

House. The system may provide for the testing of a Member, Delegate, Resident Commissioner, officer, or employee of the House, and otherwise shall be comparable in scope to the system for drug testing in the executive branch pursuant to Executive Order 12564 (Sept. 15, 1986). The 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. —). Clerical and stylistic changes to this clause were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. —).

RULE II

OTHER OFFICERS AND OFFICIALS

Elections

1. There shall be elected at the commencement of each Congress, to continue in office until their successors are chosen and qualified, a Clerk, a Sergeant-at-Arms, a Chief Administrative Officer, and a Chaplain. Each of these officers shall take an oath to support the Constitution of the United States, and for the true and faithful exercise of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House. Each of these officers shall appoint all of the employees of his department provided for by law. The Clerk, Sergeant-at-Arms, and Chief Administrative Officer may be removed by the House or by the Speaker.

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

When the House recodified its rules, it consolidated former rules II through VII, former clauses 10 and 11 of rule I, former clause 6 of rule

XIII, and former clause 5 of rule XVI under rule II (H. Res. 5, Jan. 6, 1999, p. —). A rudimentary form of this clause 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 clause to abolish the Office of the Postmaster (see § 668, *infra*) and to empower the Speaker to remove elected officers (H. Res. 423, Apr. 9, 1992, p. 9039). The 104th Congress made conforming changes to the clause to reflect the abolishment of the Office of the Doorkeeper and the establishment of an elected Chief Administrative Officer (sec. 201(a), H. Res. 6, Jan. 4, 1995, p. 463). Clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. —). For a discussion of the former Office of the Doorkeeper, see § 663a, *infra*; and for a discussion of the evolution of the Chief Administrative Officer (an elected officer) from the former Director of Non-legislative and Financial Services (an officer appointed jointly by the Speaker and the Majority and Minority Leaders under clause 1 of rule VI of the 103d Congress), see § 664, *infra*.

The House having discarded a theory that the rules might be imposed by one House on its successor (V, 6743–6745), it follows that this clause is not operative at the organization before the rules are adopted. Before the House recodified its rules in the 106th Congress, the House was required under former rule II to elect its Speaker and other officers by a viva voce vote following nominations (I, 204, 208). However, the officers mentioned in the rule, other than Speaker, were, even then, usually chosen by resolution, which is not a viva voce election (I, 193, 194). A majority vote is required for the election of officers of both Houses of Congress (VI, 23). The 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 XXIII). Clause 4(d)(1)(A) of rule X requires the Committee on House Administration to provide policy direction for, and oversight of, the Inspector General, and oversight of the Clerk, Sergeant-at-Arms, and Chief Administrative Officer (see § 752, *infra*).

The House has declined to interfere with the Clerk's power of removing his subordinates (I, 249). Employees under the Clerk and other officers are to be assigned only to the duties for which they are appointed (V, 7232). The Sergeant-at-Arms having died, the Clerk was elected by the House to serve temporarily also as Sergeant-at-Arms without additional

compensation (July 8, 1953, p. 8242). The Legislative Reorganization Act of 1946 (2 U.S.C. 75a–1) authorizes the Speaker to fill temporary vacancies in the offices of Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Chaplain. A former version of the Act also permitted temporary appointments to the former offices of Doorkeeper and Postmaster. The Speaker has exercised his authority to fill temporary vacancies in the offices of Sergeant-at-Arms (Jan. 6, 1954, p. 8; June 30, 1972, p. 23665; Feb. 28, 1980, p. 4350; and Mar. 12, 1992, p. 5519), Clerk (Nov. 15, 1975, p. 36901; Jan. 1, 1999, p. —), Chaplain (Mar. 14, 1966, p. 5712; Mar. 23, 2000, p. —), 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. —). The resignation of an elected officer of the House is subject to acceptance by the House (Mar. 23, 2000, p. —).

Clerk

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

§ 641. Clerk; commencement of first session.

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

Various administrative duties, similar to those specified in this clause, are imposed on the Clerk by law (I, 253; Legislative Reorganization Act of 1946, 60 Stat. 812); and the law also makes it his duty to furnish stationery, blank books, etc., to the committees and officers of the House (V, 7322); to exercise discretionary authority as to reprinting of bills and documents (V, 7319); to receive the testimony taken in election contests (I, 703, 705; see also Federal Contested Election Act, P.L. 91–138, 83 Stat. 284), to serve as

§ 642. Other duties of the Clerk.

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Rule II, clause 2

an ex officio member of the Federal Election Commission established pursuant to Public Law 94–283; 2 U.S.C. 437c; and to make certain reports on receipts and expenditures (2 U.S.C. 102, 103, 113; see § 655, *infra*). Instance of Clerk serving temporarily also as Sergeant-at-Arms (July 8, 1953, p. 8242).

