

mine the relevancy and propriety of activity and the scope of a Senator's duties under the rules of the Senate and the Constitution; and

Whereas this case therefore concerns the constitutional separation of powers between legislative branch and executive and judicial branches of Government; and

Whereas a decision in this case may impair the constitutional independence and prerogatives of every individual Senator, and of the Senate as a whole; and

Whereas the United States Senate has a responsibility to insure that its interests are properly and completely represented before the Supreme Court: Now, therefore, be it

Resolved, That the President pro tempore of the Senate is hereby authorized to appoint a bipartisan committee of Senators to seek permission to appear as amicus curiae before the Supreme Court and to file a brief on behalf of the United States Senate; and be it further

Resolved, That the members of this bipartisan committee shall be charged with the responsibility to establish limited legal fees for services rendered by outside counsel to the committee, to be paid by the Senate pursuant to these resolutions; be it further

Resolved, That any expenses incurred by the Committee pursuant to these resolutions including the expense incurred by the Junior Senator from Alaska as a party in the above mentioned litigation in printing records and briefs for the Supreme Court shall be paid from the contingent fund of the Senate on vouchers authorized and signed by the President pro tempore of

the Senate and approved by the Committee on Rules and Administration; be it further

Resolved, That these resolutions do not express any judgment of the action that precipitated these proceedings; and be it further

Resolved, That the Secretary of the Senate transmit a copy of these resolutions to the Supreme Court.

MR. [MICHAEL J.] MANSFIELD [of Montana]: Mr. President, there are some recommendations relative to the counsel to be appointed from the Democratic side and three associate counsel to assist the chief counsel. Would the Chair make those nominations at this time on behalf of the majority?

THE PRESIDENT PRO TEMPORE: Under the resolution just agreed to, the Chair appoints the Senator from North Carolina (Mr. Ervin) chief counsel, and the Senator from Mississippi (Mr. Eastland), the Senator from Rhode Island (Mr. Pastore), and the Senator from Georgia (Mr. Talmadge) as associate counsel.

THE PRESIDING OFFICER (Mr. Stafford) subsequently stated: The Chair, on behalf of the President pro tempore, under Senate Resolution 280, makes the following appointments to the committee established by that resolution: The Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), the Senator from Maryland (Mr. Mathias), and the Senator from Ohio (Mr. Saxbe).

§ 2. Seniority and Derivative Rights

Seniority is a Member's length of service in the House or on a

House committee. The seniority system is the traditional practice⁽¹²⁾ in the House whereby certain prerogatives and positions are made available to those Members with the longest continuous service in the House or on committee.⁽¹³⁾ However, the seniority

system as such is nowhere codified and is only mentioned collaterally in the House rules;⁽¹⁴⁾ it can be changed by the House or modified by the party caucuses.⁽¹⁵⁾

There are two types of seniority—congressional seniority, which relates to the length of service in the House, and committee seniority, which relates to the length of consecutive service on a particular committee.

12. For detailed descriptions of the practice and its origins, see Celler, *The Seniority Rule in Congress*, *Western Poll Quar.* (Mar. 1961); Goodwin, *The Seniority System in Congress*, *Am. Poll Sci. Rev.* (June 1959); Polsby, Gallaher, and Rundquist, *The Growth of the Seniority System in the U.S. House of Representatives*, *Am. Poll Sci. Rev.* (Sept. 1969).

Congressional hearings have focused on the seniority system and proposals for change. Hearings of the Joint Committee on the Organization of Congress, 79th Cong. 1st Sess. (1945); hearings of the Joint Committee on the Organization of Congress, 89th Cong. 1st Sess. (1965); hearings of the Special Subcommittee on Legislative Reorganization of the House Committee on Rules, 91st Cong. 1st Sess. (1970). For a critical analysis of the system by an ex-Member, see 116 CONG. REC. 26034–39. 91st Cong. 2d Sess., July 28, 1970.

13. In assigning office suites, “longest continuous service” refers not only to present consecutive service but also to a past period of service interrupted by a period of nonmembership. (See §2.1, *infra*).

In computing committee seniority, the Committee on Committees may credit a Member for past interrupted

service on the committee to which he has been assigned (see §2.2, *infra*).

14. Rule X clause 4, *House Rules and Manual* §672 (1973) provides for the Member next in rank on a standing committee to act as chairman in the latter’s absence.

The House rejected proposed amendments to the Legislative Reorganization Act of 1970 which would have altered and codified seniority as a factor in the selection of committee chairmen (see §2.4, *infra*).

15. For demotions in seniority by the House, see §§2.11, 2.12, *infra*. For seniority demotions by the party, see §§2.13–2.16, *infra*.

For changes implemented by the majority and minority party caucuses in the 92d and subsequent Congresses modifying strict seniority practices in the selection of committee chairmen, see Ch. 3, *supra*, and Ch. 17, *infra*.

