

give no place to the motion to withdraw, it is made by unanimous consent (V, 7259). The House formerly adopted a privileged resolution at the beginning of each Congress authorizing the Clerk to furnish certified copies of certain types of House papers subpoenaed by courts upon determination of relevancy by the court, but not permitting production of executive session papers or transfer of original papers (Jan. 3, 1973, p. 30).

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

RULE VIII

RESPONSE TO SUBPOENAS

1. When a Member, Delegate, Resident Commissioner, officer, or employee of the House 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 document relating to the official functions of the House, such Member, Delegate, Resident Commissioner, officer, or employee shall comply, consistently with the privileges and rights of the House, with the subpoena or other judicial order as hereinafter provided, unless otherwise determined under this rule.

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

shall promptly be laid before the House by the Speaker.

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

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

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

shall promptly be laid before the House by the Speaker.

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

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

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

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

ber, Delegate, Resident Commissioner, officer, or employee, or of the House itself, to assert such privileges or rights before a court in the United States.

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

In the 102d Congress the House considered as questions of the privileges of the House resolutions: responding to a subpoena for records of the “bank” in the Office of the Sergeant-at-Arms (Apr. 29, 1992, p. 9753); responding to a contemporaneous request for such records from a Special Counsel (Apr. 29, 1992, p. 9763); and authorizing an officer of the House to release certain documents in response to another such request from the Special Counsel (May 28, 1992, p. 12790). A response to an administrative subpoena also raises a question of the privileges of the House (Deschler’s Precedents, vol. 3, ch. 11, sec. 14.8). A Member or employee receiving such a subpoena informs the House (July 30, 1998, p. —; May 3, 1999, p. —).

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

RULE IX

QUESTIONS OF PRIVILEGE

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

§ 698. Definition of questions of privilege.