As rules are not usually adopted until after the election of the Speaker, this paragraph is not in force at the time of organization of a new House. The procedure at organization does, however, follow a practice conforming to the terms of the paragraph (I, 81), although the House may depart from it. Since the 97th Congress, for example, the House has permitted by unanimous consent the alphabetical roll call of Members by States to be conducted by electronic device to establish a quorum (Jan. 5, 1981, pp. 93–96). For a discussion of procedure in the House before the adoption of rules, including the procedure by which the Clerk conducts the election of the Speaker, see §§ 27 and 60, *supra*. The Clerk, in presiding before the election of the Speaker, recognizes Members (I, 74). The Members-elect have, before the election of the Speaker or adoption of rules, authorized the Clerk and Sergeant-at-Arms of the last House to preserve order (I, 101); but usually such action has not been taken, although an occasion might arise to make it necessary (I, 76, 77).

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).

The roll of Members is made up by the Clerk from the credentials, in accordance with a provision of law (I, 14–62; VI, 2; 2 U.S.C. 26). A certificate of election in due form having been filed, the Clerk placed the name of the Member-elect on the roll, although he was subsequently advised that a State Supreme Court had issued a writ restraining the Secretary of State from issuing such certificate (Jan. 3, 1949, p. 8). The call of the roll may not be interrupted, especially by one not on that roll (I, 84), and a person not on the roll may not be recognized (I, 86). A motion to proceed to the election of the Speaker is of higher privilege than a motion to correct the roll (I, 19–24). The House has declined to permit enrollment by the Clerk to be final as to prima facie right (I, 376, 589, 592).

In early years the authority of the Clerk to decide questions of order pending the election of a Speaker was questioned (I, 65). The Clerks often declined to make decisions (I, 68–72; V, 5325). However, in 1855 and 1997 the Clerk decided a question of order; and in 1997 the Clerk was sustained on appeal (I, 91; Jan. 7, 1997, p. —). During the existence of a rule that applied the rules of a prior House to a successor House (1860 through 1890) (I, 64; V, 6743–6747) the Clerks made several rulings (I, 76, 77; VI, 623). In a case of vacancy arising after the adoption of rules, this rule would be operative and conclude questions as to the Clerk's au-

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

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

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

(c) The Clerk shall—

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

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

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

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

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

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

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

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

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

Senate, and report to the House the fact and date of their presentment.

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

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

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

§ 649. Calendars distributed.

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

(f) The Clerk shall—

(1) retain in the library at the Office of the Clerk for the use of the Members, Delegates, Resident Commissioner, and officers of the House, and not to be

§ 650. Documents.

withdrawn therefrom, two copies of all the books and printed documents deposited there; and

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

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

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

§ 651. Official to act as Clerk upon designation.

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

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

§ 652. Authority to receive messages.

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

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

§ 653. Administration of vacant Member's office.

(2) For 60 days following the death of a former Speaker, the Clerk shall maintain on the House payroll, and shall supervise in the same manner, staff appointed under House Resolution 1238, Ninety-first Congress (as enacted into perma-

ment law by chapter VIII of the Supplemental Appropriations Act, 1971) (2 U.S.C. 31b–5).

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

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

§ 654. Semi-annual reports.

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

§ 655. Cooperation with others.

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

The Clerk is also required to make certain reports on receipts and expenditures under law (2 U.S.C. 102, 103, 113), which are available to the public. However, members of the public have no statutory or constitutional

right to examine the actual financial records that are used in preparing such reports (*Trimble v. Johnston*, 173 F. Supp. 651, D.C. Cir. 1959).

Sergeant-at-Arms

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

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

Before the House recodified its rules in the 106th Congress, this paragraph was found in former clause 1 of rule IV (H. Res. 5, Jan. 6, 1999, p. —). It was adopted initially in 1789, with additions and amendments in 1838, 1877, 1890 (I, 257), 1911 (VI, 29), and 1971. Amendments adopted in the 92d Congress clarified the responsibility of the Sergeant-at-Arms to keep the accounts for the pay and mileage of the Delegates from the District of Columbia, Guam, and the Virgin Islands and the Resident Commissioner from Puerto Rico as well as for Members (H. Res. 5, Jan. 22, 1971, p. 144; H. Res. 1153, Oct. 13, 1972, pp. 36013–15). In the 94th Congress, the provisions of House Resolution 732, directing the Sergeant-at-Arms to enter into agreements with State officials, with the approval of the Committee on House Administration, to withhold State income taxes from the pay of each Member subject to such State income tax and requesting such withholding, were enacted into permanent law (90 Stat. 1448; 2 U.S.C. 60e–1b). Former provisions of this clause directing the Sergeant-at-Arms to keep the accounts for the pay and mileage of Members and Delegates and the Resident Commissioner from Puerto Rico were stricken by section 4 of the House Administrative Reform Resolution of 1992 (H. Res. 423, 102d Cong., Apr. 9, 1992, p. 9039), to relieve the Sergeant-at-Arms of functions to be transferred to the Director of Non-legislative and Financial Services pursuant to section 7 of that resolution (see § 664, *supra*). During the 102d Congress, the House adopted a resolution presented by the Majority Leader as a question of the privileges of the House to terminate all bank and check-cashing operations in the Office of the Sergeant-at-Arms and direct the Committee on Standards of Official Conduct to review GAO audits of such operations (Oct. 3, 1991, p. 25435). When former rule IV was rewritten in the 104th Congress, clause 1 was restated without change (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. 463).

