally the motion was used to suspend the rule on the order of business in order to consider a particular bill (V, 6852, 6853), in the later practice it is more usual to move "to suspend the rules and pass" the bill (V, 6846, 6847), and a division of the question may not be demanded, 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; Dec. 21, 1973, pp. 43251–63; June 4, 1985, pp. 13983, 13986, 13989), 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. ——), although it may be applied to an affirmative vote (Sept. 28, 1996, p. ——). The motion to refer may not be applied to the bill which it is proposed to pass under suspension of the rules (V, 6860). The motion to suspend the rules applied to the parliamentary law of Jefferson's Manual as well as to the other rules of the House (V, 6796), and may even be used to deny the right to have read a paper on which the House is to

vote (V, 5278–5284). While it has been held 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), the precedents are not uniform in this regard, and in earlier instances the separate motion to suspend the rules and dispense with reading of pendings bills, amendments and Senate amendments was held in order (V, 5278–84). Under the modern practice, only the motion "to suspend the rules and pass" is itself read and is held to suspend 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. ——). Thus only the title of the bill is normally read by the Clerk, and amendments included in the motion are not reported separately, but the Chair may, in his discretion, where objection is made to that procedure, require the reading of an amendment which is not printed or otherwise available (July 17, 1950, pp. 10448–49). Where a motion to suspend the rules and agree to a resolution which 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 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). It may be used also to change a rule (V, 6862), or to make a new rule, as was more frequently done in the earlier years of the House when it was the only way for making a special order except by unanimous consent (IV, 3152–3162). In the later practice special orders may still be made by motion to suspend the rules (IV, 3154); but usually they are made by majority vote of the House on a report from the Committee on Rules (IV, 3169). The motion to suspend may include a series of actions, 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 to 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 the rules may provide for the passage of a bill regardless of whether it has been reported or referred to any calendar or even previously introduced (VIII, 3421, July 16, 1996, p. ——), may include an amendment without the formality of committee approval (June 22, 1992, p. ——), and may provide for agreeing to a conference report which has been ruled out of order by the Speaker (Dec. 20, 1974, p. 41860). One motion to suspend the rules having been rejected, the Speaker may recognize for a similar motion (Dec. 21, 1973, pp. 43270–81).

§904. 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). A bill taken up under this early practice might be amended (V, 6842, 6856) by the House, 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, although another matter be pending (V, 6834), although the yeas and nays may have been demanded on another highly privileged motion (V, 6835), or although the previous question may have been ordered or moved on another matter (V, 6827; see also Sept. 17, 1990, p. 24695; V, 6831–6833; VIII, 3418). Earlier rulings, however, did not, while a series of Senate amendments were pending, permit a motion to suspend the rules in order to permit a vote to be taken on the amendments in gross (V, 6828, 6830). But in the earlier practice, also, while a matter was pending a motion to suspend the rules in order to dispense with the reading otherwise required was admitted (V, 5278). 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); and when a question of high privilege under rule IX is before the House a motion to suspend the rules and consider another matter is not in order (V, 6825, 6826; VI, 553, 565). But the motion to suspend the rules has been held of equal privilege with the motion to instruct conferees after 20 days of conference, which under clause 1(c) of rule XXVIII 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 then highly privileged motion to fix the day to which the House should adjourn was pending (IV, 2758). While the motion is of high privilege, it may be superseded by a question of the privilege of the House (III, 2553; VI, 565). Pursuant to clause 8 of rule XVI the Speaker may entertain one motion to adjourn pending a motion to suspend the rules, but after that vote shall not entertain any other motion until the vote is taken on the motion to suspend the rules. 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 Rules Committee. 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), and no advance notice to Members of bills to be called up under suspension of the rules is required (Mar. 20, 1978, pp. 7535–36), but the rules forbid the Speaker to entertain a motion to suspend the rules relating to the privilege of the floor (§919; V, 7283; VIII, 3634), the use of the Hall of the House (§918; V, 7270)

or prohibiting the introduction of persons in the galleries (§764; VI, 197). Where a special rule requires that the object of a motion to suspend the rules be announced on the floor at least one hour prior to the Chair's entertaining the motion, unanimous consent is required to permit the Chair to entertain the motion prior to that time (Sept. 28, 1996, p. ——).

§905. Individual and committee motions to suspend the rules.

Prior to 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). In rare instances the Speaker has called the committees in regular order for motions to suspend the rules, but this method is not required (V, 6810, 6811). In the earlier practice the committee motion must have been formally and specifically authorized by the committee (V, 6805–6807); but after the motion was seconded and debate had begun it was too late to raise a question as to the authorization (V, 6808). Under the later practice authorization by a committee is not required (VIII, 3410). The committee may not present a bill which has not been referred to it (V, 6813) and is not within its jurisdiction (V, 6848). A bill offered on a committee suspension day, in the early practice, could carry with it only such amendments as were authorized by a committee (V, 6812), but in the modern practice the formality of committee approval is not required (June 22, 1992, p. ——). 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).

§906. The second of the motion to suspend the rules.

Prior to 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 in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. 39). This 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) 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. Copies of reports on bills considered under suspension are not required to be available in advance. The Constitutional right of a Member to demand the yeas and nays, or the right of a Member under clause 5(a) of rule I to demand a recorded vote, did not exist on the question of ordering a second under the former clause 2, which only permited 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). But where a quorum failed on the vote for a second, under clause 4 of rule XV the yeas and nays were ordered (IV, 3053–3055; Dec.

21, 1973, pp. 43251–63). Where the Chair allocates the time in opposition to the motion to the ranking minority member of the reporting committee, a challenge that that member does not qualify by being opposed, in order to control such time, must be made when the time is allocated by the Chair (May 15, 1984, p. 12215; Speaker Wright, June 2, 1987, p. 14223). The motion to suspend the rules may be withdrawn at any time before the Chair puts the question and a voice vote is taken thereon (July 27, 1981, p. 17563; July 16, 1996, p. ——).

§907. The forty minutes of debate on motion to suspend the rules.

2. When a motion to suspend the rules has been submitted to the House, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition; and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

Formerly clause 3, this provision was amended and redesignated 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 adoption of this clause 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). 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; Sept. 27, 1996, 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).

This clause formerly included a paragraph (b) dealing with the Speaker's authority to postpone further proceedings on motions to suspend the rules and pass bills or resolutions. Paragraph (b) 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). The paragraph 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.

§907a. The forty minutes of debate on other propositions.

The last provision of this clause allows 40 minutes of debate when the previous question is ordered on a proposition on which there has been no debate (V, 6821; 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); is not available when the question on which the previous question is ordered is otherwise nondebatable, such as the motion to close debate (VIII, 2555, 2690); is not available 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); and is not available on incidental motions (V, 5497–5498), on propositions previously debated in Committee of the Whole (V, 5505), on conference reports accompanying measures that were debated before being sent to conference (V, 5506–5507), or 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 (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).

§908. Motion to discharge a committee.

3. A Member may present to the Clerk a motion in writing to discharge a committee from the consideration of a public bill or resolution which has been referred to it thirty days prior thereto (but only one motion may be presented for each bill or resolution). Under this rule it shall also be in order for a Member to file a motion to discharge the Committee on Rules from further consideration of any resolution providing a special rule for the consideration of a public bill or resolution reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee thirty or more days without action: *Pro-*

vided, That 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 resolution, or admitting or effecting a nongermane amendment to a public bill or resolution: *Provided further,* That said resolution from which it is moved to discharge the Committee on Rules has been referred to that committee at least seven days prior to the filing of the motion to discharge. The motion shall be placed in the custody of the Clerk, who shall arrange some convenient place for the signature of Members. A signature may be withdrawn by a Member in writing at any time before the motion is entered on the Journal. Once a motion to discharge has been filed, the Clerk shall make the signatures a matter of public record. The Clerk shall cause the names of the Members who have signed a discharge motion during any week to be published in a portion of the Congressional Record designated for that purpose on the last legislative day of that week. The Clerk shall make available each day for public inspection in an appropriate office of the House cumulative lists of such names. The Clerk shall devise a means by which to make 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, printed with the signatures thereto in the Congressional Record, and

referred to the Calendar of Motions to Discharge Committees.

On the second and fourth Mondays of each month except during the last six days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least seven days prior thereto, and seeks recognition, shall be recognized for the purpose of calling up the motion, and the House shall proceed to its consideration in the manner herein provided without intervening motion except one motion to adjourn. Recognition for the motions shall be in the order in which they have been entered on the Journal.

When any motion under this rule shall be called up, the bill or resolution shall be read by title only. After twenty minutes' debate, one-half in favor of the proposition and one-half in opposition thereto, the House shall proceed to vote on the motion to discharge. If the motion prevails to discharge the Committee on Rules from any resolution pending before the committee, the House shall immediately consider such resolution, the Speaker not entertaining any dilatory motion except one motion to adjourn, and, if such resolution is adopted, the House shall immediately proceed to its execution. If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consid-

eration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege; and if it shall be decided in the affirmative, the bill shall be immediately considered under the general rules of the House, and if unfinished before adjournment of the day on which it is called up it shall remain the unfinished business until it is fully disposed of. Should the House by vote decide against the immediate consideration of such bill or resolution, it shall be referred to its proper calendar and be entitled to the same rights and privileges that it would have had had the committee to which it was referred duly reported same to the House for its consideration: *Provided,* That when any perfected motion to discharge a committee from the consideration of any public bill or resolution has once been acted upon by the House it shall not be in order to entertain during the same session of Congress any other motion for the discharge from that committee of said measure, or from any other committee of any other bill or resolution substantially the same, relating in substance to or dealing with the same subject matter, or from the Committee on Rules of a resolution providing a special order of business for the consideration of any other such bill or resolution, in order that such action by the House on a motion to discharge shall be res adjudicata for the remainder of that session: *Provided further,* That if before any one motion to discharge a committee has been acted upon by the House there are on the Calendar of Motions to Dis-

charge Committees other motions to discharge committees from the consideration of bills or resolutions substantially the same, relating in substance to or dealing with the same subject matter, after the House shall have acted on one motion to discharge, the remaining said motions shall be stricken from the Calendar of Motions to Discharge Committees and not acted on during the remainder of that session of Congress.

This clause 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 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). Formerly clause 4, this provision was redesignated in the 102d Congress to conform to the repeal of the former clause 2, 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, pp. 631–32).

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. ——). 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. ——). 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. ——).