One party has refused to interfere with the prerogative of the opposing party caucus in selecting a committee chairman on the basis of seniority. 117 CONG. REC. 1709–13, 92d Cong. 1st Sess., Feb. 4, 1971.

Congressional seniority is computed from the official date that a Member begins his service. Therefore, seniority ordinarily dates from Jan. 3 of the first Congress to which a Member is elected or re-elected after a break in service in the House.⁽¹⁶⁾ Where a Member is elected to fill a vacancy, his congressional seniority is computed from the date of election.⁽¹⁷⁾ An objection to a Member's right to be sworn, later resolved in his favor, does not affect his congressional seniority.⁽¹⁸⁾

Committee seniority is computed from the date a Member is elected to a specific committee. Members-elect whose seats in the House are in doubt may be excluded from the resolution electing committees and fixing rank thereon, pending resolution of any challenges and investigations.⁽¹⁹⁾

16. Pursuant to the 25th amendment to the Constitution (ratified Feb. 6, 1933), the terms of Members begin on Jan. 3 of the odd-numbered years.
17. Cf. 2 USC §37 (salary begins at election for Member to fill unexpired term) and 2 Hinds' Precedents §1206 (general discussion of terms of Members elected to fill vacancies).
18. See Ch. 2, *supra* (rights of Members-elect).
19. See §§2.5, *infra* (election to committee after resolution of contest), and 2.11, *infra* (Member-elect excluded pending investigation, elected to no committees, and stripped of chairmanship).

Some of the rights derived from congressional seniority are purely ceremonial in nature. For example, a senior Member traditionally announces the death of a Member from his state and party.⁽²⁰⁾ Where a delegation of Members is appointed by the Speaker for the funeral of an ex-Member, Members are listed in the order of their congressional seniority.⁽¹⁾ The dean of the House, or the Member with the longest continuous service in the House, traditionally administers the oath to the Speaker at the beginning of a new Congress.⁽²⁾

Congressional seniority determines the priority of assignment to office suites in the office buildings.⁽³⁾

Committee rank and the election of committee chairmen and subcommittee chairmen is largely a matter for determination by the political party organizations in the House.⁽⁴⁾ In computing committee

20. See §2.21, *infra*.

1. See §2.22, *infra*.

2. See §2.20, *infra*.

3. Preference is given to those Members with longest continuous service in the House. *House Rules and Manual* §985 (1973).

For computation of "longest continuous service" as related to the assignment of offices, see §2.1, *infra*.

4. For party organization, see Ch. 3, *supra*. For committee election and organization, see Ch. 17, *infra*.

seniority, a party organization may credit not only the present consecutive service of a committee member, but also prior interrupted service on the same committee.⁽⁵⁾

Relative committee rank is indicated by the order in which the names of Members appear in the resolution which names Members to a standing committee.⁽⁶⁾ When

When an attempt was made by certain members of the majority party to unseat a committee chairman in the 92d Congress, they urged support from the minority party on the floor of the House, in departing from "the custom of the House, which is that the majority party in the enclaves of their caucus make the determinations and the minority party accepts those decisions." 117 CONG. REC. 1709, 92d Cong. 1st Sess., Feb. 4, 1971 (address of Mr. Jerome Waldie [Calif.]). The minority party refused to support the attempt. *Id.* at p. 1713. During debate on Mr. Waldie's proposal, Mr. James O'Hara (Mich.) stated that "each party should be free to make its own decisions without hindrance from the other." *Id.* at p. 1711. Mr. James Fulton (Pa.), of the minority party, stated: "It has been the custom that each party shall select its own people and set the seniority and that they shall select the membership of the various committees and their own officers and that the other party would do the same." *Id.* at p. 1709.

5. See § 2.2, *infra*.

6. See § 2.3, *infra*.

the committee seniority of a Member is not yet determined, or if election contests over his seat are pending, vacancies may be left open in the resolution pending the determination of such matters.⁽⁷⁾

A Member may be stripped of his congressional seniority or his committee seniority for certain improprieties.⁽⁸⁾ Thus, in the 91st Congress, the House punished a Member for improper conduct in past Congresses by reducing his seniority to that of a first-term Representative.⁽⁹⁾

Forms

Form of resolution electing a Member to committee and fixing his rank thereon.

Resolved, That J. Edward Roush, of Indiana, be, and is hereby elected a Member of the standing committee of the House of Representatives on Science and Astronautics and to rank No. 10 thereon.⁽¹⁰⁾

Cross References

Seniority and party organization, see Ch. 3, *supra*.

Committee organization and seniority, see Ch. 17, *infra*.

Conference appointments and seniority, see Ch. 33 *infra*.

Collateral References

Celler, *The Seniority Rule in Congress*, Western Political Quarterly (Mar. 1961).

7. See § 2.7, *infra*.

8. See Ch. 12, *infra*.

9. See § 2.12, *infra*.

10. 107 CONG. REC. 10391, 87th Cong. 1st Sess., June 14, 1961.

