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CHAPTER 15

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Investigations and Inquiries

A. BASIS OF AUTHORITY TO INVESTIGATE; CREATING COMMITTEES

§ 1. In General; Subjects of Authorizing Resolutions

Although the congressional power of investigation is not explicitly granted by the Constitution, it has been exercised by the House since 1792.[1] It is well established that the power to investigate is implied from the power to legislate granted in article I, section 1 of the Constitution. Thus, the Supreme Court has stated that the power of inquiry, with process to enforce it, is an essential and appropriate auxiliary to the legislative function.[2] The Court has further stated:

> The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste.[3]

The scope of the power of inquiry is as broad as the power to enact and appropriate under the Constitution.[4] Subjects of inves-

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1. The House in that year rejected a resolution requesting the President to investigate the defeat of General St. Clair's army and instead asserted its own right to investigate by requesting the President to cause proper executive officers to deliver to the House documents pertinent to the matter. See 3 Hinds' Precedents § 1725.

For earlier coverage of the subject matter of this chapter generally, see, for example, 3 Hinds' Precedents §§ 1666–1724 (punishment of witnesses for contempt); §§ 1725–1826 (powers of investigation and conduct of investigations); §§ 1856–1910 (inquiries of the executive); 6 Cannon's Precedents §§ 335–353 (punishment of witnesses for contempt); §§ 354–393 (power of investigation and conduct of investigations); and §§ 404–437 (inquiries of the executive).

See also Leading Cases on Congressional Investigatory Power (Committee Print, Joint Committee on Congressional Operations, 94th Cong. 2d Sess.).

2. *McGrain* v *Daugherty,* 273 U.S. 135, 174.

3. *Watkins* v *United States,* 354 U.S. 178, 187 (1957).

4. *Barenblatt* v *United States,* 360 U.S. 109, 111 (1959). See also The Con-

tigation that have specifically been approved by the courts include the existence of subversive activities in education,[5] labor and industry,[6] the extent of corruption in labor unions,[7] and the denial of civil rights by particular organizations.[8]

Although the power of investigation is broad, it is not unlimited. It may be exercised only "in aid of the legislative function."[9] Accordingly, it has been stated that, generally, there is no congressional power "to expose for the sake of exposure,"[10] and that, in any event, Congress cannot inquire into matters which are within the exclusive province of one of the other branches of government,[11] or which are reserved

stitution of the United States of America, Analysis and Interpretation, S. Doc. No. 92–82, 92d Cong. 2d Sess., p. 80 (1972).

5. *Barenblatt* v *United States,* 360 U.S. 109 (1959); *Deutch* v *United States,* 367 U.S. 456 (1961).

6. *Watkins* v *United States,* 354 U.S. 178 (1957); *Flaxer* v *United States,* 358 U.S. 147 (1958); *Wilkinson* v *United States,* 365 U.S. 399 (1961).

7. *Hutcheson* v *United States,* 369 U.S. 599 (1962). See also The Constitution of the United States of America, Analysis and Interpretation, S. Doc. No. 92–82, 92d Cong. 2d Sess., pp. 84, 85 (1972).

8. *Shelton* v *United States,* 404 F2d 1292 (D.C. Cir. 1968), cert. denied, 393 U.S. 1024 (1969).

9. *Kilbourn* v *Thompson,* 103 U.S. 168 (1881). Beginning with *In re Chapman,* 166 U.S. 661 (1897) and *McGrain* v *Daugherty,* 273 U.S. 135 (1927) and until prior to *United States* v *Rumely,* 345 U.S. 543 (1952), courts presumed existence of a legislative purpose. After that period, as investigations began to arouse criticism for infringing individual liberties, however, courts began to construe narrowly the resolutions describing authority of committees (see *Rumely*) and went so far as to impose a specific burden on the government in contempt prosecutions to show affirmatively the source of authority for each investigation. See *United States* v *Lamont,* 236 F2d 312 (2d Cir. 1956) and Moreland, Allen B., Congressional Investigations and Private Persons, 40 So. Cal. L. Rev. 189, 230–236 (1967) for a discussion of legislative purpose. See also §6, infra, for discussion of a closely related topic, the pertinence of the inquiry.

10. *Watkins* v *United States,* 354 U.S. 178, 200 (1957). In making this statement, however, Chief Justice Warren pointed out that this view did not apply to Congress' function to inquire into and publicize corruption, maladministration or inefficiency in agencies of government. *Id.,* 211 n. 33.

11. *Barenblatt* v *United States,* 360 U.S. 109, 111, 112 (1959). See also §3, infra, for a discussion of executive branch refusals to provide information.

to the states.[12] In imposing such limitations upon the power to investigate, the courts have, as in other areas, traditionally refused to inquire into the motives of legislators.[13]

A further requirement for the validity of an investigation is that it must have been expressly or impliedly authorized in accordance with congressional procedures. As an example, the House, may authorize a select or standing committee to investigate a particular subject, or a committee may authorize a subcommittee to investigate a subject.[14] In the usual practice, resolutions authorizing the Speaker to appoint Members to select or special committees to investigate designated subjects are assigned to and reported by the Committee on Rules,[15] which calls them up as privileged.[16] In addition, congressional investigations may be initiated pursuant to statute,[17] motion to recommit,[18] joint[19] or

12. See *United States* v *DiCarlo*, 102 F Supp 597 (N.D. Ohio 1952) for rejection of an allegation that the Senate encroached state powers by creating a special committee to investigate organized crime in interstate commerce.

13. *Tenney* v *Brandhove*, 341 U.S. 367 (1951) and *United States* v *O'Brien*, 391 U.S. 367 (1968).

14. See § 1.1, infra, for the full text of an authorizing resolution and *House Rules and Manual* § 976 (1973), for the form of an authorizing resolution. Mr. Justice Frankfurter characterized such a resolution, one to investigate lobbying activities (see § 1.5, infra, for a discussion of this resolution), as the committee's "controlling charter" which delimits its "right to exact testimony." *United States* v *Rumely*, 345 U.S. 41, 44 (1953).

Parliamentarian's Note: Recent changes in procedures relating to authorization of standing committees will be discussed in supplements to this edition as they appear.

15. *House Rules and Manual* § 717 (1973).

16. See Rule XI clauses 22, 23, and 24, *House Rules and Manual* §§ 726, 729, and 732 in the edition published at the commencement of 1973; at the end of the 93d Congress first session these clauses were numbered 23, 24, and 25, respectively.

17. See, for example, 26 USC §§ 8001, 8022, which establish the Joint Committee on Internal Revenue Taxation, and confer investigatory duties, respectively.

18. See, for example, 112 CONG. REC. 1762, 1763, 89th Cong. 2d Sess., Feb. 2, 1966, for a motion to recommit a resolution directing the Speaker to certify to a U.S. Attorney a contempt citation against Robert M. Shelton allegedly of the Ku Klux Klan, to a select committee of seven members appointed by the Speaker to examine the sufficiency of these citations in light of relevant judicial decisions.

19. See, for example, 114 CONG. REC. 21012–31, 90th Cong. 2d Sess., July 12, 1968, for House approval of H.J.

concurrent resolution,[20] or rule of the House.[1]

The determination of whether a particular investigation is within the scope of the congressional power, or whether procedural requirements of the investigation have been met, may be important when such questions as the alleged contempt of witnesses arise. Thus, courts have held that persons may not be convicted of contumacy arising out of an investigation which the House lacked authority to conduct. Subjects that have, in this context, been held not to be proper matters for legislative action have included the withdrawal of congressional consent to establish a bi-state compact, the port of New York authority.[2] Similarly, courts have refused to convict a witness for contumacy arising out of a subcommittee investigation of Communist activities in the field of labor, where such investigation had not been approved by a majority of the parent Committee on UnAmerican Activities as was required by the committee rule.[3] In another instance, the authorizing resolution was construed not to sanction the investigation of ac-

Res. 1, establishing a joint committee to investigate crime. The final action in the Senate was referral to the Committee on the Judiciary.

20. See, for example, 91 CONG. REC. 346–350, 79th Cong. 1st Sess., Jan. 18, 1945, for House approval of H. Con. Res. 18, establishing the Joint Committee on the Organization of the Congress. This measure was amended by the Senate at 91 CONG. REC. 1010, 79th Cong. 1st Sess., Feb. 12, 1945; the House concurred in the Senate amendments at 91 CONG. REC. 1272–74, 79th Cong. 1st Sess., Feb. 19, 1945.

1. See Rule XI clauses 2(b), 11(b), and 19 (c), *House Rules and Manual* §§ 679, 703A, and 720 (1973), authorizing the Committees on Appropriations, Internal Security, and Standards of Official Conduct, respectively, to conduct investigations and studies.

Note: Recent changes in Rule XI and in the procedure for authorizing investigations by rule will be discussed in supplements to this edition as they appear. Meanwhile, see Rules X and XI, *House Rules and Manual* (1975 and 1977) for discussion of changes in investigating, oversight, and subpena authorities of standing committees since the 93d Congress.

2. See *Tobin* v *United States*, 306 F2d 270 (D.C. cir. 1962); cert. denied, 371 U.S. 902 (1962) which held that the express reservation of Congress' right "to alter, amend or repeal" its initial consent granted in 1921 could not be implied from art. I, § 10 clause 3 of the Constitution which provides that no state shall without the consent of Congress enter into any agreement or compact with another state.

3. *Gojack* v *United States*, 384 U.S. 702 (1966).

tivities of a lobbyist that were related to his efforts to influence public opinion by the distribution of literature, and that were unrelated to any representations made by him to Congress.[4]

Discussed in ensuing sections are particular subjects on which Congress may legislate and appropriate and which are therefore proper matters for investigation;[5] inquiries directed to the executive branch;[6] procedures for investigative hearings;[7] and things incidental to the authority to investigate, such as the power to punish witnesses for contempt.[8]

Principles affecting the investigation of certain specific subjects have been treated in other chapters. These subjects include impeachment;[9] election contests;[10] conduct of Members;[11] and qualification and disqualification of Members.[12] In addition, the broad subject of committee structure and procedures is treated elsewhere.[13]

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4. *United States* v *Rumely*, 345 U.S. 543 (1952). See § 1.5, infra, for the resolution establishing a select committee to investigate lobbying activities.

5. See § § 1.1–1.46, infra.

6. See § § 2–5, infra.

7. See § § 6–16, infra.

8. See § § 17–22, infra.

9. See Ch. 14, supra.

10. See Ch. 9, supra.

11. See Ch. 12, supra.

12. See Ch. 7, supra.

13. See Ch. 17. infra.

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Privacy, Human Values, and Democratic Institutions

§ 1.1 Form of resolution establishing select committee. The House rejected a resolution establishing a select committee to investigate privacy, human values, and democratic institutions.

On Feb. 8, 1972,[14] the House rejected a resolution (called up as privileged by direction of the Committee on Rules) establishing a select committee. The proceedings were as follows:

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 164 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 164

Whereas the development of technology is advancing at an unparalleled rate of speed and is rapidly coming to affect every level of American life; and

Whereas the operations of industry and Government are coming more and more to rely on highly sophisticated computer technology to assist them in their operations; and

Whereas the full significance and the effects of technology on society and on the operations of industry and Government are largely unknown; and

Whereas computers and other technological innovations aid in the gathering and centralization of massive information of all kinds of individuals and, consequently, call into question the effect of technology on the right of privacy; and

Whereas Congress needs a committee ready and able to evaluate the effects of technology on the operations of Government, on the democratic institutions and processes basic to the United States, and on the basic human and civil rights of our citizens: Now, therefore, be it

Resolved, That there is hereby created a select committee to be known as the Select Committee on Privacy, Human Values, and Democratic Institutions to be composed of nine Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and com-

14. 118 CONG. REC. 3181–3200, 92d Cong. 2d Sess. The resolution was reported on May 19, 1971 (H. Rept. No. 218).

plete investigation and study of the development and proliferation of technology in American society, including the role and effectiveness of computer technology in the operations of industry and Government, the consequences of using computers to solve social questions which traditionally have been addressed without the assistance of computers and other machines, and the effects of technology and machines on democratic institutions and processes. The committee shall also study the use of computers and other technical instruments in gathering and centralizing information on individuals and the effect of such activity on the human and civil rights.

For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places and within the United States, including any Commonwealth or possession thereof, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary; except that neither the committee nor any subcommittee thereof may sit while the House is meeting unless special leave to sit shall have been obtained from the House. Subpoenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

With the following committee amendment:

On page 3, line 5: Strike the words "act during the" and insert "act, subject to clause 31 of Rule XI of the Rules of the House of Representatives, during the".

The committee amendment was agreed to. . . .

MR. MADDEN: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

THE SPEAKER:[15] The question is on the resolution.

MR. [FLETCHER] THOMPSON of Georgia: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. . . .

The question was taken; and there were—yeas 168, nays 216, not voting 47 . . . .

So the resolution was rejected.

Congressional Operations and Practices

§ 1.2 The House established a select committee to investigate House Rules X and XI, which relate to the structure, jurisdiction, and procedure of committees.

On Jan. 31, 1973,[16] the House by a vote of yeas 282 to nays 91

15. Carl Albert (Okla.).

16. 119 CONG. REC. 2812–16, 93d Cong. 1st Sess. The resolution was re-

agreed to House Resolution 132, reported from the Committee on Rules, creating a select committee to study the operation and implementation of Rules X and XI, focusing on committee structure, number and optimum size of committees, their jurisdiction, number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities.

Parliamentarian's Note: Consideration of House Resolution 132 was provided for by the adoption of House Resolution 176 [119 CONG. REC. 2804, 93d Cong. 1st Sess.], called up by direction of the Committee on Rules. Since House Resolution 132 would not have been privileged (because it contained provisions affecting contingent funds), House Resolution 176 provided for the immediate consideration of House Resolution 132, debate to be controlled by the Committee on Rules and the previous question considered as ordered.

§ 1.3 The House agreed to a resolution creating a special committee to investigate and report on campaign expenditures and practices by candidates for the House.

ported on Jan. 30, 1973 (H. Rept. No. 2).

On Aug. 4, 1970,[17] the House by voice vote approved House Resolution 1062, authorizing the Speaker to appoint a special committee to investigate and report to the House on candidate expenditures and donations of services and funds received as well as violations of election laws. The resolution was called up by Mr. Thomas P. O'Neill, Jr., of Massachusetts, who referred to it as authorizing the biennial special committee to investigate campaign expenditure."[18]

17. 116 CONG. REC. 27125, 27126, 91st Cong. 2d Sess. The resolution was reported on June 11, 1970 (H. Rept. No. 1187) from the Committee on Rules.

18. See also 112 CONG. REC. 19079–81, 89th Cong. 2d Sess., Aug. 11, 1966; and 90 CONG. REC. 6392, 6393–98, 78th Cong. 2d Sess., June 21, 1944, for other examples of voice vote approvals of H. Res. 929 and 551, respectively, creating special committees to investigate campaign expenditures.

Parliamentarian's Note: Since the 93d Congress, the special committee has not been reconstituted. On Aug. 21, 1974, the House agreed to H. Res. 737, a privileged resolution reported from the Committee on Rules, authorizing the Committee on House Administration to conduct investigations within its jurisdiction (including elections of Members) and authorizing that committee to issue subpenas. 120 CONG. REC. 29653, 29654, 93d Cong. 2d Sess.

§ 1.4 The House established a select committee to study and investigate the welfare and education of congressional pages.

On Sept. 30, 1964,[19] the House by voice vote approved House Resolution 847 (called up as privileged by direction of the Committee on Rules), to create a select committee to investigate the welfare and education of congressional pages including dining, recreational, educational, and physical training facilities and opportunities as well as rates of pay, hours of work, and other working conditions.

§ 1.5 The House established a select committee to investigate lobbying activities.

On Aug. 12, 1949,[20], the House by voice vote approved House Resolution 298 (called up as privileged by direction of the Committee on Rules), creating a select committee of seven members to investigate all lobbying activities and all activities of federal agencies intended to influence, encourage, promote, or retard legislation.

Structure and Operation of the Executive Branch

§ 1.6 The House established a select committee to study executive agencies.

On Apr. 29, 1936,[1] the House by a roll call vote of yeas 269 to nays 44 approved House Resolution 460 (called up as privileged by direction of the Committee on Rules), authorizing the Speaker to appoint a select committee of five members to study activities of executive departments, bureaus, boards, commissions, and agencies to determine whether any of these agencies should be abolished or coordinated with other agencies in the interest of simplification, efficiency, and economy.

This resolution, called up by Mr. John J. O'Connor, of New York, had been requested by President Franklin D. Roosevelt, in a Mar. 20, 1936, letter to Speaker Joseph W. Byrns, of Tennessee, seeking cooperation of the House in incorporating agencies created during the depression into the regular executive organization.[2]

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19. 110 Cong. Rec. 23187, 23188, 88th Cong. 2d Sess. The resolution was reported on Sept. 16, 1964 (H. Rept. No. 1887).

20. 95 Cong. Rec. 11385–89, 81st Cong. 1st Sess. The resolution was reported on Aug. 3, 1949 (H. Rept. No. 1185).

1. 80 Cong. Rec. 6375, 6376, 6385, 6386, 74th Cong. 2d Sess. The resolution was reported on Apr. 28, 1936 (H. Rept. No. 2504).

2. See 80 Cong. Rec. 6376, 74th Cong. 2d Sess., for the text of this letter.

§ 1.7 The House established a special committee to investigate acts of executive agencies.

On Feb. 11, 1943,[3] the House by a roll call vote of yeas 294 to nays 50, approved House Resolution 102 (called up as privileged by direction of the Committee on Rules), establishing a special committee of five members to investigate any action, rule, procedure, regulation, order, or directive taken or promulgated by any department or independent agency of the federal government where complaint is made that any action or rule (1) is beyond the scope of the department or agency, (2) invades constitutional rights, privileges, or immunities of citizens, or (3) inflicts penalties for noncompliance without an opportunity to present a defense.[4]

§ 1.8 The House rejected a resolution establishing a select committee to investigate the transfer of certain government agencies and bureaus from the District of Columbia.

On July 15, 1941,[5] the House by a vote of yeas 72 to nays 204, rejected House Resolution 257 (called up as privileged by direction of the Committee on Rules), creating a select committee of five members to investigate the feasibility and desirability of transferring any government agencies and bureaus to locations outside the District of Columbia and to investigate the location, extent, and cost of office space and other facilities rented by the various federal departments, bureaus, and agencies within and without the District of Columbia.

Specific Agencies

§ 1.9 The House approved a resolution establishing a select committee to investigate the organization, personnel, and activities of the Federal Communications Commission.

On Jan. 19, 1943,[6] the House by voice vote approved House Res-

3. 89 Cong Rec. 872, 883, 884, 78th Cong. 1st Sess. The resolution was reported on Feb. 8, 1943 (H. Rept. No. 104).
4. Authority to continue this subcommittee was granted by a roll call vote of yeas 254 to nays 55 on H. Res. 88, on Jan. 18, 1945. 91 Cong. Rec. 344–346, 79th Cong. 1st Sess.
5. 87 Cong. Rec. 6073, 6082, 6083, 77th Cong. 1st Sess. The resolution was reported on July 10, 1941 (H. Rept. No. 932).
6. 89 Cong. Rec. 233, 235, 78th Cong. 1st Sess. The resolution was reported on Jan. 18, 1943 (H. Rept. No. 8).

olution 21 (called up as privileged by direction of the Committee on Rules), establishing a select committee of five members to determine whether the Federal Communications Commission acted in accordance with law and the public interest in its organization, selection of personnel, and conduct of its activities.

§ 1.10 The House established a select committee to investigate activities of the Farm Security Administration.

On Mar. 18, 1943,[7] the House by voice vote approved House Resolution 119 (called up as privileged by direction of the Committee on Rules), creating a select committee to investigate activities of the Farm Security Administration to determine whether congressional policies were being followed.[8]

§ 1.11 The House established a select committee to investigate the financial position of the White County Bridge Commission.

On May 25, 1955,[9] the House by a roll call vote of yeas 205 to nays 166, approved House Resolution 244 (called up as privileged by direction of the Committee on Rules), creating a select committee of three members to investigate and study the White County Bridge Commission, established by Public Law 37 of the 77th Congress, to ascertain whether that bridge, located near New Harmony, Ind., should be toll free, and to study receipts and expenditures of the commission since it was established in 1941.

§ 1.12 The House approved a resolution establishing a select committee to investigate the National Labor Relations Board.

On July 20, 1939,[10] the House on a roll call vote of 254 yeas to 134 nays approved House Resolution 258 (called up as privileged by direction of the Committee on Rules), establishing a select committee of five members to investigate the fairness of the National Labor Relations Board in its dealings with labor organizations and employers; the effect of the National Labor Relations Act on disputes between employers and em-

7. 89 Cong. Rec. 2194, 78th Cong. 1st Sess. The resolution was reported on Mar. 11, 1945 (H. Rept. No. 241).

8. See 89 Cong. Rec. 1859, 78th Cong. 1st Sess., for text of the resolution.

9. 101 Cong. Rec. 7036, 7043, 7044, 84th Cong. 1st Sess. The resolution was reported on May 24, 1955 (H. Rept. No. 614).

10. 84 Cong. Rec. 9582, 9592, 9593, 76th Cong. 1st Sess. The resolution was reported on July 18, 1939 (H. Rept. No. 1215).

ployees, on employment, and on general economic conditions; the desirability of amendments to the National Labor Relations Act; whether the Board has attempted to write into the National Labor Relations Act intents and purposes not justified by the act; and the need for legislation further to define and clarify the meaning of the term "interstate commerce" and the relationship between employers and employees.

Economics

§ 1.13 The House rejected a resolution creating a special committee to study prices paid for the necessities of life.

On June 27, 1941,[11] the House by a roll call vote of yeas 100 to nays 200, rejected House Resolution 212 (called up as privileged by direction of the Committee on Rules), to establish a select committee of five members to study prices paid for the necessities of life, and various problems facing purchasers of goods in the markets of the country.

§ 1.14 The House established a special committee known as the Committee on Post-War Economic Policy and Planning.

On Jan. 26, 1944,[12] the House by voice vote approved House Resolution 408 (called up as privileged by direction of the Committee on Rules), creating a special committee of 18 members to investigate all matters relating to post-war economic policy and programs; to gather and study information, plans, and suggestions; and to report to the House periodically.

§ 1.15 The House established a select committee to investigate supplies and shortages of food, particularly meat.

On Mar. 27, 1945,[13] the House on a roll call vote of 292 yeas to 7 nays approved House Resolution 195 (called up as privileged by direction of the Committee on Rules), creating a select committee to investigate shortages of food, particularly civilian meat supplies; factors relating to production and distribution of essential foodstuffs, particularly meat;

11. 87 CONG. REC. 5624, 5634, 77th Cong. 1st Sess. The resolution was reported on June 24, 1941 (H. Rept. No. 848).

12. 90 CONG. REC. 753, 762, 763, 78th Cong. 2d Sess. The resolution was reported on Jan. 25, 1944 (H. Rept. No. 1021).

13. 91 CONG. REC. 2862, 2863, 79th Cong. 1st Sess. The resolution was reported on Mar. 21, 1945 (H. Rept. No. 356).

the presence of black markets in all kinds of meat; and the diversion of meat from normal, legitimate commercial channels of trade.[14]

§ 1.16 The House established a select committee to investigate newsprint supplies.

On Feb. 26, 1947,[15] the House by a roll call vote of yeas 269 to nays 100, approved House Resolution 58 (called up as privileged by direction of the Committee on Rules), creating a select committee to study and investigate the need for adequate American supplies of newsprint, printing and wrapping paper, paper products, paper pulp and pulpwood; possible means of increasing these supplies by domestic production or import; and the assistance that could be rendered by American agencies or officers to increase supplies.

§ 1.17 The House established a select committee to investigate transactions on commodity exchanges.

On Dec. 18, 1947,[16] the House by voice vote approved House Resolution 403 (called up as privileged by direction of the Committee on Rules), creating a select committee to investigate purchases and sales of commodities, including any activities of federal departments and agencies which have affected or may affect food prices as well as private acts and official activities of federal authorities in connection with the purchase or sale of other commodities.

§ 1.18 The House established a select committee to investigate the disposition of surplus property.

On May 9, 1946,[17] the House by voice vote approved House Resolution 385 (called up as privileged by direction of the Committee on Rules),[18] creating a se-

14. See 91 CONG. REC. 2784, 79th Cong. 1st Sess., Mar. 26, 1945, for text of this resolution.

15. 93 CONG. REC. 1457, 1458, 1465, 80th Cong. 1st Sess. The resolution was reported on Feb. 18, 1947 (H. Rept. No. 41).

16. 93 CONG. REC. 11640, 11648, 80th Cong. 1st Sess. The resolution was reported on Dec. 17, 1947 (H. Rept. No. 1221).

17. 92 CONG. REC. 4750, 79th Cong. 2d Sess. The resolution was reported on Apr. 9, 1946 (H. Rept. No. 1889).

18. See 92 CONG. REC. 4568, 79th Cong. 2d Sess., May 7, 1946, for the text of this resolution, and for discussion of the division of time for debate. In this instance, the Chairman of the Committee on Rules obtained unanimous consent to provide an additional hour for debate. Since the chairman was opposed to the resolution and had made the request in the absence of the Member in charge of the resolution, some discussion en-

lect committee to study and investigate contracts entered into between the United States and purchasers and lessees of surplus real and personal property; methods by which such contracts were awarded and opportunities to bid on the contracts; the effects of this program of disposition; the disposition of surplus outside the United States; the advisability of governmental operation of facilities and the effect of governmental competition with private business in such operations; the adequacy or inadequacy of present statutes; and other matters deemed appropriate by the committee.

Small Business

§ 1.19 The House established a select committee to investigate and study war-time problems of small business.

On Jan. 18, 1945,[19] the House by voice vote approved House Resolution 64 (called up as privileged by direction of the Committee on Rules), creating a select committee of nine members to investigate and study the problems of small business arising because of World War II, with particular reference to (1) whether the potentialities of small business were being adequately developed and utilized and, if not, what factors hindered development; (2) whether adequate consideration was being given to small business needs; (3) whether small business was being treated fairly; and (4) the need for a sound program for the solution of post-war problems of small business.[20]

§ 1.20 The House established a select committee to investigate problems of small business.

On Feb. 5, 1969,[1] the House by voice vote approved House Resolution 66 (called up as privileged by direction of the Committee on Rules), creating a select committee of 15 members to investigate problems affecting small business, including impediments to normal operations, growth, and development; administration of federal laws; and adequacy of gov-

sued as to the effect of the request in the circumstances.

19. 91 Cong. Rec. 337, 341, 79th Cong. 1st Sess. The resolution was reported on Jan. 16, 1945 (H. Rept. No. 21).

20. The nine-member Select Committee on Small Business with the same jurisdiction was created on Jan. 22, 1943, by voice vote approval of H. Res. 18. 89 Cong. Rec. 309, 310, 317, 78th Cong. 1st Sess.

1. 115 Cong. Rec. 2778, 91st Cong. 1st Sess. The resolution was reported on Jan. 23, 1969 (H. Rept. No. 7).

ernment service to the needs of small business.[2]

Parliamentarian's Note: After adopting the rules for the 92d Congress on Jan. 22, 1971,[3] establishing the permanent Select Committee on Small Business (Rule X clause 3) the House by voice vote approved House Resolution 19 (called up as privileged by direction of the Committee on Rules), which dealt with the size of the committee, conferred subpena power, and authorized domestic travel.[4] Beginning in the 94th Congress, the Committee on Small Business became a standing committee of the House (see Rule X clause 1(s), *House Rules and Manual,* 1975).

Taxation

§ 1.21 The House established a special committee to investigate tax-exempt foundations.

On July 27, 1953,[5] the House by a roll call vote of yeas 209 to nays 163, approved House Resolution 217 (called up as privileged by direction of the Committee on Rules), creating a special committee to investigate and study tax-exempt educational and philanthropic foundations to determine whether their funds were being used for the purposes for which they were established, or for un-American and subversive activities, propaganda, attempts to influence legislation, or other political purposes.

§ 1.22 The House substituted the Committee on Ways and Means for a select committee to investigate duplication and overlapping of taxes.

On Sept. 27, 1951,[6] the House, after voice vote adoption of a Committee on Rules amendment substituting the Committee on Ways and Means for a select com-

2. See also, for example, 113 CONG. REC. 2148–50, 90th Cong. 1st Sess., Feb. 1, 1967, in which the House by voice vote approved H. Res. 53, establishing a select committee to investigate problems of small business and providing the same jurisdiction as would H. Res. 66, of the 91st Congress. Authority for a select committee on small business had been granted biennially since 1941 (H. Res. 294, 77th Congress).
3. 117 CONG. REC. 143, 144, 92d Cong. 1st Sess. See 117 CONG. REC. 14, 92d Cong. 1st Sess., Jan. 21, 1971, for the text of H. Res. 5, relating to adoption of the rules.
4. See 117 CONG. REC. 4593–95, 92d Cong. 1st Sess., Mar. 2, 1971, for the text of and vote on H. Res. 19.
5. 99 CONG. REC. 10015, 10030, 83d Cong. 1st Sess. The resolution was reported on July 13, 1953 (H. Rept. No. 773).
6. 97 CONG. REC. 12263, 12265, 82d Cong. 1st Sess. H. Res. 414 was reported from the Committee on Rules on Sept. 26, 1951 (H. Rept. No. 1056), and subsequently called up as privileged.

mittee of five members to investigate means and methods of eliminating overlapping between and duplication of sources of federal, state, and local taxes, approved House Resolution 414 authorizing such investigation by voice vote.