The phrase "a majority of the total membership of the House" was construed to mean 218 Members (Speaker Byrns, Apr. 15, 1936, p. 5509). The word "days" has been construed to mean "legislative days" (Speaker

Bankhead, Dec. 10, 1937, p. 1300). The rule does not authorize signature of discharge motions by proxy (VII, 1014).

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 (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. ——), 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. ——). 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. ——).

The right to close twenty minute debate on a motion to discharge a Committee is reserved to the proponents of the motion (VII, 1010a); and the chairman of the committee being discharged, if opposed to the motion, has been recognized to control the ten 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 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).

RULE XXVIII.

CONFERENCE REPORTS.

§ 909. High privilege of conference reports; and form of accompanying statement.

1. (a) The presentation of reports of committees of conference shall always be in order, except when the Journal is being read, while the roll is being called, or the House is dividing on any proposition.

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).

Under the language of the rule a conference report may be presented while a Member is occupying the floor in debate (V, 6451; VIII 3294), while a bill is being read (V, 6448), after the yeas and nays have been ordered (V, 6457), after the previous question has been demanded or ordered (V, 6449, 6450); during a call of the House if a quorum be present (V, 6456) and on Calendar Wednesday (VII, 907), but consideration of such reports yields to Calendar Wednesday business (VII, 899). It even takes precedence of the motion to reconsider (V, 5605), motions to go into the Committee of the Whole for consideration of general appropriation bills (VIII, 3291), consideration of District of Columbia business on Monday (VIII, 3292), unfinished business (Speaker O'Neill, Oct. 4, 1978, p. 33473), and motions to adjourn (V, 6451–6453), although as soon as the report is presented the motion to adjourn may be put (V, 6451–6453). Also 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). While it may not be presented while the House is dividing, it may be presented after a vote by tellers and pending the question of ordering the yeas and nays (V, 6447). It also has precedence of a report from the Committee on Rules (V, 6449), and 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). Of course, a question of privilege which 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).

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*.

§909a. Time for debate on motions to instruct.

(b) The time allotted for debate on any motion to instruct House conferees shall be equally divided between the majority and minority parties, except that if the proponent of the motion and the Member from the other party are both supporters of the motion, one-third of such debate time shall be allotted to a Member who is opposed to said motion.

This paragraph was added in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). 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 XIV (Oct. 3, 1989, p. 22863; July 14, 1993, p. ——; Aug. 1, 1994, p. ——). The proponent of a motion to instruct conferees has the right to close debate (July 28, 1994, p. ——; July 26, 1996, p. ——).

§910. Motions privileged after 20 calendar days of conference.

(c) After House conferees on any bill or resolution in conference between the House and Senate shall have been appointed for twenty calendar days and shall have failed to make a report, it is hereby declared to be a motion of the highest privilege to move to discharge said House conferees and to appoint new conferees, or to instruct said House conferees (but in either case only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the

motion announces to the House his intention to do so and the form of the motion); and, further, during the last six days of any sessions of Congress, it shall be a privileged motion to move to discharge, appoint, or instruct, House conferees after House conferees shall have been appointed thirty-six hours without having made a report.

This clause 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. ——) to clarify that both the motion to discharge conferees and appoint new conferees and the motion to instruct conferees after 20 days 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. The motion to instruct conferees under this clause may be repeated notwithstanding prior disposition of an identical motion to instruct, since any number of proper motions to instruct are in order after conferees have not reported within 20 days (Speaker Albert, July 22, 1974, pp. 24448–49; July 10, 1985, p. 18440), and the motion remains available when a conference report, filed after 20 or more days in conference, 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. ——), and, if adopted, renders the motion to instruct unfinished business on the next day and does not need to be renoticed (Oct. 1, 1997, p. ——).

§911. The statement accompanying a conference report.

(d) Each report made by a committee of conference to the House shall be printed as a report of the House. As so printed, such report shall be accompanied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate.

Such statement shall be sufficiently detailed and explicit to inform the House as to the effect which the amendments or propositions contained in such report will have upon the measure to which those amendments or propositions relate.

The original rule requiring the submission of a statement was adopted in 1880 (V, 6443) and remained in effect through the 91st Congress. The following precedents are in interpretation of that 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 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. ——).

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).

§911a. Unfunded mandates.

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4; 109 Stat. 48 *et seq.*) added a new part B to title IV of the Congressional Budget Act of 1974 (2 U.S.C. 658–658g) that requires a committee of conference to ensure that the Director of that Office prepares a statement with respect to unfunded costs of any additional Federal mandate contained in the conference agreement. See § 1007, *infra*.

§912a. Consideration of conference reports.

2. (a) It shall not be in order to consider the report of a committee of conference until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) after such report and the accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such report and accompanying statement shall have been printed in the daily edition of the Congressional Record for the day on which

such report and statement shall have been filed; but the preceding provisions of this sentence do not apply during the last six days of the session. Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement have been available to Members for at least two hours before the beginning of such consideration: *Provided, however,* That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b) of rule XI, a report from the Committee on Rules only making in order the consideration of a conference report notwithstanding this restriction. The time allotted for debate in the consideration of any such report shall be equally divided between the majority party and the minority party, except that if the floor manager for the majority and the floor manager for the minority are both supporters of the conference report, one third of such debate time shall be allotted to a Member who is opposed to said conference report.

The original rule requiring that conference reports be printed in the Record was adopted in 1902 (V, 6516). The three-day layover requirement in paragraph (a), as well as its 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 first sentence 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. ——).

The second sentence in paragraph (a) was amended, and its third sentence added, 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 Com-

mittee on Rules waiving that requirement. For an example of a resolution reported from the Committee on Rules only waiving 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).

Paragraph (a) was amended in the 99th Congress to provide that if both the floor manager for the majority and the floor manager for the minority support a conference report, the hour of debate thereon be divided three ways among the managers and a Member who is opposed (H. Res. 7, Jan. 3, 1985, p. 393). 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. ——). Where the time is divided three ways, the right to close debate falls to the majority manager calling up the conference report, preceded by the minority manager, preceded in turn 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 clause 2(b) (Speaker Albert, Sept. 30, 1976, pp. 34074–34100).

§912b. Consideration of amendments in disagreement.

(b)(1) It shall not be in order to consider any amendment (including an amendment in the nature of a substitute) proposed by the Senate to any measure reported in disagreement between the two Houses, by a report of a committee of conference that the committee has been unable to agree, until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) after such report and accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such

report and accompanying statement shall have been printed in the daily edition of the Congressional Record for the day on which such report and statement shall have been filed; but the preceding provisions of this sentence do not apply during the last six days of the session. Nor shall it be in order to consider any such amendment unless copies of the report and accompanying statement, together with the text of such amendment, have been available to Members for at least two hours before the beginning of such consideration: *Provided, however,* That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b) of rule XI, a report from the Committee on Rules only making in order the consideration of such an amendment notwithstanding this restriction. The time allotted for debate on any such amendment shall be equally divided between the majority party and the minority party, except that if the floor manager for the majority and the floor manager for the minority are both supporters of the original motion offered by the floor manager for the majority to dispose of the amendment, one third of such debate time shall be allotted to a Member who is opposed to said motion.

Paragraph (b)(1), relating to the consideration of amendments reported from conference in disagreement, was added to the rule as paragraph (b) 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 second sentence was amended and the third sentence was added 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 first sentence was amended to count as a "calendar day" any day on which the House is in session (H. Res. 254, Nov. 30, 1995, p. ——).

Paragraph (b) was amended in the 99th Congress to provide that if both the floor manager for the majority and the floor manager for the minority support the original motion offered to dispose of an amendment reported from conference in disagreement, the hour of debate thereon be divided three ways, among the managers and a Member who is opposed (H. Res. 7, Jan. 3, 1985, p. 393). 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 right to close the debate where the time is divided three ways falls to the manager offering the motion (Nov. 21, 1989, p. 30814).

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 on 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. ——), on 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 on a motion to dispose of a further stage of amendment which 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 one-half of the time, as all debate is allotted under the original motion (May 14, 1975, p. 14385), subject to a possible three-way split among the majority and minority managers and a Member opposed to the motion (Sept. 12, 1994, p. ——). 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 division of time for debate on a motion to dispose of a Senate amendment reported from conference in disagreement under clause 2(b)(1) does not extend to separate debate on an amendment thereto, which is governed by clause 2 of rule XIV, the general hour rule in the House (Sept. 17, 1992, p. ——).

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).

§912c. Certain motions to insist as preferential.

(2) During consideration of such an amendment to a general appropriation bill, if the original motion offered by the floor manager proposes to change existing law, then pending such original motion and before debate thereon one motion to insist on disagreement to the amendment proposed by the Senate shall be preferential to any other motion to dispose of that amendment if offered by the chairman of a committee having jurisdiction of the subject matter of the amendment or by 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 such a preferential motion to its adoption without intervening motion.

Paragraph (b)(2) was added in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——) 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. The Committee on Post Office and Civil Service (now the Committee on Government Reform and Oversight) 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. ——).

§912d. Certain conference reports considered as read.

(c) Any conference report and Senate amendment in disagreement which has been available as provided in paragraphs (a) and (b) of this clause shall be considered as having been read when called up for consideration.

Paragraph (c) was added in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16).

§913a. Conferees may report germane modification of amendment in nature of substitute.

3. Whenever a disagreement to an amendment in the nature of a substitute has been committed to a conference committee it shall be in order for the Managers on the part of the House to propose a substitute which is a germane modification of the matter in disagreement, but the introduction of any language in that substitute presenting a specific additional topic, question, issue, or proposition not committed to the conference committee by either House shall not constitute a germane modification of the matter in disagreement. Moreover, their report shall not include matter not committed to the conference committee by either House, nor shall their report include a modification of any specific topic, question, issue, or proposition committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific topic, question, issue, or proposition as so committed to the conference committee.

This provision 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). 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, pp. 46779–80). 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, pp. 20281–82). 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, pp. 20280–81). 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. ——).

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, pp. 41849–50). 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 which were not contained in either version and which 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 co-extensive 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 co-extensive with the authority contained in existing law which the other House has retained (Speaker pro tempore McFall, 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 which 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 pre-emption of citizen suits (Speaker pro tempore McFall, Sept. 27, 1976, p. 33019). A point of order was sustained against a motion to instruct conferees since directing the conferees 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, pp. 4304–05).

Prior to the 1971 revision of this clause, 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). But 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 (Speaker pro tempore McFall, Sept. 27, 1976, pp. 32719–20); 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. ——; Apr. 9, 1992, p. ——). For example, a motion to instruct conferees on a general appropriation bill may not instruct the conferees to include a funding limitation not contained in the House bill or Senate amendment (Sept. 13, 1994, p. ——). 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. ——) or to include provisions not contained in the House bill or Senate amendment (Dec. 21, 1995, p. ——). Some latitude, however, remains to 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).