Goodwin, *The Seniority System in Congress*, American Political Science Review (June 1959).

Hearings of the Joint Committee on the Organization of Congress, 79th Cong. 1st Sess. (Wash. 1945); Hearings of the Joint Committee on the Organization of Congress, 89th Cong. 1st Sess. (Wash. 1965); Hearings of the Special Subcommittee on Legislative Reorganization of the House Committee on Rules, 91st Cong. 1st Sess. (Wash. 1970).

Polsby, *The Growth of the Seniority System in the United States House of Representatives*, American Political Science Review (Sept. 1969).

Bolling, *Power in the House*, E.P. Dutton & Co., Inc. (N.Y. 1968).

Democratic Study Group, *The Seniority System in the United States House of Representatives*, Special Report (Feb. 25, 1970).

Computing Seniority

§ 2.1 In computing seniority for the assignment of office suites, "longest continuous service" is interpreted as the longest period of uninterrupted service as a Member.

On Mar. 2, 1967,⁽¹¹⁾ the Chairman of the House Office Building Commission, Speaker John W. McCormack, of Massachusetts, announced a determination as to the meaning of the term "longest

continuous service" in relation to seniority for assignment of office suites.

MR. MCCORMACK: Mr. Speaker, for the information of the Members, I include an action recently taken by the House Office Building Commission:

ASSIGNMENT OF ROOMS, HOUSE OFFICE BUILDINGS

In connection with assignment of rooms to Members of the House of Representatives in the House Office Buildings, 40 U.S.C. 178 provides, in part, as follows:

"If two or more requests are made for the same vacant room, preference shall be given to the Representative making the request who has been longest in continuous service as a Member and Member-elect of the House of Representatives."

The question was raised before the House Office Building Commission as to whether the wording "longest continuous service" should refer to any period of continuous service whether or not such continuous service occurred before or after a break in service in the House.

At meeting of February 27, 1967, the House Office Building Commission unanimously ruled on this point, as follows:

"The term 'longest continuous service' as used in 40 U.S.C. 178, governing seniority in assignment of rooms in the House Office Buildings, is held to refer to the longest period of uninterrupted service as a Member and Member-elect of the House of Representatives (not necessarily the last period of uninterrupted service as held

11. 113 CONG. REC. 5218, 90th Cong. 1st Sess.

in Cannon's Precedents, Vol. 8, page 981, Sec. 3651)."

This ruling is effective February 27, 1967 and is being submitted as a matter of record for the information of all Members of the House of Representatives.

§ 2.2 In computing committee seniority, a party may credit a Member for prior interrupted service in the House.

In the 89th Congress, Mr. Glenn R. Davis, of Wisconsin, was elected to the Committee on Appropriations, to rank fifth from the bottom.⁽¹²⁾ Mr. Davis began service in the 89th Congress after a break in service extending from the 85th Congress to the 88th Congress; prior to that break he had served in the House from the 80th Congress through the 84th Congress.⁽¹³⁾

Mr. Davis was elected to higher committee rank in the 89th Congress than four Members each of whom had served for at least one term immediately preceding the 89th Congress.⁽¹⁴⁾

12. 111 CONG. REC. 991, 89th Cong. 1st Sess., Jan. 21, 1965.

13. *Biographical Directory of the American Congress 1774-1971*, S. DOC. NO. 92-8, 92d Cong. 1st Sess. (1971).

14. 111 CONG. REC. 991, 89th Cong. 1st Sess., Jan. 21, 1965. For the prior service of those Members listed below Mr. Davis, see the *Biographical Directory of the American Con-*

§ 2.3 Committee rank is indicated by the order in which the names of Members appear in the resolution electing them to a standing committee.

On Feb. 3, 1969,⁽¹⁵⁾ the House made a correction in the election of Members to the standing Committee on Veterans' Affairs, since the original resolution which was adopted contained an error in the order in which names were listed:

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, I ask unanimous consent to vacate the proceedings whereby the House agreed to House Resolution 176 on January 29, and ask for its immediate consideration with an amendment which I send to the desk.

THE SPEAKER:⁽¹⁶⁾ Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 176

Resolved, That the following named Members be, and they are hereby, elected members of the following standing committees of the House of Representatives: . . .

COMMITTEE ON VETERANS' AFFAIRS

Charles M. Teague, California; E. Ross Adair, Indiana; William H.

gress 1774-1971, S. DOC. NO. 92-8, 92d Cong. 1st Sess. (1971).

15. 115 CONG. REC. 2433, 2434, 91st Cong. 1st Sess.

16. John W. McCormack (Mass.).

Ayres, Ohio; John P. Saylor, Pennsylvania; Seymour Halpern, New York; John J. Duncan, Tennessee; John Paul Hammerschmidt, Arkansas; William L. Scott, Virginia; Margaret M. Heckler, Massachusetts; John M. Zwach, Minnesota; Robert V. Denney, Nebraska. . . .