Domestic Military Activities

§ 1.23 The House established the select committee to investigate the seizure of property of Montgomery Ward & Co.

On May 5, 1944,[7] the House by a roll call vote of yeas 300 to nays 60, approved House Resolution 521 (called up as privileged by direction of the Committee on Rules), creating a select committee of seven members to investigate the seizure by the Army of property of Montgomery Ward & Co., on Apr. 26, 1944, pursuant to Executive Order No. 9438.[8]

Military Preparedness

§ 1.24 The House established a select committee known as the Committee on Post-War Military Policy.

On Mar. 28, 1944,[9] the House by voice vote created a select committee of 23 members to investigate all matters relating to postwar military requirements of the United States, to gather and study information, plans, and suggestions, and to report findings and conclusions to the House.

§ 1.25 After defeating the motion for the previous question, the House laid on the table a resolution reported by the Committee on Rules to create a special committee to investigate national defense.

On Mar. 11, 1941,[10] after defeating the motion for the previous question, the House by voice vote laid on the table House Resolution 120 (called up as privileged by direction of the Committee on Rules), creating a select committee to investigate all federal activities relating to the national

7. 90 CONG. REC. 4047, 4069, 4070, 78th Cong. 2d Sess. The resolution was reported on May 2, 1944 (H. Rept. No. 1410).

8. See *Public Papers and Addresses of Franklin D. Roosevelt*, 1944, 1945, Harper and Brothers Publishers (N.Y.), note p. 453, for a discussion of this and other executive orders to seize property of Montgomery Ward & Co.

9. 90 CONG. REC. 3199, 3207, 78th Cong. 2d Sess. See H. Res. 465 (called up as privileged by the Committee on Rules. The resolution was reported on Mar. 24, 1944 (H. Rept. No. 1286).

10. 87 CONG. REC. 2182, 2189, 2190, 77th Cong. 1st Sess. The resolution was reported on Mar. 10, 1941 (H. Rept. No. 222).

defense and to prepare, compile, and analyze data pertinent thereto to enable Congress to determine the need for appropriations or further legislation facilitating or abolishing any such activities.

Foreign Military Operations and Foreign Affairs

§ 1.26 The House agreed to a resolution establishing a select committee to travel to Southeast Asia, investigate all aspects of American military involvement there, and report back to the House within 45 days.

On June 8, 1970,[11] the House by a vote of 224 yeas to 101 nays approved House Resolution 976 (called up as privileged by direction of the Committee on Rules), directing the Speaker to appoint a select committee of 12 members, including two from the Committee on Armed Services, two from the Committee on Foreign Affairs, and eight from the House at large, to travel to Southeast Asia to investigate all aspects of American military involvement and report to the House within 45 days.

§ 1.27 The House established a select committee to investigate the Katyn Forest massacre.

On Sept. 18, 1951,[12] the House by voice vote approved House Resolution 390 (called up as privileged by direction of the Committee on Rules), creating a select committee of seven members to study and investigate the facts, evidence, and extenuating circumstances relating to the massacre of thousands of Polish officers buried in a mass grave in the Katyn Forest on the banks of the Dnieper, near Smolensk, when it was a Nazi-occupied territory formerly controlled by the Union of Soviet Socialist Republics.

§ 1.28 The House established a select committee to investigate the seizure of Lithuania, Latvia, and Estonia by the Union of Soviet Socialist Republics.

On July 27, 1953,[13] the House by voice vote approved House Resolution 346 (called up as privileged by direction of the Committee on Rules), creating a select committee to study and inves-

11. 116 CONG. REC. 18656–71, 91st Cong. 2d Sess. The resolution was reported on June 4, 1970 (H. Rept. No. 1160).

12. 97 CONG. REC. 11545, 11554, 82d Cong. 1st Sess. The resolution was reported on Aug. 16, 1951 (H. Rept. No. 885).

13. 99 CONG. REC. 10031, 10037, 83d Cong. 1st Sess. The resolution was reported on July 23, 1953 (H. Rept No. 903).

tigate the seizure and forced incorporation of Lithuania, Latvia, and Estonia by the Union of Soviet Socialist Republics and the treatment of the people in such areas during and following the seizure and incorporation.

Veterans' Benefits

§ 1.29 The House established a select committee to investigate alleged abuses in the education and training program for World War II veterans.

On Aug. 28, 1950,[14] the House by voice vote approved House Resolution 474 (called up as privileged by direction of the Committee on Rules), creating a select committee of nine members to investigate and study alleged abuses in the education and training program for World War II veterans, and action taken or not taken by the Veterans' Administration and state authorities to prevent abuses under the Servicemen's Readjustment Act, as amended.

§ 1.30 The House established a select committee to investigate education, training, and loan guaranty programs for veterans.

On Feb. 2, 1951,[15] the House by voice vote approved House Resolution 93 (called up as privileged by direction of the Committee on Rules), creating a select committee of nine members to investigate, study, and evaluate alleged abuses in education, training, and loan guaranty programs for World War II veterans, and the action taken or not taken by the Veterans' Administration and state agencies to prevent abuses arising under the national service life insurance program (38 USC § 701).

§ 1.31 The House established a select committee to investigate and study the benefits under federal law for the survivors of deceased members of the armed forces.

On Feb. 2, 1955,[16] the House by voice vote approved House Resolution 35 (called up as privileged by direction of the Committee on Rules), creating a select committee of five members to investigate federal benefits for sur-

14. 96 CONG. REC. 13629, 13632, 81st Cong. 2d Sess. The resolution was reported on Aug. 16, 1950 (H. Rept. No. 2927).

15. 97 CONG. REC. 876, 82d Cong. 1st Sess. The resolution was reported on Jan. 29, 1951 (H. Rept. No. 19).

16. 101 CONG. REC. 1079–81, 84th Cong. 1st Sess. The resolution was reported on Jan. 31, 1955 (H. Rept. No. 13).

vivors of members and former members of the armed forces.

Un-American Activities

§ 1.32 The House established a special committee to investigate un-American propaganda activities.

On May 26, 1938,[17] the House by voice vote approved House Resolution 282 (called up as privileged by direction of the Committee on Rules), authorizing the Speaker to appoint a special committee of seven members to investigate un-American propaganda activities in the United States, domestic diffusion of such propaganda, and all other questions relating thereto.[18]

§ 1.33 The House tabled a resolution to create a special committee to investigate un-American activities.

On Apr. 8, 1937,[19] the House on a division vote of yeas 184 to nays 38, laid on the table House Resolution 88 (called up as privileged by direction of the Committee on Rules), creating a special committee of seven members

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17. 83 CONG. REC. 7568, 7586, 75th Cong. 3d Sess. The resolution was reported on May 10, 1938 (H. Rept. No. 2319).

18. Authority for the select committee to investigate un-American propaganda with the same jurisdiction as the above resolution was continued, by subsequent privileged resolutions reported from the Committee on Rules, as follows: by roll call vote of 302 yeas to 94 nays, on H. Res. 65 on Feb. 10, 1943 (89 CONG. REC. 795, 809, 810, 78th Cong. 1st Sess.); 331 yeas to 46 nays, on H. Res. 420 on Mar. 11, 1942 (88 CONG. REC. 2282, 2297, 77th Cong. 2d Sess.); 354 yeas to 6 nays, on H. Res. 90 on Feb. 11, 1941 (87 CONG. REC. 886–899, 77th Cong. 1st Sess.); 344 yeas to 21 nays, on H. Res. 321 on Jan. 23, 1940 (86 CONG. REC. 572, 604, 605, 76th Cong. 3d Sess.); and 344 yeas to 35 nays, on H. Res. 26 on Feb. 3, 1939 (84 CONG. REC. 1098, 1127, 1128, 76th Cong. 1st Sess.). An amendment to the rules, contained in H. Res. 5, established the standing Committee on Un-American Activities on Jan. 3, 1945 (91 CONG. REC. 10–15, 79th Cong. 1st Sess.). The Committee on Internal Security, established on Feb. 18, 1969 (115 CONG. REC. 3723, 3746, 91st Cong. 1st Sess.) by approval on a vote of 306 yeas to 80 nays, of H. Res. 89, reported as privileged from the Committee on Rules, assumed the jurisdiction of the Committee on Un-American Activities. Commencing with the 94th Congress, the Committee on Internal Security was abolished and its jurisdiction, files and staff transferred to the Committee on the Judiciary (see Rule X clause 1(m), *House Rules and Manual*, 1975).

19. 81 CONG. REC. 3283, 3290, 75th Cong. 1st Sess. The resolution was reported on Apr. 1, 1937 (H. Rept. No. 534).

to investigate organizations or groups of individuals operating within the United States which diffuse slanderous or libelous un-American propaganda of a religious, racial, or subversive nature tending to incite to the use of force and violence; and to investigate the extent and use of United States mail and postal services for the diffusion of these materials.

Parliamentarian's Note: The House had previously created the Special Committee to Investigate Communist Activities, chaired by Hamilton Fish, Jr., of New York, and the Special Committee on Un-American Activities, chaired by John W. McCormack, of Massachusetts, in 1930 and 1934, respectively. Authority for each of these special committees had expired at the time House Resolution 88 was introduced.[20]

Scientific Activities

§ 1.34 The House established the Select Committee on Astronautics and Space Exploration.

On Mar. 5, 1958,[1] the House by voice vote approved House Resolution 496, which had been submitted by Majority Leader John W. McCormack, of Massachusetts, by unanimous consent. The resolution was for purposes of creating the Select Committee on Astronautics and Space Exploration of 13 members to investigate all aspects of and problems relating to the exploration of outer space and the control, development, and use of astronautical resources, personnel, and facilities.

On July 21, 1958,[2] the standing Committee on Science and Astronautics was established by voice vote approval of House Resolution 580 (called up as privileged by direction of the Committee on Rules), amending Rule X clause 1 by adding subclause (q).[3]

§ 1.35 The House established a select committee to investigate research programs.

On Sept. 11, 1963,[4] the House by a roll call vote of 336 yeas to 0

20. See the remarks of Mr. Lindsay C. Warren (N.C.), at 81 CONG. REC. 3287, 76th Cong. 1st Sess., Apr. 8, 1937.

1. 104 CONG. REC. 3443, 85th Cong. 2d Sess.

2. 104 CONG. REC. 14513, 14514, 85th Cong. 2d Sess.

3. The resolution was reported on May 29, 1958 (H. Rept. No. 1837). See § 1.44, infra, for a discussion of Senate establishment of the Special Committee on Astronautical and Space Exploration and a successor standing committee, the Committee on Astronautical and Space Sciences.

4. 109 CONG. REC. 16744, 16753, 16754, 88th Cong. 1st Sess. The res-

nays approved House Resolution 504 (called up as privileged by direction of the Committee on Rules), creating a select committee of nine members to investigate expenditures for research programs, government departments and agencies which conduct research and amounts expended thereby, and facilities for coordinating research programs, including grants to colleges and universities.

Chemicals in Food Production

§ 1.36 The House established a select committee to investigate the use of chemicals in the production of food products.

On June 20, 1950,[5] the House by voice vote approved House Resolution 323 (called up as privileged by direction of the Committee on Rules), creating a select committee of seven members to investigate and study the use of chemicals, pesticides, and insecticides in the production of food products and fertilizers and their effects on the health and welfare of the nation, stability of the agricultural economy, soil, health of animals, and vegetation.

Airplane Crashes

§ 1.37 The House established a select committee to investigate crashes of commercial airplanes in 1940 and 1941.

On Mar. 6, 1941,[6] the House by voice vote approved House Resolution 125 (called up as privileged by direction of the Committee on Rules), creating a select committee of five members to investigate air crashes and other accidents in the United States in 1940 and 1941 occurring on commercial airlines; to ascertain pertinent facts relating to the construction of flying and ground equipment and the management and operation of airlines; to examine laws and regulations relating to operation and inspection of airplanes and safety equipment, and the liability of airlines for loss of life or injury to persons or property; and to investigate other matters as deemed necessary by the committee.

Migration of Destitute Citizens

§ 1.38 The House established a select committee to inves-

olution was reported on Aug. 28, 1963 (H. Rept. No. 718).

5. 96 Cong. Rec. 8933–36, 81st Cong. 2d Sess. The resolution was reported on June 12, 1950 (H. Rept. No. 2214).

6. 87 Cong. Rec. 1930, 1931, 1940, 77th Cong. 1st Sess. The resolution was reported on Mar. 4, 1941 (H. Rept. No. 183).

tigate the interstate migration of destitute citizens.

On Apr. 22, 1940,[7] the House by voice vote approved House Resolution 63 (called up as privileged by direction of the Committee on Rules), creating a select committee of five members to investigate the social and economic needs and interstate migration of destitute persons.[8]

Pensions

§ 1.39 The House established a select committee to investigate old-age pension plans.

On Mar. 10, 1936,[9] the House by voice vote approved House Resolution 443, authorizing the Speaker to appoint eight members to a select committee to inquire into old-age pension plans with respect to which legislation had been submitted to the House, particularly the plan embodied in a House bill (H.R. 7154), providing for retirement annuities; and to examine the conduct, history, and records of persons or groups promoting such plans. The resolution was, by unanimous consent, submitted by Mr. C. Jasper Bell, of Missouri, and was intended as a modification and clarification of House Resolution 418, which had previously been reported from the Committee on Rules (H. Rept. No. 2005), and adopted.

Offensive Literature

§ 1.40 The House established a select committee to investigate current literature.

On May 12, 1952,[10] the House by voice vote approved House Resolution 596 (called up as privileged by direction of the Committee on Rules), creating a select committee of nine members to investigate and study the extent to which current literature, books, and magazines containing im-

7. 86 CONG. REC. 4880, 4884, 76th Cong. 3d Sess. The resolution was reported on Apr. 19, 1940 (H. Rept. No. 1998).

8. Authority for this select committee was continued by voice vote approval of H. Res. 113, on Mar. 31, 1941. 87 CONG. REC. 2730, 2736, 77th Cong. 1st Sess. The resolution which was privileged, was reported on Mar. 31 from the Committee on Rules (H. Rept. No. 350). It was called up that same day, by direction of the Committee on Rules, by Mr. Lawrence Lewis [Colo.], who asked unanimous consent for its consideration.

9. 80 CONG. REC. 3506, 3507, 74th Cong. 2d Sess. See *Id.* at p. 2360 (Feb. 19, 1936), for adoption of the related resolution H. Res. 418.

10. 98 CONG. REC. 5061, 5062, 5069, 82d Cong. 2d Sess. The resolution was reported on Apr. 30, 1952 (H. Rept. No. 1837).

moral, obscene, or otherwise offensive matter, or placing an improper emphasis on crime, violence, and corruption, were being made available to Americans through the mail and otherwise, and to determine the adequacy of existing law to prevent the publication and distribution of this literature.

Crime

§ 1.41 The House established a select committee to study crime in the United States.

On May 1, 1969,[11] the House by a roll call vote of yeas 345 to nays 18, approved House Resolution 17, reported as privileged from the Committee on Rules, establishing a select committee of seven members to investigate all aspects of crime in the United States including causes and effects; preparation of statistics; exchange of information among federal, state, local, and foreign law enforcement agencies; treatment and rehabilitation of offenders; and prevention and control.[12]

Energy

§ 1.42 The House rejected a resolution establishing a select committee to investigate energy resources.

On May 26, 1971,[13] the House by a roll call vote of yeas 128 and nays 218, rejected House Resolution 155 (called up as privileged by direction of the Committee on Rules), creating a select committee of seven members to investigate availability and ownership of oil, gas, coal, and nuclear energy reserves; reasons and possible solutions for delay in new starts of fossil fueled power plants; effects of pricing practices; effects of import of low sulfur fuels; measures to increase transportation of fuel materials and close the gap between supply and demand of electric energy; and the environmental effects of the electricity industry

Sit-down Strikes

§ 1.43 The House laid on the table a resolution to create a special committee to investigate sit-down strikes.

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11. 115 Cong. Rec. 11087, 11100, 11101, 91st Cong. 1st Sess. The resolution was reported on Apr. 22, 1969 (H. Rept. No. 150).

12. The House by voice vote approved H. Res. 115, which authorized an investigation of the same issues on Mar. 9, 1971. 117 Cong. Rec. 5587, 5588, 5610, 92d Cong. 1st Sess.

13. 117 Cong. Rec. 16984, 17002, 17003, 92d Cong. 1st Sess. The resolution was reported on May 19, 1971 (H. Rept. No. 217).

On Apr. 8, 1937,[14] the House by voice vote agreed to a motion to table House Resolution 162 (called up as privileged by direction of the Committee on Rules), to authorize the Speaker to appoint a special committee to investigate the causes and management of sit-down strikes and state and local efforts to prevent them, as well as persons instigating such strikes.

Senate Precedents

§ 1.44 The Senate established the Special Committee on Astronautical and Space Exploration.

On Feb. 6, 1958,[15] the Senate on a roll call vote of 78 yeas to 1 nay approved Senate Resolution 256, establishing a special committee of 13 Senators to investigate all aspects and problems relating to the exploration of outer space and control, development, and use of astronautical resources, personnel, equipment, and facilities.[16]

§ 1.45 The Senate established a special committee to investigate contracts under the national defense program.

On Mar. 1, 1941,[17] the Senate by voice vote approved Senate Resolution 71, establishing a special committee of seven Senators to investigate the operation of the program for procurement and construction of supplies, materials, munitions, vehicles, aircraft, vessels, plants, camps, and other articles and facilities in connection with the national defense. Areas of inquiry included (1) types and terms of contracts awarded on behalf of the United States; (2) methods by which contracts are awarded and contractors selected; (3) utilization of small business facilities; (4) geographic distribution of contracts and location of plants and facilities; (5) effect of the program with respect to labor and migration of labor; (6) perform-

14. 81 CONG. REC. 3291, 3301, 75th Cong. 1st Sess. The resolution was reported on Apr. 2, 1937 (H. Rept. No. 555)

15. 104 CONG. REC. 1804, 1806, 85th Cong. 2d Sess.

16. The Senate established the standing Committee on Astronautical and Space Sciences which assumed the functions of the select committee on July 24, 1958. See 104 CONG. REC. 14857, 14858, 85th Cong. 2d Sess., for voice vote approval of S. Res. 327. See also § 1.34, supra, for House establishment of the Select Committee on Astronautics and Space Exploration and the successor standing committee, the Committee on Science and Astronautics.

17. 87 CONG. REC. 1615, 77th Cong. 1st Sess.

ance of contracts and accountings required of contractors; (7) benefits accruing to contractors with respect to amortization for taxation and other purposes; and (8) practices of management or labor, and prices, fees, and charges which interfere with the defense program or unduly increase its cost.

§ 1.46 The Senate established the Select Committee on Presidential Campaign Activities to investigate the extent, if any, of illegal, improper, or unethical activities engaged in by persons involved in the Presidential election of 1972.

On Feb. 7, 1973,[18] the Senate by a roll call vote of 77 yeas to 0 nays approved Senate Resolution 60, establishing the Select Committee on Presidential Campaign Activities to investigate the extent, if any, of involvement in illegal, improper, or unethical conduct by persons in the Presidential campaign of 1972. Areas of inquiry included (1) breaking, entering, and bugging of headquarters or offices of the Democratic National Committee in the Watergate Building; (2) electronic surveillance of the Democratic National Committee; (3) surreptitious removal of documents; (4) preparation, transmission, or receipt of reports on the aforementioned activities; (5) whether any person alone or with others planned the aforementioned activities; (6) whether participants in the aforementioned activities were induced by bribery, coercion, or threats to plead guilty or conceal or fail to reveal such activities; (7) efforts to disrupt, hinder, impede, or sabotage campaign activities; (8) whether any person alone or with others induced activities mentioned in (7) above or paid participants; (9) fabrication, dissemination, or publication of false charges or information to discredit Presidential aspirants; (10) planning of activities mentioned in (7), (8), or (9); (11) financial transactions and storage; (12) compliance or noncompliance with congressional acts which require reporting of receipt or disbursement of money; (13) whether secret funds were kept; (14) whether documents or other physical evidence were concealed, suppressed, or destroyed; and (15) any other activities having a tendency to prove or disprove that persons acting alone or with others engaged in illegal, improper, or unethical activities in connection with the Presidential election of 1972.

18. 119 CONG. REC. 3849–51, 93d Cong. 1st Sess.

B. INQUIRIES AND THE EXECUTIVE BRANCH

§ 2. Resolutions of Inquiry and Responses

Resolutions of inquiry are usually simple resolutions used to obtain information from the executive branch. Such resolutions, if addressed to the President or head of an executive department, are given privileged status in the House, provided they seek information of a factual nature, rather than request opinions or require an investigation on the subject.[19]

The effectiveness of such a resolution derives from comity between the branches of government rather than from any elements of compulsion.[20]

Certain conventions have arisen with regard to the wording of resolutions of inquiry. Thus, the House traditionally "requests" the President and "directs" the heads of executive departments to furnish information.[21] Moreover, such resolutions often include the qualifying phrase, "if not incompatible with the public interest," particularly where the request is for information relating to foreign affairs.[1]

The ensuing precedents are illustrative of resolutions of inquiry directed to the President,[2] Secretary of State,[3] Secretary of Defense,[4] Attorney General,[5] Acting Attorney General,[6] Secretary of Commerce,[7] Secretary of the Interior,[8] Secretary of Health, Education, and Welfare,[9] and Postmaster General.[10] The emphasis in these precedents is upon the nature of the information requested in each case, and the response if any to the resolution of inquiry.[11] Actual floor procedures

19. See *House Rules and Manual* §§ 856 and 857 (1973).

20. See § 4, infra, for a discussion of legal proceedings initiated by a Senate select committee to enforce a subpena issued to the President. Other methods to obtain information include committee or subcommittee oral or written requests for documents or testimony from the President or cabinet officers.

21. 3 Hinds' Precedents §§ 1856, 1895; and Rule XXII clause 5, *House Rules and Manual* § 856 (1973).

1. See 3 Hinds' Precedents § 1899, "directing" the President, and §§ 2.1, 2.2, and 2.7, infra, "directing" the President and other officers, and §§ 2.15, and 2.21–2.23, infra, "requesting" certain department heads.

2. See §§ 2.1, 2.2, 2.7, and 2.16, infra.

3. See §§ 2.1–2.5, 2.9–2.11, 2.13–2.1.5, 2.21, and 2.26, infra.

4. See §§ 2.1, 2.6–2.8, 2.12, and 2.15 infra.

5. See §§ 2.18 and 2.19, infra.

6. See § 2.17, infra.

7. See §§ 2.20, 2.22, infra.

8. See § 2.23, infra.

9. See § 2.24, infra.

10. See § 2.25, infra.

11. See 2 Hinds' Precedents § 1596, 3 Hinds' Precedents §§ 1856–1910, and

relating to the use of resolutions of inquiry, and prerequisites for privileged status, are treated in detail elsewhere.[12] Generally, formal responses to resolutions of inquiry are laid before the House, referred to the committee having jurisdiction, and ordered printed but more informal responses to resolutions of inquiry are sometimes forwarded directly to the interested committee or Members, even where the resolution itself has been tabled or not otherwise disposed of. (See, *e.g.* § 2.11, infra.)

Foreign Affairs—American Military Involvement in South Vietnam

§ 2.1 A resolution of inquiry directing the President, Secretary of State, Secretary of Defense, and Director of the Central Intelligence Agency to furnish information relating to the history and rationale for American involvement in South Vietnam, nature and capacity of the South Vietnamese government, and plans for elections in the Republic of South Vietnam was held not privileged in response to a point of order.

On July 7, 1971,[13] Speaker Carl Albert, of Oklahoma, sustained a point of order against a resolution of inquiry, House Resolution 491, directing the President, Secretary of State, Secretary of Defense, and Director of the Central Intelligence Agency to furnish, within 15 days after adoption of the resolution, full and complete information on the following: (1) the history and rationale of American involvement in South Vietnam since completion of the study "United States-Vietnam Relationships, 1945–1967," (the Pentagon Papers) prepared by the Vietnam Task Force, Office of the Secretary of Defense; (2) the known existing plans for a residual force of American armed forces in South Vietnam; (3) the nature and capacity of the South Vietnamese government, including but not limited to their past and present military capabilities; the capacity for self-sufficiency including but not limited to the political base of the Republic, the scope if any, of governmental malfunction and corruption; the depth of popular support and procedures for dealing with nonsupport including

6 Cannon's Precedents §§ 404–437, for earlier precedents.

12. See Ch. 24, infra.

13. 117 CONG. REC. 23810, 23811, 92d Cong. 1st Sess.

but not limited to known existing studies of the economy and internal workings of the government of the Republic of South Vietnam; and (4) American and South Vietnamese plans and procedures for Nov. 1971 elections in the Republic of South Vietnam, including but not limited to United States covert or non-covert involvement in those elections.

The Speaker sustained the point of order raised by F. Edward Hebert, of Louisiana, Chairman of the Committee on Armed Services, on the ground that the resolution sought opinions rather than facts. The ruling was made when Ms. Bella S. Abzug, of New York, moved to discharge the Committee on Armed Services from further consideration of the resolution under Rule XXII clause 5.

Parliamentarian's Note: Although the issue was not raised in this instance, the reference to the Director of Central Intelligence would have destroyed the privilege if a point of order had been raised on that ground. 6 Cannon's Precedents § 406 indicates that the term "heads of executive departments" in Rule XXII clause 5,[14] refers exclusively to members of the President's cabinet and only resolutions of inquiry addressed to these heads of executive departments are privileged. (The resolution at issue in § 406 to which Cannon referred was addressed to the Federal Reserve Board.) See also 3 Hinds' Precedents §§ 1861–1863, and 5 Hinds' Precedents § 7283, for other relevant precedents.

§ 2.2 The House laid on the table resolutions of inquiry directing the President and Secretary of State to furnish the report entitled "United States-Vietnam Relationships, 1945–1967," also known as the Pentagon Papers.

On June 30, 1971,[15] the House, by a roll call vote of yeas 272 to nays 113, tabled a privileged resolution of inquiry reported adversely by the Committee on Armed Services, House Resolution 489, directing the President to furnish the House, within 15 days after adoption of the resolution, the full and complete text of the study entitled "United States-Vietnam Relationships, 1945–1967," also known as the Pentagon Papers, prepared by the Vietnam Task Force, Office of the Secretary of Defense.

On the same date,[16] the House by voice vote tabled an identical

14. *House Rules and Manual* §§ 855, 856 (1973).

15. 117 CONG. REC. 23030, 23031, 92d Cong. 1st Sess.

16. *Id.* at p. 23031.

resolution, House Resolution 490, and on July 7, 1971,[17] by voice vote tabled House Resolution 494, directing the Secretary of State to furnish this study.

South Vietnamese Presidential Election

§ 2.3 The House laid on the table a privileged resolution of inquiry directing the Secretary of State to furnish communications between the Department of State, the United States Embassy in Saigon, and certain Vietnamese presidential candidates which might relate to the Vietnamese presidential elections.

On Sept. 30, 1971,[18] the House by voice vote tabled a privileged resolution of inquiry reported adversely by the Committee on Foreign Affairs, House Resolution 595, directing the Secretary of State to furnish to the House, within one week after adoption of the resolution, the complete text of all communications, as described above, taking place since Jan. 1, 1971, pertaining to the 1971 Vietnamese presidential election.

Following this action the House by unanimous consent tabled House Resolution 619, which was identical to House Resolution 595 and had also been adversely reported by the Committee on Foreign Affairs.

§ 2.4 The House laid on the table two privileged resolutions of inquiry directing the Secretary of State to furnish information relating to an election in South Vietnam.

On Oct. 20, 1971,[19] the House laid on the table two identically worded resolutions of inquiry, House Resolution 632 and House Resolution 638, directing the Secretary of State to furnish to the Committee on Foreign Affairs,[20] not later than 15 days after adoption of the resolution, materials relating to the Oct. 3, 1971, Vietnamese election, including: (1) all documents and other pertinent information relating to public opinion surveys financed by the United States in Vietnam; (2) all documents and other information relating to use by South Vietnamese authorities of radio and television facilities financed by the United States; (3) all press re-

17. *Id.* at p. 23808.

18. 117 Cong. Rec. 34266, 92d Cong. 1st Sess.

19. 117 Cong. Rec. 37055, 37057, 92d Cong. 1st Sess.

20. See § 2.26, infra, for a discussion of this precedent as it relates to requesting a head of an executive department to respond directly to a committee rather than to the House.

leases by American officials in Saigon; (4) all communications between American and South Vietnamese officials; and (5) all representations made to the participants in that election by American officials concerning the desire that the election be free and contested.

These resolutions, reported adversely by the Committee on Foreign Affairs, were laid on the table by voice votes.

Phoenix Program

§ 2.5 The House laid on the table a privileged resolution of inquiry directing the Secretary of State to furnish the House certain information regarding the Phoenix Program.