§913b. Nongermane matter in conference agreements.

4. (a) With respect to any report of a committee of conference called up before the House containing any matter which would be in violation of the provisions of clause 7 of rule XVI if such matter had been offered as an amendment in the House, and which—

(1) is contained in any Senate amendment to that measure (including a Senate amendment in the nature of a substitute for the text of that measure as passed by the House) accepted by the House conferees or agreed to by the conference committee with modification; or

(2) is contained in any substitute agreed to by the conference committee;

it shall be in order, at any time after the reading of the report has been completed or dispensed with and before the reading of the statement, or immediately upon consideration of a conference report if clause 2(c) of this rule applies, to make a point of order that such nongermane matter, as described above, which shall be specified in the point of order, is contained in the report. For the purposes of this clause, matter which—

(A) is contained in any substitute agreed to by the conference committee;

(B) is not proposed by the House to be included in the measure concerned as passed by the House; and

(C) would be in violation of clause 7 of rule XVI if such matter had been offered in the House as an amendment to the provisions of that measure as so proposed in the form passed by the House;

shall be considered in violation of such clause 7.

(b) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

(c) Notwithstanding the final disposition of any point of order made under paragraph (a), or of any motion to reject made pursuant to a point of order under paragraph (b), of this clause, it shall be in order to make further points of order on the ground stated in such paragraph (a), and motions to reject pursuant thereto under such paragraph (b), with respect to other nongermane matter in the report of the committee of conference not covered by any previous point of order which has been sustained.

(d) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the conference report shall be considered as rejected and the question then pending before the House shall be—

(1) whether to recede and concur in the Senate amendment with an amendment

which shall consist of that portion of the conference report not rejected; or

(2) if the last sentence of paragraph (a) of this clause applies, whether to insist further on the House amendment.

If all such motions to reject are defeated, then, after the allocation of time for debate on the conference report as provided in clause 2(a) of this rule, it shall be in order to move the previous question on the adoption of the conference report.

The last sentence of clause 4(a) was added and clause 4(d) was amended on April 9, 1974 (H. Res. 998, 93d Cong., pp. 10195–99), to become effective on the thirtieth day after the adoption of the resolution, in order to make this clause applicable to provisions originally contained in Senate bills sent to conference, and not merely to Senate amendments to House bills in conference. The original clause 4 was included as part of the revision of 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 existing 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 clause 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 clause 2(c) of this rule, a point of order under this clause must be made immediately upon consideration of the conference report.

The procedure provided in this clause was first utilized on September 11, 1973 (pp. 29243–46), when the Chair sustained two points of order against portions of a conference report which 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 which have been rejected.

Under paragraph (b) of this clause 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 3 of this rule (Speaker Albert, Dec. 15, 1975, p. 40671).

Where possible, the Speaker rules on points of order against conference reports which if sustained will vitiate the entire conference report (as under clause 3 of this rule or under the Congressional Budget Act) before entertaining points of order under this clause (Speaker Albert, Sept. 23, 1976, pp. 32099–32100).

§913c. Nongermane matter in amendments in disagreement.

5. (a)(1) With respect to any amendment (including an amendment in the nature of a substitute) which—

(A) is proposed by the Senate to any measure and thereafter—

(i) is reported in disagreement between the two Houses by a committee of conference; or

(ii) is before the House, the stage of disagreement having been reached; and

(B) contains any matter which would be in violation of the provisions of clause 7 of rule XVI if such matter had been offered as an amendment in the House;

it shall be in order, immediately after a motion is offered that the House recede from its disagreement to such amendment proposed by the Senate and concur therein and before debate is commenced on such motion, to make a point of order that such nongermane matter, as described above, which shall be specified in the point of order, is contained in such amendment proposed by the Senate.

(2) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

(3) Notwithstanding the final disposition of any point of order made under subparagraph (1), or of any motion to reject made pursuant to a point of order under subparagraph (2), of this paragraph, it shall be in order to make further points of order on the ground stated in such subparagraph (1), and motions to reject pursuant thereto under such subparagraph (2), with respect to other nongermane matter in the amendment proposed by the Senate not covered by any previous point of order which has been sustained.

(4) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the motion to recede and concur shall be considered as rejected, and further motions—

> (A) to recede and concur in the Senate amendment with an amendment, where appropriate (but the offering of which is not in order unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available

on the floor when such motion is offered and is under consideration);

(B) to insist upon disagreement to the Senate amendment and request a further conference with the Senate; and

(C) to insist upon disagreement to the Senate amendment;

shall remain of high privilege for consideration by the House. If all such motions to reject are defeated, then, after the allocation of time for debate on the motion to recede and concur as provided in clause 2(b) of this rule, it shall be in order to move the previous question on such motion.

(b)(1) With respect to any such amendment proposed by the Senate as described in paragraph (a) of this clause, it shall not be in order to offer any motion that the House recede from its disagreement to such Senate amendment and concur therein with an amendment, unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration.

(2) Immediately after any such motion is offered and is in order and before debate is commenced on such motion, it shall be in order to make a point of order that nongermane matter, as described in subparagraph (1) of paragraph (a) of this clause, which shall be specified in the point of order, is contained in the language of the Senate amendment, as proposed to be

amended by such motion, copies of which are then available on the floor.

(3) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

(4) Notwithstanding the final disposition of any point of order under subparagraph (2), or of any motion to reject made pursuant to a point of order under subparagraph (3), of this paragraph, it shall be in order to make further points of order on the ground stated in subparagraph (1) of paragraph (a) of this clause, and motions to reject pursuant thereto under subparagraph (3) of this paragraph, with respect to other nongermane matter in the language of the Senate amendment, as proposed to be amended by the motion described in subparagraph (1) of this paragraph, not covered by any previous point of order which has been sustained.

(5) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this paragraph, the motion to recede and concur in the Senate amendment with an amendment shall be considered as rejected, and further motions—

(A) to recede and concur in the Senate amendment with an amendment, where ap-

propriate (but the offering of which is not in order unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration);

(B) to insist upon disagreement to the Senate amendment and request a further conference with the Senate; and

(C) to insist upon disagreement to the Senate amendment;

shall remain of high privilege for consideration by the House. If all such motions to reject are defeated, then, after the allocation of time for debate on the motion to recede and concur in the Senate amendment with an amendment as provided in clause 2(b) of this rule, it shall be in order to move the previous question on such motion.

(c) If, on a division of a motion that the House recede and concur, with or without amendment, from its disagreement to any such Senate amendment as described in paragraph (a)(1) of this clause, the House agrees to recede, then, before debate is commenced on concurring in such Senate amendment, or on concurring therein with an amendment, it shall be in order to make and dispose of points of order and motions to reject with respect to such Senate amendment in accordance with applicable provisions of this clause and to effect final determination of these matters in accordance with such provisions.

This clause 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 this clause the procedures concerning disposition of Senate non-germane amendments. Clause 5(b) 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. Clause 5(b) is not applicable to a provision contained in a motion to recede and concur with an amendment which was not contained in any form in the Senate version and which 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 (Speaker pro tempore Kazen, Oct. 4, 1978, p. 33502; June 30, 1987, p. 18294). A point of order under clause 5(a) of rule XXI (appropriations on a legislative bill) against a motion to dispose of a Senate amendment in disagreement which, if sustained, would vitiate the entire motion, must be disposed of prior to a point of order 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).

§913d. Open conference meetings.

6. (a) Each conference committee meeting between the House and Senate shall be open to the public except when the House, in open session, has determined by a rollcall vote of a majority of those Members voting that all or part of the meeting shall be closed to the public.

(b)(1) After the reading of the report and before the reading of the joint statement, or immediately upon consideration of a conference report if clause 2(c) of this rule applies, a point of order may be made that the committee of conference making the report to the House has failed to comply with paragraph (a) of this clause.

(2) If such point of order is sustained, the conference report shall be considered as rejected, the House shall be considered to have insisted

upon its amendment(s) or upon disagreement to the amendment(s) of the Senate, as the case may be, and to have requested a further conference with the Senate, and the Speaker shall be authorized to appoint new conferees without intervening motion.

This clause as originally added to 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 rollcall 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, and was further amended in the 96th Congress (H. Res. 5, Jan. 5, 1979, pp. 7–16) to provide that if the conference report is considered read under clause 2(c) of this rule, a point of order under this clause must be made immediately upon consideration of the conference report.

At any time after a bill has been sent to conference and conferees have been appointed by the Speaker, a motion pursuant to this clause authorizing a conference committee to close its meetings to the public is privileged for consideration in the House, is debatable for one hour within the control of the Member offering the motion, and must be voted on by a rollcall vote (Speaker O'Neill, May 23, 1977, pp. 15880–84; Apr. 13, 1978, p. 10128). While 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). 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).

Clause 11 of rule XLVIII, adopted on July 14, 1977 (H. Res. 658, pp. 22932–49), provides that this paragraph does not apply to conference committee meetings respecting legislation (or any part thereof) reported from the Permanent Select Committee on Intelligence.

RULE XXIX.

SECRET SESSION.

§914. Secret session of the House.

Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House.

This rule, 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).

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, pp. 15710–11). 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).

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 ensured the Speaker that he had confidential communications to make to the House as required by the rule (Speaker pro tempore Wright, 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. 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, pp. 3618–19). Another secret session was held in the 98th Congress pending consideration of a bill amending the Intelligence Authorization Act to prohibit U.S. 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).

RULE XXX.

USE OF EXHIBITS.

§915. Objections to use of exhibits.

When the use of any exhibit in debate is objected to by any Member, it shall be determined without debate by a vote of the House.

This rule was rewritten in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——) to address the use of exhibits in debate rather than the reading from papers. When the use of an exhibit in debate is objected to under this rule, the Chair immediately puts the question on whether use of the exhibit shall be permitted (unless determining a breach of decorum under clause 2 of rule I) (Nov. 1, 1995, p. ——; Nov. 10, 1995, p. ——; July 31, 1996, p. ——, ——). The Chair puts the question without debate, and without requiring the objecting Member to state the basis for the objection (Nov. 10, 1995, p. ——). As such, an objection under this rule is not a point of order: it may be resolved by withdrawal of the exhibit; that failing, it amounts to a demand that the Chair put to the House the question whether the exhibit may be used (July 31, 1996, p. ——). It is not a proper parliamentary inquiry to ask the Chair to judge the accuracy of the content of an exhibit (Nov. 10, 1995, p. ——). The Chair has held that a second virtually consecutive invocation of rule XXX, resulting in a second pair of votes on use of a chart and on reconsideration thereof, was not dilatory under clause 10 of rule XVI or clause 4(b) of rule XI (July 31, 1996, p. ——).