AMENDMENT OFFERED BY MR. GERALD
R. FORD

The Clerk read as follows:

Amendment offered by Mr. Gerald R. Ford: On page 7, lines 5 and 6, strike out "E. Ross Adair, Indiana; William H. Ayres, Ohio;" and insert: "William H. Ayres, Ohio; E. Ross Adair, Indiana;"

MR. GERALD R. FORD: Mr. Speaker, my amendment, which has just been read by the Clerk, will correct the seniority standing of the gentleman from Ohio (Mr. Ayres) on the Committee on Veterans' Affairs.

The amendment was agreed to.

Seniority Considerations in Selecting Chairmen

§ 2.4 During consideration of a legislative reorganization act, the House rejected two amendments proposing that seniority need not be the sole consideration in the selection of committee chairmen.

On July 28, 1970, during consideration of the Legislative Reorganization Act of 1970,⁽¹⁷⁾ the House rejected an amendment and a substitute amendment pro-

17. 116 CONG. REC. 26044, 91st Cong. 2d Sess.

posing that the House consider other factors in addition to seniority in the selection of committee chairmen.

The primary amendment had been offered by Mr. Henry S. Reuss, of Wisconsin, on July 27, 1970.⁽¹⁸⁾ His amendment read as follows:

Sec. 119 Clause 3 of rule X of the rules of the House of Representatives is amended to read as follows:

3. At the commencement of each Congress, the House shall elect as chairman of each standing committee one of the Members thereof, who need not be the Member with the longest consecutive service on the Committee; 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 substitute amendment, offered as a substitute to Mr. Reuss' amendment, was offered by Mr. Frederick Schwengel, of Iowa, and read as follows:⁽¹⁹⁾

Sec. 120. Clause 3 of Rule X of the Rules of the House of Representatives is amended to read as follows:

3. (a) As soon as possible after the commencement of each Congress, the senior member of the majority party on each standing committee shall call an organization meeting of all

18. *Id.* at p. 25831.

19. *Id.* at p. 25832.

the members of the committee for the purpose of electing the chairman of the committee and the minority leader for the committee. . . .

(d) The first order of business at any such organization meeting shall be the election of the chairman of the committee. The three most senior members of the committee who are members of the majority party shall be regarded as having been nominated for the office of chairman. Tellers shall be appointed by the temporary chairman, one from among the members of the committee who are members of the majority party and two from among the other members of the committee. Voting shall be confined to members of the majority party, and shall be by secret written ballot.

(e) After the chairman of the committee has been elected and installed, the next order of business shall be the election of a minority leader for the committee, which shall be accomplished in the same manner as in the case of the election of the chairman except that (1) the tellers shall be appointed by the chairman, two from among the members of the committee who are members of the majority party and one from among the other members of the committee, and (2) voting shall be confined to members of the committee who are not members of the majority party. . . .

After these amendments were of I Bred, and before they were rejected by the House, there ensued lengthy debate on the seniority system in the House and on possible alternatives to the current practice.⁽²⁰⁾

20. See the *Congressional Record* insert at 116 CONG. REC. 26034-39, 91st Cong. 2d Sess., July 28, 1970, of a

Fixing Committee Seniority

§ 2.5 When the House has determined the right of a Member to his seat after the organization of the House, the House elects such Member to committee and designates his rank thereon by resolution.

On June 29, 1961,⁽¹⁾ pursuant to the determination by the House on June 14, 1961, that Mr. J. Edward Roush, of Indiana, was entitled to a seat,⁽²⁾ the House adopted the following resolution:

Resolved, That J. Edward Roush, of Indiana, be, and he is hereby elected a Member of the standing committee of the House of Representatives on Science and Astronautics and to rank No. 10 thereon.

§ 2.6 Where a senior Member was assigned to the last position on a committee for disciplinary purposes by his party caucus, the House was advised that junior Members subsequently elected to the committee would be placed below the punished Member in rank.

paper written by ex-Member John V. Lindsay (N.Y.) on the seniority system in current practice and on proposals for change.

1. 107 CONG. REC. 11797, 87th Cong. 1st Sess.
2. 107 CONG. REC. 10391, 87th Cong. 1st Sess.

On Oct. 18, 1966,⁽³⁾ the House was considering a resolution electing a junior Member from New York to the standing Committee on Interstate and Foreign Commerce. Mr. John B. Williams, of Mississippi, who had been assigned the last position on that committee by the Democratic Caucus at the convening of the 89th Congress,⁽⁴⁾ arose to propound an inquiry. He asked whether the freshman Member would go above him or below him in committee rank. Mr. Wilbur D. Mills, of Arkansas, who had offered the resolution, responded that freshmen Members newly elected to the same committee would be placed below Mr. Williams.

§ 2.7 The Committee on Committees may report a resolution leaving vacancies on certain standing committees pending further consideration of the assignments and seniority of certain Members.