On July 7, 1971,[1] the House by voice vote tabled a privileged resolution reported adversely from the Committee on Foreign Affairs, House Resolution 493, directing the Secretary of State, to the extent not incompatible with the public interest, to furnish the House, not later than 15 days following adoption of the resolution, all documents in the English language with respect to (1) the Phoenix Program, a counterintelligence operation conducted in South Vietnam, and (2) the extent of U.S. involvement in that program.

Bombardment of North Vietnam

§ 2.6 The House laid on the table a resolution of inquiry directing the Secretary of Defense to furnish information relating to American air and naval bombardment of North Vietnam.

On Aug. 16, 1972,[2] the House by voice vote tabled a privileged resolution of inquiry reported adversely by the Committee on Armed Services, House Resolution 1078, directing the Secretary of Defense, to the extent not incompatible with the public interest, to furnish, not later than seven days after adoption of the resolution, information relating to American air and naval bombardment of North Vietnam since Mar. 1, 1972, including (1) the number of sorties flown and types of ordnance used each month; (2) post-action reports and bomb damage assessments, both written and photographic; and (3) specific descriptions and photographic evidence of all damage to dikes, cit-

1. 117 Cong. Rec. 23808, 92d Cong. 1st Sess.

2. 118 Cong. Rec. 28365, 92d Cong. 2d Sess.

ies, and villages of North Vietnam.

§ 2.7 The House laid on the table a resolution of inquiry directing the President and Secretary of Defense to furnish information relating to American bombing of North Vietnam in 1972 and 1973.

On Mar. 6, 1973,[3] the House by voice vote tabled a resolution of inquiry reported adversely by the Committee on Armed Services, House Resolution 26, directing the President[4] and Secretary of Defense within 10 days after adoption of the resolution to furnish the House information relating to American bombing of North Vietnam from Dec. 17, 1972, through Jan. 3, 1973, including: (1) the number of sorties flown; (2) tonnage of bombs and shells fired or dropped; (3) the number and nomenclature of American airplanes lost; (4) the number of Americans killed, wounded, captured, and missing in action; (5) best available estimates of North Vietnamese casualties; (6) the cost of all bombing and shelling; and (7) the extent of damage to any and all facilities struck by bombs.

Parliamentarian's Note: House Resolution 26 was technically not privileged because the request for information on the "extent of damage" to facilities struck by bombs required an opinion or investigation.[5]

On the same date,[6] the House also tabled House Resolutions 114, 115, and 143, which were identical to House Resolution 26, except that they did not mention the President or "extent of damage" to facilities struck by bombs.

§ 2.8 The House laid on the table a privileged resolution of inquiry directing the Secretary of Defense to furnish certain information relating to prisoner of war camps in North Vietnam and American bombing in North Vietnam.

On Aug. 16, 1972,[7] the House by voice vote tabled a privileged resolution of inquiry, House Resolution 1079, reported adversely by

3. 119 Cong. Rec. 6383, 6384, 93d Cong. 1st Sess.
4. To "direct" the President to furnish information contravenes standard practice. Although the House "directs" a head of an executive department, it usually "requests" the President to furnish information. See 3 Hinds Precedents §§ 1856, 1895.
5. See Rule XXII clause 5, *House Rules and Manual* § 857 (1973) and Ch. 24, infra, for discussions of the requirements for privileged status.
6. 119 Cong. Rec. 6384, 6385, 93d Cong. 1st Sess., Mar. 6, 1973.
7. 118 Cong. Rec. 28365, 92d Cong. 2d Sess.

the Committee on Armed Services, directing the Secretary of Defense, to the extent not incompatible with the public interest, to furnish to the House not later than seven days after the adoption of the resolution: (1) maps showing all known or suspected prisoner of war camps in North Vietnam; (2) maps showing all bombing strikes and naval bombardments from Mar. 1, 1972, to date; and (3) rules of engagement promulgated for the bombing of North Vietnam for the same period, and a description of procedures, policies, and actions taken by American Armed Forces to prevent danger to American prisoners of war.

Laotian Operations

§ 2.9 The House laid on the table a privileged resolution of inquiry directing the Secretary of State to furnish the House certain information respecting bombing operations in northern Laos.

On July 7, 1971,[8] the House by voice vote agreed to table a privileged resolution of inquiry reported adversely by the Committee on Foreign Affairs, House Resolution 495, directing the Secretary of State, to the extent not incompatible with the public interest, to furnish, within 15 days after adoption of the resolution, any documents respecting the rules of engagement and targeting, and procedures followed by the U.S. Ambassador in Laos with respect to the direction and control of American bombing operations in northern Laos during the period from Jan. 1, 1965, through June 21, 1971, together with the most recent aerial photographs of 196 Laotian villages which were identified in the resolution.

§ 2.10 The House laid on the table a privileged resolution of inquiry directing the Secretary of State to furnish information regarding American, Thai, and other foreign nation military and diplomatic operations in Laos.

On July 7, 1971,[9] the House by a roll call vote of yeas 261 to nays 118, tabled a privileged resolution of inquiry reported adversely by the Committee on Foreign Affairs, House Resolution 492, directing the Secretary of State, to the extent not incompatible with the public interest, to furnish to the House, not later than 15 days

8. 117 Cong. Rec. 23808–10, 92d Cong. 1st Sess.

9. 117 Cong. Rec. 23800, 23807, 23808, 92d Cong. 1st Sess.

after adoption of the resolution, any documents containing policy instructions or guidelines given to the American Ambassador in Laos for the purpose of his administration of certain operations in Laos, between Jan. 1, 1964, and June 21, 1971. Information was sought particularly with regard to: (1) covert Central Intelligence Agency operations in Laos; (2) Thai and other foreign armed forces operations in Laos; (3) American bombing operations other than along the Ho Chi Minh Trail; (4) American Armed Forces operations in Laos; and (5) United States Agency for International Development operations which have served to assist, directly or indirectly, military or Central Intelligence Agency operations in Laos, and details of such assistance.

American Bombing of Cambodia and Laos

§ 2.11 The House laid on the table a privileged resolution of inquiry directing the Secretary of State to furnish information relating to American bombing of Cambodia and Laos in 1973.

On May 9, 1973,[10] the House by voice vote tabled a privileged resolution of inquiry reported adversely by the Committee on Armed Services, House Resolution 379, directing the Secretary of State to furnish within 10 days after adoption of the resolution information relating to American bombing of Cambodia and Laos from Jan. 27, 1973, through Apr. 30, 1973, including: (1) the number of sorties flown; (2) tonnage of bombs and shells fired and dropped; (3) number and nomenclature of American airplanes lost; (4) number of Americans killed, wounded, captured, or missing in action; (5) cost of all American bombing and shelling; (6) number of sorties flown by American military airplanes for purposes other than bombing; (7) cost of all actions other than bombing; (8) number, rank, location, and nature of activity of American ground personnel in Cambodia and Laos; (9) the order of battle of all forces, both combat and noncombat, in Cambodia and Laos, including North Vietnamese, ARVN (Army of the Republic of [South] Vietnam), Viet Cong, American, and indigenous; and, for the period from Oct. 30, 1972, through Jan. 27, 1973, certain related information, including the tonnage of bombs dropped and sorties flown by American airplanes emanating from Thailand.

10. 119 CONG. REC. 14990, 14991, 14994, 93d Cong. 1st Sess.

The resolution also inquired as to the legal authority for American military activity in Cambodia and Laos since Jan. 27, 1973; and the extent of involvement of American Embassy personnel in military operations in or over Cambodia and Laos between Jan. 27, 1973, through Apr. 30, 1973.

Answers to questions in this resolution of inquiry were provided by witnesses from the Department of Defense at a hearing of the Committee on Armed Services held on May 8, 1973. Following this hearing, committee members voted 36 yeas to 0 nays to report the resolution adversely.(11)

The motion to table was offered immediately after the resolution. was reported because the Chairman of the Committee on Armed Services, F. Edward Hébert, of Louisiana, requested and obtained unanimous consent for immediate consideration of the resolution, thereby waiving the three-day availability requirement of Rule XI clause 27(d)(4).

11. See 119 CONG. REC. 14991–93, 93d Cong. 1st Sess., for a transcript of answers and remarks of F. Edward Hébert (La.), Chairman of the Committee on Armed Services, explaining the hearing on May 8, 1973.

Military Aid to Forward-defense and Mediterranean Nations

§ 2.12 The House laid on the table a privileged resolution of inquiry directing the Secretary of Defense to furnish information regarding the extent of military assistance to forward-defense and Mediterranean nations.

On Aug. 3, 1971,(12) the House by voice vote tabled a privileged resolution of inquiry reported adversely by the Committee on Armed Services, House Resolution 557, directing the Secretary of Defense, to the extent not incompatible with the public interest, to furnish to the House, not later than 15 days after adoption of the resolution, any documents regarding all forms of American military aid extended to the forward-defense nations of Greece, Turkey, Nationalist China, and South Korea as well as to Israel, Jordan, Morocco, Libya, Tunisia, Lebanon, Syria, and Saudi Arabia, between Jan. 1, 1969, and July 21, 1971.(13)

12. 117 CONG. REC. 29063, 29064, 92d Cong. 1st Sess.

13. See Ch. 24, infra, for a discussion of the proper time to call up a resolution of inquiry.

Presidential Agreements With British Prime Minister

§ 2.13 The House agreed to a privileged resolution of inquiry directing the Secretary of State to transmit information regarding any agreements made by the President and the Prime Minister of Great Britain during conversations held in Jan. 1952, after rejecting a motion to lay the resolution on the table.

On Feb. 20, 1952,[14] after rejecting the motion to table by a roll call vote of yeas 150 to nays 184, the House by a roll call vote of yeas 189 to nays 143, approved a privileged resolution of inquiry reported adversely by the Committee on Foreign Affairs, House Resolution 514, directing the Secretary of State, at the earliest practicable date, to transmit to the House information with respect to any agreements, commitments, or understandings entered into by the President and Prime Minister of Great Britain in the course of their conversations during Jan. 1952, which might require the shipment of additional members of the armed forces beyond the continental limits of the United States or involve American forces in armed conflict on foreign soil.[15]

The adverse report of the Committee on Foreign Affairs, the letter from the Assistant Secretary of State for the Secretary stating the position of the Department of State that sufficient information had been supplied, and communiques relating to the subject matter of the resolution were included in the Record.[16] On Mar. 5, 1952,[17] a letter, dated Mar. 4, 1952, from the Secretary of State, Dean Acheson, citing the President's negative response to a question about such agreements at a press conference on Feb. 20, 1952, was laid before the House, referred to the Committee on Foreign Affairs, and ordered printed.

Mexican-American Relations

§ 2.14 The House laid on the table a privileged resolution of inquiry directing the Secretary of State to furnish information relating to Mexican-American relations.

On Feb. 7, 1937,[18] the House by voice vote tabled a privileged

14. 98 Cong. Rec. 1205, 1207, 1208, 1215, 1216, 82d Cong. 2d Sess.

15. See Ch. 24. infra, for a discussion of the time to report a resolution of inquiry.

16. See 98 Cong. Rec. 1205, 1206, 82d Cong. 2d Sess., for these materials.

17. 98 Cong. Rec. 1892, 82d Cong. 2d Sess.

18. 84 Cong. Rec. 1181, 1182, 76th Cong. 1st Sess.

resolution of inquiry reported adversely by the Committee on Foreign Affairs, House Resolution 78, directing the Secretary of State to transmit, within 15 days from receipt of the resolution answers to questions relating to whether: (1) Mexico bartered oil from expropriated American and British properties for German, Italian, and Japanese products; (2) American investments in Mexico were eliminated; (3) reported loss of American investments led to reductions in American-Mexican trade; (4) Mexico appointed a Minister to Berlin and Japanese experts participated in Mexican projects; (5) State Department officials sought to obtain adequate compensation for holders of American bonds in Mexican national railroads expropriated in 1937; (6) the State Department has evidence that Germany, Italy, and Japan had an agreement to absorb Mexican oil prior to expropriation of American and British properties; (7) Mexican real wages fell since 1937; (8) the Ambassador informed the State Department that railroads and oil properties would be expropriated or whether news of that development was a surprise; (9) the State Department possessed a full record of speeches and public remarks as well as reports to the Secretary of State relating to Mexican expropriation of American properties and Mexico's relations with Germany, Italy, and Japan (the resolution sought the full text of these documents); (10) the Department of State was satisfied that the American Ambassador in Mexico City took steps to protect remaining American investments; and (11) the Department of State agreed to expropriation of American-owned property in Mexico.

Speaker William B. Bankhead, of Alabama, ruled out of order a question of consideration raised after the motion to table was made but prior to the vote.

Removal of German Industrial Plants

§ 2.15 The House agreed to a privileged resolution requesting the Secretary of State and Secretary of Defense to transmit information relating to the dismantlement and removal of industrial plants from post-war Germany. The Under Secretary of State responded for the Department of State and Department of Defense.

On Dec. 18, 1947,[19] the House by voice vote approved a privi-

19. 93 CONG. REC. 11636, 11640, 80th Cong. 1st Sess.

leged resolution of inquiry reported favorably from the Committee on Foreign Affairs, House Resolution 365, requesting the Secretary of State and the Secretary of Defense to transmit information relating to: (1) the number of plants in Germany which were dismantled and removed from that country; (2) the character and capacity of plants removed and remaining to be dismantled; (3) the number of remaining plants which could be converted to peacetime production and were capable of contributing to German export trade; (4) the basis for the determination that a particular plant was surplus; (5) the amount of material and goods, and their cost needed to be sent from the United States to compensate for production of plants removed and scheduled for dismantling; (6) whether plants were removed from any of the German zones beyond the limits prescribed or contemplated in the Yalta agreement; (7) whether essential agricultural produce was removed from any zone for delivery outside Germany; (8) the extent of removal of harbor facilities and transportation equipment; and (9) whether the U.S. government had taken appropriate steps to delay temporarily further dismantling of plants in western Germany, in order to permit further congressional study to determine whether transfers prejudice a general recovery program for western Europe.

A preamble was added by committee amendment, following voice vote approval of the resolution as amended.

On Jan. 26, 1948,[20] a letter, dated Jan. 24, 1948, from the Under Secretary of State, Robert A. Lovett, responding for the Department of State and Department of Defense to the resolution of inquiry was laid before the House and referred to the Committee on Foreign Affairs.

American Policy on Formosa

§ 2.16 The House tabled a privileged resolution of inquiry requesting the President to furnish information about American policy on Formosa.

On Feb. 9, 1950,[1] the House by voice vote agreed to table a privileged resolution of inquiry reported adversely by the Committee on Foreign Affairs, House Resolution 452, requesting the President, if not incompatible with the public interest, to furnish

20. 94 CONG. REC. 541, 542, 80th Cong. 2d Sess.

1. 96 CONG. REC. 175.3—55, 81st Cong. 2d Sess.

within 15 days after adoption of the resolution, full and complete answers to questions relating to the President's statement of Jan. 5, 1950, on policy toward Formosa and the current situation in China and the Far East.[2]

Domestic Affairs—Evidence of Criminal Activity

§ 2.17 The House discharged a committee from further consideration and laid on the table a privileged resolution of inquiry directing the Acting Attorney General to furnish all documents and items of evidence in the custody of the Watergate Special Prosecutor as of Oct. 20, 1973.

On Nov. 1, 1973,[3] the House discharged the Committee on the Judiciary from further consideration and tabled House Resolution 634, directing the Acting Attorney General, to the extent not incompatible with the public interest, to furnish, not later than 15 days after adoption of the resolution, true copies of all papers, documents, recordings, memoranda, and items of evidence in the custody of the Special Prosecutor and Director of the Special Prosecution Force, as of noon, Saturday, Oct. 20, 1973.[4]

Parliamentarian's Note: President Richard M. Nixon dismissed the Special Prosecutor, Archibald Cox, on the evening of Oct. 20, 1973.

When the Acting Attorney General subsequently turned the documents over to a federal court, thus assuring their preservation, the Member who introduced this resolution of inquiry, Mr. Paul M. McCloskey, of California, decided not to proceed further with it and sought and obtained unanimous consent to discharge the committee from further consideration and to table the resolution.

§ 2.18 The House discharged a committee from further consideration and laid on the table a privileged resolution

2. See Ch. 24, infra, for a discussion of the time to report back a resolution of inquiry.

3. 119 CONG. REC. 35644, 93d Cong. 1st Sess.

4. H. Res. 634 read as follows:

Resolved, That the Acting Attorney General of the United States, to the extent not incompatible with the public interest, is directed to furnish to the House of Representatives not later than fifteen days following the adoption of this resolution, true copies of all papers, documents, recordings, memorandums, and items of evidence in the custody of the Special Prosecutor and Director, Watergate Special Prosecution Force, Archibald Cox as of noon, Saturday, October 20, 1973.

of inquiry directing the Attorney General to furnish all factual information as to whether the Vice President may have accepted bribes.

On Oct. 10, 1973,[5] the House, pursuant to the unanimous-consent request of Mr. Paul Findley, of Illinois, discharged the Committee on the Judiciary from further consideration and tabled House Resolution 572, a privileged resolution of inquiry directing the Attorney General to inform the House of all facts within the knowledge of the Department of Justice relating to whether the Vice President, Spiro T. Agnew, accepted bribes or received consideration for services rendered or promised in the performance of his official responsibilities as a public official in Maryland or as Vice President or failed to declare his income for tax purposes.[6]

Parliamentarian's Note: Vice President Agnew resigned his office, and entered a plea of nolo contendere to a count of failure to report certain income, on Oct. 10, 1973.

§ 2.19 The House laid on the table a privileged resolution of inquiry directing the Attorney General to transmit information relating to the kidnapping of David Levinson and Robert Minor.

On May 16, 1935,[7] the House by a vote of yeas 276, to nays 40, tabled a privileged resolution of inquiry reported by the Committee on the Judiciary, House Resolution 219, directing the Attorney General to transmit to the House at the earliest practical moment: (1) copies of all official information on file in the Department of Justice or in possession of its agents concerning the kidnapping of David Levinson and Robert Minor, in Gallup, New Mexico, on May 2, 1935; (2) information as to whether a person or persons had been apprehended or taken into custody and charged with kidnapping and, if not, whether

5. 119 CONG. REC. 33687, 93d Cong. 1st Sess.

6. H. Res. 572 read as follows:

Resolved, That the Attorney General of the United States be, and he is hereby directed to inform the House of all the facts within the knowledge of the Department of Justice that the Vice President of the United States, Spiro T. Agnew, accepted bribes or received consideration for services rendered or promised in the performance of his official responsibilities as a public official in the State of Maryland or Vice President of the United States, or failed to declare his income for tax purposes.

7. 79 CONG. REC. 7687, 7688, 74th Cong. 1st Sess.

the Department of Justice had instituted and prosecuted an investigation with a view to bringing to justice those guilty of violating 18 USC § 408a, as amended by Public Law No. 232 of the 73d Congress (May 18, 1934); (3) name or names of all persons questioned in connection with this investigation and statements made by them; (4) information as to whether the crime was completed within Navajo Indian Reservation, western New Mexico; and (5) whether the reservation was under the jurisdiction of the U.S. government and whether the Attorney General had authority to prosecute crimes committed within the reservation.

Speaker Joseph W. Byrns, of Tennessee, overruled a point of order raised against the resolution because it sought information (testimony of witnesses given to New Mexico law enforcement officials) that was not in the possession of the Attorney General.

Security Files on Government Officials

§ 2.20 The House agreed to a resolution of inquiry directing the Secretary of Commerce to transmit a letter from the Director of the Federal Bureau of Investigation to the Secretary regarding the Director of the National Bureau of Standards.

On Apr. 22, 1948,[8] the House by a roll call vote of yeas 302 to nays 29, approved a privileged resolution of inquiry, House Resolution 522, reported favorably by the Committee on Interstate and Foreign Commerce, directing the Secretary of Commerce to transmit forthwith the full text of a letter dated May 15, 1947, written by the Director of the Federal Bureau of Investigation and addressed to the Secretary, relating to Dr. Edward U. Condon, Director of the National Bureau of Standards, about whom allegations of disloyal conduct had been made.[9]

On Apr. 26, 1948,[10] a communication dated Apr. 23, 1948, from the Acting Secretary of Commerce, William C. Foster, refusing to transmit the 1947 letter and citing a directive of President Harry S. Truman dated Mar. 13, 1948, ordering all executive

8. 94 CONG. REC. 4777, 4786, 80th Cong. 2d Sess.

9. See 94 CONG. REC. A2458–A2461, 80th Cong. 2d Sess., Apr. 22, 1948, for letters from former Attorney General Robert H. Jackson and Special Assistant to the Attorney General Peyton Ford and a legal memorandum relating to this incident and the broader issue of executive privilege.

10. 94 CONG. REC. 4879, 80th Cong. 2d Sess.

branch officials to decline to disclose Loyalty Board files to any person or agency was referred to the Committee on Interstate and Foreign Commerce and ordered to be printed.[11]

Fish Imports

§ 2.21 The House agreed to a resolution requesting the Secretary of State to study the effect of increased imports on the domestic fishing industry. The Assistant Secretary responded for the Secretary.

On Apr. 4, 1949,[12] the House by voice vote approved a resolution reported favorably by the Committee on Merchant Marine and Fisheries and called from the Consent Calendar.[13] House Resolution 147 requested the Secretary of State to make an immediate study on the effect on the domestic fishing industry of increasing imports of fresh and frozen fish, especially ground fish fillets, into the United States; and, with the advice of and in coordination with appropriate executive departments and independent agencies of government, to recommend means by which the American fishing industry may survive; and to report not later than May 15, 1949.

The resolution contained a preamble.

On May 17, 1949,[14] a letter and report of findings from the Assistant Secretary of State, Ernest A. Gross, responding for the Secretary and Department to the resolution of inquiry, was laid before the House, referred to the Committee on Merchant Marine

11. See § 5.3, infra, for a discussion of House approval, and the text, of H.J. Res. 342, directing officers and employees of the executive branch to provide information to Congress. See also the minority report to H. REPT. NO. 1595, pp. 8–10 which accompanies the joint resolution and contains a Mar. 15, 1948, memorandum from President Truman stating precedents of Presidential refusals to respond to requests for information.

12. 95 CONG. REC. 3820–22, 81st Cong. 1st Sess.

13. *Parliamentarian's Note:* This measure would have been subject to points of order that it was not privileged if the committee chairman had sought to call it up as privileged business because it required an investigation (see 3 Hinds' Precedents §§ 1872–74 and 6 Cannon's Precedents §§ 422, 427, 429, and 432) and contained a preamble (see 3 Hinds' Precedents §§ 1877, 1878 and 6 Cannon's Precedents §§ 422, 427). See also Rule XXII clause 5, *House Rules and Manual* § 857 (1973).

14. 95 CONG. REC. 6372, 81st Cong. 1st Sess.

and Fisheries, and ordered printed.

Foreign Sales of Short Supply Goods

§ 2.22 The House agreed to a privileged resolution of inquiry requesting the Secretary of Commerce to furnish information regarding sales to foreign countries of supplies, shortages of which might endanger national defense and security.

On Dec. 5, 1947,[15] the House by voice vote approved a privileged resolution of inquiry, House Resolution 366, reported favorably and unanimously by the Committee on Interstate and Foreign Commerce, with a committee amendment requesting[16] the Secretary of Commerce to furnish the House with information concerning shipments of heavy machinery, farm and railroad equipment, motor vehicles, metals and metal products, coal, petroleum and petroleum products, building materials, meats and grains, and all other supplies shortages of which might endanger national defense or security, which were made to each foreign country since Jan. 1, 1947, including the most recent date for which figures were obtainable; names of firms or individuals making these sales, dates orders were received and supplies were delivered, and the nature of payments made in return for supplies; and information revealing the extent of unfilled orders for the above-listed supplies which each foreign country has on record with firms or individuals in the United States as of the date of adoption of the resolution.

On Jan. 8, 1948,[17] a letter in response dated Jan. 7, 1948, accompanied by reports of study findings from the Acting Secretary of Commerce, William C. Foster, were laid before the House and referred to the Committee on Interstate and Foreign Commerce.

Domestic Energy Sources

§ 2.23 The House agreed to a resolution of inquiry requesting the Secretary of the Interior to furnish information

15. 93 CONG. REC. 11075, 11076, 80th Cong. 1st Sess.

16. *Parliamentarian's Note:* To "request" the Secretary of Commerce to furnish information deviates from the standard practice which is to "request" the President and "direct" a head of an executive department to furnish information. See 3 Hinds' Precedents §§ 1856, 1895 and Rule XXII clause 5, *House Rules and Manual* § 856 (1973).

17. 94 CONG. REC. 39, 80th Cong. 2d Sess.

relating to domestic availability of petroleum and coal. The Secretary responded by providing reports.

On Feb. 16, 1948,[18] the House by voice vote approved a resolution of inquiry (H. Res. 385) reported favorably by the Committee on Public Lands and called from the Consent Calendar requesting the Secretary of the Interior to furnish the House full information in his possession concerning domestic availability of fuel oil, gasoline, petroleum products, and coal, as well as information on the steps the government should take to make the proper and necessary supply available.

On Apr. 30, 1948,[19] a letter dated Apr. 30, 1948, and reports from Secretary of the Interior J. A. Krug, responding to the resolution of inquiry, were laid before the House and referred to the Committee on Public Lands.

Busing

§ 2.24 After discharging a committee from further consideration of the measure, the House agreed to a resolution of inquiry directing the Secretary of Health, Education, and Welfare to furnish a list of public school systems which receive federal funds and engage in busing of schoolchildren to achieve racial balance, and any departmental rules and regulations regarding busing. The Secretary responded that he was unable to provide the information.

On Aug. 2, 1971,[20] the House by a roll call vote of yeas 252 to nays 129 discharged the Committee on Education and Labor from further consideration and then by a roll call vote of yeas 351 to nays 36, agreed to House Resolution 539, directing the Secretary of Health, Education, and Welfare, to the extent not incompatible with the public interest, to furnish to the House, not later than 60 days after adoption of the resolution, any documents containing a list of public school systems which, during the period between Aug. 1, 1971 through June 30, 1972, would be receiving federal funds and busing schoolchildren to achieve racial balance; and any documents respecting departmental rules and regulations regarding use of federal funds ad-

18. 94 Cong. Rec. 1328, 1329, 80th Cong. 2d Sess.

19. *Id.* at p. 5163.

20. 117 Cong. Rec. 28863, 28869, 92d Cong. 1st Sess.

ministered by the department for busing.

On Aug. 3, 1971,[1] the Secretary of Health, Education, and Welfare, Elliot L. Richardson, in a letter of the same date stated that because the department did not administer busing programs, it did not have a reason either to compile a list of school districts which bus schoolchildren or to draft rules or regulations respecting busing. He enclosed a memorandum from the Associate Commissioner, Equal Educational Opportunity, Office of Education, regarding the policy on funding transportation costs for the Emergency School Assistance Program, and a proposed amendment to a pending bill, H.R. 2266, the Emergency School Aid Act.

The letter, memorandum, and proposed amendment were laid before the House and referred to the Committee on Education and Labor.

Postal Temporaries

§ 2.25 The House laid on the table a privileged resolution of inquiry directing the Postmaster General to furnish the names of persons employed temporarily during the summer of 1965.

On Sept. 16, 1965,[2] the House by a roll call vote of yeas 185 to nays 181, tabled a privileged resolution of inquiry reported adversely by the Committee on Post Office and Civil Service, House Resolution 574, directing the Postmaster General to furnish to the House the names of all persons employed by the Post Office Department as temporary employees at any time during the period beginning on May 23, 1965, and ending on Sept. 6, 1965.[3]

Information Furnished to Committee

§ 2.26 Two resolutions of inquiry directing the Secretary of State to furnish information to a committee rather than to the House were called up and considered as privileged business.

On Oct. 20, 1971,[4] two identically worded resolutions of inquiry, House Resolution 632 and House Resolution 638, directing the Secretary of State to furnish information to a committee relating to the South Vietnamese elec-

1. 117 Cong. Rec. 29137, 92d Cong. 1st Sess.
2. 111 Cong. Rec. 24030, 24034, 89th Cong. 1st Sess.
3. See Ch. 24, infra, for a discussion of the privileged status of resolutions of inquiry.
4. 117 Cong. Rec. 37055, 37057, 92d Cong. 1st Sess.

tion of Oct. 3, 1971,[5] were called up and considered as privileged business. The privileged status was not questioned when these resolutions were called up.[6]

Parliamentarian's Note: The privileged status of these resolutions could have been questioned because they directed the Secretary to furnish information to the committee rather than directly to the House. The only precedent on this point is 3 Hinds' Precedents § 1860, in which Speaker Joseph G. Cannon, of Illinois, ruled that a resolution authorizing a committee to request information from the Postmaster General and requesting him to send certain papers to the committee was privileged as a resolution of inquiry.