§916. History of former rule on reading of papers.

The earlier form of the rule, 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 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, pp. 6104–05; Aug. 5, 1949, p. 10859), and the new form of the rule adopted in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. ——) 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 of a chart from the well of the House which is not being utilized during debate (Apr. 1, 1982, p. 6304), or which is otherwise disruptive of decorum.

§917. Earlier practice.

The reading of papers other than the one 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, but this privilege was subject to the authority of the House if another Member objected (V, 5285–5288, 5289–5291; 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 which 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). But, on a motion to lay on the table, a demand for the reading of a paper other than the one to which the motion applied was overruled (V, 5297); and after the previous question were ordered a Member could not ask the decision of the House as to 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*. The consent of the House pursuant to the former form of this rule 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, and 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).

RULE XXXI.

HALL OF THE HOUSE.

§918. Use of the Hall of the House.

The Hall of the House shall be used only for the legislative business of the House and for the caucus meetings

of its Members, except upon occasions where the House by resolution agrees to take part in any ceremonies to be observed therein; and the Speaker shall not entertain a motion for the suspension of this rule.

Rules relating to the use of the Hall were adopted as early as 1804. The present form of the rule dates from 1880 (V, 7270). It was renumbered January 3, 1953, p. 24.

RULE XXXII.

OF ADMISSION TO THE FLOOR.

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

1. The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto, viz: The President and Vice President of the United States and their private secretaries, judges of the Supreme Court, Members of Congress and Members-elect, contestants in election cases during the pendency of their cases in the House, the Secretary and Sergeant-at-Arms of the Senate, heads of departments, foreign ministers, governors of States, the Architect of the Capitol, the Librarian of Congress and his assistant in charge of the Law Library, the Resident Commissioner to the United States from Puerto Rico, each Delegate to the House, such persons as have, by name, received the thanks of Congress, the Parliamentarian, elected officers and elected minority employees of the House (other than Members); and ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and elected minority employees of the

House, subject to the provisions of clause 3 of this rule; and clerks of committees when business from their committee is under consideration and not more than one person from a Member's staff when that Member has an amendment under consideration, subject to the provisions of clause 4 of this rule; and one attorney to accompany any Member who is the respondent in an investigation undertaken by the Committee on Standards of Official Conduct when the recommendation of such committee is under consideration; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule or to present from the chair the request of any Member for unanimous consent.

This rule was subjected to many changes from 1802 until 1880 (V, 7823; VIII, 3634), was renumbered in the 83d Congress (Jan. 3, 1953, p. 24), and was substantially amended in the 94th Congress (H. Res. 1435, Oct. 1, 1976, pp. 35175–80). The latter amendment to the rule changed clause 1 and added clause 3 to clarify the conditions under which former Members, officers and employees were entitled to admission to the floor. Clause 1 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).

The portion of this clause which permits clerks of committees access to the floor during the consideration of business from their committee 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 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, 92d Cong.) but had in fact, by custom, been permitted on the floor prior to this change in the rule.

The portion of the rule 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 an ex-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). Former Members of the House do not have the privilege of the Hall of the House nor rooms leading thereto when they are personally interested in legislation being considered or who are in the employ of an organization that is interested in legislation before the Congress (Speaker Rayburn, Oct. 2, 1945, p. 9251). While former Members of Congress are entitled to the privilege of the floor they may not manifest approval or disapproval of the proceedings (VIII, 3635). 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 prior to admission to the floor (Speaker O'Neill, Jan. 21, 1986, p. 5; Jan. 5, 1993, p. ——). It is not in order to refer to persons temporarily on the floor of the House as guests of the House, such as Members' children (Apr. 28, 1994, p. ——; Dec. 19, 1995, p. ——; Jan. 22, 1996, p. ——), other children (May 18, 1995, p. ——), or Senators exercising floor privileges (May 18, 1995, p. ——).

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

2. There shall be excluded at all times from the Hall of the House of Representatives and the cloakrooms all persons not entitled to the privilege of the floor during the session, except that until fifteen 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 re-

quest of Members, by card or in writing, may be admitted.

This clause was adopted in 1902 (V, 7346).

§921a. Former Members and officers.

3. Ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and former elected minority employees of the House, shall be entitled to the privilege of admission to the Hall of the House and rooms leading thereto only if they do not have any direct personal or pecuniary interest in any legislative measure pending before the House or reported by any committee of the House and only if they are not in the employ of, or do not represent, any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat or amendment of any legislative measure pending before the House, reported by any committee of the House or under consideration in any of its committees or subcommittees. The Speaker shall promulgate such regulations as may be necessary to implement the provisions of this rule and to ensure its enforcement.

This clause was added in the 94th Congress (H. Res. 1435, Oct. 1, 1976, pp. 35175–80) to consolidate in one clause 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. Pursuant to this authority, the Speaker issued regulations addressing former Members (Jan. 6, 1977, p. 321; June 7, 1978, p. 16625; Speaker Foley, June 9, 1994, p. ——; Speaker Gingrich, May 24, 1995, p. ——; Speaker Gingrich, Aug. 1, 1996, p. ——). A former Member is not 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 com-

mittee or subcommittee (Speaker pro tempore Brademas, June 7, 1978, p. 16625). The essence of the rule is 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. ——). Intent to lobby will be assumed where the former Member is employed or retained as a lobbyist to influence legislative measures as described in (2) above (Aug. 1, 1996, p. ——). 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 the Speaker's Lobby and the cloakrooms (Speaker Gingrich, May 24, 1995, p. ——; Aug. 1, 1996, 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, p. ——). 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. ——).

§921b. Members' staff.

4. Persons from Member's staffs admitted to the Hall of the House or rooms leading thereto under clause 1 shall be admitted only upon prior notification to the Speaker. No such person or clerk of a committee so admitted under clause 1 shall 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 and clerks shall remain at the desk and are admitted only to advise the Member or committee responsible for their admission. Any such person or clerk who violates this clause may be excluded during the session from the Hall of the House and rooms leading thereto by the Speaker.

This clause of the rule was added 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 clause 4 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. ——) and may not applaud during debate (June 14, 1995, p. ——).

§921c. Prohibition on distribution of campaign contributions.

5. No Member, officer, or employee of the House of Representatives, or any other person entitled to admission to the Hall of the House or rooms leading thereto by this rule, shall knowingly distribute any political campaign contribution in the Hall of the House or rooms leading thereto.

Clause 5 was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. ——).

RULE XXXIII.

OF ADMISSION TO THE GALLERIES.

§922. The various galleries and admission thereto.

The Speaker shall set aside a portion of the west gallery for the use of the President of the United States, the members of his Cabinet, justices of the Supreme Court, foreign ministers and suites, and the members of their respective families, and shall also set aside another portion of the same gallery for the accommodation of persons to be admitted on the card of Members. The southerly half of the east gallery shall be assigned exclusively for the use of the families of Members of Congress, in which the Speaker shall control one bench, and on request of a Member the Speaker shall issue a card of admission to his family, which shall include their visi-

tors, and no other person shall be admitted to this section.

This rule was adopted in 1880 (V, 7302). It was 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.

RULE XXXIV.

OFFICIAL AND OTHER REPORTERS.

§923. Reporters of debates and committee stenographers.

1. The appointment and removal, for cause, of the official reporters of the House, including stenographers of committees, and the manner of the execution of their duties shall be vested in the Clerk, subject to the direction and control of the Speaker.

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 borne an important part in the evolution by which the House has built up the system of 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).

§924. 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 XXVIII; see §912, *supra*] 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*) Ex-

cerpts 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 Congress 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 9 of rule XIV 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 9 of rule XIV 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.

§924a. Substantially verbatim account.

The requirement of rule 7 of the supplemental rules outlined above that the Congressional Record be a substantially verbatim account of remarks actually rendered was included as a new clause 9 of rule XIV in the 104th Congress, with the prescription that that rule constitute a standard of conduct under clause 4(e)(1)(B) of rule X (sec. 213, H. Res. 6, Jan. 4, 1995, p. ——). Under clause 9 of rule XIV, remarks actually delivered may not be deleted and remarks inserted must appear in distinctive type (Jan. 4, 1995, p. ——). 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. ——; Jan. 3, 1996, p. ——). 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. ——).

The 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). As a general principle the Speaker has no control over the Record (V, 6984, 7017), but words spoken by a Member after he has been called to order may be excluded by direction of the Speaker (V, 6975–6978; VIII, 3466, 3471; July 29, 1994, p. ——). But 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).

§925. 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, pp. 656–57; Sept. 19, 1967, p. 26032).

§926. 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). Where a Member interrupts another during debate without being yielded 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). 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 has also 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 which directed 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). 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. ——; 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 a new 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. ——).

It is improper for a Member to have published 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). A correction of the Record which 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 Oversight. 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). It has also 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 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).

§927. Privileges of propositions to correct the Congressional Record.

A motion or resolution for the correction of the Congressional Record which involves a question of privilege may be made properly after the reading and approval of the Journal (V, 7013; VIII, 3496), and is not in order pending the approval of the Journal (V, 6989), but is privileged after that (V, 7014–7019; VIII, 3461, 3463).

A question of privilege as to an alleged error in the Record may not be raised until the Record has appeared (V, 7020), and a resolution to omit from the manuscript copy certain remarks declared out of order is not privileged (V, 7021). Offensive words having been stricken from the Record by the Member, a question of privilege may not arise therefrom (V, 7023; VI, 596). Privileged motions to correct the Congressional Record involve cases where the integrity of House proceedings is in question, such as where unparliamentary words have been spoken in debate (see §761, *supra*) or inserted in the Record (Deschler's Precedents, vol. 1, ch. 5, sec. 17), where the remarks of one Member have been attributed to another (sec. 18.1–18.2), or where a Member has improperly altered his remarks during an exchange of colloquy with another Member (sec. 18.9). Mere

typographical errors in the Congressional 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's Precedents, vol. 1, ch. 5, sec. 19) and the House does not change the Record merely to show what a Member should have said during debate (sec. 18).

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 which he had offered on a previous day and which had been substantially misprinted in the daily Record for the day on which it was offered (Deschler's Precedents, vol. 1, ch. 5, sec. 18.6).

§928. Privilege of Member to revise his remarks in the Congressional Record.