On Jan. 23, 1967,⁽⁵⁾ the Committee on Committees reported House Resolution 165, electing Members to committees but leaving certain vacancies on the Com-

3. 112 CONG. REC. 27486, 89th Cong. 2d Sess.

4. See § 2.13, *infra*.

5. 113 CONG. REC. 1086, 90th Cong. 1st Sess.

mittee on Interstate and Foreign Commerce.

One vacancy related to an as yet undecided contested election case.⁽⁶⁾

The other vacancy related to the undetermined status of Mr. John B. Williams, of Mississippi, who had, in the 89th Congress, been stripped of his committee seniority and assigned to the last majority position on said committee.⁽⁷⁾ Mr. Williams had requested the committee to refrain assigning him to any committee pending a determination by his party caucus of his committee seniority in the 90th Congress.⁽⁸⁾

Correction of Seniority Rankings

§ 2.8 The House by unanimous consent fixed the relative rank of two Members on a committee where an error had been made in the original appointment.

On Jan. 20, 1947,⁽⁹⁾ the House agreed by unanimous consent to

6. The right to a seat of Member-elect Benjamin B. Blackburn (Ga.) was challenged on Jan. 10, 1967, 113 CONG. REC. 14, 90th Cong. 1st Sess., and had not yet been decided.

7. See § 2.13, *infra*.

8. See § 2.16, *infra*.

9. 93 CONG. REC. 481, 80th Cong. 1st Sess.

correct the committee seniority of two members of a committee:

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, in determining seniority on the reorganized Public Lands Committee, into which were merged six previous standing committees of the House, we made an error in the determination of seniority between the gentleman from Colorado [Mr. Rockwell] and the gentleman from North Dakota [Mr. Lemke].

In order to correct that error and to bring that assignment of seniority in line with other similar assignments adopted by the Committee on Committees, I ask unanimous consent to correct the list of members of the Committee on Public Lands by placing the gentleman from Colorado [Mr. Rockwell] No. 4 thereon and the gentleman from North Dakota [Mr. Lemke] No. 5 thereon.

THE SPEAKER:⁽¹⁰⁾ Is there objection to the request of the gentleman from Indiana [Mr. Halleck]?

There was no objection.

§ 2.9 On one occasion, the House adopted a resolution electing a Member retroactively to a committee and fixing his rank on such committee accordingly.

On Nov. 2, 1939,⁽¹¹⁾ the House adopted the following resolution:

Resolved, That E.C. Gathings, of Arkansas, be, and he is hereby, elected a

10. Joseph W. Martin, Jr. (Mass.).

11. 85 CONG. REC. 1283, 76th Cong. 2d Sess.

member of the standing committee of the House of Representatives on Claims as of June 2, 1939, and shall take rank accordingly.

Parliamentarian's Note: The House took such action because the Member in question had served on the committee for a period of months under the misapprehension, also held by the committee, that he was a duly-elected member of that committee.

§ 2.10 On motion of the Minority Leader, the House agreed by unanimous consent to vacate past proceedings where by it had agreed to a resolution electing minority members to committees, and then reconsidered the resolution with an amendment changing the order of names in order to correct seniority.

On Feb. 3, 1969,⁽¹²⁾ Gerald R. Ford, of Michigan, the Minority Leader of the House, asked unanimous consent to vacate the proceedings whereby the House had agreed to House Resolution 176, electing Members to the Committee on Veterans' Affairs. Mr. Ford offered an amendment changing the order of the names, and therefore the seniority of members, in order to correct the

12. 115 CONG. REC. 2433, 2434, 91st Cong. 1st Sess.

seniority standing of Mr. William H. Ayres, of Ohio. The resolution as amended was agreed to by the House.

Demotions in Committee or Congressional Seniority

§ 2.11 Where a Member-elect was excluded from the House pending a determination of his right to his seat, he was stripped of his chairmanship of the Committee on Education and Labor and not named to any committees.

On Jan. 23, 1967,⁽¹³⁾ the Committee on Committees reported a resolution (H. Res. 165) electing Carl D. Perkins, of Kentucky, as Chairman of the Committee on Education and Labor, which position had formerly been held by Member-elect Adam C. Powell, of New York. Mr. Powell's name was not nominated for election to any committee. He had been excluded from House membership pending an investigation of his right to a seat.⁽¹⁴⁾

§ 2.12 In authorizing a challenged Member-elect to take his seat, the House may discipline him for actions in

13. 113 CONG. REC. 1086, 90th Cong. 1st Sess.

14. 113 CONG. REC. 26, 90th Cong. 1st Sess., Jan. 10, 1967.

past Congresses by reducing his congressional seniority to that of a first-term Congressman.