§ 3. Executive Branch Refusals to Provide Information

The authority of Congress to obtain information needed to legislate effectively and oversee other branches has often been challenged by the efforts of the executive branch to withhold material which that branch considers confidential, including information relating to military affairs and foreign policy. During the period prior to the "Watergate" investigations of 1973 and 1974, case law on these two potentially conflicting prerogatives developed independently.[7] Generally, such a conflict was averted, not because the executive branch complied with all requests and subpenas[8] but because the Congress

5. See § 2.4, supra, for the content of these resolutions.

6. See § 2.4, supra, for the disposition of the resolutions.

7. See, for example, *Kilbourn* v *Thompson*, 103 U.S. 168 (1881), *McGrain* v *Daugherty*, 273 U.S. 135 (1927), *Sinclair* v *United States*, 279 U.S. 263 (1929), *Watkins* v *United States*, 354 U.S. 178 (1957), *Barenblatt* v *United States*, 360 U.S. 109 (1959), for judicial recognition of legislative authority to obtain information; and *United States* v *Burr*, 25 F Cas. 187 (No. 14, 694) (cc Va. 1807); *United States* v *Reynolds*, 345 U.S. 1 (1953); and *McPhaul* v *United States*, 364 U.S. 372, 382–383 (1960), for judicial recognition of executive authority to withhold information.

8. Commenting on a survey conducted by the Senate Subcommittee on Separation of Powers for the period 1964 to 1973, Chairman Sam J. Ervin, Jr., of North Carolina, stated that the executive branch on 284 occasions refused to provide testimony or documents requested by House or Senate committees or subcommittees. These refusals were in response to oral or written requests, as distinguished from subpenas. See Senate Committee on the Judiciary, Sub-

when rebuffed did not exhaust all procedures to enforce its requests. The Watergate crisis, of course, brought the law on the subject into sharper focus.[9]

Refusals of the executive branch to provide information to the Congress, while representing only a small portion of executive responses to requests for information, have frequently occurred. Such refusals have generally been in response to informal requests for information as distinguished from a subpena. Such refusals to provide information to the Congress have been based on the following grounds:[10] (1) executive privilege, (2) alleged prerogative of office, (3) law or pretext of law, (4) classified information, (5) prejudice to litigation or investigation, (6) "inappropriateness," and, (7) other reasons, including previous submission of information, personal inconvenience, possible "adverse reaction," and claims that compliance would "hamper the agency and create adverse publicity," "create public concern," or "set a precedent."

The following are examples of instances in which the President or executive officers have refused to provide information to the Congress.

Examples of refusals by the President or executive branch officers during the administration of President Franklin D. Roosevelt include the following:[11]

—Federal Bureau of Investigation records and reports were refused to

committee on Separation of Powers, Refusals by the Executive Branch to Provide Information to the Congress 1964–1973, 93d Cong. 2d Sess. (1974), Foreword.

The only constitutional requirement relating the President's duty to provide information to Congress is article II, §3, which provides, "He [the President] shall from time to time give to the Congress Information of the State of the Union, and recommend to their consideration such Measures as he shall judge necessary and expedient. . . ."

9. See §4, infra, for a discussion of a suit against the President to enforce a Senate subpena.

10. These categories appear in a document of the Senate Committee on the Judiciary, Subcommittee on Separation of Powers, Refusals by the Executive Branch to Provide Information to the Congress 1964–1973, 93d Cong. 2d Sess. (1974) pp. 4–9.

11. This list, which is not exhaustive but merely illustrative, is taken from a memorandum from Attorney General Herbert Brownell to President Eisenhower and reprinted in Senate Committee on Government Operations, Special Senate Investigation on Charges and Countercharges Involving: Secretary of the Army Robert T. Stevens, John G. Adams, H. Struve Hensel and Senator Joe McCarthy, Roy M. Cohn, and Francis P. Carr, 83d Cong. 2d Sess., hearing of May 17, 1954, pp. 1269–1275.

congressional committees, in the public interest (40 Opinions of the Attorney General [hereinafter cited as Op. A.G.] No. 8, Apr. 30, 1941).

—The Director of the Federal Bureau of Investigation refused to give testimony or to exhibit a copy of the President's directive requiring him, in the interests of national security, to refrain from testifying or from disclosing the contents of the Bureau's reports and activities (Hearings, Vol. 2, House, 78th Cong. Select Committee to Investigate the Federal Communications Commission [1944] p. 2337).

—Communications between the President and the heads of departments were held to be confidential and privileged and not subject to inquiry by a committee of one of the Houses of Congress (Letter dated Jan. 22, 1944, signed Francis Biddle, Attorney General, to Select Committee, etc.).

—The Director of the Bureau of the Budget refused to testify and to produce the bureau's files, pursuant to subpoena which had been served upon him, because the President had instructed him not to make public the records of the bureau due to their confidential nature. Public interest was again invoked to prevent disclosure (Reliance placed on Attorney General's Opinion in 40 Op. A.G. No. 8, Apr. 30, 1941).

—The Secretaries of War and Navy were directed not to deliver documents which the committee had requested, on grounds of public interest. The Secretaries, in their own judgment, refused permission to Army and Navy officers to appear and testify because they felt that it would be contrary to the public interests (Hearings, Select Committee to Investigate the Federal Communications Commission, Vol. 1, pp. 46, 48–68).

The following examples arose during the administration of President Harry S. Truman:[12]

—An FBI letter-report on Dr. Edward U. Condon, Director of National Bureau of Standards, was refused by Secretary of Commerce (Mar. 4, 1948).

—The President issued a directive forbidding all Executive departments and agencies to furnish information or reports concerning the loyalty of their employees to any court or committee of Congress, unless the President approves (Mar. 15, 1948).

—Dr. John R. Steelman, Confidential Adviser to the President, refused to appear before the Committee on Education and Labor of the House, following the service of two subpoenas upon him. The President directed him not to appear (March 1948).

—The Attorney General wrote Senator Ferguson, Chairman of the Senate Investigations Subcommittee, that he would not furnish letters, memoranda, and other notices which the Justice Department had furnished to other government agencies concerning W. W. Remington (Aug. 5, 1948).

—Senate Resolution 231 having directed a Senate subcommittee to procure State Department loyalty files, President Truman refused to permit such files to be furnished, following vigorous opposition by J. Edgar Hoover to the request (Feb. 22, 1950).

—The Attorney General and the Director of the FBI appeared before a

12. *Id.*

Senate subcommittee. Mr. Hoover's historic statement of his reasons for refusing to furnish raw files was approved by the Attorney General (Mar. 27, 1950).

—General Bradley refused to divulge conversations between the President and his advisers to the combined Senate Foreign Relations and Armed Services Committees (May 16, 1951).

—President Truman directed the Secretary of State to refuse to the Senate Internal Security Subcommittee the reports and views of foreign service officers (Jan. 31, 1952).

—Acting Attorney General Perlman laid down a procedure for complying with requests for inspection of Department of Justice files by the Committee on the Judiciary. Requests on open cases would not be honored. As to closed cases, files would be made available. All FBI reports and confidential information would not be made available. As to personnel files, they are never disclosed (Apr. 22, 1952).

—President Truman instructed the Secretary of State to withhold from a Senate Appropriations Subcommittee files on loyalty and security investigations of employees—such policy to apply to all Executive agencies. The names of individuals determined to be security risks would not be divulged. The voting record of members of an agency loyalty board would not be divulged (Apr. 3, 1952).

During the administration of President Dwight D. Eisenhower, the following instances arose:[13]

—In a letter dated May 17, 1954, President Eisenhower ordered Secretary of Defense Wilson to instruct Department of Defense employees not to testify or produce documents about any executive branch communications or conversations at the Army-McCarthy hearings before the Senate Subcommittee on Permanent Investigations.

—On July 18, 1955, the General Manager of the Atomic Energy Commission refused to provide the Senate Subcommittee on Antitrust and Monopoly with papers relating to the contract between the Commission and the Mississippi Valley Generating Company (the Dixon-Yates contract) for construction of an electrical powerplant and sale of the generated power to the United States.

—In letters dated July 21, and July 26, 1955, Presidential Assistant Sherman Adams declined an invitation to appear before the Senate Subcommittee on Antitrust and Monopoly

13. This list, which is merely illustrative, was compiled from instances cited in Kramer, Robert and Marcuse, Herman, Executive Privilege—A Study of the Period 1953–1960, which contained responses to an Apr. 2, 1957, letter from the Chairman of the Senate Subcommittee on Constitutional Rights requesting agencies and departments to report instances of refusals to provide information since May 17, 1954. See also House Subcommittee on Government Information of Committee on Government Operations, Availability of Information from Federal Agencies (the First Five Years and Progress of a Study, Aug. 1959–July 1960), H. REPT. NO. 2084, 86th Cong. 2d Sess., 5–35 (1960), for a chart listing refusals.

to testify about his request for a postponement of the June 13, 1955, Securities and Exchange Commission hearing on a contract between the Atomic Energy Commission and the Mississippi Valley Generating Company (the Dixon-Yates contract) for construction of an electrical powerplant and sale of the generated power to the United States.

—On Dec. 5, 1955, before the Senate Subcommittee on Antitrust and Monopoly, the Chairman of the Atomic Energy Commission refused to answer questions relating to executive branch discussions about the contract between the Commission and the Mississippi Valley Generating Company (the Dixon-Yates contract) for construction of an electrical powerplant and sale of the generated power to the United States.

—The Administrator of the Small Business Administration, who had received a subpena duces tecum, refused to provide a subcommittee of the Senate Committee on Post Office and Civil Service with security files about a named individual on the ground that President Eisenhower's Executive Order 10450 required confidential preservation of employee security files.

—The International Cooperation Administration refused to provide the General Accounting Office with evaluation reports on American foreign assistance programs to the following countries: Taiwan and Pakistan, 1957; India, Sept. 1959; Guatemala, Mar. 1960; Bolivia, May 1960; Brazil, May 1960; Laos, Aug. 1959; Vietnam, 1959.

—On Apr. 13, 1957, the Department of Defense refused to provide the Chairman of the House Subcommittee on Public Information with investigative memoranda and a report of conversations between the Department and newsmen.

—On Jan. 12, 1957, the Department of the Army refused to provide the Chairman of the House Subcommittee on Public Information with an investigative file compiled in connection with charges of disloyalty and subversion at the Signal Corps Intelligence Agency.

—In 1956, the Chairman of the Civil Service Commission, who had received a subpena duces tecum, refused to provide the Senate Committee on Post Office and Civil Service with some but not all Federal Employees' Security Program files, documents, and records about three named individuals.

—On Nov. 12, 1956, the Department of Defense refused to provide the Chairman of the House Subcommittee on Public Information with a memorandum of the Under Secretary of the Navy relating to a discussion with an Assistant Secretary of Defense about the Department's responsibility to safeguard intradepartmental communications of an advisory and preliminary nature.

—On July 27 and Dec. 26, 1956, the Office of Defense Mobilization refused to provide the House Subcommittee on Military Operations with copies of command post exercise proclamations issued during Operation Alert 1956.

—In July 1956, the Department of the Army refused to provide the Chairman of the House Armed Services Committee with intradepartmental communications pertaining to an officer's status. A complete statement of the basis for the final decision in the matter was submitted.

—On Feb. 20, 1956, the Secretaries of Defense, State, Commerce, and the Director of the International Cooperation Administration refused to provide the Senate Permanent Investigations Subcommittee with information relating to East-West trade controls and instructed employees who might be called to testify on this matter to refuse to testify.

—On Feb. 3, 1956, the Department of the Interior refused to provide the House Subcommittee on Antitrust and Monopoly with portions of files of the National Petroleum Council which had not been made available to the legislative branch under a long established executive branch policy, as well as documents which had been received by the Council only on the condition that they be kept confidential.

—On Sept. 2–6, 1955, the Department of the Army denied requests of the Committee on House Appropriations for Inspector General's reports and Auditor General's reports. Requested summaries of all actions taken in connection with the contracts under investigation were provided.

—On Sept. 16, 1955, the Department of the Air Force refused to provide the Chairman of the Senate Preparedness Investigating Subcommittee with material derived from an Inspector General's report.

—On Feb. 2, 1956, the Department of the Air Force refused to provide the House Committee on Appropriations with Inspector General's reports and Auditor General's reports.

—On Jan. 25, 1957, the Department of the Air Force refused to provide the Chairman of the House Committee on Post Office and Civil Service with a report of the Inspector General concerning employment conditions in Okinawa. A summary of the findings of the report was submitted.

—On Jan. 17, 1956, the Department of the Air Force refused to provide the Chairman of the Senate Committee on Interstate and Foreign Commerce with information concerning the discharge of a serviceman.

—On Oct. 13, 1955, the Civil Service Commission denied a request from the Clerk of the House Committee on Un-American Activities to review the Commission's files personally.

—In June of 1955, the Department of State refused to disclose to a subcommittee of the Senate Committee on Post Office and Civil Service the personnel and security file of the Federal Employees' Security Program of a named individual.

—In May of 1955, the Atomic Energy Commission refused to provide the Joint Committee on Atomic Energy with copies of certain National Security Council documents which had been mentioned in a memorandum from the commission to the committee regarding a nuclear-powered merchant ship. A statement as to relevant presidentially approved policies contained in those documents was supplied.

—On May 12, 1955, the Department of the Interior refused to provide the House Subcommittee on Public Works and Resources with exchanges of correspondence between departmental officials regarding a departmental order which was submitted.

—On May 5, 1955, the Department of the Interior refused to provide the Subcommittee on Public Works and Resources with surnamed (initialed)

file copies of an amendment to 43 C.F.R. Part 244.

—On Feb. 8, 1955, the Department of the Army refused to provide the Chairman of the Senate Permanent Investigations Subcommittee with the Inspector General's report on Irving Peress, but did provide a detailed summary of all actions taken by the Army in the Peress case.

—On Sept. 6, 1954, the Department of the Army denied a request of the Chairman of the Senate Internal Security Subcommittee for a document entitled "Research Material for Political Intelligence Problem."

—On July 13, 1954, and Mar. 3, 1955, the Bureau of the Budget[14] denied requests for information made by the Senate Internal Security Subcommittee.

—In 1956, the Department of State refused to provide the Senate Permanent Subcommittee on Investigations with material relating to East-West trade policy. Refusals during the administration of President John F. Kennedy include the following:[15]

—On or about June 21, 1962, the Food and Drug Administration refused to provide the House Interstate and Foreign Commerce Committee with requested files on the drug MEA–29.

—On or about June 27, 1962, the State Department refused to provide the Senate Foreign Relations Committee a copy of a working paper on the "mellowing" of the Soviet Union.

—On or about Feb. 7–8, 1963, General Maxwell D. Taylor, during testimony before the House Department of Defense Appropriations Subcommittee, refused to discuss the Bay of Pigs invasion as "it would result in another highly controversial, divisive public discussion among branches of our Government which would be damaging to all parties concerned.

The following refusals occurred during the administration of President Lyndon B. Johnson:[16]

—On Apr. 4, 1968, the Department of Defense refused to provide the Senate Foreign Relations Committee a copy of the Command Control Study of the Gulf of Tonkin incident (U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Separation of Powers. *Executive Privilege: The Withholding of Information by the Executive Branch*. Hearings, 92d Cong., 1st sess. Washington: U.S. Govt. Print. Off., 1971, p. 39 [hereinafter cited as Executive Privilege]).

—On or about Sept. 18, 1968, Treasury Under Secretary Joseph W. Barr and presidential Associate Special Counsel W. DeVier Pierson refused to

14. This name has been changed to the Office of Management and Budget.

15. This list is taken from a study compiled by Harold C. Relyea, Analyst, American National Government, Government and General Research Division, Library of Congress, completed on Mar. 26, 1973, and reprinted in House Committee on Government Operations, [Unnamed] Subcommittee Hearings on Availability of Information to Congress, 93d Cong. 1st Sess. (1973), 264, 271–274. This list with refusals by White House aides excised is reprinted at 119 CONG. REC 10081, 10082, 93d Cong. 1st Sess., Mar. 28, 1973.

16. See 119 CONG. REC. 10081, 93d Cong. 1st Sess., Mar. 28, 1973.

testify before the Senate Judiciary Committee during hearings on the nomination of Associate Justice Abe Fortas to be Chief Justice.

Refusals during the administration of President Richard M. Nixon include the following:[17]

—On July 26, 1969, the Department of Defense refused to provide the five-year plan for military assistance programs to the Senate Foreign Relations Committee (Executive Privilege, p. 40).

—On or about Aug. 9, 1969, the Department of Defense refused to provide the Senate Foreign Relations Committee a copy of a defense agreement between the United States and Thailand.

—On Dec. 20, 1969, the Department of Defense refused to supply the Senate Foreign Relations Committee the "Pentagon Papers" (Executive Privilege, pp. 37–38).

—On or about Mar. 19, 1970, Secretary of Defense Melvin Laird declined an invitation to appear before the Senate Foreign Relations Committee's Disarmament Subcommittee.

—On Nov. 21, 1970, Attorney General John Mitchell refused to supply certain Federal Bureau of Investigation files to the House Intergovernmental Relations Subcommittee (*executive privilege formally invoked*).

—On Mar. 2, 1971, Department of Defense General Counsel J. Fred Buzhardt refused to release an Army investigation report on the 113th Intelligence Group to the Senate Constitutional Rights Subcommittee (Executive Privilege, pp. 402–405).

—On Apr. 10, 1971, the Department of Defense refused to supply continuous monthly reports on military operations in Southeast Asia to the Senate Foreign Relations Committee (Executive Privilege, p. 47).

—On Apr. 19, 1971, the Department of Defense refused to allow three generals to appear before the Senate Constitutional Rights Subcommittee (Id. p. 402).

—On June 9, 1971, the Department of Defense refused to release computerized surveillance records to the Senate Constitutional Rights Subcommittee and refused to agree to a subcommittee report on such records (Executive Privilege, p. 398–399).

—On Aug. 31, 1971, the Department of Defense refused to supply certain foreign military assistance plans to the Senate Foreign Relations Committee (*executive privilege formally invoked*).

—On Sept. 21, 1971, White House Director of Communications Herbert G. Klein declined to appear before the Senate Constitutional Rights Subcommittee (U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Constitutional Rights. *Freedom of the Press. Hearings*, 92d Cong., 1st and 2d sess. Washington: U.S. Govt. Print. Off., p. 1299).

—In Dec., 1971, White House Counsel John W. Dean III indicated neither Frederick Malek nor Charles Colson, both of the White House, would appear before the Senate Constitutional Rights Subcommittee during hearings regarding an F.B.I. investigation of C.B.S. reporter Daniel Schorr (Executive Privilege, p. 425).

—On Feb. 28, 1972, White House Counsel John W. Dean III indicated

17. See 119 CONG. REC. 10081, 10082, 93d Cong. 1st Sess., Mar. 28, 1973.

the unwillingness of presidential aide Henry Kissinger to appear before the Senate Foreign Relations Committee.

—On Mar. 15, 1972, the White House refused to allow the House Foreign Operations and Government Information Subcommittee to obtain country field submissions for Cambodian foreign assistance for the fiscal years 1972 and 1973 while simultaneously denying the Senate Foreign Relations Committee access to U.S.I.A. program planning papers (*executive privilege formally invoked*).

—On Mar. 20, 1972, Frank Shakespeare, Director of the United States Information Agency, refused during testimony before the Senate Foreign Relations Committee to provide copies of U.S.I.A. program planning papers withheld by a formal invocation of executive privilege on March 15.

—On or about Mar. 20, 1972, the State Department refused to supply the Senate Foreign Relations Committee a copy of "Negotiations, 1964–1968: The Half-Hearted Search for Peace in Vietnam."

—On Apr. 27, 1972, Treasury Secretary John Connally refused to testify before the Joint Economic Committee on the matter of the Emergency Loan Guarantee Board refusing to supply requested records on the Lockheed loan to the General Accounting Office.

—On Apr. 29, 1972, White House Counsel John W. Dean III indicated the unwillingness of David Young, Special Assistant to the National Security Council, to appear before the House Foreign Operations and Government Information Subcommittee (U.S. Congress. House. Committee on Government Operations. Foreign Operations and Government Information Subcommittee. *U.S. Government Information Policies and Practices—Security Classification Problems Involving Section (b)(1) of the Freedom of Information Act.* Hearings, 92d Cong., 2d sess. Washington: U.S. Govt. Print. Off., 1972, p. 2453).

—On or about June 8, 1972, Henry Ramirez, Chairman of the Cabinet Committee on Opportunities for the Spanish Speaking, refused to testify before the House Judiciary Subcommittee on Civil Rights.

—On July 26, 1972, Department of Defense Assistant General Counsel Benjamin Forman testified before the Senate Foreign Relations Committee before refusal to discuss weather modification activities in Southeast Asia.

—On Aug. 2, 1972, Henry Ramirez, Chairman of the Cabinet Committee on Opportunities for the Spanish Speaking again refused to testify before the House Judiciary Subcommittee on Civil Rights.

—On Oct. 6, 1972, Securities and Exchange Commission Chairman William J. Casey refused to turn over the Commission's investigative files on I.T.T. to the House Interstate and Foreign Commerce Committee and disclosed that the files were then in the possession of the Justice Department.

—On Oct. 12, 1972, presidential campaign manager Clark MacGregor, former Attorney General John Mitchell, White House Counsel John W. Dean III, and former Commerce Secretary Maurice Stans declined to appear before the House Banking and Currency Committee to discuss matters relating to the Watergate bugging case.

—On or about Nov. 29, 1972, White House Counsel John Wesley Dean III, presidential assistant John Ehrlichman, presidential special consultant Leonard Garment, and Bradley H. Patterson, Garment's assistant, refused to testify before the House Interior and Insular Affairs Committee during hearings on the takeover of the Bureau of Indian Affairs building in Washington.

—On Dec. 5, 1972, Housing and Urban Development Secretary George Romney declined to testify before the Joint Economic Committee on the matter of housing subsidies, saying his appearance was inappropriate in view of his announced resignation from office.

—On or about Dec. 19, 1972, the Department of Defense refused to provide the House Armed Services Committee with documents pertaining to unauthorized bombing raids of interest to the committee as part of their hearings on the firing of Gen. John D. Lavelle.

—On or about Dec. 23, 1972, presidential assistant Peter Flanigan refused to appear before the House Conservation and Natural Resources Subcommittee to discuss an anti-pollution court case against Armco Steel Company.

—On or about Jan. 1, 1973, presidential assistant Henry Kissinger and Secretary of State William Rogers declined invitations to appear before both the House Foreign Affairs and Senate Foreign Relations Committees to discuss resumed Vietnam bombings and the Paris peace talks.

—On Jan. 9, 1973, Admiral Isaac Kidd declined to testify before the Joint Economic Committee regarding his role in action involving the demotion of Gordon Rule, a Navy procurement official who testified earlier before the Committee on Litton Industries' contracts with the Defense Department and the suitability of Roy Ash, a former Litton official, as Director of the Office of Management and Budget.

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Refusals by Former Executive Branch Officials

§ 3.1 A former President and two former cabinet officers refused to appear in response to subpenas ad testificandum issued by the Committee on Un-American Activities in its investigation of their knowledge of a Federal Bureau of Investigation memorandum they had received while serving in the executive branch.

On Nov. 12 and 13, 1953,[8] a former President and two former cabinet officers refused to testify about their knowledge of a 1946 memorandum from the Director of the Federal Bureau of Investigation, J. Edgar Hoover, concerning alleged Communist Party affiliations of the late Harry Dexter White, who in 1946 served as Assistant Secretary of the Treasury and had been appointed by the President to the United States Mission to the International Monetary Fund.

In a Nov. 12, 1953, letter to the Chairman of the Committee on Un-American Activities, Harold H. Velde, of Illinois, former President Harry S. Truman stated that he declined to comply with the subpena to appear on Nov. 13, 1953, because he assumed that the committee sought to examine him with respect to matters which occurred during his tenure as President. He asserted that if the constitutional doctrine of separation of powers and independence of the Presidency is to have validity, it must also apply to a President after expiration of his term of office. He expressed the view that the doctrine would be destroyed and the President would become a mere arm of the legislative branch if he felt during his term that every act would be a subject of official inquiry and possible distortion for political purposes. Mr.

18. See Beck, Carl, Contempt of Congress, A Study of the Prosecutions Initiated by the Committee on Un-American Activities, 1945–1967, The Hauser Press, New Orleans, 1959, pp. 101–102.

Truman also stated that he would be happy to appear and respond to questions relating to his acts as a private citizen either before or after leaving office and unrelated to his activities as President. The committee took no further action.

Similarly, Supreme Court Associate Justice Tom C. Clark, Attorney General in 1946, refused to appear on Nov. 13, 1953, as ordered by subpena. In a letter to the Chairman of the Committee on Un-American Activities, Mr. Justice Clark cited the importance of judicial branch independence and freedom from the strife of public controversy as reasons for his refusal to appear. He offered to consider responding to any written questions, subject only to his constitutional duties.

The Governor of South Carolina, James F. Byrnes, Secretary of State in 1946, refused to appear before the committee on Nov. 13, 1953, in response to a subpena. In a telegram to the chairman, Governor Byrnes stated that he could not by appearing admit the committee's right to command a Governor to leave his state and remain in Washington until granted leave to return. Such authority, he said, would enable the legislative branch to paralyze the administration of affairs of the sovereign states. He offered to respond to written questions and invited the committee or a subcommittee to meet with him at the State House in Columbia, S.C. The committee sent a subcommittee to South Carolina.

§ 4. Litigation to Enforce a Subpena; Senate Select Committee v Nixon

A review of recent litigation to enforce congressional subpenas may help reveal the issues involved in reconciling the congressional authority to seek information with the Chief Executive's claim of right to deny access to information in some circumstances.

The stage for a historic confrontation was set when the Senate Select Committee on Presidential Campaign Activities, created on Feb. 7, 1973, by unanimous approval of Senate Resolution 60,[19] with authority to investigate and study illegal, improper, or unethical activities in connection with the 1972 Presidential campaign and to issue subpenas,[20] discovered that

19. See § 1.46, supra, and 119 CONG. REC. 3830–51, 93d Cong. 1st Sess. for a discussion of this resolution.

20. Authority to issue subpenas, originally granted by S. Res. 60, was buttressed and clarified by S. Res. 194,

President Nixon had tape recorded conversations at the White House. After failing to obtain certain information by informal means, the select committee issued two subpenas duces tecum, one for tape recordings of five meetings between the President and White House Counsel John W. Dean III, and another for documents and materials relating to alleged criminal acts by a list of 25 persons. When the President failed to disclose the recordings and other materials, the select committee filed a civil action[1] for declaratory judgment, mandatory injunction, mandamus, and summary judgment in the District Court of the District of Columbia to enforce its subpenas and compel the President to transmit these materials to the select committee.[2]

In an order dated Oct. 17, 1973, the trial court dismissed the select committee's prayer for enforcement of its subpena after deciding only one of the several issues raised, that existing statutes did not grant jurisdiction to decide

which expressed the sense of the Senate that issuance of a subpena to the President was authorized by S. Res. 60, and ratified that issuance. Furthermore, S. Res. 194 expressed the sense of the Senate that the select committee's initiation and pursuit of the lawsuit to compel disclosure of the subpenaed materials did not require prior approval of the Senate, and that in seeking this information which was of vital importance the select committee furthered a valid legislative purpose. See 119 CONG. REC. 36094, 36095, 93d Cong. 1st Sess., Nov. 7, 1973.

1. This case, captioned as Senate Select Committee on Presidential Campaign Activities, suing in its own name and in the name of the United States, et al. v Richard M. Nixon, individually and as President of the United States, was the subject of three judicial pronouncements discussed here, two in the District Court of the District of Columbia, an opinion entered by Chief Judge John J. Sirica and reported at 366 F Supp 51 (Oct. 17, 1973), and an order and memorandum entered by Judge Gerhard A. Gesell and reported at 370 F Supp 521 (Feb. 8, 1974); and one in the Court of Appeals for the District of Columbia Circuit, an opinion written by Chief Judge David L. Bazelon for the court sitting en banc and reported at 498 F2d 725 (May 23 1974).

2. In seeking these civil remedies, the select committee rejected as "unseemly and inappropriate" two traditional procedures to enforce subpenas, a contempt proceeding under 2 USC §192 and common law powers permitting the Sergeant at Arms forcibly to secure attendance of a subpenaed person. See *Senate Select Committee on Presidential Campaign Activities, et al.* v *Nixon,* 366 F Supp 51, 54 (D.D.C., Oct. 17, 1973), John J. Sirica, Chief Judge.

such a controversy.[3] To remedy this inhibition, Congress, at the instance of the select committee, expressly conferred special jurisdiction on the District Court of the District of Columbia to consider civil actions brought by the select committee to enforce its subpenas.[4]

After rehearing the case and considering the contentions of the parties, the district court[5] made several findings: first, a controversy between two branches of government in which one sought information from the other was justiciable (appropriate for resolution by the courts) and was not, as suggested by the President's counsel, a nonjusticiable political question; second, that in a controversy of this kind, the court, after determining justiciability, had a "duty to weigh the public interest protected by the President's claim of privilege against the public interest that would be served by disclosure to the Committee in this particular instance";[6] third, that the select committee failed to demonstrate either a pressing need for the subpenaed tapes or that further public hearings concerning the tapes would serve the public interest; fourth, the President's claim that the public interest was best served by a blanket unreviewable claim of confidentiality over all communications was rejected; and fifth, that the pending criminal prosecutions had to be safeguarded from the prejudicial effect which might arise if the select committee subpenaed the materials. On the basis of these holdings, the court declined to issue an injunction directing the President to comply with the subpena requiring information about the 25 listed individuals, and instead directed the President to submit a particularized statement as to selected portions of the subpenaed tape recordings.