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 9 of rule XIV 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 §§764a, 764b, 924, *supra*). 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 which place a different aspect on the remarks of a colleague require authorization by the House (VIII, 3463, 3497). A Member is not entitled to inspect the Reporter's notes of remarks which do not contain reflections on himself, delivered by another Member and withheld for revision (V, 6964). 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).

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

The practice of inserting in the Congressional Record speeches not actually delivered on the floor has grown up 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 quite generally stipulates, in granting leave to print, that it shall be exercised without unreasonable freedom (V, 7002, 7003). General leave to print may be granted only by the House, although in Committee of the Whole a Member, by unanimous consent, may be given leave to extend his remarks (V, 7009, 7010; VIII, 3488–3490). When a Member under leave to print places in the Record that which would not have been in order if uttered on the floor, the House may exclude the speech in whole or in part (V, 7005–7008; VIII, 3495; Oct. 2, 1992, p. ——; Sept. 27, 1996, p. ——). Thus, where a Member, under leave to print, made charges against another Member, the House ordered the speech stricken out (V, 7004). 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). Where a Member gets leave to insert one matter he may not print another (V, 7001; VIII, 3462, 3479, 3480). Leave to extend remarks does not permit a Member to insert in the Record statements and letters of others unless the leave granted specifies such matter (VIII, 3475, 3481) whether the extension be under general leave for all Members or individually. In Committee of the Whole leave for an extension of remarks should not be granted except in connection with remarks actually delivered and, if under the five-minute rule, relevant to the bill; and the extension under such circumstances should be brief (Speaker Longworth, Mar. 18, 1926, p. 5854). Neither the House nor the Committee of the Whole 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. ——). The Chairman of the Committee of the Whole has declined to entertain a request for an extension of remarks actually delivered under the five-minute rule but not relevant to the bill under consideration (Chairman Lehlbach, Mar. 18, 1926, p. 5861). 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 9 of rule XIV, added in the 104th Congress, 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. ——).

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.

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), and 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. ——). 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). Then 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 § 924, *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).

§930a. Unofficial reporters in the press gallery and on the floor.

2. Such 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, and reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may from time to time prescribe; and the supervision of such gallery, including the designation of its employees, shall be vested in the standing committee of correspondents, subject to the direction and control of the Speaker; and the Speaker may assign one seat on the floor to Associated Press reporters and one to United Press International, and regulate the occupation of the same. And the Speaker may admit to the floor, under such regulations as he may prescribe, one additional representative of each press association.

This clause was first adopted in 1857, and has been amended from time to time as the occasion demanded (V, 7304; VIII, 3642). It was again amended January 3, 1953, p. 24 and most recently on January 22, 1971, p. 144. See also *Consumers Union* v. *Periodical Correspondents' Association*, 515 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).

§930b. Unofficial reporters in the radio gallery and on the floor.

3. Such portion of the gallery of the House of Representatives 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, and reputable reporters thus engaged shall be admitted thereto under such regulations as the Speaker may from time to time prescribe; and the supervision of such gallery, including the designation of its employees, shall be vested in the Executive Committee of the Radio and Television Correspondents' Galleries, subject to the direction and control of the Speaker; and the Speaker may admit to the floor, under such regulations as he may prescribe, one representative of the National Broadcasting Company, one of the Columbia Broadcasting System, one of the Mutual Broadcasting System, and one of the American Broadcasting Company.

This clause was adopted on April 20, 1939, p. 4561, and was amended on May 30, 1940, p. 7208 and on January 22, 1971, p. 144.

RULE XXXV.

PAY OF WITNESSES.

§931. Fees of witnesses before the House or committees.

The rule for paying witnesses to appear before the House or any of its committees shall be as follows: For each day a witness shall attend, the same per diem rate as established, authorized, and regulated by the Committee on House Oversight for Members and employees of the House, and actual expenses of travel in coming to or going from the place of examination; but no per diem shall be paid when a witness has been summoned at the place of examination.

This rule was adopted in 1872, with amendments in 1880 (III, 1825), 1930 (VI, 393), April 19, 1955, p. 4722, August 12, 1969, p. 23355 (H. Res. 495, 91st Cong.), and July 28, 1975, p. 25258 (H. Res. 517, 94th Cong.). 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 Oversight for Members and employees. In the 104th Congress it was amended to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——). For further provisions relating to witnesses, see clauses 2(j) and (k) of rule XI (§§ 711 and 712, *supra*).

RULE XXXVI.

PRESERVATION AND AVAILABILITY OF NONCURRENT RECORDS OF THE HOUSE.

§932. 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 of the House 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 pursuant to 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 pursuant to clause 1 of the rule, 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 the orders of the House.

3. (a) Subject to paragraph (b) of the clause, clause 4 of this rule, and orders of the House, the Clerk shall authorize the Archivist of the United States to make available for public use the records delivered to the Archivist under clause 2 of this rule.

(b)(1) Any record that the House or a committee of the House (or a subcommittee thereof) makes available for public use before such record is delivered to the Archivist under clause 2 of this rule shall be made available immediately.

(2) Any investigative record that contains personal data relating to a specific living individual (the disclosure of which would be an unwarranted invasion of personal privacy), any administrative record with respect to personnel, and any record with respect to a hearing closed pursuant to clause 2(g)(2) of rule XI shall be avail-

able if such record has been in existence for 50 years.

(3) Any 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, any 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) Any record (other than a record referred to in subparagraph (1), (2), or (3) of this paragraph) shall be made available if such record has been in existence for 30 years.

4. (a) A record shall not be made available for public use under clause 3 of this rule 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 the ranking minority party member of the Committee on House Oversight of any determination under the preceding sentence.

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

5. (a) This rule does not supersede rule XLVIII or rule L and does not authorize the public dis-

closure of any record if such disclosure is prohibited by law or executive order of the President.

(b) The Committee on House Oversight 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 of the United States under this rule. Such withdrawal shall be on a temporary basis and for official use of the committee.

6. As used in the rule the term "record" means any official, permanent record of the House, including—

(a) with respect to a committee of the House, an official, permanent record of the committee (including any record of a legislative, oversight, or other activity of such committee or subcommittee thereof); and

(b) with respect to an officer of the House elected pursuant to rule II, an official, permanent record made or acquired in the course of the duties of such officer. Such term does not include a record of an individual Member of the House.

The predecessor to this provision was adopted in 1880 (V, 7260). The rule was renumbered in the 83d Congress (H. Res. 5, Jan. 3, 1953, p. 24), and 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). In the 104th Congress it was amended to reflect the new name of the Committee on House Oversight (sec. 202(b), H. Res. 6, Jan. 4, 1995, p. ——).

Clause 2 of the former provision stemmed from section 140(a) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and was made a part

of the standing rules January 3, 1953 (p. 24) and amended January 22, 1971 (p. 144). The Clerk of the House has historically been authorized to permit the Administrator of General Services to make available for use certain records of the House transferred to the National Archives (H. Res. 288, June 16, 1953, p. 6641). In the 99th Congress the reference was changed from the General Services Administration to the National Archives and Records Administration (H. Res. 114, Oct. 14, 1986, p. 30821).

Under rule XXXVI, an order of the House is required for the release of noncurrent records of the House (Mar. 22, 1991, p. 7549).

RULE XXXVII.

WITHDRAWAL OF PAPERS.

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

No memorial or other paper presented to the House shall be withdrawn from its files without its leave, and if withdrawn therefrom certified copies thereof shall be left in the office of the Clerk; but when an act may pass for the settlement of a claim, the Clerk is authorized to transmit to the officer in charge with the settlement thereof the papers on file in his office relating to such claim, or may loan temporarily 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.

This rule was adopted 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, pp. 30–31).

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

RULE XXXVIII.

BALLOT.

§934. Elections by ballot.

In all cases of ballot a majority of the votes given shall be necessary to an election, and where there shall not be such a majority on the first ballot the ballots shall be repeated until a majority be obtained; and in all balloting blanks shall be rejected and not taken into the count in enumeration of votes or 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 XXXIX.

MESSAGES.

§935. Entry of messages in the Journal and Record.

Messages received from the Senate and the President of the United States, giving notice of bills passed or approved, shall be entered in the Journal and published in the Record of that day's proceedings.

This rule was adopted in 1867 and amended in 1880 (V, 6593). It was renumbered January 3, 1953, p. 24.

The House may receive a message from the Senate when the Senate is not in session (VIII, 3338).

RULE XL.

EXECUTIVE COMMUNICATIONS.

§936. Reception and reference of executive communications, including estimates.

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, and by him referred as provided by clause 2 of rule XXIV.

This rule was adopted in 1867 and amended in 1880 (V, 6593). It was renumbered January 3, 1953, p. 24.

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 XLI.

QUALIFICATIONS OF OFFICERS AND EMPLOYEES.

§937. Officers and employees not to be agents of claims.

No person shall be an officer or employee of the House, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government or be interested in such claim otherwise than as an original claimant or than in the proper discharge of official duties.

This rule 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, Nov. 30, 1989).

Several provisions of the Federal criminal code also address the conduct of Members, officers, and employees with respect to claims against the government (18 U.S.C. 203–207, 216).

RULE XLII.

GENERAL PROVISIONS.

§ 938. Relations of Jefferson's Manual and Legislative Reorganization Act of 1946 to the rules of the House.

The rules of parliamentary practice comprised in Jefferson's Manual and the provisions of the Legislative Reorganization Act of 1946, as amended, shall govern the House in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the House and joint rules of the Senate and House of Representatives.

This rule was adopted in 1837 (V, 6757), and amended January 3, 1953, p. 24, when it was also renumbered. Joint rules have not been in force since the 43d Congress. Discussion of the importance of Jefferson's Manual as an authority in congressional procedure (VII, 1029, 1049; VIII, 2501, 2517, 2518, 3330).

RULE XLIII.

CODE OF OFFICIAL CONDUCT.

There is hereby established by and for the House of Representatives the following code of conduct, to be known as the "Code of Official Conduct":

§ 939. Official conduct of Members, officers, or employees of the House.

1. A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

2. A Member, officer, or employee of the House of Representatives shall adhere to the spirit and the letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof.

3. A Member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any 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 the Congress.

4. A Member, officer, or employee of the House of Representatives shall not accept gifts except as provided by the provisions of rule LI (Gift Rule).

5. A Member, officer, or employee of the House of Representatives shall accept no honorarium for a speech, writing for publication, or other similar activity.

6. A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. A Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes.

7. A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund raising events.

8. A Member or officer of the House of Representatives shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority. In the case of committee employees who work

under the direct supervision of a Member other than a chairman, the chairman may require that such Member affirm in writing that the employees have complied with the preceding sentence (subject to clause 6 of rule XI) as evidence of the chairman's compliance with this clause and with clause 6 of rule XI.