On Jan. 3, 1969, the House authorized Adam C. Powell, Member-elect from New York, whose seat had been challenged,⁽¹⁵⁾ to take the oath of office and to be seated as a Member of the House by House Resolution 2.⁽¹⁶⁾ The resolution provided for deductions from Mr. Powell's salary as punishment for past conduct, and also provided as follows:

(3) That as further punishment the seniority of the said Adam Clayton Powell in the House of Representatives commence as of the date he takes the oath as a Member of the 91st Congress.

§ 2.13 Two Members were stripped of their committee seniority in the 89th Congress by their party.

In the 89th Congress, the Democratic Caucus adopted a resolution on Jan. 2, 1965, directing the Committee on Committees to demote in committee rank Mr. John B. Williams, of Mississippi, and Mr. Albert W. Watson, of South Carolina. (Both of those Members had allegedly supported

15. 115 CONG. REC. 15, 91st Cong. 1st Sess.

16. *Id.* at p. 33.

the Presidential nominee of the Republican Party.)⁽¹⁷⁾

Mr. Williams had ranked second on the Committee on Interstate and Foreign Commerce⁽¹⁸⁾ and fifth on the Committee on the District of Columbia in the 88th Congress.⁽¹⁹⁾ In the 89th Congress, he was demoted in seniority by being elected to the last majority position on both of those committees.⁽²⁰⁾

Mr. Watson had ranked last on the Committee on Post Office and Civil Service in the 88th Congress.⁽¹⁾ In the 89th Congress, he was elected to the next-to-last position on the Committee on Interstate and Foreign Commerce.⁽²⁾ (Mr. Watson later resigned from the House, was re-elected as a Republican, and was elected as a mi-

17. See the remarks in the Senate of Senator Strom Thurmond (S.C.) analyzing the action of the House Democratic Caucus and the activities of Mr. Williams and of Mr. Watson which precipitated that party action. 111 CONG. REC. 758, 759, 89th Cong. 1st Sess., Jan. 15, 1965.

18. 109 CONG. REC. 506, 88th Cong. 1st Sess., Jan. 17, 1963.

19. 109 CONG. REC. 505, 88th Cong. 1st Sess., Jan. 17, 1963.

20. 111 CONG. REC. 809, 810, 89th Cong. 1st Sess., Jan. 18, 1965.

1. 109 CONG. REC. 506, 88th Cong. 1st Sess., Jan. 17, 1963.

2. 111 CONG. REC. 992, 89th Cong. 1st Sess., Jan. 21, 1965.

nority member of the Committee on Interstate and Foreign Commerce.)⁽³⁾

§ 2.14 A Member who had refused to support the Presidential nominee of his party was reduced in committee seniority by his party in the 91st Congress when his name was placed at the bottom of a list of members of his party elected to one of the standing committees.

On Jan. 29, 1969,⁽⁴⁾ the House adopted a resolution electing Members to the standing Committee on Agriculture. The name of Mr. John R. Rarick, of Louisiana, was placed at the bottom of the list, pursuant to the determination of the Democratic Caucus to punish him for refusing to support the Presidential nominee of the Democratic Party. Under the listing of the resolution, he became the lowest ranking majority member of the Committee on Agriculture.

§ 2.15 On one occasion, the Committee on Committees left a vacancy on a standing committee pending further consideration of the com-

3. See § 2.17, *infra*.

4. 115 CONG. REC. 2083, 91st Cong. 1st Sess.

mittee assignments and seniority of a Member whose party had stripped him of committee seniority in the preceding Congress.

On Jan. 23, 1967,⁽⁵⁾ the Committee on Committees reported to the House a resolution leaving a vacancy on the Committee on Interstate and Foreign Commerce because of the undetermined status of Mr. John Bell Williams, of Mississippi, who had, in the previous Congress, been stripped of his committee seniority and assigned to the last majority position on said committee.⁽⁶⁾

§ 2.16 In one instance a Member requested the Committee on Committees to refrain from assigning him to any House committees pending a determination by his party caucus of his committee seniority.

On Jan. 23, 1967,⁽⁷⁾ there was included in the Record a letter from Mr. John Bell Williams, of Mississippi, to the Chairman of the Democratic Committee on Committees, requesting such committee to postpone assigning him

to any House committees pending a determination by the Democratic Caucus of his seniority status.

Parliamentarian's Note: Mr. Williams had been stripped of his committee seniority during the 89th Congress and as of Jan. 23, 1967, his committee seniority in the 90th Congress had not yet been acted upon by the Democratic Caucus.

Effect of Change in Party Affiliation

§ 2.17 A Member who was stripped of committee seniority by his party caucus resigned from Congress, joined the opposition party, was re-elected to Congress, and was elected to the same committee.

On Jan. 21, 1965,⁽⁸⁾ Mr. Albert W. Watson, of South Carolina, was elected to the next-to-last position in rank on the Committee on Interstate and Foreign Commerce. Mr. Watson had been demoted in committee seniority by the House Democratic Caucus because of his support of the Republican Presidential candidate.⁽⁹⁾

5. 113 CONG. REC. 1086, 90th Cong. 1st Sess.