The Sergeant-at-Arms is authorized to make payments from the contingent fund of the House (now referred to as “applicable accounts of the

House described in clause 1(i)(1) of rule X”) under rules prescribed by the Committee on House Administration, to defray the expenses of the funeral of a deceased Member of the House and the expenses of any delegation of Members of Congress duly appointed to attend (76 Stat. 686; 2 U.S.C. 124).

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

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

Duties are imposed on the Sergeant-at-Arms by law (I, 258): Control of Capitol police; and the making up of the roll of Members-elect and presiding over the organization of a new Congress in case of vacancy in the Office of the Clerk, or the absence or disability of that officer (2 U.S.C. 26). The death of the Sergeant-at-Arms being announced, the House passed appropriate resolutions and adjourned as a mark of respect (VI, 32; July 8, 1953, p. 8263). The Clerk having died, and in the absence of the Sergeant-at-Arms, the Doorkeeper of the 79th Congress presided at the organization of the 80th Congress (Jan. 3, 1947, p. 33). In the 83d Congress the Sergeant-at-Arms having died, the Clerk was elected to serve temporarily both as Clerk and Sergeant-at-Arms (July 8, 1953, p. 8242), and upon resignation by the Clerk from his additional position of Sergeant-at-Arms, the Speaker, pursuant to 2 U.S.C. 75a-1, appointed a temporary Sergeant-at-Arms (Jan. 6, 1954, p. 8). The Sergeant-at-Arms having resigned in the 96th Congress, the Speaker appointed a temporary Sergeant-at-Arms pursuant to the statute (Feb. 28, 1980, pp. 4349-50); and the same occurred in the 102d Congress (Mar. 12, 1992, p. 5519). Instance where the Senate by resolution removed its Sergeant-at-Arms (VI, 37).

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

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

Before the House recodified its rules in the 106th Congress, this paragraph was found in former clause 2 of rule IV (H. Res. 5, Jan. 6, 1999, p. —). It was adopted initially in 1789 (II, 1346). When former rule IV was rewritten entirely in the 104th Congress, the paragraph was restated without change (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. 463). An attempt to enforce order without the mace 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).

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

§ 658. Doorkeeping.

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

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

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

§ 659. Semi-annual reports.

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

§ 660. Cooperation with others.

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

Chief Administrative Officer

4. (a) The Chief Administrative Officer shall have operational and financial responsibility for functions as assigned by the Committee on House Administration and shall be subject to the oversight of the Committee on House Administration.

§ 661. Duties.

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

§ 662. Semi-annual reports.

(c) The Chief Administrative Officer shall fully cooperate with the appropriate offices and persons in the perform-

§ 663. Cooperation with others.

ance of reviews and audits of financial records and administrative operations.

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

Before the 104th Congress (sec. 201(c), H. Res. 6, Jan. 4, 1995, p. 463), rule V enumerated the duties of the Doorkeeper, who enforced the rules relating to the privileges of the Hall of the House. The earlier form of the rule was adopted in 1838 and amended in 1869, 1880 (I, 260), and 1890 (V, 7295). By law the Doorkeeper was assigned certain administrative duties (I, 262), including certain housekeeping functions. Through his employees and appointees, the Doorkeeper also discharged various duties not enumerated in the law or in the rules, such as announcing at the door of the Hall of the House all messengers from the President and the Senate (V, 6591). The Clerk having died, and the Sergeant-at-Arms having been absent, the Doorkeeper of the 79th Congress presided at the organization of the 80th Congress (Jan. 3, 1947, p. 33). In the 78th Congress, the House adopted a resolution on the death of the Doorkeeper and appointed a committee to attend his funeral (Jan. 28, 1943, pp. 421–22).