9. A Member, officer, or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex (including marital or parental status), handicap, age, or national origin, but may take into consideration the domicile or political affiliation of such individual.

10. A Member of the House of Representatives 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 should refrain from voting on any question at a meeting of the House, or of the Committee of the Whole House, unless or until judicial or executive proceedings 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 of the House of Representatives shall not authorize or otherwise allow a non-House individual, group, or organization 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 by paragraph (b), any employee of the House of Representatives who is required to file a report pursuant to rule XLIV shall refrain from participating personally and substantially as an employee of the House of Representatives in any contact with any agency of the executive or judicial branch of Government with respect to nonlegislative matters affecting any nongovernmental person in which the employee has a significant financial interest.

(b) Paragraph (a) shall not apply if an employee first advises his employing authority of his significant financial interest and obtains from his employing authority a written waiver stating that the participation of the employee is necessary. A copy of each such waiver shall be filed with the Committee on Standards of Official Conduct.

13. Before any Member, officer, or employee of the House of Representatives 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 shall be retained by the Clerk of the House as part of the records of the House.

As used in this Code of Official Conduct of the House of Representatives—(a) the terms ''Member'' and ''Member of the House of Representatives'' include the Resident Commissioner from Puerto Rico and each Delegate to the House; and (b) the term ''officer or employee of the House of Representatives'' means any individual whose compensation is disbursed by the Clerk of the House of Representatives.

This rule was 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. The rule was amended in the 92d Congress to bring the Delegates from the District of Columbia, Guam and the Virgin Islands within the definition of ''Member'' (H. Res. 5, Jan. 22, 1971, p. 144; H. Res. 1153, Oct. 13, 1972, pp. 36021–23). The rule was further amended in the 94th Congress by adding clause 9 (H. Res. 5, Jan. 14, 1975, p. 20). Clause 10 was adopted in the 94th Congress (H. Res. 46, Apr. 16, 1975, p. 10340). In the 95th Congress: (1) clause 4 was amended to change the prohibition against acceptance of gifts of ''substantial value''; (2) clause 6 was amended 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); (3) clause 7 was amended to eliminate an exception permitting sponsors to give notice of purpose; and (4) definitions for purposes of clause 4 were added (H. Res. 287, Mar. 2, 1977, pp. 5933–53). Clause 11 was adopted in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7–16). In the 100th Congress clause 4 was again amended 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, and clause 9 was amended to prohibit discrimination in employment based upon age (H. Res. 5, Jan. 6, 1987, p. 6). In the Ethics Reform Act of 1989: (1) clause 4 was again amended to revise the rules governing the acceptance of gifts, including value thresholds, waivers, and defined ''relatives''; (2) clause 5 was amended to prohibit the acceptance of honoraria effective January 1, 1991; (3) clause 6 was amended to specify that campaign funds be used only for bona fide campaign or political purposes; (4) clause 8 was amended to broaden Members' accountability for the pay and performance of staff; (5) clause 9 was amended to conform existing staff anti-dis-

crimination rules to the Fair Employment Practices resolution adopted in the 100th Congress (now rule LI; see §946a, *infra*); (6) clause 12 was added to proscribe certain contacts as involving conflicts of interest; and (7) the last undesignated paragraph was amended to make conforming changes in the definition of "relative" (P.L. 101–194, Nov. 30, 1989). The 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). The threshold and aggregate values in clause 4 were again adjusted by section 314(d) of the Legislative Branch Appropriations Act for fiscal year 1992 (P.L. 102–90, Aug. 14, 1991). Clause 13 was added in the 104th Congress (sec. 220, H. Res. 6, Jan. 4, 1995, p. ——). In the 104th Congress clause 4 was rewritten, and a final undesignated paragraph defining terms for the former version of clause 4 was deleted, to reflect the adoption of a Gift Rule in rule LI (H. Res. 254, Nov. 30, 1995, p. ——). In the 105th Congress the rule was amended to effect three clerical corrections (H. Res. 5, Jan. 7, 1997, 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.).

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). 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 XLIV.

FINANCIAL DISCLOSURE.

§940. Financial report disclosing certain financial interests.

1. A copy of each report filed with the Clerk under Title I of the Ethics in Government Act of 1978 shall be sent by the Clerk within the seven-day period beginning 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 document 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 deemed to be a rule of the House as it pertains to Members, officers, and employees of the House of Representatives.

The original version of this rule 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, pp. 17019–20). It was further amended in the 92d Congress to bring the Delegates from the District of Columbia, Guam, and the Virgin Islands 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 in 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 of Representatives (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, Nov. 30, 1989).

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. 6 §§ 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 exe-

cuted 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 re-

quired 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 paragraphs (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 paragraph. 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, 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.

(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 General Accounting 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 of 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 Judicial 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 XLV.

PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS.

1. No Member may maintain or have maintained for his use an unofficial office account.

2. After the date of adoption of this rule, no §941. funds may be paid into any unofficial office account.

3. Notwithstanding any other provision of this rule, if an amount from the Official Expenses Allowance of a Member is paid into the House Re-

cording Studio revolving fund for telecommunications satellite services, the Member may accept reimbursement from non-political entities in that amount for transmission to the Clerk of the House of Representatives for credit to the Official Expenses Allowance.

4. For purposes of this rule—

(a) the term ''unofficial office account'' means an account or repository into which funds are received for the purpose of defraying otherwise unreimbursed expenses allowable under section 162(a) of the Internal Revenue Code of 1954 as ordinary and necessary in the operation of a congressional office, and includes any newsletter fund referred to in section 527(g) of the Internal Revenue Code of 1954; and

(b) the term ''Member'' means any Member of, Delegate to, or Resident Commissioner in, the House of Representatives.

This rule 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).

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.).

RULE XLVI.

LIMITATIONS ON THE USE OF THE FRANK.

§942. 1. Any franked mail which is mailed by a Member under section 3210(d) of title 39, United States Code, shall be mailed at the equivalent rate of postage

which assures that such mail will be sent by the most economical means practicable.

2. A Member shall, before making any mass mailing, 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 such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

3. Any mass mailing which otherwise is frankable by a Member under the provisions of section 3210(e) of title 39, United States Code, shall not be frankable unless the cost of preparing and printing such mass mailing is defrayed exclusively from funds made available in any appropriations Act.

4. A Member may not send any mass mailing outside the congressional district from which the Member was elected.

5. In the case of any Representative in the House of Representatives, other than a Representative at Large, who is a candidate for any statewide public office, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is delivered to any address which is not located in the area constituting the congressional district from which any such individual was elected.

6. In the case of any Member, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is postmarked less than sixty days immediately before the date of any primary or general election

(whether regular, special, or runoff) in which such Member is a candidate for public office. If mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.

7. For purposes of this rule—

(a) The term "mass mailing" means, with respect to a session in Congress, any mailing of newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces in that session, except that such term does not include any mailing—

(1) of matter in direct response to a communication from a person to whom the matter is mailed;

(2) from a Member to other Members of Congress, or to Federal, State, or local government officials; or

(3) of a news release to the communications media.

(b) The term "Member" means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives.

(c) The term "Members of Congress" means Senators and Representatives in, and Delegates and Resident Commissioners to, the Congress.

This rule 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 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.

For an indepth discussion of this rule prepared by the Committee on Standards of Official Conduct, see the *House Ethics Manual* (102d Cong., 2d Sess.).

RULE XLVII.

LIMITATIONS ON OUTSIDE EMPLOYMENT AND EARNED INCOME.

§943. Income limitations.

1. (a)(1) Except as provided by subparagraph (2), in calendar year 1991 or thereafter, a Member or an officer or employee of the House may not—

(A) have outside earned income attributable to such calendar year which 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 such calendar year; or

(B) receive any honorarium.

(2) In the case of any individual who becomes a Member or an officer or employee of the House during calendar year 1991 or thereafter, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member, officer or employee which 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 such calendar year multiplied by a fraction the numerator of which is the number of days

such individual is a Member, officer, or employee during such calendar year and the denominator of which is 365.

(3) In calendar year 1991 or thereafter, any payment in lieu of an honorarium which is made to a charitable organization on behalf of a Member, officer or employee of the House may not be received by such individual. No such payment shall exceed $2,000 or be made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit.

(b)(1) Except as provided by subparagraph (2), in calendar year 1990, a Member may not have outside earned income (including honoraria received in such calendar year) attributable to such calendar year which exceeds 30 percent of the annual pay as a Member to which the Member was entitled in 1989.

(2) In the case of any individual who becomes a Member during calendar year 1990, such individual may not have outside earned income (including honoraria) attributable to the portion of that calendar year which occurs after such individual becomes a Member which exceeds 30 percent of $89,500 multiplied by a fraction the numerator of which is the number of days such individual is a Member during such calendar year and the denominator of which is 365.

2. On or after January 1, 1991, a Member or an officer or employee of the House shall not—

(1) receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship;

(2) permit that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;

(3) receive compensation for practicing a profession which involves a fiduciary relationship;

(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

(5) receive compensation for teaching, without the prior notification and approval of the Committee on Standards of Official Conduct.

3. A Member, officer, or employee of the House may not—

(1) receive any advance payment on copyright royalties, but this paragraph does not prohibit any literary agent, researcher, or other individual (other than an individual employed by the House or a relative of that Member, officer, or employee) working on behalf of that Member, 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; or

(2) receive any copyright royalties pursuant to 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(e)(5) (that royalties are received from an established publisher pursuant to usual and customary contractual terms).

4. For the purposes of this rule—

(a) The term "Member" means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives.

(b)(1) Except as provided by paragraph (2), the term "officer or employee of the House" means any individual (other than a Member) whose pay is disbursed by the Clerk and who is paid at a rate equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code, and so employed for more than 90 days in a calendar year.

(2) When used with respect to honoraria, the term "officer or employee of the House" means any individual (other than a Member) whose salary is disbursed by the Clerk.

(c) The term "honorarium" means a payment of money or any thing of value for an appearance, speech, or article by a Member or an officer or employee of the House, excluding any ac-

tual and necessary travel expenses incurred by such individual (and one relative) to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed.

(d) The term "travel expenses" means, with respect to a Member or an officer or employee of the House, or a relative of any such individual, the cost of transportation, and the cost of lodging and meals while away from his or her residence or principal place of employment.