The President refused to submit such a statement and reasserted

3. *Senate Select Committee on Presidential Campaign Activities, et al.* v *Nixon,* 366 F Supp 51, 61 (D.D.C.) John J. Sirica Chief Judge.

4. This jurisdictional statute, Pub. L. No. 93–190 (Dec. 19, 1973), appears in Senate Select Committee on Presidential Campaign Activities, Presidential Campaign Activities of 1972, S. Res. 60, appendix to the hearings, 93d Cong. 2d Sess. (1974).

5. See *Senate Select Committee on Presidential Campaign Activities, et al.* v *Nixon,* 370 F Supp 521 (D.D.C., Feb. 8, 1974), Gerhard A. Gesell, District Judge.

6. 370 F Supp 521, 522 (D.D.C. 1974); the quoted language was taken from *Nixon* v *Sirica,* 487 F2d 700, 716–718 (D.C. Cir., 1973), the suit brought by the Special Prosecutor to obtain certain evidence from the President.

his generalized claim of privilege on the grounds of confidentiality and his duty to prevent the possibly prejudicial effects on criminal prosecutions which might result from disclosure of the materials to the select committee. The trial court dismissed the select committee's suit to compel disclosure of the tapes.[7]

The select committee did not contest the decision to quash the subpena for materials relating to the 25 named individuals, but appealed the dismissal of the action to compel disclosure of the tapes. The United States Court of Appeals for the District of Columbia Circuit applying the reasoning it had used in *Nixon* v *Sirica*,[8] in which the Special Prosecutor was granted access to certain Presidential tapes for use in grand jury investigations, rejected the select committee's argument that a district court, once it had determined that a generalized claim of privilege failed, lacked authority to balance public interests. The court of appeals also rejected the district court's rulings that the President's generalized claim of privilege failed and that the Chief Executive must submit subpenaed materials to the court accompanied by particularized claims to be weighed against the public interest.

Restating its belief expressed in *Nixon* v *Sirica*, that Presidential communications are "presumptively privileged,"[9] and that the privilege is analogous to the privilege "between a congressman and his aides under the speech and debate clause; to that among judges and their law clerks; and . . . to that contained in the fifth exemption to the Freedom of Information Act,"[10] the court held that, ". . . the presumption that the public interest favors confidentiality can be defeated only by a strong showing of need by another institution of government, a showing that the responsibilities of that institution cannot responsibly be fulfilled without access to records of the President's deliberations. . . ."[11] Such a showing "turns not on the nature of the Presidential conduct the subpenaed materials might reveal, but

7. 370 F Supp 521, 524 (D.D.C. 1974).

8. *Nixon* v *Sirica*, 487 F2d 700 (D.C. Cir. 1973) [hereinafter cited as *Nixon*].

9. *Senate Select Committee on Presidential Campaign Activities, et al.* v *Nixon*, 498 F2d 725, 730 (D.C. Cir. 1974) [hereinafter cited as Select Committee]; see also *Nixon*, at 705, 717, and 718.

10. Select Committee, at 729; see also *Nixon*, at 717.

11. Select Committee, at 730; see also *Nixon*, at 722.

rather on the nature and appropriateness of the function in the performance of which the material was sought and the degree to which the material was necessary to its fulfillment."[12]

The court applied these tests to the select committee's functions and asserted needs. The select committee maintained that it needed subpenaed materials to resolve conflicts in the voluminous testimony it had received so that it could responsibly exercise its duty to oversee activities and ascertain malfeasance in the executive department. Without denying the congressional role to exercise a general oversight power or defining the limits of that power, the court found that the select committee's oversight authority was subordinate to the constitutionally prescribed method of ascertaining malfeasance by executive officials, impeachment. Because the House Committee on the Judiciary had commenced an impeachment inquiry, the Select Committee's immediate need for the subpenaed materials was "merely cumulative" from a congressional perspective. The need for the subpenaed materials to fulfill its legislative responsibility, to determine whether Congress should enact laws to regulate political activities, also failed because the court believed that legislative judgments, unlike grand jury determinations of probable cause, depend more on predicted consequences of proposed legislative actions and their political acceptability than on precise reconstruction of past events.[13]

The court indicated that the President's obligation to respond to a subpena would not require him to submit particularized claims of privilege to the court to be weighed against the public interest in disclosure unless the select committee made a "showing of the order made by the grand jury" in *Nixon* v *Sirica*.[14] Applying this standard, the court concluded that the need demonstrated by the select committee in the circumstances of this case and in light of the impeachment investigation by the House Committee on the Judiciary, was "too attenuated and too tangential" to permit a judicial judgment that the President was required to comply with the committee's subpena.[15]

The court of appeals affirmed the order dismissing the select

12. Select Committee, at 731; see also *Nixon*, at 717, 718.

13. Select Committee, at 732.

14. Select Committee, at 729, 730; in *Nixon*, at 715, the Special Prosecutor was found to have made a "uniquely powerful showing" of need for subpenaed materials.

15. Select Committee, at 733.

committee's suit without prejudice, although on grounds different from those announced by the district court.[16]

A review of the Chief Executive's refusal to disclose information on the basis of privilege would not be complete without a discussion of certain aspects of the 8–0 Supreme Court decision in *United States* v *Nixon*,[17] in which the President was ordered to respond to a subpena issued by the Special Prosecutor for tape recordings by submitting them to the district court for judicial inspection. Because the opinion expressly stated that the court was "not here concerned with the balance . . . between the confidentiality interest of the executive and congressional demands for information,"[18] its holding would not control a future suit brought to enforce a congressional subpena. Nonetheless, an analysis of the court's reasoning and approach demonstrates the limits and foundation of executive privilege, factors which would be involved in such an action. Reaffirming that "it is emphatically the province and duty of the Supreme Court to 'say what the law is'",[19] the court rejected the President's claim of absolute discretion exclusively to determine what information may be withheld under the shield of executive privilege. However, in one of the most significant holdings of the opinion, the court at three points alluded to a constitutional foundation for a claim of executive privilege based on confidentiality of Presidential communications:

> Whatever the nature of the privilege of confidentiality of presidential communications in the exercise of Art. III powers the privilege can be said to derive from the supremacy of each branch within its own assigned area of constitutional duties. Certain powers and privileges flow from the nature of enumerated powers;[20] the protection

16. *Id.*

17. 418 U.S. 683 (1974) [hereinafter cited as *U.S.* v *Nixon*]; Mr. Justice Rehnquist took no part in the consideration or decision of this case. See Constitution of the United States of America: Analysis and Interpretation, S. Doc. No. 92–82, 92 Cong. 2d Sess., 1975 Supplement, p. S 20–22, for a discussion of this decision.

18. *U.S.* v *Nixon,* at 712 n. 19.

19. *U.S.* v *Nixon,* at 705; the internal quotes were taken from *Marbury* v *Madison,* 1 Cranch 137 (1803).

20. In a footnote at this point the court dealt with the Special Prosecutor's contention that no constitutional provision authorized the Executive to assert privilege by stating that silence of the Constitution is not dispositive. To support this position, the following passage from *Marshall* v *Gordon,* 243 U.S. 521, 537 (1937), was cited: "The rule of constitutional

of the confidentiality of presidential communications has similar constitutional underpinnings.[1]

A President and those who assist him must be free to explore alternatives in the process of shaping policies and making decisions and to do so in a way many would be unwilling to express except privately. These are the considerations justifying a presumptive privilege for presidential communications. The privilege is fundamental to the operation of government and inextricably rooted in the separation of powers under the Constitution.[2]

Nowhere in the Constitution, as we have noted earlier, is there any explicit reference to a privilege of confidentiality, yet to the extent this interest relates to the effective discharge of a President's powers, it is constitutionally based.[3]

The court's willingness to balance competing interests depends on the nature of the claim of executive privilege. Although it found that a generalized claim of privilege based on confidentiality must yield to a need of the Special Prosecutor to obtain information for use in a pending criminal trial, the court indicated that it would not be as willing to balance interests or reject a claim of executive privilege based on the President's need to protect military, diplomatic or sensitive national security secrets. "As to these areas of Art. II duties the courts have traditionally shown the utmost deference to presidential responsibilities."[4]

Another factor in the authority of courts to review claims of executive privilege is the nature of the asserted need for information. Because claims of executive privilege either on grounds of confidentiality or diplomatic, military, or national security secrets are constitutionally based, the claim of need based on the Constitution is more likely to be reviewed than

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interpretation announced in *McCulloch* v *Maryland,* 4 Wheat. 316, that that which was reasonably appropriate and relevant to the exercise of a granted power was considered as accompanying the grant, has been so universally applied that it suffices merely to state it." See *U.S.* v *Nixon,* at 705, n. 16.

1. *U.S.* v *Nixon,* at 705, 706.

2. Here the Court cited *Carl Zeiss Stiftung* v *V.E.B.* Carl Zeiss, Jena, 40 F.R.D. 318, 325 (DDC 1966), [aff'd. 384 F2d 979, cert. denied 389 U.S. 952 (1967)]; *Nixon* v *Sirica,* 487 F2d 700, 713 (D.C. Cir. 1973); *Kaiser Aluminum and Chem. Corp.* v *U.S.,* 157 F Supp 939 (Ct. Cl. 1958); and The Federalist No. 64 (S.F. Mittel ed. 1938). *U.S.* v *Nixon,* at 708, n. 17.

3. *U.S.* v *Nixon,* at 711.

4. *U.S.* v *Nixon,* at 710; the court cited *C. & S. Air Lines* v *Waterman,* 333 U.S. 103, 111 (1948) and *U.S.* v *Reynolds,* 345 U.S. 1 (1952), two cases where the Supreme Court deferred to Presidential claims of secrecy in foreign policy and military affairs, respectively.

one which is not. The fact that the Special Prosecutor's claim of need for information needed in a pending criminal trial was based on the fifth amendment guarantee of due process of law and the sixth amendment right to be confronted with witnesses against him and have compulsory process (subpenas) for obtaining witnesses in his favor was accorded great weight by the court in balancing the need for evidence against the requirement of confidentiality. Linking these constitutional bases to the responsibilities of the judicial branch tipped the balance in favor of requiring the President to submit subpenaed materials for a judicial inspection.

> The impediment that an absolute, unqualified privilege would place in the way of the primary constitutional duty on the Judicial Branch to do justice in criminal prosecutions would plainly conflict with the function of the courts under Art. III. . . .
>
> To read the Art. II powers of the President as providing [such] privilege [on the basis merely of] a generalized claim of the public interest in confidentiality of nonmilitary and nondiplomatic discussions would upset the constitutional balance of "a workable government" and gravely impair the role of the courts under Art. III.[5]

Additional factors in the decision were the court's unwillingness to conclude that advisors would temper the candor of their remarks because of the possibility of occasional disclosure;[6] and its belief that a judge in chambers could protect the confidentiality of Presidential communications consistent with the fair administration of justice.[7]

§5. Legislation to Obtain Information

Some statutes require agencies to provide information to selected committees. An executive agency, on the request of the Committee on Government Operations of the House, or any seven members thereof, or on request of the Committee on Government Operations of the Senate, or any five members thereof, is required to submit any information requested of it relating to any matter within the jurisdiction of the committee.[8]

The Atomic Energy Commission is required to keep the Joint Committee on Atomic Energy fully and currently informed with respect to all commission activities.[9] The

5. *U.S.* v. *Nixon*, at 707.

6. *U.S.* v. *Nixon*, at 712.

7. *U.S.* v. *Nixon*, at 714.

8. 5 USC §2954; Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 413.

9. 42 USC §2252; Aug. 1, 1946, c. 724, §202, as added Aug. 30, 1954, c.

Department of Defense is required to keep the joint committee fully and currently informed with respect to all matters within the department relating to the development, utilization, or application of atomic energy. Any government agency is required to furnish any information requested by the joint committee with respect to the activities or responsibilities of that agency in the field of atomic energy.[10]

Other statutes encourage government personnel, as distinguished from departments and agencies to supply information to Congress. The right of federal employees, individually or collectively, to furnish information to either House of Congress or to a committee or member thereof, may not be interfered with or denied.[11] Upon the request of a congressional committee, joint committee, or member of such committee, an officer or employee of the Department of State, the U.S. Information Agency, the Agency for International Development, the U.S. Arms Control and Disarmament Agency, or any other department, agency, or independent establishment of the U.S. government primarily concerned with matters relating to foreign countries or multilateral organizations, may express views and opinions and make recommendations if the request of the committee or member of the committee relates to a subject within the jurisdiction of that committee.[12]

Concurrent Resolution

§ 5.1 The Senate approved a concurrent resolution to establish a procedure assuring Congress the full and prompt production of information requested from federal officers and employees but the procedures therein never became effective since not approved by the House.

1073 § 1, 68 Stat. 956, and amended Sept. 6, 1961, Pub. L. 87–206, § 17, 75 Stat. 479; Mar. 26, 1964, Pub. L. 88–294, 78 Stat. 172. By Pub. L. 93–438, the AEC was abolished and its functions transferred to the Nuclear Regulatory Commission and the Energy Research and Development Administration. The jurisdiction of the joint committee was eliminated in the 95th Congress.

10. *Id.*

11. 5 USC § 7102; Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 523.

12. 2 USC § 194a; Pub. L. 92–352, title V, § 502, July 13, 1972, 86 Stat. 496, amended Pub. L. 93–126, § 17, Oct. 18, 1973, 87 Stat. 455.

On Dec. 18, 1973,[13] the Senate by voice vote approved Senate Concurrent Resolution 30:

Whereas the withholding from either House of Congress, or from the committees of Congress and subcommittees thereof by officers or employees of the United States of any information, including testimony, records, or documents, or other material requested by the Congress in order to enable it to exercise a legislative function under the Constitution erodes the system of checks and balances prescribed by the Constitution, unless such withholding is justified by the President to the Congress and, if necessary, determined by the Judiciary to be proper: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), (a) That, when an officer or employee of the United States is summoned to testify or to produce information, records, documents, or other material before either House of Congress or a committee of the Congress or subcommittee thereof, that officer or employee shall appear at the time and place specified and shall answer all questions propounded to him, or produce all information, including records, documents, and other material sought, unless, in the case of an officer or employee of a Federal agency in the executive branch, either within twenty days of the date of the summons, or, in the case of any such information which was first requested at an appearance, within ten days after that appearance, the President formally and expressly instructs the officer or employee in writing to withhold the information requested, including answers to specific questions, or specific records, documents, or other material, in which event such Presidential instruction shall set forth the grounds on which it is based.

(b) Each written Presidential instruction pursuant to subsection (a) shall be transmitted to the House of Congress or committee of the Congress or subcommittee thereof requesting the information, proposing the questions, or seeking the records, documents, or other material.

Sec. 2. (a) If a House of Congress or a committee of Congress—

(1) determines that an officer or employee of the United States has failed to comply with the provisions of section 1(a); or

(2) upon consideration of the Presidential instruction transmitted pursuant to section 1(b), determines that the information requested is needed to enable it to exercise a legislative function under the Constitution, it shall prepare a written report setting forth such determination. In the case of a committee, the chairman is authorized, subject to the approval of the committee, to issue a subpena requiring such officer or employee to appear before the committee at a time specified and to provide the information requested by answering the question or questions propounded and to produce any information, including records, documents, or other material requested. In the case of a House of Congress, the majority or minority leader shall introduce a resolution citing such determination and authorizing the ma-

13. 119 CONG. REC. 42105, 42106, 93d Cong. 1st Sess., see also S. REPT. NO. 93–613.

jority or minority leader of that House to issue a subpena requiring such officer or employee to appear before such House and to provide the information requested by answering the question or questions propounded and to produce any information, including records, documents, or other material requested.

(b) If a committee of the Congress, or the majority or minority leader of a House of Congress determines that an officer or employee of the United States has failed to comply with a subpena issued pursuant to subsection (a) within fifteen days after such officer or employee receives such subpena, the chairman of such committee or the majority or minority leader of such House shall file—

(1) in the case of a House of Congress, a resolution with such House;

(2) in the case of a joint committee, a concurrent resolution with both Houses of Congress; and

(3) in the case of a committee, a resolution with its House of Congress; with a report and record of the proceedings relating to such subpena. Congress, in the case of any such concurrent resolution, and the House of Congress with which any such resolution is filed, shall take such action as it deems proper with respect to the disposition of such concurrent resolution or resolution.

(c)(1) A resolution introduced pursuant to subsections (a) or (b) shall not be referred to a committee and shall be privileged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) If the motion to proceed to the consideration of the resolution is agreed to, debate thereon shall be limited to two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the resolution shall be decided without debate.

Sec. 3. (a) Each House of Congress and each committee or subcommittee of the Congress shall take appropriate measures to insure the confidentiality of any information made available to it which, in the judgment of the Federal agency providing it and the House of Congress or committee or subcommittee of the Congress receiving it, requires protection against disclosure which would endanger (1) personal privacy, (2) trade secrets or confidential commercial or financial information, or

(3) the conduct of the national defense, foreign policy, or law enforcement activities.

(b) The Select Committee on Standards and Conduct of the Senate shall investigate any breach of confidentiality of information made available under this part by a Member or employee of the Senate, and the Committee on Standards of Official Conduct of the House of Representatives shall investigate any breach of confidentiality of information made available under this part by a Member or employee of the House of Representatives. Such committee shall recommend appropriate action such as censure or removal from office or position.

Sec. 4. For purposes of this resolution:

(1) The term "committee of the Congress" means any joint committee of the Congress or any standing committee, special committee, or select committee of either House of Congress.

(2) The term "Federal agency" has the same meaning given that term under section 207 of the Legislative Reorganization Act of 1970 and includes the Executive Office of the President.

Sec. 5. (a) Nothing in this resolution shall be construed to require the furnishing or production of any information, records, documents, or other material to either House of Congress if such furnishing or production is prohibited by an Act of Congress.

(b) Nothing in this resolution shall be construed as in any way impairing the effectiveness or availability of any other procedure whereby Congress may obtain information needed to enable it to exercise a legislative function under the Constitution.

The final disposition of this resolution (S. Con. Res. 30) in the House was referral to the Committee on Rules by the Speaker.

Bill

§ 5.2 The Senate approved a bill, not acted upon by the House, known as the Congressional Right to Information Act to establish a procedure assuring full and complete disclosure of information requested from federal officers and employees.

On Dec. 18, 1973,[14] the Senate approved S. 2432:[15]

That this Act may be cited as the "Congressional Right to Information Act".

Sec. 2. (a) Title III of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following new part:

PART 4—KEEPING THE CONGRESS INFORMED

INFORMING CONGRESSIONAL COMMITTEES

Sec. 341. (a) The head of every Federal agency shall keep each committee of the Congress and the subcommittees thereof fully and cur-

14. 119 CONG. REC. 42101–05, 93d Cong. 1st Sess.

15. See S. Rept. No. 93–612 for the report on the bill.

rently informed with respect to all matters relating to that agency which are within the jurisdiction of such committee or subcommittee.

(b) The head of a Federal agency, on request of a committee of the Congress or a subcommittee thereof or on request of two-fifths of the members thereof, shall submit any information requested of such agency head relating to any matter within the jurisdiction of the committee or subcommittee.

PRODUCTION OF INFORMATION

Sec. 342. (a) When an officer or employee of the United States is summoned to testify or to produce information, records, documents, or other material before either House of Congress or a committee of the Congress or subcommittee thereof, that officer or employee shall appear at the time and place specified and shall answer all questions propounded to him, or produce all information, including records, documents, and other material sought, unless, in the case of an officer or employee of a Federal agency in the executive branch, either within twenty days of the date of the summons, or, in the case of any such information which was first requested at an appearance, within ten days after that appearance, the President formally and expressly instructs the officer or employee in writing to withhold the information requested, including answers to specific questions, or specific records, documents, or other material, in which event such Presidential instruction shall set forth the grounds on which it is based.

(b) Each written Presidential instruction pursuant to subsection (a) shall be transmitted to the House of Congress or committee of the Congress or subcommittee thereof requesting the information, proposing the questions, or seeking the records, documents, or other material.

SUBPENA OF INFORMATION

Sec. 343. (a) If a House of Congress or a committee of Congress—

(1) determines that an officer or employee of the United States has failed to comply with the provisions of section 342(a); or

(2) upon consideration of the Presidential instruction transmitted pursuant to section 342 (b), determines that the information requested is needed to enable it to exercise a legislative function under the Constitution it shall prepare a written report setting forth such determination. In the case of a committee, the chairman is authorized, subject to the approval of the committee, to issue a subpena requiring such officer or employee to appear before the committee at a time specified and to provide the information requested by answering the question or questions propounded and to produce any information, including records, documents, or other material requested. In the case of a House of Congress, the majority leader shall introduce a resolution citing such determination and authorizing the majority leader of that House to issue a subpena requiring such officer or employee to appear before such House and to provide the information requested by answering the question or questions propounded and to produce any information, including records, documents, or other material requested.

(b)(1) If a committee of the Congress determines that an officer or employee of the United States has failed to comply with a subpena issued pursuant to subsection (a) within fifteen days after such officer or employee receives such subpena, the chairman of such committee is authorized, subject to the provisions of paragraph (2), to bring a civil action in the United States District Court for the District of Columbia to enforce such subpena.

(2) If a committee of the Congress referred to in paragraph (1) deter-

mines that the chairman of such committee should institute a civil action in the United States District Court for the District of Columbia to enforce the subpena issued by it pursuant to subsection (a), the chairman shall introduce a resolution in the House or Houses of Congress concerned citing the failure to comply with the subpena of the committee and authorizing the chairman to bring a civil action in such purpose. If such resolution is agreed to by the House or Houses of Congress concerned, the chairman shall institute a civil action in the United States Court for the District of Columbia to enforce the subpena.

(c) If a House of Congress determines that an officer or employee of the United States has failed to comply with a subpena issued pursuant to subsection (a) within fifteen days after such officer or employee receives such subpena, the majority or minority leader of that House shall introduce a resolution citing such failure to comply and authorizing the majority or minority leader of that House to bring a civil action in the United States District Court for the District of Columbia to enforce such subpena.

(d)(1) A resolution introduced pursuant to subsections (a), (b) (2), or (c) shall not be referred to a committee and shall be privileged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) If the motion to proceed to the consideration of the resolution is agreed to, debate thereon shall be limited to two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the resolution shall be decided without debate.

(e) The provisions of subsection (d) of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively; and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

JUDICIAL REVIEW

Sec. 344. (a) The United States District Court for the District of Columbia shall have original jurisdiction of actions brought pursuant to section 343 of this Act without regard to the sum or value of the matter in controversy. The court shall have power to issue a mandatory injunction or other order as may be ap-

propriate, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the subpena issued pursuant to section 343 of this Act.

(b) Any congressional party commencing or prosecuting an action pursuant to this section may be represented in such action by such attorneys as it may designate.

(c) Appeal of the judgment and orders of the court in such actions shall be had in the same manner as actions brought against the United States under section 1346 of title 28, United States Code.

(d) The courts shall give precedence over all other civil actions to actions brought under this part.

PROTECTION OF INFORMATION

Sec. 345. (a) Each House of Congress and each committee or subcommittee of the Congress shall take appropriate measures to insure the confidentiality of any information made available to it under this part which, in the judgment of the Federal agency providing it and the House of Congress or committee or subcommittee of the Congress receiving it, requires protection against disclosure which would endanger (1) personal privacy, (2) trade secrets or confidential commercial or financial information, or (3) the conduct of the national defense, foreign policy, or law enforcement activities.

(b) The Select Committee on Standards and Conduct of the Senate shall investigate any breach of confidentiality of information made available under this part by a Member or employee of the Senate, and the Committee on Standards of Official Conduct of the House of Representatives shall investigate any breach of confidentiality of information made available under this part by a Member or employee of the House of Representatives. Such committee shall recommend appropriate action such as censure or removal from office or position.

DEFINITIONS

Sec. 346. For purposes of this part:

(1) The term "committee of the Congress" means any joint committee of the Congress or any standing committee, special committee, or select committee of either House of Congress.

(2) The term "Federal agency" has the same meaning given that term under section 207 of this Act, and includes the Executive Office of the President.

SAVINGS PROVISIONS

Sec. 347. (a) Nothing in this part shall be construed to require the furnishing or production of any information, records, documents, or other material to either House of Congress if such furnishing or production is prohibited by an Act of Congress.

(b) Nothing in this part shall be construed as in any way impairing the effectiveness or availability of any other procedure whereby Congress may obtain information needed to enable it to exercise a legislative function under the Constitution.

(b) Title III of the table of contents of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following:

PART 4—KEEPING THE CONGRESS INFORMED

Sec. 341. Informing congressional committees.
Sec. 342. Production of information.
Sec. 343. Subpena of information.
Sec. 344. Judicial review.
Sec. 345. Protection of information.
Sec. 346. Definitions.
Sec. 347. Savings provisions.

The final disposition of this measure (Senate Bill 2432) in the House was referral to the Committee on Rules by the Speaker.

Joint Resolution

§ 5.3 The House approved a joint resolution, not passed by the Senate, directing all executive departments and agencies of the federal government to make available to committees and subcommittees of the House and Senate information which may be deemed necessary to enable them properly to perform duties delegated to them by the Congress.

On May 13, 1948,[16] the House, after rejecting a motion to recommit on a roll call vote of 145 yeas to 217 nays, approved House Joint Resolution 342 by a roll call vote of 219 yeas to 142 nays. The text of the joint resolution follows:[17]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all executive departments and agencies of the Federal Government created by the Congress, and the Secretaries thereof, and all individuals acting under or by virtue of authority granted said departments and agencies, are, and each of them hereby is, authorized and directed to make available and to furnish to any and all of the standing, special, or select committees of the House of Representatives and the Senate, acting under the authority of any Federal statute, Senate or House resolution, joint or concurrent resolution, such information, books, records, and memoranda in the possession of or under the control of any of said departments, agencies, Secretaries, or individuals as may, by any of said committees, be deemed to be necessary to enable it to carry on the investigations, perform the duties, falling within its jurisdiction, when requested to do so: *Provided,* That said request shall be made only by a majority vote of all the members of the committee voting therefor at a formal meeting of the committee: *And provided further,* That if the committee be a committee created by the Senate, upon approval of the President or President pro tempore of the Senate: *And provided further,* That if the committee making such request be a committee created by or acting under the authority of the House of Representatives, upon approval of the Speaker or Acting Speaker of the House of Representatives, such major-

16. 94 CONG. REC. 5822, 80th Cong. 2d Sess.; debate on this joint resolution appears on pp. 5700–43 and 5807–22, on May 12 and 13, 1948, respectively. The report on this measure is H. REPT. NO. 1595.

17. This copy of the joint resolution is the final form which was sent to the Senate, read twice, and referred to the Committee on Expenditures in the Executive Departments. Referral to the committee was the final Senate disposition. The text that appears in the *Congressional Record* is not given here because it was amended several times.

ity vote of the committee to be shown by a certificate of the chairman of the committee, countersigned by the clerk; the approval of the President or President pro tempore of the Senate or the Speaker or Acting Speaker of the House of Representatives to be shown by letter over his signature. Any officer or employee in any such executive department or agency who fails or refuses to comply with a request of any committee of the Congress made in accordance with the foregoing provisions of this section shall, upon conviction thereof, be punished by a fine not exceeding $1,000 or by imprisonment for not exceeding 1 year, or both, at the discretion of the court.

Sec. 2. When, by virtue of section 1, any committee of the Congress shall have received information, books, records or memoranda from any of the departments, agencies, Secretaries, or individuals in pursuance of a request made under the authority of said section, it shall forthwith, by majority vote of the membership of said committee, determine what, if any, part of such information shall be made public and what part shall be deemed to be confidential, and it shall thereafter be unlawful for any member of said committee or any employee thereof to divulge or to make known in any manner whatever not provided by law to any person any part of the information so disclosed to said committee and which has by said committee been declared to be confidential; and any offense against the foregoing provision shall be a misdemeanor and shall be punished by fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and, if the offender be an employee of the United States, he shall be dismissed from office or discharged from employment.

Sec. 3. It shall be unlawful for any individual, while or after holding any office or employment under the United States Government, to appropriate or take custody of, for his own unofficial use or the unofficial use of any other person, any papers, documents, or records (other than those which are of a character strictly personal to him) to which he has or had access solely by reason of holding or having held such office or employment. Any individual who willfully violates this section shall, upon conviction thereof, be punished by a fine not exceeding $1,000, or by imprisonment for not exceeding one year, or both, at the discretion of the court.

Sec. 4. If any provision of this joint resolution, or the application of such provision to any person or circumstance, is held invalid, the remainder of the joint resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 5. Nothing contained herein shall alter the procedure for inspection of tax returns by committees of Congress prescribed by section 55d of the Internal Revenue Code: *Provided*, That nothing herein contained shall alter any provision of law which expressly protects from disclosure specified categories of information obtained by executive departments and agencies.