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

previous responsibility for a function or entity would remain fixed until such function or entity were transferred. Pursuant to clause 1 of rule VI of the 103d Congress (then still designated as rule LII of the 102d Congress), the Speaker, the Majority Leader, and the Minority Leader jointly appointed the first Director of Non-legislative and Financial Services of the House on October 23, 1992 (Oct. 29, 1992, p. 34802).

Chaplain

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

§ 665. Duties of the Chaplain.

Before the House recodified its rules in the 106th Congress, this clause was found in former rule VII (H. Res. 5, Jan. 6, 1999, p. —). It was adopted initially in 1880 (I, 272), but the sessions of the House were opened with prayer from the first, and the Chaplain was an officer of the House before the adoption of the rule (I, 273–282). The Chaplain takes the oath prescribed for the officers of the House (VI, 31; Feb. 1, 1950, p. 1311). Prayer by the Chaplain is not business requiring the presence of a quorum and the Speaker declines to entertain a point of no quorum before prayer is offered (VI, 663; clause 7(a)(1) of rule XX). There is no precedent for prayer to be offered by the Chaplain during a continuous session of the House, absent an adjournment or recess (compare Apr. 22 and 23, 1985, pp. 8753 and 8959). Form of resignation of the Chaplain (Feb. 28, 1921, p. 4075; Jan. 30, 1950, p. 1097; Mar. 23, 2000, p. —). The election of a Chaplain emeritus (VI, 31; Jan. 30, 1950, p. 1095; Nov. 10, 1999, p. —).

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

Office of Inspector General

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

§ 667. Inspector General.

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

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

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

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

(3) simultaneously notify the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking minority member of the Committee on House Administration in the case of any financial irregularity discovered in the course of carrying out responsibilities under this clause;

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

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

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

In the form of the rule adopted in the 103d Congress, paragraph (a) (former clause 1) corresponded to an erstwhile rule LII of the 102d Congress (relating to the Director of Non-legislative and Financial Services, who in the 104th Congress was supplanted by the Chief Administrative Officer; see clause 4 of rule II, §§ 661–663, *supra*), and paragraph (b) (former clause 2) corresponded to an erstwhile rule LIII of the 102d Congress (relating to the Inspector General). The 104th Congress rewrote clause 2 of rule VI (as it was composed in the 103d Congress) to occupy all of rule VI and to: broaden the auditing responsibilities beyond the offices of the elected officers (paragraph (c)(1), former clause 2(c)(1)); add requirements for simultaneous reporting (paragraphs (c)(3) and (4), former clauses 2(c)(3) and (4)); delete a provision relating to classification of employees (former clause 2(d)); and add the responsibility to report certain information to the Committee on Standards of Official Conduct (paragraph (c)(5)) (sec. 201, H. Res. 6, Jan. 4, 1995, p. 464). The 104th Congress also mandated that the Inspector General, in consultation with the Speaker and the Committee on House Administration, procure an independent and comprehensive audit of House financial records and administrative operations and report the results thereof in accord with this rule (sec. 107, H. Res. 6, Jan. 4, 1995, p. 463).

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. 28591).

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

§ 668. Former Office of the Postmaster.

Office of the Historian

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

§ 669. Historian.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 10 of rule I (H. Res. 5, Jan. 6, 1999, p. —). It was adopted initially in the 101st Congress (H. Res. 5, Jan. 3, 1989, p. 72). The second sentence was added in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. —). An earlier form of this clause provided for the seven-year establishment of an Office for the Bicentennial to coordinate the commemoration of the two-hundredth anniversary of the House of Representatives (H. Res. 621, 97th Cong., Dec. 17, 1982, p. 31951). The management, supervision, and administration of the office was under the direction of the Speaker and was staffed by a professional historian appointed by the Speaker on a nonpartisan basis. In 1984 the Office of the Bicentennial was removed from the standing rules and established by law for the remainder of its existence in P.L. 98–367 (2 U.S.C. 29c).

Office of General Counsel

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

§ 670. General Counsel.

Before the House recodified its rules in the 106th Congress, this provision was found in former clause 11 of rule I (H. Res. 5, Jan. 6, 1999, p. —). It was adopted initially in the 103d Congress (H. Res. 5, Jan. 5, 1993,

p. 49). The previous year, in section 12 of the House Administrative Reform Resolution of 1992 (H. Res. 423, Apr. 9, 1992, p. 9040), the House had directed the Committee on House Administration to provide for an Office of General Counsel in a manner ensuring appropriate coordination with and participation by both the majority and minority leaderships in matters of representation and litigation.

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

RULE III

THE MEMBERS, DELEGATES, AND RESIDENT COMMISSIONER OF PUERTO RICO

Voting

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

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

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,