(e) The term "outside earned income" means, with respect to a Member, officer or employee, wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered but does not include—

(1) the salary of such individual as a Member, officer or employee;

(2) any compensation derived by such individual for personal services actually rendered prior to the effective date of this rule or becoming such a Member, officer or employee, whichever occurs later;

(3) any amount paid by, or on behalf of, a Member, officer or employee, to a tax-qualified pension, profit-sharing, or stock bonus plan and received by such individual from such a plan;

(4) in the case of a Member, officer or employee engaged in a trade or business in

which the individual or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by such individual so long as the personal services actually rendered by the individual in the trade or business do not generate a significant amount of income; and

(5) copyright royalties received from established publishers pursuant to usual and customary contractual terms.

Outside earned income shall be determined without regard to any community property law.

(f) 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 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, effective January 1, 1981 (H. Res. 305, Dec. 15, 1981, p. 31529). In the 99th Congress, paragraphs (a) and (b) were 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, Nov. 30,

1989). 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 clause 3 was redesignated as clause 4, and a new clause 3 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. 2, 1995, 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.).

Before its coverage was restricted to the Senate in the Ethics Reform Act of 1989 (sec. 601(b), P.L. 101–194, Nov. 30, 1989), 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, Oct. 1, 1981). The Senate repealed its rule on outside earned income in the 97th Congress (S. Res. 512, Dec. 14, 1982, p. 30640).

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) and most recently amended in the Ethics Reform Act of 1989 (P.L. 101–194, Nov. 30, 1989) and a related technical corrections Act (P.L. 101–280, May 4, 1990).

RULE XLVIII.

PERMANENT SELECT COMMITTEE ON INTELLIGENCE.

§944a. Permanent Select Committee on Intelligence.

1. (a) There is hereby established a permanent select committee to be known as the Permanent Select Committee on Intelligence (hereinafter in this rule referred to as the "select committee"). The select committee shall be composed of not more than sixteen Members, of whom not more than nine may be from the same party. The select committee shall include at least one Member from:

(1) the Committee on Appropriations;

(2) the Committee on National Security;

(3) the Committee on International Relations; and

(4) the Committee on the Judiciary.

(b)(1) The Speaker of the House and the Minority Leader of the House shall be ex officio members of the select committee, but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(2) The Speaker and Minority Leader each may designate a member of their leadership staff to assist them in their capacity as ex officio members, with the same access to committee meetings, hearings, briefings, and materials as if employees of the select committee, and subject to the same security clearance and confidentiality requirements as employees of the select committee under this rule.

(c) No Member of the House other than the Speaker and the Minority Leader may serve on the select committee during more than four Congresses in any period of six successive Congresses (disregarding for this purpose any service for less than a full session in any Congress), except that the incumbent chairman or ranking minority member having served on the select committee for four Congresses and having served as chairman or ranking minority member for not more than one Congress shall be eligible for reappointment to the select committee as chairman or ranking minority member for one additional Congress.

2. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947.

(2) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to, the tactical intelligence and intelligence-related activities of the Department of Defense.

(3) The organization or reorganization of any 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.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency, Director of Central Intelligence, and the National Foreign 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, but not limited to, the tactical intel-

ligence and intelligence-related activities of the Department of Defense.

(C) Any department, agency, or subdivision, or program that is a successor to any agency or program named or referred to in subdivision (A) or (B).

(b) Any proposed legislation initially reported by the select committee, except any legislation involving matters specified in subparagraph (1) or (4) (A) of paragraph (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee by the Speaker for its consideration of such matter and be reported to the House by such standing committee within the time prescribed by the Speaker in the referral; and any proposed legislation initially reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred by the Speaker to the select committee for its consideration of such matter and be reported to the House within the time prescribed by the Speaker in the referral.

(c) Nothing in this rule shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence or intelligence-related activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in the rule shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the House to obtain full and prompt access to the product of the intelligence and intelligence-related activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

3. (a) The select committee, for the purposes of accountability to the House, shall make regular and periodic reports to the House on the nature and the extent of the intelligence and intelligence-related activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the House or to any other appropriate committee or committees of the House any matters requiring the attention of the House or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with clause 7 to protect national security.

(b) The select committee shall obtain an annual report from 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 interest. An unclassified version of each report may be made available to the pub-

lic at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals 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 such reports are based or the amount of funds authorized to be appropriated for intelligence and intelligence-related activities.

(c) Within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code, the select committee shall submit to the Committee on the Budget of the House 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.

4. To the extent not inconsistent with the provisions of this rule, the provisions of clauses 1, 2, 3, and 5(a), (b), (c) and (6)(a), (b), (c) of rule XI shall apply to the select committee, except that, notwithstanding the requirements of the first sentence of clause 2(g)(2) of rule XI, a majority of those present, there being in attendance the requisite number required under the rules of the select committee to be present for the purpose of taking testimony or receiving evidence, may vote to close a hearing whenever the majority determines that such testimony or evidence would endanger the national security.

5. No employee of the select committee or any person engaged by contract or otherwise to per-

form services for or at the request of such committee shall be given access to any classified information by such 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 as to the security of such information during and after the period of his employment or contractual agreement with such committee); and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

6. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines that national interest in the disclosure of such information

clearly outweighs any infringement on the privacy of any person or persons.

7. (a) The select committee may, subject to the provisions of this clause, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this clause, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this clause.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the 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 such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the select committee of his objections to the disclosure of such information as provided in subparagraph (2), such committee may, by majority vote, refer the question of this disclosure of such information with a recommendation thereon to the House for consideration. The committee shall not publicly disclose such information without leave of the House.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the House under subparagraph (3), 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.

(5) If within four calendar days on which the House is in session, after such recommendation is reported, no motion has been made by the chairman of the select committee to consider, in closed session, the matter reported under subparagraph (4), then such a motion will be deemed privileged and may be made by any Member. The motion under this subparagraph shall not be subject to debate or amendment. When made, it shall be decided without intervening motion, except one motion to adjourn.

(6) If the House adopts a motion to resolve into closed session, the Speaker shall then be

authorized to declare a recess subject to the call of the Chair. At the expiration of such recess, the pending question, in closed session, shall be, "Shall the House approve the recommendation of the select committee?".

(7) After not more than two hours of debate on the motion, such debate to be equally divided and controlled by the chairman and ranking minority member of the select committee, or their designees, the previous question shall be considered as ordered and the House, without intervening motion except one motion to adjourn, shall immediately vote on the question, in open session but without divulging the information with respect to which the vote is being taken. If the recommendation of the select committee is not agreed to, the question shall be deemed recommitted to the select committee for further recommendation.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence or intelligence-related activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to paragraphs (a) or (b) of this clause, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the House except as provided in subparagraphs (2) and (3).

(2) The select committee shall, under such regulations as the committee shall prescribe, make any information described in subparagraph (1)

available to any other committee or any other Member of the House and permit any other Member of the House to attend any hearing of the committee which is closed to the public. Whenever the select committee makes such information available (other than to the Speaker), the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the House received such information. No Member of the House who, and no committee which, receives any information under this subparagraph, shall disclose such information except in a closed session of the House.

(d) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, officer, or employee of the House in violation of paragraph (c) and report to the House concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Committee on Standards of Official Conduct shall release to such individual 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, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action such

as 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.

8. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

9. Subject to the rules of the House, no funds shall be appropriated for any fiscal year, with the exception of a continuing bill or resolution continuing appropriations, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously 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:

(a) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(b) The activities of the Defense Intelligence Agency.

(c) The activities of the National Security Agency.

(d) The intelligence and intelligence related activities of other agencies and subdivisions of the Department of Defense.

(e) The intelligence and intelligence-related activities of the Department of State.

(f) The intelligence and intelligence-related activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

10. (a) As used in this rule, the term "intelligence and intelligence-related activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement, or other association; (4) 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 any 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 covert or clandestine activities directed against such persons.

(b) As used in this rule, the term ''department or agency'' includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this rule, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence or intelligence-related activities now conducted by the department, agency, bureau, or subdivision referred to in this rule.

11. Clause 6(a) of rule XXVIII does not apply to conference committee meetings respecting legislation (or any part thereof) reported from the Permanent Select Committee on Intelligence.

§944b.

This rule 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, pp. 1848–49); (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); and (7) to make certain conforming changes (Budget Enforcement Act of 1997 (sec. 10104, P.L. 105–33)).

More substantive amendments have been adopted as follows: (1) clause 4 was amended to make clause 6(c) of rule XI applicable to salaries of the staff of the Permanent Select Committee (H. Res. 5, Jan. 15, 1979, pp. 7–16); (2) 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); and (3) clause 4 was amended to provide the Select Committee with permanent professional and clerical staff as provided by clauses 6 (a) and (b) of rule XI (H. Res. 58, Mar. 1, 1983, p. 3241).

In the 104th Congress the rule was amended in several different respects: (1) to limit the size of the panel to 16, with no more than nine members from the same party; (2) 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; (3) 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); (4) to clarify jurisdiction over the National Foreign Intelligence Program and the tactical intelligence and intelligence-related activities of the Department of Defense; (5) to clarify staffing arrangements for the Speaker and the Minority Leader as ex officio members; and (6) to conform references to renamed committees (sec. 221, H. Res. 6, Jan. 4, 1995, p. ——).

The resolution creating the Permanent 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 Permanent Select Committee on Intelligence 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 Permanent Select Committee has concurrent jurisdiction with the Committee on the Judiciary over bills concerning electronic surveillance of foreign intelligence (Nov. 4, 1977, pp. 37070–71); concurrent jurisdiction with the Committees on Science, Space, and Technology (now Science) and Foreign Affairs (now International Relations) 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).

Clause 7(b) of rule XLVIII places restrictions on the Select Committee on Intelligence 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 rule XXIX (Speaker pro tempore Wright, Feb. 25, 1980, p. 3618).

RULE XLIX.

ESTABLISHMENT OF STATUTORY LIMIT ON THE PUBLIC DEBT.

§945. Public debt limit.