Sec. 6. This joint resolution shall become effective on the tenth day after the date of its enactment.

This joint resolution was passed subsequent to President Truman's

refusal to permit the Secretary of Commerce to respond to a resolution of inquiry requesting a letter from the Director of the Federal Bureau of Investigation to the Secretary regarding the loyalty file on Dr. Edward U. Condon, Director of the National Bureau of Standards.[18]

C. PROCEDURE; HEARINGS

§ 6. Limitations on Authority to Investigate—Pertinence of Inquiry

Limitations on the authority to investigate are expressed in the Constitution and statutes, and judicial interpretation thereof, as well as in congressional and committee rules as interpreted and applied by presiding officers and the courts.

The authority of Congress to investigate has been interpreted to derive from article I, section 1, stating that, "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives." Consequently, the authority to investigate is necessarily limited by the authority to legislate.[19]

A review of criminal contempt proceedings provides a comprehensive overview of limits of authority to investigate including legislative purpose,[20] pertinence of investigation thereto, procedural regularity of hearings,[1] and rights of witnesses.[2]

The statute which makes failure to testify a crime, 2 USC § 192, provides that the question must be "pertinent to the subject under inquiry." Pertinence is a matter of law[3] and does not depend upon

18. See § 2.20, supra, for a discussion of the resolution of inquiry.

19. See, for example, *Barenblatt* v *U.S.*, 360 U.S. 109, 111 (1959) in which Mr. Justice Harlan stated, "The scope of the power of inquiry, in short, is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution." See also Lovell, G. B., Scope of the Legislative Investigational Power and Redress for Its Abuse, 9 Hastings L. J. 276 (1957).

20. See § 1, supra, for a discussion of authority to investigate and legislative purpose.

1. See § 8, infra.

2. See §§ 9 through 14, infra.

3. *Braden* v *United States*, 365 U.S. 431 (1961); and *Sinclair* v *United States*, 279 U.S. 263 (1929).

the probative value of the evidence.[4] It means pertinent to the subject under inquiry, rather than pertinent to the person under interrogation,[5] and relates to the particular question asked, not to unasked possibilities.[6]

Because a legislative inquiry, unlike a judicial inquiry, must anticipate all possible cases which may arise rather than determine facts in a single case, the concept of pertinence in a congressional investigation is broader than that of relevance in the law of evidence.[7] The elements of pertinence are: (1) the material sought or answers requested must relate to a legislative purpose which Congress may constitutionally entertain, and (2) such material or answers must fall within the grant of authority actually made by Congress to the investigating committee. The question must be pertinent; if it is pertinent, an innocent true answer does not destroy such pertinence. Although the statute mentions pertinence only in relation to answers to questions, it applies equally to demands to produce papers.[8]

Because a witness at an investigative hearing exposes himself to criminal prosecution for contempt under 2 USO §192 by refusing to answer questions, he is entitled to knowledge of the subject to which the interrogation is deemed pertinent with the same degree of explicitness that the due process clause requires in the expression of any element of a criminal offense.[9] An indictment which fails to identify the subject under inquiry at the time the witness was interrogated is fatally defective because the subject is central to prosecution under the statute.[10]

Rule XI clause 28(h)[11] imposes a duty on the chairman at an in-

4. *Sinclair* v *United States*, 279 U.S. 263 (1929). See 6 Cannon's Precedents §§336-338, for a discussion of this case.

5. *Rumely* v *United States*, 197 F2d 166, 177 (D. C. Cir. 1953); aff'd. 345 U.S. 41 (1953).

6. *Barsky* v *United States*, 167 F2d 241, 248 (D.C. Cir. 1948); cert. denied 334 U.S. 843 (1948).

7. *Townsend* v *United States*, 95 F2d 352 (D.C. Cir. 1938); cert. denied 30.3 U.S. 664 (1938).

8. *United States* v *Orman*, 207 F2d 148, 153, 154, 156 (3d Cir. 1953). See also, *Bowers* v *United States*, 202 F2d 447 (D.C. Cir. 1953) and Moreland, Allen B., Congressional Investigations and Private Persons, 40 So. Cal. L. Rev. 189, 236–239 (1967) for discussions of pertinence.

9. *Watkins* v *United States*, 354 U.S. 178, 209, 210 (1957).

10. *Russell* v *United States*, 369 U.S. 749, 764 (1962).

11. *House Rules and Manual* §735(i) (1973). See §13.4, infra, for a discussion of approval of this rule.

vestigative hearing to announce the subject of the investigation in an opening statement. When a witness refuses to answer a question on the ground of pertinence, the committee must repeat the "question under investigation" and show specifically where the question is pertinent thereto.[12]

To ascertain the subject under inquiry, the court in deciding the validity of a challenge to pertinence may look at (1) the authorizing resolution, (2) the remarks of the chairman and other members, (3) the nature of the proceedings, (4) the action of the committee by which a subcommittee investigation was authorized, and (5) the chairman's response to the witness, refusal to answer.[13] A court may also consider the historical usage of a particular procedure or inquiry:

> Just as legislation is often given meaning by the gloss of legislative reports, administrative interpretation, and long usage, so the proper meaning of an authorization to a congressional committee is not to be derived alone from its abstract terms unrelated to the definite content furnished them by the course of congressional actions.[14]

§ 7. —Intent of Witness

A witness cannot be convicted for refusal to testify or produce documents unless his refusal is willful,[15] that is, a deliberate and intentional act,[16] which need not, however, involve moral turpitude[17] or a bad or evil purpose or motive.[18]

Although a mistake of fact may in some cases justify a refusal to submit testimony or docu-

12. *Deutch* v *United States*, 367 U.S. 456 (1961); this case reversed a contempt conviction arising from an investigation of communist party activities "in the Albany area." The witness had refused to answer certain questions relating to his communist activities in Ithaca and at Cornell University, but, the court noted, such locations are 165 miles from Albany and thus were outside the scope of the committee's legitimate inquiry.

13. *Watkins* v *United States*, 354 U.S. 178, 212, 213 (1957).

14. *Barenblatt* v *United States*, 360 U.S. 109, 117 (1959). See also *Wilkinson* v. *United States*, 365 U.S. 399, 410 (1961).

15. 2 USC § 192; *Quinn* v *United States*, 349 U.S. 155, 165 (1955).

16. *United States* v *Bryan*, 339 U.S. 323 (1950).

17. *Braden* v *United States*, 365 U.S. 431 (1961).

18. *Wheeldin* v *United States*, 283 F2d 535 (9th Cir. 1960); cert. denied 366 U.S. 958 (1961); *Fields* v *United States*, 164 F2d 97, 100 (D.C. Cir. 1947). See Moreland, Allen B., Congressional Investigations and Private Persons, 40 So. Cal. L. Rev. 189, 239–242, for a discussion of willfulness.

ments,[19] a mistake of law, if deliberate and intentional, will not excuse such a refusal[20] even if based on advice of counsel.[1]

In determining whether orders from a superior would justify a refusal to comply with a subpena, or whether such refusal constitutes willful behavior, courts have distinguished between a "command to assume a position," which would shield the subordinate, and a mere ratification of a subordinate's "continuous position of noncompliance," which would not.[2] In such a case, the validity of a defense that a person acted on orders of a superior would depend on whether the superior's order preceded the subordinate's refusal or the converse.

The element of willfulness has been discussed in two contexts, refusal to produce papers and refusal to answer questions. The Supreme Court held in one case that the government established a prima facie case of willful noncompliance by introducing evidence that the witness had been validly served with a lawful subpena duces tecum to produce organizational records under her custody and control and that she had intentionally refused to present them on the appointed day.[3] In a later case, the court found that a subcommittee's reasonable basis for believing that a witness could produce certain records, coupled with evidence of his failure to suggest his inability to produce them, supported an inference that he could have produced them and shifted the burden to the witness to explain or justify his refusal.[4]

It has been further held that:

> . . . anything short of a clear-cut default on the part of the witness will not sustain a conviction for contempt of Congress. . . . The witness is not required to enter into a guessing game when called upon to appear before a committee. The burden is upon the presiding officer to make clear the directions of the committee, to consider any reasonable explanations given by the witness, and then rule on the witness' response.[5]

19. *Townsend* v *United States*, 95 F2d 352, 358 (D.C. Cir. 1938).

20. *Watkins* v *United States*, 354 U.S. 178, 208 (1957); *Townsend* v *United States*, 95 F2d 352, 358 (D.C. Cir. 1938).

1. *Sinclair* v *United States*, 279 U.S. 263, 299 (1929).

2. *United States* v *Tobin*, 195 F Supp 588, 615 (D.D.C. 1961); reversed on other grounds, 306 F2d 270 (D.C. Cir. 1962); cert. denied 371 U.S. 902 (1962).

3. *United States* v *Bryan*, 339 U.S. 323, 330 (1950).

4. *McPhaul* v *United States*, 364 U.S. 372, 379 (1960).

5. *United States* v *Kamp*, 102 F Supp 757, 759, 760 (D.D.C. 1952).

A court of appeals, adopting the above reasoning, established a procedure which requires a committee to propound a question, hear the refusal, rule that the refusal to answer is not satisfactory, and then, in time to allow an opportunity for answering, repeat the question to enable the witness either to purge himself and answer or stand on his original refusal to answer.[6] A contempt conviction, it has been said, cannot stand if a committee leaves a witness to speculate about the risk of possible prosecution and does not give him a clear choice between standing on his objection or complying with a committee ruling.[7] However, it has been further indicated that a conclusive presumption of intent to violate the statute might attach to a refusal even where that refusal was made without a statement at the time of the reason therefor.[8]

§ 8. —Procedural Regularity of Hearings

A committee's failure to observe House rules or its own committee rules has been held to constitute a ground to reverse convictions for contempt or perjury. Whether a committee has complied with such rules became easier to ascertain after the House, on Mar. 23, 1955, adopted the Code of Fair Procedures which established certain procedural rights for witnesses and provided that "the Rules of the House are the rules of its committees and subcommittees so far as applicable. . . ."[9]

As an example of the requirement of compliance with procedural rules, a witness' conviction under a District of Columbia statute[10] which defined perjury as making false statements before a competent tribunal was reversed by the Supreme Court because the government at trial did not adduce evidence showing that a quorum of a committee was present when the statements alleged to be false were made.[11]

6. *Quinn* v *United States*, 203 F2d 20, 33 (D.C. Cir. 1952), aff'd., 349 U.S. 155 (1955).

7. *Bart* v *United States, 349 U.S. 219, 223 (1955); Emspak* v *United States*, 349 U.S. 190, 202 (1955).

8. *Quinn* v *United States*, 203 F2d 20, 33 (D.C. Cir. 1952), aff'd., 349 U.S. 155 (1955).

9. The quotation is taken from Rule XI clause 27(a), *House Rules and Manual* § 735 (1973). See § 13.1, infra, for a discussion of adoption of the Code of Fair Procedures. See also § 15, infra, dealing with a related topic, the procedure for determining whether information may tend to defame, degrade, or incriminate a person.

10. 22 D.C.C. 2501 (Mar. 3, 1901).

11. *Christoffel* v *United States*, 338 U.S. 84 (1949).

But presence of a quorum of the committee at the time of the return of the subpena was held not to be necessary for conviction under the contempt statute, 2 USC § 192, for refusal to produce organizational records despite the fact that the witness could have demanded attendance of a quorum and refused to produce documents until a quorum appeared.(12)

A witness' objection or failure to object may affect the validity of an argument at trial. Although the witness' failure to object to the absence of a quorum was considered and did not waive his right to raise that objection at trial in *Christoffel* v *United States*,(13) the witness' failure to make the objection at the hearing when the situation could have been remedied was considered a reason to reject this contention at trial in *United States* v *Bryan*.(14)

In another contempt case, a court of appeals following *Bryan* held that a defendant who had been convicted of failure to answer questions before a congressional committee could not, on appeal, contend that a one-man subcommittee was not valid, inasmuch as he had failed to make the objection at the congressional hearing.(15)

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12. *United States* v *Bryan*, 339 U. S. 323 (1950).

13. See 338 U.S. 84, 88 (1949), for the statement of the majority that, "In a criminal case affecting the rights of one not a member, the occasion of trial is an appropriate one for petitioner to raise the question."

14. See 339 U.S. 323, 333 (1950) in which the majority stated:

"The defect in the composition of the committee, if any, was one which could easily have been remedied. But the committee was not informed until the trial, two years after the refusal to produce the records, that respondent sought to excuse her noncompliance on the ground that a quorum of the committee had not been present. . . . To deny the committee the opportunity to consider the objection or remedy it is in itself a contempt of its authority and an obstruction of its processes."

The different treatment of the same issue, timeliness of the objection, was explained by the majority as a consequence of the fact that the contempt statute considered in *Bryan*, 2 USC § 192, did not require a "competent tribunal" but the D.C. perjury statute reviewed in *Christoffel* did. This distinction was criticized by Mr. Justice Jackson who commented in a concurring opinion, ". . . I do not see how we can say that what was timely for Christoffel is too late for Bryan." (*Bryan*, at 344.)

See also, *United States* v *Fleischman*, 339 U.S. 349 (1950); reh. denied, 339 U.S. 991 (1950), for another contempt case which held that the witness had waived the objection.

15. *Emspak* v *United States*, 203 F2d 54 (D.C. Cir. 1952); reversed on other grounds, 349 U.S. 190 (1955).

A subcommittee's initiation of an investigation of Communist Party activities in labor, without obtaining authorization from a majority of the full committee as required by committee rule, was held in another case to constitute a ground to reverse a contempt conviction for refusal to answer questions.[16]

§ 9. Rights of Witnesses Under the Constitution—Fifth Amendment

In addition to meeting the requirements imposed by the contempt statute, discussed in preceding sections, congressional investigators must observe limits imposed by the Bill of Rights, particularly the first,[17] fourth,[18] and fifth amendments:

> The Bill of Rights is applicable to investigations as to all forms of governmental action. Witnesses cannot be compelled to give evidence against themselves. They cannot be subjected to unreasonable search and seizure. Nor can the First Amendment freedoms of speech, press, religion, or political belief and association be abridged.[19]

The most extensive litigation has involved the fifth amendment. Availability of the privilege against self-incrimination in congressional investigations was established in 1879 when the House adopted a Judiciary Committee report stating that the fifth amendment provision, "No person . . . shall be compelled in any criminal case to be a witness against himself. . . ." could be invoked by a person in an investigation initiated with a view to impeach him, notwithstanding the fact that a congressional investigation is not a "criminal case."[20] Because the government

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Both the *Bryan* and *Emspak* cases predated Rule XI, clause 28(h), which provides that, "Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which shall be not less than two." *House Rules and Manual* § 735(h) (1973); this clause, numbered 27(h) at the commencement of the 93d Congress 1st Session, was numbered 28(h) at the end of that session. See § 13.3, infra, for a discussion of adoption of this rule.

16. *Gojack* v *United States,* 384 U.S. 702 (1966).

17. See § 10, infra.

18. See § 11, infra.

19. *Watkins* v *United States,* 354 U.S. 178, 188 (1957). See also Liacos, Rights of Witnesses before Congressional Committees, 33 B.U.L. Rev. 337 (1953).

20. See 3 Hinds' Precedents §§ 1699 and 2514, for discussions of the refusal of George C. Seward, former Counsel General at Shanghai, China, to testify or produce subpenaed materials. See also, Moreland, Allen B., Congressional Investigations and Private Persons, 40 So. Cal. L. Rev. 189,

could not challenge the availability of the fifth amendment, it generally focused on the character of the answers sought and adequacy of the claim of the privilege.[1]

Assertions of the fifth amendment privilege against self-incrimination have been raised in reply to questions relating to a witness' own membership or his knowledge of another person's membership in subversive organizations. Thus, the Supreme Court held that Communist Party activity might tend to incriminate a person for violation of the Smith Act and that it was not necessary to show that the answers sought would support a conviction of crime, but only that they would furnish a link in the chain of evidence needed to prosecute a witness for violation of conspiracy to violate that act.[2] Moreover, because the government could not constitutionally convict persons for refusing to testify about potentially incriminating facts, a district court dismissed contempt charges against 19 witnesses who had asserted the fifth amendment and refused to answer questions relating to Communist Party membership and activities at a Honolulu hearing of the Committee on Un-American Activities.[3]

An assertion of the privilege against self-incrimination does not have to take a particular form as long as the committee might reasonably be expected to understand it as an attempt to invoke the privilege.[4] Formulations held to be sufficient include: "the First Amendment to the Constitution, supplemented by the Fifth,"[5] "the First Amendment of the Con-

253–260 (1967); Constitution of the United States of America: Analysis and Interpretation, S. DOC. NO. 92–82, 92d Cong. 2d Sess., pp. 91, 92 (1972); and Fisk, J., Compulsory Testimony of the Congressional Witness and the Fifth Amendment, 15 Okla. L. Rev. 157 (1962), for discussions of the privilege against self-incrimination.

1. *Watkins* v *United States,* 354 U.S. 178, 196 (1957); see also *Quinn* v *United States,* 349 U.S. 155 (1955), *Emspak* v *United States,* 349 U.S. 190 (1955), *Bart* v *United States,* 349 U.S. 219 (1955), which were cited in *Watkins,* at 196.

2. *Blau* v *United States,* 340 U.S. 159 (1950).

3. Applicability of the privilege against self-incrimination to congressional hearings was recognized in *United States* v *Yukio Abe,* 95 F Supp 991 (D.C.Hawaii 1950) in an opinion entered one month prior to *Blau* v *United States.* The decision to dismiss the indictments was not reported.

4. *Quinn* v *United States,* 349 U.S. 155 (1955).

5. *Id.* at p. 164.

stitution supplemented by the Fifth Amendment,"[6] primarily the First Amendment, supplemented by the Fifth."[7]

Courts "indulge every reasonable presumption against waiver of fundamental constitutional rights" and refuse to interpret ambiguous statements as waivers of the privilege against self-incrimination.[8] A witness may waive the privilege by failing to assert it,[9] expressly disclaiming it,[10] or testifying on the same matters concerning which he later claims the privilege.[11] However, because the privilege attaches to a witness in each particular case in which he is called to testify, without reference to his declarations at some other time or place or in some other proceeding, it was held not to be waived when a witness verified allegations in prior litigation[12] or answered the same questions several years prior to committee interrogation when interviewed by an agent of the Federal Bureau of Investigation.[13]

Furthermore, a witness does not waive the privilege by giving answers which do not constitute an admission or proof of any crime.[14]

An insight into availability of the privilege may be gained by reviewing its purpose and permissible uses:

> Privilege . . . may not be used as a subterfuge.
>
> The privilege may only be asserted when there is reasonable apprehension on the part of the witness that his answers would furnish some evidence upon which he could be convicted of a criminal offense against the United States or which would lead to a prosecution of him for such offense, or

6. *United States* v *Fitzpatrick,* 96 F Supp 491, 493 (D.D.C. 1951).

7. *Emspak* v *United States,* 349 U.S. 190, 193, 197 (1955); this statement was held to be sufficient notwithstanding the fact that the witness, in response to the question, "Is it your feeling that to reveal your knowledge of them [certain individuals about whose communist activities the witness had been questioned] would subject you to criminal prosecution?" replied, "No, I don't think this Committee has a right to pry into my associations. That is my own position." *Emspak,* at 195, 196.

8. *Emspak* v *United States,* 349 U.S. 190 (1953).

9. *Id.*

10. *Hutcheson* v *United States,* 369 U.S. 599, 609 (1962).

11. *Rogers* v *United States,* 340 U.S. 367 (1951); *Presser* v *United States,* 238 F2d 233 (1960); cert. denied, 365 U.S. 316 (1960); rein. denied, 365 U.S. 858 (1960).

12. *Poretto* v *United States,* 196 F2d 392 (5th Cir. 1952).

13. *Marcello* v *United States,* 196 F2d 437 (5th Cir. 1952).

14. *United States* v *Costello,* 198 F2d 200, 202 (2d Cir. 1952).

> which would reveal sources from which evidence could be obtained that would lead to such conviction or to prosecution therefor.
>
> A witness is not bound to explain why answers to apparently innocent questions might tend to incriminate him when circumstances render such reasonable apprehension evident. Once it has become apparent that the answers to a question would expose a witness to the danger of conviction or prosecution, wider latitude is permitted the witness in refusing to answer other questions upon the ground that such answers would tend to incriminate him.[15]

Consequently, availability of the privilege is affected more by the context in which the question is asked and the underlying circumstances than by the nature of the question. In the application of this principle, a witness was not permitted to assert the privilege in response to questions relating to his place of residence and other preliminary data in the absence of a showing that elements of incrimination might attach to that information;[16] in another case, however, the privilege was held to be properly asserted in response to a question as to whether the witness knew any individuals who had been listed in an investigating committee's interim report which referred to such individuals as possibly involved in organized crime.[17]

Similarly, a witness was permitted to refuse to answer a question as to his employment record because the question was asked "in a setting of possible incrimination."[18] And a witness with a criminal record was said to have properly invoked the fifth amendment in response to all questions except his name and address before a Senate committee investigating crime.[19]

After testifying to an incriminating fact, a witness may not refuse to answer more questions on the same subject on the ground that such answers would further incriminate. Thus, after a witness testified that she had been treasurer of the Communist Party in Denver, she could not invoke the privilege against self-incrimination when asked the name of the person to whom she had given or-

15. *United States* v *Jaffee,* 98 F Supp 191 (D.D.C. 1951). See also, Moreland, Allen B., Congressional Investigations and Private Person, 40 So. Cal. L. Rev. 189, 258, 259 (1967) for a discussion of the scope of coverage of the privilege.

16. *Simpson* v *United States,* 241 F2d 222 (9th Cir. 1957).

17. *Aiuppa* v *United States,* 201 F2d 287 (6th Cir. 1952).

18. *Jakins* v *United States,* 231 F2d 405 (9th Cir. 1956).

19. *Marcello* v *United States,* 196 F2d 437 (5th Cir. 1952).

ganizational records. The majority of the Supreme Court reasoned that upholding a claim of privilege in such a case would invite distortion of facts by permitting the witness to select any stopping place in testimony.[20]

A witness who responded that he had complied to the best of his ability with a subpena and had made available all records he possessed at the time of service was held to have waived the privilege against self-incrimination; this waiver applied to a question relating to whether he had destroyed any of the subpenaed records since the time of service.[1]

A witness who admitted attending a meeting of the Communist Party but denied that he was a member was not permitted to invoke the privilege against self-incrimination in response to questions asking him to identify other persons present at that meeting.[2]

Under Part V of the Organized Crime Control Act of 1970,[3] any witness who refuses on the basis of his privilege against self-incrimination to testify or provide information may be granted immunity by court order based upon the affirmative vote either of a majority present before either House of Congress or two-thirds of the members of a full committee for a proceeding before a committee, subcommittee, or joint committee. Furthermore, the Attorney General must be served with notice of the intention to request the order 10 or more days prior to making it. When these conditions are met and a duly appointed member of the House or committee concerned makes the request, a U.S. district court shall issue the order requiring the witness to testify or provide the information. Issuance of the order may be deferred not longer than 20 days from the date of the request upon application of the Attorney General. The effect of such an order is to compel the witness to testify or provide the information by immunizing him from use in a criminal trial not only of tes-

20. See *Rogers* v *United States*, 340 U.S. 367 (1951) which involved questioning before a grand jury.

1. *Presser* v *United States*, 384 F2d 233 (D.C. Cir. 1960), cert. denied, 365 U.S. 816 (1960); rein. denied, 365 U.S. 855 (1960).

2. *United States* v *Singer*, 139 F Supp 847 (D.D.C. 1956); aff'd. *Singer* v *United States*, 244 F2d 349 (D.C. Cir. 1957); rev'd. on other grounds on reh., 247 F2d 535 (1957).

3. 84 Stat. 926; 18 USC §§6002, 6005. The previous immunity statute, the Compulsory Testimony Act of 1954, codified at 18 USC §3486 (1964), as amended, 18 USC §3486 (1965), which applied to any investigation relating to national security or defense, was repealed. See also 6 Cannon's Precedents §354, for a discussion of earlier cases on immunity.

timony or other information compelled under the order, but also any information directly or indirectly derived from such testimony or information.

A witness may intervene in a proceeding to grant immunity to contest the issuance of the order on the ground that the procedure prescribed by the statute has not been followed. Nonetheless, a witness may not challenge the committee's scope of inquiry, pertinence of questions propounded, or constitutionality of the statute, because the discretion of the district court in an immunity hearing does not encompass these issues.[4]

The present immunity statute[5] has been interpreted to require the court to make sure of compliance with established procedures, but does not authorize discretion to determine the advisability of granting immunity or impose conditions on such a grant.[6]

§ 10. —First Amendment

Claims involving freedom of association, belief, expression, and petition under the first amendment have sometimes been asserted in cases arising out of congressional investigations, though such claims are less frequent than those involving the privilege against self-incrimination.[7] The Supreme Court has recognized the applicability of the first amendment to investigations:

> Clearly an investigation is subject to the command that the Congress shall make no law abridging freedom of speech or press or assembly. While it is true that there is no statute to be reviewed, and that an investigation is not a law, nevertheless an investigation is part of lawmaking. It is justified solely as an adjunct to the legislative process. The First Amendment may be invoked against infringement of the protected freedoms by law or by rulemaking.[8]

4. *In re McElrath,* 248 F2d 612 (D.C Cir. 1957); this case arose under 18 USC § 3486, which has been repealed.

5. 18 USC § 6005.

6. Application of U.S. Senate Select Committee on Presidential Campaign Activities, 361 F Supp 1270 (D.C. 1973).

7. See, for example, Moreland, Allen B., Congressional Investigations and Private Persons, 40 So. Cal. L. Rev. 189, 260–265 (1967), and Bendich, A. M., First Amendment Standards for Congressional Investigations, 51 Calif. L. Rev. 267 (1963), for discussion of the First Amendment.

8. *Watkins* v *United States,* 354 U.S. 178, 197 (1957); see note 31, inserted at this point in the *Watkins* opinion, which listed other cases supporting this principle, including *United States* v *Rumely,* 345 U.S. 41, 43 (1953); *Lawson* v *United States* 176 F2d 49, 51, 52 (D.C. Cir. 1949); *Barsky* v *United States,* 167 F2d 241, 244–250 (D.C. Cir. 1948), cert. denied 334 U.S. 843 (1948); and *United*

In determining whether to accept a first amendment claim in a particular instance, courts balance the witness' right of privacy against the government's need to obtain the information:

> Accommodation of the congressional need for particular information with the individual and personal interest in privacy is an arduous and delicate task for any court. . . . It is manifest that despite the adverse effects which follow upon compelled disclosure of private matters, not all such inquiries are barred. . . . The critical element is the existence of, and the weight to be ascribed to, the interest of the Congress in demanding disclosures from an unwilling witness.[9]
>
> Undeniably, the First Amendment in some circumstances protects an individual from being compelled to disclose his associational relationships. However, the protections of the First Amendment, unlike a proper claim of the privilege against self-incrimination under the Fifth Amendment, do not afford a witness the right to resist inquiry in all circumstances. Where First Amendment rights are asserted to bar governmental interrogation, resolution of the issue always involves a balancing by the courts of the competing private and public interests at stake in the particular circumstances shown.[10]

The decision to use a balancing test followed several developments in earlier cases. For example, courts refused to apply the "clear and present danger" rule, the traditional first amendment test, to congressional inquiries because such inquiries help determine the existence of a danger to national security and possible responses to such a danger;[11] not allowing Congress to investigate a potential danger until it had become "clear and present" would be "absurd" and impair the ability to respond.[12] Thus, for example, the power to inquire into whether a subpenaed witness was a member of the Communist Party or a believer in its principles received judicial approval.[13]

States v *Josephson,* 165 F2d 82, 90–92 (2d Cir. 1947), cert. denied 333 U.S. 858 (1948).

9. *Watkins* v *United States,* 354 U.S. 178, 198 (1957).

10. *Barenblatt* v *United States,* 360 U.S. 109, 126 (1959).

11. *United States* v *Josephson,* 165 F2d 82 (2d Cir. 1947), cert. denied 333 U.S. 858 (1948).

12. *Barsky* v *United States,* 167 F2d 241, 246, 247 (D.C. Cir. 1948), cert. denied 334 U.S. 843 (1948); reh. denied 339 U.S. 971, 972 (1950).

13. *Lawson* v *United States,* 176 F2d 49, 52 D.C. Cir. 1949).

In a later case, the right to petition and freedom of persons who had actively criticized the actions of the Committee on Un-American Activities were not deemed to have been infringed when the committee subpenaed them to testify about their activities in the Communist Party. *Braden* v *United States,* 365 U.S. 431 (1961); *Wilkinson* v *United States,* 365 U.S. 399 (1961).