6. See § 2. 13, *Supra*.

7. 113 CONG. REC. 1087, 90th Cong. 1st Sess.

8. 111 CONG. REC. 992, 89th Cong. 1st Sess.

9. See § 2.13, *supra*.

See also the remarks of Senator Strom Thurmond (S.C.) on Jan. 15,

On Jan. 28, 1965,⁽¹⁰⁾ Mr. Watson resigned his congressional seat, to become effective Feb. 1, 1965.

Mr. Watson joined the Republican Party and was re-elected to the Congress as a Republican; he took the oath of office on June 16, 1965.⁽¹¹⁾

On June 23, 1965,⁽¹²⁾ Mr. Watson was elected to the Committee on Interstate and Foreign Commerce on the recommendation of the Republican Conference.

§ 2.18 A change in party affiliation by a Senator might necessitate a change in party ratios on certain committees and a loss of seats on some committees for the other party.

On Sept. 17, 1964,⁽¹³⁾ Majority Leader Michael J. Mansfield, of Montana, announced that the change in party affiliation, from the majority party to the minority

1965, 111 CONG. REC. 758, 759, 89th Cong. 1st Sess., explaining the circumstances under which Mr. Watson was stripped of his seniority.

10. 111 CONG. REC. 1452, 89th Cong. 1st Sess.
11. 111 CONG. REC. 13774, 89th Cong. 1st Sess.
12. 111 CONG. REC. 14501, 89th Cong. 1st Sess.
13. 110 CONG. REC. 22369, 88th Cong. 2d Sess.

party, by Senator Strom Thurmond, of South Carolina, might require a change in party membership ratios on certain committees, since ratios on Senate committees reflect the relative membership of the two parties in the Senate as a whole. Senator Mansfield stated that it would appear that the Republicans would be entitled to an additional seat on each of the two committees on which Senator Thurmond had formerly sat and that the Democrats would lose those seats on those committees.

Seniority as Affecting Floor Recognition

§ 2.19 The order of recognition to offer amendments is within the discretion of the Chair, but precedent indicates that he should recognize members of the committee handling the pending bill in the order of their committee seniority.

On July 23, 1970,⁽¹⁴⁾ Chairman Chet Holifield, of California, ruled, in answer to a parliamentary inquiry, that he would recognize members of a committee handling a pending bill to offer amendments in the order of their

14. 116 CONG. REC. 25635 91st Cong. 2d Sess.

seniority. He stated that the order in which amendments may be offered to a pending paragraph (open to amendment at any point) is not determined by the sequence of lines to which the amendments may relate, but by the committee rank of those seeking recognition.⁽¹⁵⁾

Seniority Considerations and Ceremonial Functions

§ 2.20 The Member of the House with longest consecutive service customarily administers the oath to the Speaker at the convening of a new Congress.⁽¹⁶⁾

At the convening of the 90th Congress the Member with the longest consecutive service in the House, Mr. Emanuel Celler, of

15. For full discussion of priorities of recognition, see Ch. 29, *infra*.

16. The Member of longest consecutive service is now the "Dean" of the House (113 CONG. REC. 14, 90th Cong. 1st Sess., Jan. 10, 1967; 115 CONG. REC. 15, 91st Cong. 1st Sess., Jan. 3, 1969), although he has sometimes been termed the "Father" of the House (2 Hinds' Precedents § 1140; 6 Cannon's Precedents § 6).

While the Member with longest consecutive service has usually administered the oath to the Speaker in past Congresses, the practice has not always been followed (6 Cannon's Precedents § 6).

New York, administered the oath to the newly-elected Speaker.⁽¹⁷⁾ Mr. Celler likewise administered the oath to the Speaker at the opening of the 91st Congress.⁽¹⁸⁾

When Mr. Celler was absent on the opening day of the 92d Congress, Wright Patman, of Texas, the Member second to him in consecutive service, administered the oath to the Speaker.⁽¹⁹⁾

§ 2.21 The announcement of the death of a sitting Member is normally the prerogative of the senior Member of the deceased's state party delegation in the House.

On June 23, 1969,⁽²⁰⁾ Mr. Silvio O. Conte, of Massachusetts, the

17. 113 CONG. REC. 14, 90th Cong. 1st Sess., Jan. 10, 1967. As of the convening of the 92d Congress, Mr. Celler had amassed service in 24 consecutive Congresses. *Biographical Directory of the American Congress 1774-1971*, S. DOC. NO. 92-8, 92d Cong. 1st Sess. (1971).

18. 115 CONG. REC. 15, 91st Cong. 1st Sess., Jan. 3, 1969.

19. 117 CONG. REC. 13, 92d Cong. 1st Sess., Jan. 21, 1971. As of the beginning of the 92d Congress, Mr. Patman had served for 21 consecutive Congresses. *Biographical Directory of the American Congress 1774-1971*, S. DOC. NO. 92-8, 92d Cong. 1st Sess. (1971).