1. Upon the adoption by the Congress (under section 301 or 304 of the Congressional Budget Act of 1974) of any concurrent resolution on the budget setting forth as the appropriate level of the public debt for the period to which such concurrent resolution relates an amount which is different from the amount of the statutory limit on the public debt that would otherwise be in effect for such period, the enrolling clerk of the House of Representatives shall prepare an engrossment of a joint resolution, in the form prescribed in clause 2, increasing or decreasing the statutory limit on the public debt. The vote by which the conference report on the concurrent resolution on the budget was agreed to in the House (or by which the concurrent resolution itself was adopted in the House, if there is no conference report) shall be deemed to have been a vote in favor of such joint resolution upon final passage in the House of Representatives. Upon the engrossment of such joint resolution it shall be deemed to have passed the House of Representatives and been duly certified and examined; the engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action; and (upon final passage by both Houses) the joint resolution shall be signed by the presiding officers of both Houses and presented to the Presi-

dent for his signature (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

2. The matter after the resolving clause in any 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 in with a limitation equal to the appropriate level of the public debt as set forth, pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, in the concurrent resolution on the budget (whether such resolution was adopted under section 301, 304, or 310 of such Act). Only one joint resolution shall be prepared under clause 1 upon the adoption of any concurrent resolution on the budget; and, if the concurrent resolution set forth a different appropriate level of the public debt (pursuant to such section 301(a)(5)) for each of two separate periods, the blank referred to in the preceding sentence shall be filled in with both the limitation which is to apply for the later of the two periods (specifying the date on which that limitation is to take effect) and the limitation which is to apply for the earlier of such periods.

3. The report of the Committee on the Budget of the House of Representatives accompanying any concurrent resolution on the budget under section 301(d) of the Congressional Budget Act of 1974, as well as the joint explanatory state-

ment accompanying the conference report on any concurrent resolution on the budget, shall contain a clear statement of the effect under this rule that the adoption by both the House and the Senate of such concurrent resolution in the form in which it is being reported (and the adoption of the joint resolution thereupon prepared and enrolled under clause 1) would have upon the statutory limit on the public debt. It shall not be in order in the House of Representatives at any time to consider or adopt any concurrent resolution on the budget (or agree to any conference report thereon) if at that time the report accompanying such concurrent resolution (or the joint statement accompanying such conference report) does not comply with the requirements of this clause.

4. Nothing in this rule shall be construed as limiting or otherwise affecting the power of the House of Representatives or the Senate to consider and pass a bill which (without regard to the procedures under clause 1) changes the statutory limit on the public debt most recently established under this rule or otherwise; and the rights of Members and committees of the House with respect to the introduction, consideration, and reporting of any such bill shall be determined as though this rule had not been adopted.

5. As used 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), determined under section 3101(b) of title 31 after the application of section 3101(a), title 31 which 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 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 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 of the rule 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. 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). 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). This rule was rendered inapplicable to a conference report on a concurrent resolution on the budget for fiscal year 1996 (sec. 3, H. Res. 149, May 17, 1995, p. ——).

RULE L.

PROCEDURE FOR RESPONSE TO SUBPOENAS.

§946. Response to subpoenas.

1. When any Member, officer, or employee of the House of Representatives is properly served with a subpoena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House, such Member, officer, or employee shall comply, consistently with the privileges and rights of the House, with said subpoena or other judicial order as hereinafter provided, unless otherwise determined pursuant to the provisions of this rule.

2. Upon receipt of a properly served subpoena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House, such Member, officer, or employee shall promptly notify, in writing, the Speaker of its receipt and such notification shall then be promptly laid before the House by the Speaker, except that during a period of recess or adjournment of longer than three days, no such notification to the House shall be required. However, upon the reconvening of the House, such notification shall then be promptly laid before the House by the Speaker.

3. Once notification has been laid before the House, the Member, officer, or employee shall

determine whether the issuance of the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House. The Member, officer, or employee shall notify the Speaker prior to seeking judicial determination of these matters.

4. Upon determination whether the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, the Member, officer, or employee shall immediately notify, in writing, the Speaker of such a determination.

5. The Speaker shall inform the House of the determination of whether the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, and shall generally describe the records or information sought, except that during any recess or adjournment of the House for longer than three days, no such notification is required. However, upon the reconvening of the House, such notification shall then be promptly laid before the House by the Speaker.

6. Upon such notification to the House that said subpoena is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, the Member, officer, or employee shall comply with such subpoena or other judicial order by supplying certified copies, unless the

House adopts a resolution to the contrary; except that under no circumstances shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied. Should the House be in recess or adjournment for longer than three days, the Speaker may authorize compliance or take such other action as he deems appropriate under the circumstances during the pendency of such recess or adjournment. And upon the reconvening of the House, all matters having transpired under this clause shall be laid promptly before the House by the Speaker.

7. A copy of this rule shall be transmitted by the Clerk of the House to any of said courts whenever any such subpoena or other judicial order is issued and served on a Member, officer, or employee of the House.

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

Rule L was added in the 97th Congress (H. Res. 5, Jan. 5, 1981, p. 98) and provides general authority to the Members, officers, or employees to comply with subpoenas served on them in relation to their official functions and establishes the procedure by which subpoenas shall be complied with. Until the 95th Congress, whenever a Member, officer, or employee received a subpoena, the House would decide by adopting a resolution granting authority to the person to respond. This case-by-case approach was changed in the 95th (H. Res. 10, Jan. 4, 1977, p. 73) and 96th Con-

gresses (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 by H. Res. 722 (Sept. 17, 1980, pp. 25777–90) and forms the basis for the present rule.

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. ——); responding to a contemporaneous "request" for such records from a Special Counsel (Apr. 29, 1992, p. ——); 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. ——).

Under clause 2 of rule L, 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. ——).

RULE LI.

GIFT RULE.

§ 946a. Gift rule.

1. (a) No Member, officer, or employee of the House of Representatives shall knowingly accept a gift except as provided in this rule.

(b)(1) For the purpose of this rule, the term "gift" means any 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.

(2)(A) A gift to a family member of a Member, officer, or employee, or a gift to any other individual based on that individual's relationship with the Member, officer, or employee, shall be considered a gift to the Member, officer, or em-

ployee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

(B) If food or refreshment is provided at the same time and place to both a Member, officer, or employee and the spouse or dependent thereof, only the food or refreshment provided to the Member, officer, or employee shall be treated as a gift for purposes of this rule.

(c) The restrictions in paragraph (a) shall not apply to the following:

(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

(2) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) 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.

(3) A gift from a relative as described in section 109(16) of title I of the Ethics in Government Act of 1978 (Public Law 95–521).

(4)(A) Anything provided by an individual on the basis of a personal friendship unless the Member, officer, or employee has reason

to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal friendship.

(B) In determining whether a gift is provided on the basis of personal friendship, the Member, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.

(ii) Whether to the actual knowledge of the Member, officer, or employee 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 the actual knowledge of the Member, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

(5) Except as provided in clause 3(c), a contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of

the Committee on Standards of Official Conduct.

(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

(7) Food, refreshments, lodging, transportation, and other benefits—

(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(C) 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 an organization.

(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(12) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the House of Representatives.

(13) Bequests, inheritances, and other transfers at death.

(14) Any 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.

(15) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

(16) 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.

(17) Free attendance at a widely attended event permitted pursuant to paragraph (d).

(18) Opportunities and benefits which are—

(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

(B) offered to members of a group or class in which membership is unrelated to congressional employment;

(C) offered to members of an organization, such as an employees' association or congressional 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;

(D) offered to any 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;

(E) in the form of loans from banks and other financial institutions on

terms generally available to the public; or

(F) 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.

(19) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended for presentation.

(20) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

(21) Food or refreshments of a nominal value offered other than as a part of a meal.

(22) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(23) An item of nominal value such as a greeting card, baseball cap, or a T-shirt.

(d)(1) A Member, officer, or employee 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—

(A) the Member, officer, or employee 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 the Member's, officer's, or employee's official position; or

(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

(2) A Member, officer, or employee who attends an event described in subparagraph (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

(3) A Member, officer, or employee, 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.

(4) For purposes of 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.

(e) No Member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal friendship exception in

paragraph (c)(4) unless the Committee on Standards of Official Conduct issues a written determination that such exception applies. No determination under this paragraph is required for gifts given on the basis of the family relationship exception.

(f) 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.

2. (a)(1) A reimbursement (including payment in kind) to a Member, officer, or employee from a private source other than a registered lobbyist or agent of a foreign principal for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, fact-finding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the House of Representatives and not a gift prohibited by this rule, if the Member, officer, or employee—

(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk of the House of Representatives within 30 days after the travel is completed.

(2) For purposes of paragraph (a)(1), events, the activities of which are substantially rec-

reational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

(b) Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—

(1) the name of the employee;

(2) the name of the person who will make the reimbursement;

(3) the time, place, and purpose of the travel; and

(4) 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.

(c) Each disclosure made under paragraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in paragraph (d); and

(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

(d) For the purposes of this clause, the term "necessary transportation, lodging, and related expenses"—

(1) includes reasonable expenses that are necessary for travel for a period not exceeding 4 days within the United States or 7 days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

(2) 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 subparagraph (1);

(3) does not include expenditures for recreational activities, nor does it include en-

tertainment other than that provided to all attendees as an integral part of the event, except for activities or entertainment otherwise permissible under this rule; and

(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee.

(e) The Clerk of the House of Representatives shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to paragraph (a) as soon as possible after they are received.

3. A gift prohibited by clause 1(a) includes the following:

(a) Anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, officer, or employee.

(b) 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, officer, or employee (not including a mass mailing or other solicitation directed to a broad category of persons or entities), other than a charitable contribution permitted by clause 4.

(c) 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, officer, or employee.

(d) 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, officers, or employees.

4. (a) 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, officer, or employee shall not be considered a gift under this rule if it is reported as provided in paragraph (b).

(b) A Member, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of honoraria described in paragraph (a) shall report within 30 days after such designation or recommendation to the Clerk of the House of Representatives—

(1) the name and address of the registered lobbyist who is making the contribution in lieu of honoraria;

(2) the date and amount of the contribution; and

(3) the name and address of the charitable organization designated or recommended by the Member.

The Clerk of the House of Representatives shall make public information received pursuant to

this paragraph as soon as possible after it is received.

5. For purposes of this rule—

(a) the term "registered lobbyist" means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute; and

(b) the term "agent of a foreign principal" means an agent of a foreign principal registered under the Foreign Agents Registration Act.

6. All the provisions of this rule shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is authorized to issue guidance on any matter contained in this rule.

This provision originally was adopted in the 104th Congress as rule LII (H. Res. 250, Nov. 16, 1995, p. ——). In the 105th Congress it was redesignated as rule LI (H. Res. 5, Jan. 7, 1997, p. ——). The history of earlier rules bearing the designation LI or LII follow.

§946b. 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. ——). 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. ——). 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 *et seq.*). Certain savings provisions appear in section 506 of that Act (2 U.S.C. 1435). A later form of rule designated as LII (gift rule) was adopted in the 104th Congress (H. Res. 250, Nov. 16, 1995, p. ——). In the 105th Congress the Gift Rule was redesignated as rule LI (H. Res. 5, Jan. 7, 1997, p. ——).