The revision of the doctrine of presumption of legislative purpose and the recognition of the need for a lucid expression of authorization,[14] as well as imposition of the requirement that the delegation of power to investigate must be clearly revealed in the committee's authorizing resolution whenever first amendment rights are threatened, contributed to adoption of the balancing test.[15]

One formulation of the test to be applied by courts is the following, from a case which found an infringement of first amendment rights:

> [I]t is an essential prerequisite of the validity of an investigation which intrudes into the area of constitutionally protected rights of speech, press, association, and petition that the State convincingly show a substantial relation between the information sought and a subject of overruling and compelling state interest.[16]

But it should be remembered that one consequence of the balancing test is a general reluctance to interfere with pending congressional investigations on the ground that the witness may present first amendment claims before the committee or subcommittee, before the House or Senate, at trial, and on appeal.[17] Accordingly, courts will not interfere with legislative investigations unless the threat posed thereby to first amendment freedoms is sufficiently compelling and concrete, and the witness would be denied a remedy in the absence of such intervention.[18]

14. *United States* v *Rumely,* 345 U.S. 41 (1953).

15. *Watkins* v *United States,* 354 U.S. 178 (1937).

16. *Gibson* v *Florida Legislative Committee,* 372 U.S. 539, 546 (1963).

17. See, for example, *Sanders* v *McClellan,* 463 F2d 894 (D.C. Cir. 1972); *Ansara* v *Eastland,* 442 F2d 751 (D.C. Cir. 1971); *Shelton* v *United States,* 404 F2d 1292 (D.C. Cir. 1968) cert. denied 393 U.S. 1024 (1969) and *Pauling* v *Eastland,* 288 F2d 126 (D.C. Cir. 1960). But see *Stamler* v *Willis,* 415 F2d 1365 (7th Cir. 1969), cert. denied sub. nom. *Ichord* v *Stamler,* 399 U.S. 929 (1970), which held that witnesses against whom criminal charges for contempt were pending could, nonetheless, challenge alleged committee infringements on free expression in a civil action.

18. See, for example, *Pollard* v *Roberts,* 393 U.S. 14 (1968), per curiam affirmance of the three judge District Court for the Eastern District of Arkansas, 283 F Supp 248 (1968); *Gibson* v *Florida Legislative Committee,* 373 U.S. 539 (1963); *Louisiana ex rel. Germillion* v *NAACP,* 366 U.S. 293 (1961); *Bates* v *Little Rock,* 361 U.S. 516 (1960); *NAACP* v *Alabama,* 357 U.S. 449 (1958); *Sweezy* v *New Hampshire,* 354 U.S. 234 (1957), which involve infringements of the right of association by states; they

§ 11. —Fourth Amendment

The fourth amendment prohibition against unreasonable searches and seizures applies to congressional investigations.[19] A court of appeals made an unequivocal statement to this effect:

> The Fourth Amendment exempts no branch of the federal government from the commandment that "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. . . ." This constitutional guaranty applies with equal force to executive, legislative and judicial action. Courts and committees rightly require answers to questions. But neither may exert this power to extort assent in invasions of homes and to seizures of private papers. Assent so extorted is no substitute for lawful process.[20]

The Supreme Court in one case held that the counsel to a Senate subcommittee who allegedly conspired with state officials to seize property and records by unlawful means in violation of the fourth amendment was not entitled to immunity under the Speech or Debate Clause and would have to appear as a defendant in a civil action and, if found liable, pay damages. However, the chairman of the subcommittee who had also been named as a party defendant was entitled to the immunity.[1]

Lower courts have adjudicated the validity of subpenas issued by committees. For example, the Supreme Court of the District of Columbia held that a Senate subpena duces tecum requiring Western Union to supply all copies of all telegrams sent or received by a law firm for a 10-month period in 1935 exceeded any legitimate exercise of the subpena power.[2]

Similarly, a federal district court expressed its view of a subpena duces tecum which specified "the minute books, contracts, reports, documents, books of account, etc., either belonging to the relator or to the Railway Audit and Inspection Company, Inc., with which he was connected" in the following manner:

> [T]he subpena on its face, shows a mere fishing expedition into the private affairs of the relator and his company, not within the scope of the com-

did not arise as contempt proceedings from congressional investigations.

19. *Watkins* v *United States,* 354 U.S. 178, 188 (1957). See also Moreland, Allen B., Congressional Investigations and Private Persons, 40 So. Cal. L. Rev. 189, 225–230 (1967).

20. *Nelson* v *United States,* 208 F2d 505 (D.C. Cir. 1953), cert. denied 346 U.S. 827 (1953).

1. *Dombrowski* v *Eastland,* 387 U.S. 82 (1967).

2. *Strawn* v *Western Union,* 3 USL Week 646 (SCDC, Mar. 11, 1936).

> mittee's investigation, and an encroachment upon defendant's rights under the Fourth Amendment. . . . The duces tecum part of the subpena is so lacking in specification and description, and so wide in its demands, that it is felt it could not have been ordered had the application for it been made to this court.[3]

Although courts refuse to enforce subpenas which they find to be overbroad, they refuse to limit a committee's use of information in its possession. After telegraph companies refused to comply with a Senate committee's subpena duces tecum directing them to produce all telegrams transmitted from their offices from Feb. 1 to Sept. 1 of 1935, representatives of the committee and the Federal Trade Commission examined these messages and made notes and copies. Conceding that a court could enjoin this "trespass" while it was being conducted, a court of appeals stated that it lacked authority to enjoin use of the material after the committee had gained possession.[4]

A subpena for documents held in a representative capacity need not be as specific as one for documents belonging to an individual. Thus, a subpena directing production of "All records, correspondence and memoranda of the Civil Rights Congress relating to: . . . (1) the organization of the group; (2) its affiliation with other organizations; and (3) all monies received or expended by it," did not constitute "unreasonable search and seizure."[5]

§ 12. —Sixth Amendment

Because the language of the sixth amendment stipulates its application "In all criminal prosecutions," the amendment does not apply directly to congressional investigations. Consequently, a witness is not entitled to confront or cross-examine witnesses.[6] But

3. *United States* v *Groves,* 18 F Supp 3 (W.D. Pa. 1937); because the case was decided on the point of failure to appear before the committee, the statement relating to the subpena was dictum.

4. *Hearst* v *Black,* 87 F2d 68, 71 (D.C. Cir. 1936).

5. *McPhaul* v *United States,* 364 U.S. 372, 381 (1960); compare *McPhaul* with *United States* v *Groves,* 18 F Supp 3 (W.D. Pa. 1937), note supra, which discusses a subpena for papers which belong to an individual.

6. *United States* v *Fort,* 443 F2d 670 (D.C. Cir. 1970), cert. denied, 403 U.S. 932 (1971). *Fort,* however, cites examples of granting a limited right of self-examination (p. 680 and n. 24). See also *Hannah* v *Larche,* 363 U.S. 420 (1960), in which the Supreme Court by analogy approved state legislative committee rules which denied the rights of confronta-

the rules of the House take cognizance of rights included in the sixth amendment, including right to counsel and compulsory process. Thus, a witness may be accompanied by his own counsel for the purpose of advising him of his constitutional rights.[7] Furthermore, if a committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, such person is entitled to request that additional witnesses be subpenaed.[8] Where the committee does not determine that evidence or testimony may defame, degrade, or incriminate any person, the chairman receives and the committee disposes of requests to subpena additional witnesses.[9]

Although sixth amendment procedural guarantees do not apply to investigative proceedings, they apply to the criminal proceedings brought as a result of them. A court of appeals reversed a contempt conviction on the ground that the question the witness refused to answer, whether he had been a "member of a Communist conspiracy," lacked the definiteness required by the sixth amendment provision, "In all criminal prosecutions, the accused shall enjoy the right . . . to be informed of the nature and cause of the accusation. . . ."[10] A count of an indictment charging that a witness committed perjury before a congressional committee when he denied that he had ever been "a sympathizer or any other kind of promoter of Communism or Communist interests" was held void for vagueness under the sixth amendment.[11]

§ 13. Rights of Witnesses Under House Rules

In addition to constitutional provisions, certain rules of the House grant rights to witnesses at investigative hearings, or establish procedures for such hear-

tion and cross-examination, in that the court sustained the rules of the Commission on Civil Rights which did not grant these rights in fact-finding investigations.

7. Rule XI clause 28(k), *House Rules and Manual* § 735(k) (1973). See § 14, infra, for precedents dealing with the right to counsel.

8. Rule XI clause 28(m), *House Rules and Manual* § 735(m) (1973). See § 15, infra, for a discussion of the effect of derogatory information.

9. Rule XI clause 28(n), *House Rules and Manual* § 735(n) (1973). See § 13.6, infra, for a discussion of adoption of this rule.

10. *O'Connor* v *United States*, 240 F2d 404 (D.C. Cir. 1956).

11. *United States* v *Lattimore*, 215 F2d 847 (D.C. Cir. 1954).

ings.[12] A rule[13] permits witnesses to submit brief and pertinent sworn statements in writing for inclusion in the record in the discretion of the committee, which is the sole judge of the pertinency of testimony and evidence adduced at its hearing. Cases decided prior to adoption of this rule indicated that a committee's refusal to permit a witness to make a statement before he was sworn,[14] or read a prepared statement[15] or a detailed legal brief objecting to a committee's authority during a hearing,[16] did not excuse refusals to be sworn or answer questions.

Another rule[17] permits a witness to refuse to be exposed to media coverage during a hearing. Prior to adoption of this rule, it was held that hearings conducted before media were not rendered invalid by the absence of a House rule on the subject, nor by the absence of rulings of the Speaker in that Congress; it was further said that rulings by Speakers in earlier Congresses prohibiting media coverage were not applicable.[18] Courts also held that the presence of microphones and cameras did not constitute such a lack of proper decorum as to render the committee an incompetent tribunal and eliminate the "competent tribunal" element of the crime of perjury.[19]

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12. See §§ 13.1 to 13.11, infra. See also, Heuble, Edward, Congressional Resistance to Reform: The House Adopts a Code for Investigating Committees, 1 Midwest J. of Poll. Sci. 313 (Nov. 1957).

13. Rule XI clause 28 (p), *House Rules and Manual* § 735(p) (1973). See § 13.10, infra, for a discussion of adoption of this rule.

14. *Eisler* v *United States,* 170 F2d 273 (D.C. Cir. 1948); cert. dismissed, 338 U.S. 883 (1948).

15. *Townsend* v *United States,* 95 F2d 352, 360 (D.C. Cir. 1938), cert. denied, 303 U.S. 664 (1938).

16. *Barenblatt* v *United States,* 240 F2d 875 (D.C. Cir. 1957); vacated and remanded, 354 U.S. 930 (1957); aff'd., 252 F2d 129 (D.C. Cir. 1958); aff'd., 360 U.S. 109 (1959).

17. Rule XI clause 33(f)(2), *House Rules and Manual* § 739b (1973). See § 13.11, infra, for a discussion of adoption of this rule.

18. *Hartman* v *United States,* 290 F2d 460 (9th Cir. 1961); reversed on other grounds, 370 U.S. 724 (1962).

District courts reached conflicting holdings on the duty of a witness to answer questions at a televised hearing. Compare *United States* v *Kleinman,* 107 F Supp 407 (D.D.C. 1952), which held that a witness was justified in refusing to testify before the media, with *United States* v *Hintz,* 193 F Supp 325 (N.D. Ill. 1952) which held that the witness was not excused for that reason. Both of these decisions predated Rule XI clause 33(f) (2).

19. *United States* v *Moran,* 194 F2d 623 (2d Cir. 1952), cert. denied, 343 U.S. 965 (1952).

Adoption of Code of Fair Procedures, Generally

§ 13.1 The House adopted the Code of Fair Procedures, establishing procedural rights for witnesses at investigative hearings.

On Mar. 23, 1955,[1] the House by voice vote approved House Resolution 151, known as the Code of Fair Procedures, granting certain procedural rights to witnesses at investigative hearings.

AMENDING THE RULES OF THE HOUSE OF REPRESENTATIVES

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 151 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That rule XI 25 (a) of the Rules of the House of Representatives is amended to read:

"25. (a) The Rules of the House are the rules of its committees so far as possible, except that a motion to recess from day to day is a motion of high privilege in committees. Committees may adopt additional rules not inconsistent therewith."

Sec. 2. Rule XI (25) is further amended by adding at the end thereof:

"(h) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which shall be not less than two.[2]

"(i) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.[3]

"(j) A copy of the committee rules, if any, and paragraph 25 of Rule XI of the House of Representatives shall be made available to the witness.[4]

"(k) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.[5]

"(l) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.[6]

"(m) If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—

"(1) receive such evidence or testimony in executive session;

"(2) afford such person an opportunity voluntarily to appear as a witness; and

"(3) receive and dispose of requests from such person to subpena additional witnesses.[7]

"(n) Except as provided in paragraph (m), the chairman shall receive and the committee shall dis-

1. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.

2. This provision is discussed at § 13.3, infra.

3. This provision is discussed at § 13.4, infra.

4. This provision is discussed at § 13.7, infra.

5. This provision is discussed at § 14.1, infra.

6. This provision is discussed at § 13.5, infra.

7. This provision is discussed at § 15.1, infra.

pose of requests to subpena additional witnesses.

"(o) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.[8]

"(p) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.[9]

"(q) Upon payment of the cost thereof, a witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee."[10]

MR. SMITH of Virginia: Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. Brown].

Mr. Speaker, at this time I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. Smith of Virginia: On page 1, line 4, after the word "as", strike out the word "possible" and insert in lieu thereof "applicable."

The committee amendment was agreed to.

MR. SMITH of Virginia: Mr. Speaker, I offer another committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. Smith of Virginia: On page 2, line 7, after the word "witnesses", insert "at investigative hearings."

MR. SMITH of Virginia: Mr. Speaker, I think I should say a word in explanation of that amendment. The bill reads:

Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

The real purpose of this bill has to do with investigative committees and not legislative committees. This amendment simply makes that clear, that it applies not to the legislative committees.

THE SPEAKER:[11] The question is on the committee amendment offered by the gentleman from Virginia [Mr. Smith].

The committee amendment was agreed to. . . .

MR. SMITH of Virginia: Mr. Speaker, I move the previous question on the resolution.

The Speaker: Without objection, the previous question is ordered

MR. [KENNETH B.] KEATING [of New York]: I object, Mr. Speaker.

THE SPEAKER: The question is on ordering the previous question.

The previous question was ordered.

THE SPEAKER: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The debate that preceded the adoption of the measure included an explanation as to its background and purpose:[12]

8. This provision is discussed at § 13.9, infra.

9. This provision is discussed at § 13.10, infra.

10. This provision is discussed at § 13.8, infra.

11. Sam Rayburn (Tex.).

12. 101 CONG. REC. 3569–71, 84th Cong. 1st Sess.

MR. SMITH of Virginia: Mr. Speaker, this resolution is a resolution reported by the Committee on Rules as a general guide for committees in the conduct of their hearings. As you know, there has been a lot of publicity and there has been some criticism about the conduct of hearings, particularly in investigative committees. The purpose here is to lay down a general framework or guide for the use of all legislative committees and may be supplemented by those committees from time to time as the exigencies require, so long as they do not conflict with the general purposes of this. This resolution is intended to lay down the general groundwork that will, perhaps, avoid some of the criticism that has taken place in the past.

There are two items that I think I should call particular attention to. One is the proviso that no subcommittee shall consist of less than two members. In other words, that abolishes the custom of one-man subcommittees.

The other is that when a person is named in a committee hearing and his good reputation besmirched, he shall have a prompt opportunity to appear and refute the charges.

I think those are the main things in the bill, except the provision that any witness that is called by an investigative committee shall have the right to have counsel to advise him as to his constitutional rights. . . .

MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Speaker, a group of us collaborated with the gentleman from California [Mr. Doyle] in the preparation of House Resolution 151. I was a member of that group. During the course of its consideration I will be glad to try to answer pertinent questions as to the details of the resolution. For the moment, however, I think it would be well for me to discuss the background and the broad outline of the proposal.

The most important thing to keep in mind is that the resolution simply sets forth minimum standards of conduct, particularly with reference to investigative hearings. Thus the very first paragraph of the resolution provides, "Committees may adopt additional rules not inconsistent herewith." Some committees may want to spell out their rules in greater detail. As a matter of fact, the rules of the House Committee on Un-American Activities are broader than the resolution presently before the House for consideration, but the point is that this particular committee and the other committees which may presently spell out their rules in broader terms than provided in House Resolution 151 could change their rules. Here we are amending the rules of the House itself. Since the rules of the House are binding on its committees, the net result is that the minimum standards of conduct set forth in House Resolution 151 will have to be respected by the committees. In other words, committee rules can provide for more but not less than the requirements set forth in this resolution.

MR. [CLARENCE J.] BROWN of Ohio: . . . Now, if I may, I shall try to the best of my ability, to explain in a few very short sentences just what this resolution does. I think the primary object that is accomplished or will be accomplished by the adoption of this resolution is that it does fix definitely in the rules that you cannot have 1-man subcommittees and that any subcommittee

taking evidence officially must consist of at least 2 members. Now, it does leave with the legislative committees the power and the authority to expand the rules of the House; in other words, under the present arrangement, each legislative committee, investigative committee, or special committee, is bound by the rules of the House and must follow the rules of the House. But, in addition, the committees now have the right and the authority to adopt additional rules for their own conduct if they so desire. In some instances we have had, more in another legislative body than in this one, subcommittees made up of only one person conducting the hearings. So, this resolution states very plainly in section 2 that each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which shall be not less than two.

In other words, the House under its general rules, by the adoption of this resolution, will say that you can fix any number of members on a committee or subcommittee as a quorum, provided you do not go below two; there must be at least two there, and that meets, as the gentleman who just preceded me explained, some of the legal questions that have arisen as the result of the cases taken to the Supreme Court. It cures that.

Criticism of Code of Fair Procedures

§ 13.2 The Code of Fair Procedures was criticized in debate at the time of its adoption.

On Mar. 23, 1955,[13] the Code of Fair Procedures was criticized as not providing sufficient safeguards to witnesses by Mr. Hugh D. Scott, of Pennsylvania.

MR. SCOTT: . . . As has already been pretty generally admitted, the Doyle resolution does not do anything which was not already in the discretion of committee chairmen, that I can see, except as to the two-man quorum, and that is bad. . . .

The pitifully inadequate Doyle resolution is powerless to prevent any of the following abuses, all of which have been the subject of widespread criticism:

First. It would allow a committee to circulate "derogatory information" from its confidential files without notice to the individuals concerned and without giving him an opportunity to explain or deny the defamatory material.

Second. It would allow a committee to make public defamatory testimony given at an executive session without notice of hearing to the person defamed.

Third. It would allow a committee to issue a public report defaming individuals or groups without notice or hearing.

Fourth. It would allow a committee chairman to initiate an investigation, schedule hearings and subpena witnesses without consulting the full committee.

Fifth. It would allow a committee chairman or member publicly to defame a witness or a person under investigation.

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13. 101 CONG. REC. 3573, 3574, 84th Cong. 1st Sess.

Sixth. It would not allow a person under investigation to cross-examine a witness accusing him at a public hearing.

Seventh. It would not entitle a witness to even 24 hours advance notice of a hearing at which his career or reputation would be at stake.

Eighth. It would not protect a witness from distraction, harassment, or nervousness caused by radio, TV, and motion picture coverage of hearing. This, however, is adequately taken care of for the present session by the ruling of the Speaker.[14]

Ninth. It contains no provision for enforcement of its prohibitions or for supervision of committee operations.

Tenth. Finally, and most important, it would not prevent the committee from sitting as a legislative court, trying guilt or innocence of individuals, or inquiring into matters wholly unrelated to any function or activity of the United States Government.

Alternate Codes of Fair Procedures were introduced by a Member[15] as House Resolution 447 of the 83d Congress and House Resolution 61 of the 84th Congress.[16]

Quorum

§ 13.3 The House amended its rules to provide that, "Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which shall be not less than two."

On Mar. 23, 1955,[17] the House by voice vote approved House Res-

14. On Feb. 25, 1952, Speaker Sam Rayburn (Tex.), in response to a parliamentary inquiry of the Minority Leader, Joseph W. Martin, Jr. (Mass.), stated, ". . . There is no authority, and as far as the Chair knows, there is no rule granting the privilege of television of the House of Representatives, and the Chair interprets that as applying to these committees and subcommittees, whether they sit in Washington, or elsewhere. . . ." See 98 CONG. REC. 1334, 1335, 82d Cong. 2d Sess., for this ruling and 98 CONG. REC. 1567–71, 82d Cong. 2d Sess., Feb. 27, 1952, for a discussion of this ruling by Members.

15. Hugh D. Scott, Jr. (Pa.), who in the 83d Congress chaired the subcommittee of the Committee on Rules which proposed a Code of Fair Procedures. A Republican, Mr. Scott was a majority member of the 83d Congress and a minority member of the 84th Congress. See also 101 CONG. REC. 218–21, 84th Cong. 1st Sess., Jan. 10, 1955, for Mr. Scott's comments on these resolutions.

16. The texts of these resolutions appear at 101 CONG. REC. 3574, 3575, 84th Cong. 1st Sess., Mar. 23, 1955. Final disposition was referral to the Committee on Rules. Mr. Scott also inserted an article from the Virginia Law Review entitled Rules for Congressional Committees: An Analysis of House Resolution 447, which he and Rufus King had written. This article, which includes a compilation of precedents, studies, statutes, and court opinions on investigations, appears at 101 CONG. REC. 3575–81, 84th Cong. 1st Sess., Mar. 23, 1955.

17. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.

olution 151, known as the Code of Fair Procedures. One provision of the Code relates to the minimum number of members who must attend an investigative hearing and the requisite number for a quorum at all committee meetings,[18] and provides that, "Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which shall be not less than two."

During the debate, Members discussed the reasons for and implications of this amendment.

Commenting on the effect of the amendment, Mr. Howard W. Smith, of Virginia, stated that this amendment "abolishes the custom of oneman subcommittees."[19]

Mr. Edwin E. Willis, of Louisiana, stated that this amendment was a response to the Supreme Court decision in *Christoffel* v *United States,* 338 U.S. 84 (1949), which reversed and remanded a conviction for perjury because the government had not proved that a quorum was present at the time the allegedly false testimony was given, as required by the District of Columbia statute defining perjury as giving false testimony under oath before a "competent tribunal."

Mr. Willis also observed:[20]

> I call to your particular attention the following hint the Supreme Court gave to Congress. In the course of the decision, the Court said:
>
> > It [the Congress] of course has the power[21] to define what tribunal is competent to exact testimony and the conditions that establish its competency to do so.
>
> Following that broad hint, the other body amended its rules to provide that at an investigative hearing testimony may be received by one member. Stated differently, the Senate rules now provide that a single member constitutes a quorum. . . .
>
> But while the other body amended its rules, we did not. Accordingly, one of the provisions of House Resolution 151 provides as follows:
>
> > Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which shall be not less than two.
>
> I repeat that it is necessary for us to adopt a rule along this line in order to meet the decision of the Supreme Court in the Christoffel case. And I submit that at an investigative hearing a quorum should be not less than two. Of course, even after the passage of

18. See House Rules and Manual § 735(h) (1973).

19. 101 CONG. REC. 3569, 84th Cong. 1st Sess.

20. 101 CONG. REC. 3571, 84th Cong. 1st Sess.

21. This "power" is the constitutional mandate, " Each House may determine the Rules of its Proceedings . . ." Art. I, § 5 clause 2.

this resolution, a particular committee may require a greater number to constitute a quorum, but under the minimum standards of conduct which this resolution imposes, the quorum in no event can be less than two.

I submit that this is a sensible rule, as are all others embodied in the resolution. I personally oppose a one-man hearing. I think fair play requires that not less than two members should be present. This conforms more closely to our notions of fair proceedings.

But there is another reason why I think at least two members should be present at all times for taking testimony and receiving evidence. Forget the honest and cooperative witnesses for the moment. They never cause trouble to anyone and, of course, all committees bend backward to protect them. I have in mind the usual witnesses who appear before investigative committees such as the Committee on Un-American Activities of which I have the honor and privilege to be a member. These witnesses are tough. They are resourceful. They are sharp and smart. There is nothing they like better than to precipitate an argument with the presiding member. Yes, they are cunning. They are offensive and sometimes they are downright insulting. The presiding member must be on his toes and he is required to make quick and delicate rulings. Two heads are better than one in situations of this kind.

And so I am opposed to a one-man hearing, not only for the protection of the witness but more importantly for the preservation of orderly proceedings and the dignity of the committee of Congress.. . .

The debate also included an exchange regarding applicability of this provision:[1]

MR. [H.R.] GROSS [of Iowa]: Under section 2, subsection (h) each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which shall be not less than two. Does this mean in the absence of the adoption of rules that every committee, or that a standing committee such as the Committee on the Post Office and Civil Service could proceed with only two members constituting a quorum?

MR. SMITH of Virginia: Yes; I think that any subcommittee constituted of two members is sufficient.

MR. GROSS: That is with reference to subcommittees, then rule 11 deals with subcommittees, is that correct?

MR. SMITH of Virginia: To what rule does the gentleman refer?

MR. GROSS: Rule 11 section 2 (25). Does it deal only with subcommittees?

MR. SMITH of Virginia: It deals with all committees. . .

MR. [ELIJAH L.] FORRESTER [of Georgia]: . . . Let me show you gentlemen how hard it is to try to make some sort of provisions on rules of this kind. Take this particular rule of the 2-man committee. We wanted to write into that bill, and it is the sense of those who drew up the bill that where there is a committee of two, they shall be nonpartisan-one shall be a Democrat and one shall be a Republican. If you put that into the bill, and of course, we would like to have the Congress ob-

1. 101 CONG. REC. 3570, 3573, 3582,84th Cong. 1st Sess.

serve that, but if you put it into the bill, suppose you are out in California with a 2-man committee and suppose one of the members absented himself or suppose he was sick. Of course, you can see that there they are out in California and they are completely stymied. We did not put it in the bill, but we do think that is a rule that ought to be observed.

MR. [KENNETH B.] KEATING [of New York]: Mr. Speaker, will the gentleman yield on that point?

MR. FORRESTER: I yield.

MR. KEATING: With reference to that very provision, is it not the intention of the framers of this resolution that this should apply only to investigative hearings, because, certainly, there are many informal hearings by legislative committees where they take evidence with only one person sitting. It would greatly impede the work of those committees if, in a legislative committee, they were to require, always and without exception, more than one person.

MR. FORRESTER: Of course, that is the answer to that. . . .

MR. KEATING: . . . Indeed, I am fearful that the drafters of this resolution have, in one particular, imposed precisely the kind of limitation toward which I expressed unalterable opposition a few moments ago. That is at lines 10 through 12, on page 1, in the provision which allows and requires each committee to fix a number of its members to constitute a quorum, which number shall not be less than 2. This would be an unreasonable handicap and would expose the workings of our committee to exactly the vulnerability which was capitalized upon in the Christoffel case to defeat an otherwise valid conviction.

The Senate rule on the same subject, adopted after that case to meet the problem, reads as follows:

> Each standing committee, and each subcommittee of any such committee, is authorized to fix a lesser number than one-third of its entire membership who shall constitute a quorum thereof for the purpose of taking sworn testimony.

You will note that in all cases, under the Senate rule, one-third of a committee or subcommittee, including 1 member of a 3-man subcommittee, shall be a quorum for the purpose of taking sworn testimony, and that each committee and subcommittee is expressly authorized to vest this authority in a lesser number if it so wishes. This rule properly protects the committee and vests rights in it without suggesting any crippling restrictions in the event that the committee or subcommittee finds itself dealing with a perjurer.

The difficulty pointed out in the Christoffel case was that one can only commit perjury before a competent tribunal and the court held that a congressional committee consisting of less than a quorum was not such a tribunal. Even the Senate's one-third rule might give rise to difficulties since it is usual during protracted hearings for individual members to enter and leave the hearing room so long as someone is present and presiding. So the Senate made it possible for its committees, in any case where perjury might be an issue, to authorize a single member to take the testimony and therefore to prevent any recurrence of the Christoffel result.

The provision in House Resolution 151 which I am discussing does just

the opposite; it leaves in doubt what a quorum for the purpose of taking testimony might be in case the committee or subcommittee happens to overlook the formality of prescribing one—and it requires, arbitrarily, at all times and in all cases, that testimony must be taken with at least two members present. I have served as chairman of one of these investigating committees, and I know from personal experience how very difficult it is to keep a multiple quorum in the hearing room and to try to reflect accurately in the record that more than one member is present at all times. We tried, for a while, to have the reporter indicate on the record something like "at this point Mr. So and So left the hearing room," "at this point Mr. So and So reentered the hearing room," and so forth. It just will not work. And if you did not do something like that in a subsequent perjury case long after the facts, the actual physical presence of at least two members would be open to challenge and a necessary subject of proof in court.

The momentary furor stirred up last year over the subject of so-called one-man committees never impressed me very much. If any abuses were actually attributable to this situation, they were the fault not so much of the one man who ran the hearings, but of the others who, for one reason or another, were not present. In at least 99 out of 100 cases where testimony is to be taken from friendly and cooperative witnesses, it would be a terrible burden and disadvantage to require more than one member attend to build a record of the same; in the 100th case, requiring the presence of two members would not make a great deal of difference anyway. I am strongly opposed to this provision, and, if afforded the opportunity I shall propose an amendment to delete it and offer a substitute.