20. 115 CONG. REC. 16795, 91st Cong. 1st Sess.

senior member of the Republican party state delegation from Massachusetts, arose to announce to the House the death of Mr. William H. Bates, a Republican from Massachusetts.

Similarly, the death of Senate Minority Leader, Everett M. Dirksen, of Illinois, was announced to the House by the senior member of his party in his state's House delegation, Mr. Leslie C. Arends, of Illinois, on Sept. 8, 1969.⁽¹⁾

§ 2.22 When the Speaker appoints a funeral delegation for a deceased Member, he lists, following the state delegation, other appointed Members in the order of their seniority.

On June 23, 1969,⁽²⁾ Speaker John W. McCormack, of Massachusetts, announced his appointments to the funeral delegation for the funeral of a deceased Member of the House. After listing the names of the Members from the same state as the deceased Member, the Speaker listed the names of 45 other Members of the House, listed in order of their congressional seniority.⁽³⁾

1. 115 CONG. REC. 24634, 91st Cong. 1st Sess.
2. 115 CONG. REC. 16800, 16801, 91st Cong. 1st Sess.
3. For other instances where House funeral delegations were listed in

Senate Practice

§ 2.23 In the Senate, prerogative according to seniority practice is a custom, not a rule, and is not always followed.

On Mar. 2, 1956,⁽⁴⁾ Senator Wayne L. Morse, of Oregon, in opposing the appointment of a senior Senator to the chairmanship of the Senate Judiciary Committee, stated that the seniority practice in the Senate is a customary tradition but is not a rule. Senator Morse listed three important precedents in the Senate where the Senate did not elevate to the chairmanship of a committee the next Senator in line in order of seniority.⁽⁵⁾

order of congressional seniority, see 115 CONG. REC. 24695, 91st Cong. 1st Sess., Sept. 8, 1969; 116 CONG. REC. 25866, 91st Cong. 2d Sess., July 27, 1970; 116 CONG. REC. 43770, 91st Cong. 2d Sess., Dec. 29, 1970.

4. 102 CONG. REC. 3815, 84th Cong. 2d Sess.
5. The precedents cited by Senator Morse occurred during the 42d Congress, where Senator Charles Sumner (Mass.) was dropped as Chairman of the Committee on Foreign Relations, during the 68th Congress where Senator Albert B. Cummins (Iowa) was dropped as Chairman of the Committee on Interstate Commerce and during the 69th Congress,

§ 2.24 The Senate may, by unanimous consent, exchange the committee seniority of two Senators pursuant to a request by one of them.

On Feb. 23, 1955,⁽⁶⁾ Senator Styles Bridges, of New Hampshire, asked and obtained unanimous consent that his position as ranking minority member of the Senate Armed Services Committee be exchanged for that of Senator Everett Saltonstall, of Massachusetts, the next ranking minority member of that committee, for the duration of the 84th Congress, with the understanding that that arrangement was temporary in nature, and that at the expiration of the 84th Congress he would resume his seniority rights.⁽⁷⁾

In the succeeding Congress, on Jan. 22, 1957,⁽⁸⁾ Senator Bridges

when Senator Edwin F. Ladd (N.D.) was not designated to the chairmanship of the Committee on Public Lands and Surveys, to which he had seniority under the traditional practice.

6. 101 CONG. REC. 1930, 1931, 84th Cong. 1st Sess.
7. Mr. Bridges stated he requested the alteration of seniority "because last year he [Senator Saltonstall] served as Chairman of the Armed Services Committee, and did a very able job in that capacity; and I desire to show him the courtesy of letting him be a rung higher on the ladder, so to speak, temporarily. . . ." *Id.* at p. 1931.
8. 103 CONG. REC. 835, 85th Cong. 1st Sess.

reiterated that request for the duration of the 85th Congress.

It was so ordered by the Senate.

§ 3. Status of Delegates and Resident Commissioner

Delegates and Resident Commissioners are those statutory officers who represent in the House the constituencies of territories and properties owned by the United States but not admitted to statehood.⁽⁹⁾ Although the persons holding those offices have many of

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9. For general discussion of the status of Delegates, see 1 Hinds' Precedents §§ 400, 421, 473; 6 Cannon's Precedents §§ 240, 243.

In early Congresses, Delegates were construed only as business agents of chattels belonging to the United States, without policymaking power (1 Hinds' Precedents § 473), and the statutes providing for Delegates called for them to be elected to "serve" (i.e., act of July 13, 1787, 1 Stat. 52, § 12), not to "represent", which is the language in later statutes (48 USC § 1711 [Guam and Virgin Islands]; Pub. L. No. 91-405, 84 Stat. 852, § 202(a), Sept. 22, 1970 [District of Columbia]). The provision relating to the Resident Commissioner from Puerto Rico, 48 USC § 891, does not define his function and does not explicitly provide for his participation in the House of Representatives.