In the alternative, if it is the sense of a majority that some protection should be accorded witnesses who are threatened with abuse at the hands of a single member conducting a hearing to take sworn testimony, I would favor the approach recommended by Mr. Scott's subcommittee last year, namely, that such testimony could be taken in all cases by a single member unless the witness himself demanded to be heard by two or more members. Since the whole thing is only for the witness' protection, it makes good sense to let him make the demand if he wishes, and to regard it as waived otherwise.

Announcement of Subject of Investigation

§ 13.4 The House amended the rules to provide that, "The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation."

On Mar. 23, 1955,[2] the House by voice vote approved House Resolution 151, known as the Code of Fair Procedures, one provision of which requires a chairman to announce the subject of an investigation.[3]

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2. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.

3. See *House Rules and Manual* § 735(i) 1973).

During the debate questions about the effect of this amendment were raised:[4]

MR. [GEORGE] MEADER [of Michigan]: May I call the gentleman's attention to the first provision on page 2 relating to the statement by the chairman of the subject matter of the investigation. I would like to ask the gentleman three questions with respect to that provision: Does this deprive the committee of the power to determine the scope of its inquiry by requiring the chairman to state the subject of the investigation?

MR. [HOWARD W.] SMITH of Virginia: Not at all, no. All that requires is that a general statement shall be made of what a particular hearing is all about.

MR. MEADER: Second, under court decisions questions in a committee hearing must be pertinent to the inquiry. Would questions not relevant under the statement as made by the chairman but relevant under the committee's investigative jurisdiction have to be answered, or could the witness refuse to answer with impunity?

MR. SMITH of Virginia: No. The relevancy is determined by the resolution creating the special committee or the provision of the rules defining the jurisdiction of the standing committee.

MR. MEADER: A third question is, May the statement of the subject matter required to be made by the chairman be in broad terms or must it be detailed?

MR. SMITH of Virginia: Merely in broad terms, just a general statement of the subject matter of the inquiry. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . Then it goes further. Remember this deals almost primarily with investigative committees and the conduct of investigations by such committees. It says that the chairman of the committee at the beginning of an investigation shall announce in general terms in an open statement what the subject of the investigation is; in other words, you are looking into the stock market or you are looking into consumer prices or into the necessity for school construction or whatever it may be. It does not mean that you have to pinpoint every single question that you are going to ask, by any means. . . .

Criticism was made of the wording.[5]

MR. [KENNETH B.] KEATING [of New York]: In subdivision (i) at the top of page 2, where it says:

> The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.

My understanding is that the resolution authorizing any investigation covers the general subject, and it is the intention of that section to mean he shall announce the subject of the particular hearing which is then about to take place. If that is the understanding, I would think the substitution of the word "hearing" for "investigation" would be helpful.

MR. SMITH of Virginia: I think they mean the same thing. I believe you are correct in the statement you have made.

4. 101 CONG. REC. 3569, 3572, 84th Cong. 1st Sess.

5. 101 CONG. REC. 3570, 3582, 84th Cong. 1st Sess.

MR. KEATING: . . . On page 2, at line 3, the drafters of House Resolution 151 have seemingly chosen the wrong word. It is not important for the chairman to advise those present of the subject to which an investigation is being addressed. That is the subject specified in the committee's authorizing resolution and is known to everybody from the very outset. What is frequently helpful, and might well be required, is a statement of the subject matter of the particular hearing which is about to be commenced. A statement of the latter will advise the witness and his counsel of the specific grounds which the committee proposes to explore, and thus avoid surprise or misunderstanding with respect to the lines of questioning to which the witness is likely to be subjected.

Punishment of Breaches of Order

§ 13.5 The House amended its rules to provide that, "The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt."

On Mar. 23, 1955,[6] the House by voice vote approved House Resolution 151, known as the Code of Fair Procedures, one provision of which relates to the chairman's authority to punish breaches of order and decorum.[7]

During the debate on the resolution, the effect of this provision was discussed:[8]

MR. [CLARENCE J.] BROWN of Ohio: . . . Then it spells out into law again what I believe the chairman of the committee already has, the power to punish breaches of order and decorum and of professional ethics on the part of counsel, by censure and exclusion from the hearings.

That legalizes, and it does away with any doubt as to the right of a chairman, in a case like that of Henry Grunewald, which was mentioned a moment ago, to say, " You are violating the rules of this committee, you are out." And he will tell the witness to get another lawyer. And the committee may cite such an offender to the House for contempt. If a lawyer simply does not obey the orders of the chairman, if he creates a disturbance, if he refuses to leave, and the situation becomes serious such that the committee wants to recommend that he be cited by the House for contempt, then that may be done and it is up to the House to take action as it sees fit.

Parliamentarian's Note: Thus the right of witnesses at investigative hearings to be accompanied by their own counsel for advice concerning their constitu-

6. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.

7. See *House Rules and Manual* § 735(l) (1973).

8. 101 CONG. REC. 3572, 84th Cong. 1st Sess.

tional rights is conditioned upon that counsel's behavior being consistent with professional ethical standards, and a witness must select another counsel if counsel is barred from committee hearings by unethical behavior.

Subpenas

§ 13.6 The House amended the rules to provide that, "Except as provided in paragraph (m), the chairman shall receive and the committee shall dispose of requests to subpena additional witnesses."

On Mar. 23, 1955,[9] the House by voice vote approved House Resolution 151, known as the Code of Fair Procedures, one provision of which relates to receiving and disposing of requests to subpena additional witnesses.[10]

During the debate, the effect and wording of this provision were discussed:[11]

> MR. [KENNETH B.] KEATING [of New York]: In subsection (m), it provides that if the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, the committee shall receive and dispose of requests from such person to subpena additional witnesses.[12]
>
> In the next section, it provides that except as above provided, the chairman shall receive and the committee shall dispose of requests to subpena additional witnesses. There is a difference in the language used there. Could the gentleman point out the significance of that or the reason why the different language is used?
>
> MR. [HOWARD W.] SMITH of Virginia: It is a very slight difference. You will find that the clause you refer to (3), comes under subsection (m). That is one of the things that apply under subsection (m) where a person is defamed. Subsection (n) is one that does not pertain to that particular section relative to defamation.
>
> MR. KEATING: I realize that is the language of the resolution, but I wonder why the requests for the issuance of subpenas are differently dealt with. It seems to me that the same considerations should apply in each instance.
>
> MR. SMITH of Virginia: I do think they are substantially the same. . . .
>
> MR. [CLARENCE J.] BROWN of Ohio: . . . Then there is a general provision, not just when some person makes a defamatory statement, but generally and in regard to other matters, the chairman shall receive requests for subpenaing additional witnesses.

Committee Rules

§ 13.7 The House amended its rules to provide that, "A copy

9. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.
10. See *House Rules and Manual* § 735(n) (1973.)
11. 101 CONG. REC. 3570–72, 84th Cong.1st Sess.
12. See § 15.1, infra, for a discussion of subsection (m), relating to the effect of derogatory evidence.

of the committee rules, if any, and paragraph 25 of Rule XI of the House of Representatives shall be made available to the witness."

On Mar. 23, 1955,[13] the House by voice vote approved House Resolution 151, known as the Code of Fair Procedures, one provision of which relates to a witness' access to a copy of committee rules.[14]

During the debate this provision was discussed:[15]

> MR. [CLARENCE J.] BROWN of Ohio: . . . It also provides that a witness who is called before that committee, either by subpena or who comes voluntarily, is entitled to receive a copy of the committee rules, if he so desires. Certainly that is a fair provision.

Transcripts

§ 13.8 The House amended its rules to provide that, "Upon payment of the cost thereof, a witness may obtain a transcript copy of the testimony given at a public session, or, if given at an executive session, when authorized by the committee."

On Mar. 23, 1955,[16] the House by voice vote approved House Resolution 151, known as the Code of Fair Procedures, one provision of which relates to a witness' access to a transcript.[17]

During the debate on the measure, this provision was discussed:[18]

> MR. [CLARENCE J.] BROWN of Ohio: . . . Finally, the witness is given the right, upon payment of the cost thereof, to obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.
>
> In other words, if he wants to know what he said, if he is being cited for contempt, he may get a copy of the transcript so that he may be prepared if he has to go to court.

Release of Secret Information

§ 13.9 The House amended the rules to provide that, "No evidence or testimony taken in executive session may be

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13. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.

14. See *House Rules and Manual* § 735(j) (1973). On Jan. 22,1971, the language of this rule was slightly modified to, "A copy of the committee rules and this clause shall be made available to each witness." See H. Res. 5, adopted at 117 CONG. REC. 144, 92d Cong. 1st Sess.

15. 101 CONG. REC. 3572, 84th Cong. 1st Sess.

16. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.

17. See *House Rules and Manual* § 735(q) (1973).

18. 101 CONG. REC. 3572, 84th Cong. 1st Sess.

released or used in public sessions without the consent of the committee."

On Mar. 23, 1955,[19] the House by voice vote approved House Resolution 151, known as the Code of Fair Procedures, one provision of which relates to use of evidence or testimony received in executive session.[20]

During the debate on the measure, this amendment was discussed [1]

> MR. [CLARENCE J.] BROWN of Ohio: . . . It also provides that no evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee. That means, of course, a majority of the committee.[2]

Submission of Written Statements

§ 13.10 The House amended its rules to provide that, "In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing."

On Mar. 23, 1955,[3] the House by voice vote approved House Resolution 151, known as the Code of Fair Procedures, one provision of which relates to a witness' opportunity to submit sworn statements.[4]

During the debate, this provision was discussed: [5]

> MR. [CLARENCE J.] Brown of Ohio: . . . It also provides that in the discretion of the committee witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. Members of the House know how much time that can save.
>
> The committee is the sole judge of the pertinency of the testimony and evidence adduced at its hearing.
>
> I think they have that right now.

Media Coverage

§ 13.11 The House amended its rules to provide that, "No witness served with a subpena by the committee shall be required against his will to be photographed at any

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19. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.

20. See *House Rules and Manual* § 735(o) (1973).

1. 101 CONG. REC. 3572, 84th Cong. 1st Sess.

2. See § 13.2, supra, for criticisms of this and other provisions of the Code of Fair Procedures.

3. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.

4. See *House Rules and Manual* § 735(p) (1973).

5. 101 CONG. REC. 3572, 84th Cong. 1st Sess.

hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of each witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This paragraph is supplementary to paragraph (m) of clause 27 of this rule, relating to the protection of the rights of witnesses."

On Jan. 22, 1971,[6] the House approved House Resolution 5, which adopted applicable provisions of the Legislative Reorganization Act of 1970,[7] including a rule[8] which requires any committee that permits media coverage of public hearings to adopt rules allowing witnesses not to be exposed to television or still cameras or microphones.

Responsibility to Protect Rights

§ 13.12 The witness is primarily responsible for protecting his rights and invoking procedural safeguards guaranteed under the rules of the House, notwithstanding the fact that he may be accompanied by counsel to advise him of his rights.

On Oct. 18, 1966,[9] during consideration of a privileged report, House Report No. 2305, relating to the refusal of Yolanda Hall to testify before the House Committee on Un-American Activities,[10] Speaker John W. McCormack, of Massachusetts, responded to a parliamentary inquiry regarding the responsibility of a witness to protect his rights.

> MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state his parliamentary inquiry.
>
> MR. YATES: Mr. Speaker, is it in order for me to request the Chair for an explanation of a part of the Chair's ruling; namely, that part which is directed to the representation before a committee of a witness by a lawyer?
>
> In his ruling the Chair has indicated that counsel does not, as a matter of right, have the right to present argument, make motion, or make demands on the committee.
>
> Does this mean, Mr. Speaker, that if an objection is to be voiced to an action

6. 117 CONG. REC. 144, 92d Cong. 1st Sess.
7. 84 Stat. 1140, Pub. L. No. 91–510, Oct. 26, 1970.
8. See *House Rules and Manual* § 739(b) (1973).
9. 112 CONG. REC. 27495, 89th Cong. 2d Sess.
10. See § 15.6, infra, for the point of order and debate regarding this report.

by the committee, that the objection must be made by the witness or the respondent himself, rather than by the counsel of the witness?

THE SPEAKER: It is incumbent upon the witness to protect himself, after consulting counsel, if he desires to consult counsel. But it is the duty of the witness to do so.

§ 14. —Right to Counsel

A witness' right to counsel[11] at an investigative hearing[12] is circumscribed by rules of the House,[13] rules of committees, precedents,[14] and court decisions. Rules of the House establish a minimum level of participation by counsel; committees either in their rules or in response to requests made at a hearing, may permit a counsel to do more than advise the witness about constitutional rights.

The Supreme Court implicitly approved a rule of the Committee on Un-American Activities which permitted counsel to accompany a witness for the purpose of advising him of his constitutional rights when it observed, "[Counsel for the witness] would not have been justified in continuing [seeking to read certain telegrams into the record], since Committee rules permit counsel only to advise a witness, not to engage in oral argument with the committee. Rule VII (b)."[15]

In General

§ 14.1 The House amended its rules to provide that, "Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them of their constitutional rights."

On Mar. 23, 1955,[16] the House by voice vote approved House Res-

11. See, for example, 3 Hinds' Precedents §§ 1696, 1741, 1771, 1788, 1837, 1846; 6 Cannon's Precedents § 400. 6 Cannon's Precedents § 336, for earlier precedents. For collateral sources, see Rauh, Joseph L., Jr., Representation before Congressional Committee Hearings, 50 J. of Crim. Law, Criminology, and Police Science 219 (1959), and Rauh and Pollitt, Right to and Nature of Representation before Congressional Committees, 45 Minn. L. Rev. 853 (1961).

12. This section deals only with investigative hearings on designated subject matters; it does not include investigations relating to impeachment (see Ch. 14, supra), election contests (see Ch. 9, supra), or conduct of Members (see Ch. 12, supra).

13. See §§ 14.1 and 14.2, infra.

14. See §§ 14.3 to 14.5, infra.

15. *Yellin* v *United States*, 374 U.S. 109, 112, 113 (1963).

16. 101 CONG REC. 3569, 3585, 84th Cong. 1st Sess.

olution 151, known as the Code of Fair Procedures, a provision of which permits witnesses at hearings to be accompanied by counsel.[17]

During the debate, questions were raised as to the effect of this provision:[18]

MR. [GEORGE] MEADER [of Michigan]: May I draw the gentleman's attention to the provisions of paragraph (k) on that same page, lines 7, 8, and 9, relating to the right of witnesses to have counsel present at hearings. My question is, Would the absence of counsel where a witness demands the right to have counsel present vitiate the legal status of the inquiry?

MR. [HOWARD W.] SMITH of Virginia: By no means. This is merely a privilege given to him. If he does not choose to exercise that privilege of having counsel, that is his fault.

MR. MEADER: If he should demand that he be permitted to have counsel but there was no counsel present, would the committee be unable to proceed until counsel was present?

MR. SMITH of Virginia: If he does not have his counsel, of course he cannot obstruct justice by using that sort of subterfuge. I have no doubt that any committee would be reasonable with him by reason of the sickness of his counsel.

MR. MEADER: But the committee has not lost control over the proceeding because of this provision?

MR. SMITH of Virginia: Not by any means.

MR. MEADER: I think the gentleman may remember that Henry Grunewald and his counsel, William Power Maloney, delayed the King Subcommittee of the Ways and Means Committee for 6 hours with obstructionist tactics. Grunewald refused to testify because the committee finally ejected Maloney and he did not have any counsel there.

MR. SMITH of Virginia: That could not occur under this rule. . . .

MR. [CLARENCE J.] BROWN [of Ohio]: . . . The next provision provides for witnesses at investigative hearings—that does not mean ordinary legislative hearings where they are discussing a bill, such as a public-works project or an authorization bill, but where a committee is holding investigative hearings—that witnesses have the right to be accompanied by their own counsel, and that counsel shall have the privilege of advising them concerning their constitutional rights.

That does not mean that the lawyer may sit there and answer every question of fact for the witness. But he may advise him as to his constitutional rights, whether he may plead the fifth amendment or refuse to answer on some other ground if he thinks his constitutional rights are being violated.

MR. [KENNETH B.] KEATING [of New York]: . . . At lines 7 through 9 on page 2, I am troubled with the language chosen by the draftsmen, and wonder if it is exactly what was intended. Does this wording include an absolute right to be present in the event that a witness is heard in an executive session? Does it mean merely

17. See *House Rules and Manual* § 735(k) (1973).

18. 101 CONG REC. 3569, 3572, 3582, 3583, 84th Cong. 1st Sess.

to be present in the room or to accompany the witness when he takes the stand, and if the latter, does it create a right to consult and confer without limitation during the course of the examination? Does the limitation, "concerning their constitutional rights" mean that counsel would be limited, in conferring with his client, to a discussion of the first or fifth amendments, which are the only constitutional provisions likely to be involved at any time, under normal circumstances?

May counsel not perform the usual and proper services of explanation and advice with respect to all the rights and duties pertaining to the status of the witness before the committee? . . .

Mr. Keating's inquiries were not directly addressed. He had, in earlier remarks, given his views on the background of the right to counsel:[19]

[W]e have long conceded that outsiders, appearing as witnesses before our committees, should be accorded certain rights. There is no specific basis for the right of a witness to be accompanied and advised by his counsel, nor for recognition of the traditional privileges of lawyer and client, doctor and patient, priest and penitent, and the like. But they are so universally accorded, and so deeply woven into our traditions of fairness and due process that they perhaps should be specified for the advice and comfort of all those who are called to testify. It is, as I said, only a matter of drawing the lines clearly and precisely where we wish them to lie.

19. 101 CONG. REC. 3582, 84th Cong. 1st Sess.

§ 14.2 The House amended its rules to provide that, "The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt."

On Mar. 23, 1955,[20] the House by voice vote approved House Resolution 151, known as the Code of Fair Procedures, one provision of which dealt with the powers of the chairman in maintaining order.[1] During the debate on the resolution, the effect of this provision was discussed:[2]

MR. [CLARENCE J.] BROWN of Ohio: . . . Then it spells out into law again what I believe the chairman of the committee already has, the power to punish breaches of order and decorum and of professional ethics on the part of counsel, by censure and exclusion from the hearings.

That legalizes, and it does away with any doubt as to the right of a chairman, in a case like that of Henry Grunewald, which was mentioned a moment ago, to say, "You are violating the rules of this committee, you are out." And he will tell the witness to get

20. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.

1. See *House Rules and Manual* § 735(1) (1973).

2. 101 CONG. REC. 3572, 84th Cong. 1st Sess.

another lawyer. And the committee may cite such an offender to the House for contempt. If a lawyer simply does not obey the orders of the chairman, if he creates a disturbance, if he refuses to leave, and the situation becomes serious such that the committee wants to recommend that he be cited by the House for contempt, then that may be done and it is up to the House to take action as it sees fit.

Counsel's Participation

§ 14.3 The privilege granted by the rule, permitting a witness at an investigative hearing to be accompanied by counsel to advise him of his constitutional rights, does not, as a matter of right, entitle the counsel to present argument, make motions, or make demands on the committee.

On Oct. 18, 1966,[3] Speaker John W. McCormack, of Massachusetts, during the ruling on a point of order raised against House Report 2305, relating to the refusal of Yolanda Hall to testify before the Committee on Un-American Activities,[4] indicated the scope of authority of counsel in advising a witness during an investigative hearing.[5]

THE SPEAKER: The Chair is prepared to rule.

The gentleman from Illinois [Mr. Yates] has raised a point of order against the privileged report filed by the gentleman from Louisiana, citing a witness before a subcommittee of the Committee on Un-American Activities for contempt. The point of order is based on the ground that the subcommittee, while holding hearings in Chicago, failed or refused to follow the rules of the House—specifically, rule XI, clause 26(m)—and, at the demand of the witnesses' attorney, take the testimony in executive session rather than in an open hearing. . .

The Chair will also point out parenthetically, that subsection (k) of rule XI, provides:

> Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

This privilege, unlike advocacy in a court, does not as a matter of right entitle the attorney to present argument, make motions, or make demands on the committee.

§ 14.4 Although a witness at an investigative hearing, under

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3. 112 CONG. REC. 27494, 27495, 89th Cong. 2d Sess. See also *House Rules and Manual* § 735(k) (1973).

4. See § 15.6, infra, for the point of order and debate on this report.

5. The Speaker expressed the same view of the authority of counsel in responses to points of order raised against two House reports relating to refusals to testify before the Committee on Un-American Activities. See 112 CONG. REC. 27448, 89th Cong. 2d Sess., Oct. 18, 1966, and 112 CONG. REC. 27505, 89th Cong. 2d Sess., Oct. 18, 1966, for the rulings on points of order against H. REPT. No. 2302, the refusal of Milton Mitchell Cohen, and H. REPT. No. 2306, the refusal of Dr. Jeremiah Stamler.

the House rules, may be accompanied by counsel to advise him of his constitutional rights, the witness and not counsel is primarily responsible for protecting his rights and invoking procedural safeguards guaranteed under the rules of the House.

On Oct. 18, 1966,[6] during consideration of a privileged report, House Report No. 2305, relating to the refusal of Yolanda Hall, to testify before the House Committee on Un-American Activities,[7] Speaker John W. McCormack, of Massachusetts, responded to a parliamentary inquiry regarding the responsibility of a witness to protect his rights.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. YATES: Mr. Speaker, is it in order for me to request the Chair for an explanation of a part of the Chair's ruling; namely, that part which is directed to the representation before a committee of a witness by a lawyer?

In his ruling the Chair has indicated that counsel does not, as a matter of right, have the right to present argument, make motions, or make demands on the committee.

Does this mean, Mr. Speaker, that if an objection is to be voiced to an action by the committee, that the objection must be made by the witness or the respondent himself, rather than by the counsel of the witness?

THE SPEAKER: It is incumbent upon the witness to protect himself, after consulting counsel, if he desires to consult counsel. But it is the duty of the witness to do so.

§ 14.5 A House committee has discretion to refuse to allow demands of counsel at an investigative hearing and it may reject an attorney's demand that certain evidence be taken in executive session or require the witness personally to raise the issue.

On Oct. 18, 1966,[8] during consideration of a privileged report, House Report No. 2305, relating to the refusal of Yolanda Hall to testify before the House Committee on Un-American Activities,[9] the Speaker indicated that a demand that testimony be taken in executive session could be rejected at the discretion of the committee.[10]

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6. 112 CONG. REC. 27495, 89th Cong. 2d Sess. See *House Rules and Manual* § 735(k) (1973) .

7. See § 15.6, infra, for this report.

8. 112 CONG. REC. 27495, 89th Cong. 2d Sess.

9. See § 15.6, infra, for this report.

10. See the ruling of Speaker John W. McCormack (Mass.), discussed in § 14.3, supra.

§ 15. Effect of Derogatory Information

In 1955, the House amended its rules to prescribe the procedures to be followed upon a determination that evidence at a hearing "may tend to defame, degrade, or incriminate a person." The provisions of the rule, and their application, are discussed in detail in succeeding sections.[11]

The three requirements of the rule are cumulative and mandatory.[12] Thus, a committee, upon determining that evidence adduced at an investigative hearing may tend to defame, degrade, or incriminate a person, must (1) receive the evidence in executive session; (2) afford the person an opportunity to appear voluntarily as a witness; and (3) receive and dispose of requests from such a person to subpena additional witnesses.

If a committee affords a witness the opportunity to appear voluntarily to testify in executive session and that opportunity is ignored by the witness, the committee cannot thereafter proceed as if it had fully complied with the rule but must issue a subpena and comply with all other requirements of the rule. However, if the witness thereafter appears in response to a subpena and, when called, asks for an executive session, the committee must determine, as provided by the rule, whether the testimony will tend to defame, degrade, or incriminate. If the committee determines that the evidence will not so tend, it may then proceed in open session.[13]

Although the rule was intended to apply to third parties rather than witnesses,[14] it has been the subject of points of order relating to rights of witnesses.[15]

In General

§ 15.1 As part of the Code of Fair Procedures, the House amended the rules to provide that, "If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate a person, it shall (1) receive

11. See § 15.1, infra, for a discussion of the rule and its adoption. See §§ 15.2–15.6, infra, for application of particular provisions.

12. See the ruling of the Chair set forth in § 15.4, infra.

13. See the proceedings discussed in § 15.6, infra. See also 112 CONG. REC. 27506, 89th Cong. 2d Sess., Oct. 18, 1966.

14. See § 15.1, infra.

15. See §§ 15.2–15.6, infra.

such evidence or testimony in executive session; (2) afford such person an opportunity voluntarily to appear as a witness; and (3) receive and dispose of requests from such person to subpena additional witnesses."

On Mar. 23, 1955,[16] the House by voice vote approved House Resolution 151, known as the Code of Fair Procedures, which included a provision providing safeguards to be followed in the reception of derogatory testimony.[17]

Commenting on this provision, the Chairman of the Committee on Rules, Howard W. Smith, of Virginia, stated that, ". . . when a person is named in a committee hearing and his good reputation besmirched, he shall have a prompt opportunity to appear and refute the charges.[18] The effects of this provision were further discussed:[19]

> MR. [CLARENCE J.] BROWN of Ohio: . . . Then if the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, this resolution provides that it shall receive such testimony in executive session; that is, if it is possible to do so, they may go immediately into executive session. They shall afford such person an opportunity voluntarily to appear as a witness to refute such statements or testimony against him; and it shall receive and dispose of requests from such a person to subpena additional witnesses. Those rights are given to the witness. . . .
>
> MR. [JAMES C.] MURRAY of Illinois: We had considerable discussion when another bill was up today concerning the meaning of the words "shall" and "may." I notice in line 16 on page 2, it says with reference to testimony that may tend to defame, degrade, or incriminate a person that the committee shall do so and so. Is that mandatory or is it permissive?
>
> MR. BROWN of Ohio: Where it finds that it may tend to defame, degrade, or incriminate a person, it shall do so and so; it shall receive such evidence and testimony until it satisfies itself whether it is true.
>
> MR. MURRAY of Illinois: Is that mandatory?
>
> MR. BROWN of Ohio: Yes, that is mandatory, in my opinion. They shall afford such person who had been defamed the right voluntarily to come before the committee and refute it, which is a fair thing and a procedure which practically all the committees of the House now follow.
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> MR. [PORTER] HARDY [Jr., of Virginia]: Mr. Speaker, will the gentleman yield?
>
> MR. BROWN of Ohio: I yield to the gentleman from Virginia.

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16. 101 CONG. REC. 3569, 3585, 84th Cong. 1st Sess.

17. See *House Rules and Manual* § 735(m) (1973).

18. 101 CONG. REC. 3569, 84th Cong. 1st Sess.

19. 101 CONG. REC. 3572, 3573, 84th Cong. 1st Sess.

MR. HARDY: On that particular point, the discussion centers around whether or not the testimony would tend to degrade or intimidate the witness. That is what the section says.

MR. BROWN of Ohio: The gentleman reads into it something that is not in there. It says "degrade any person."

MR. HARDY: That is exactly my point. It would mean, then, that if a committee held an executive session and determined that they were going to receive testimony which would indicate that an individual not the witness had misappropriated Government property, for instance, under this language it could not hold that testimony in open session.

MR. BROWN of Ohio: That is right. If I charge you with being a thief, the committee goes into executive session to explore as to whether or not I have any justification for that charge and you have the right to answer it. Then, if they determine that there is some ground for my charge against you, they can have all the open sessions they want to have.

MR. HARDY: Is there anything in here that shows that you can open that hearing up?

MR. BROWN of Ohio: Certainly, because it provides only the two things they shall do in such circumstances. . . .

MR. [EDWIN E.] WILLIS [of Louisiana]: That provision under discussion refers to a person not on the stand?

MR. BROWN of Ohio: That is right.

MR. WILLIS: It refers to defaming third parties, not the man on the stand?

MR. BROWN of Ohio: That is right.

MR. HARDY: I understand that, but suppose you have a situation that clearly shows that there has been abuse?

MR. BROWN of Ohio: What does it say here? They consider that in executive session, then they come back into open session after they have got the information and, if they decide there is some substance to your charge, or my charge against you, then they can go ahead and have all the open hearings they want.

MR. HARDY: They can have all the open hearings they want, then.

MR. WILLIS: I think this is important. The controlling part of that particular section is that "If the committee determines," then such and such happens.

MR. BROWN of Ohio: That is right.

MR. WILLIS: But the determination must be made first.

MR. BROWN of Ohio: It rests entirely with the committee.

MR. HARDY: The gentleman is absolutely correct. It is only where the person is brought up for the first time and when the committee determines that the matter should be gone into; then you can have all the public hearings you want.

MR. BROWN of Ohio: If they think the man has been defamed. If I say you are a Communist and the evidence shows you are not, then I have not told the truth. The committee determines whether or not you have been defamed.

MR. HARDY: That is exactly right. Then you can have all the public hearings you want.

MR. SMITH of Virginia: Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. Forrester].

MR. [ELIJAH L.] FORRESTER [of Georgia]: . . . With regard to the particular portion which was inquired about by the gentleman from Virginia [Mr. Hardy], the answer given by the gentleman from Ohio [Mr. Brown] is absolutely correct. All on earth this provision does is that if a man's name is brought up before a committee for the first time, you go into executive session and you somewhat simulate the action of a grand jury. That is a fair provision.

MR. [EDWARD T.] MILLER of Maryland: Mr. Speaker, will the gentleman yield?

MR. FORRESTER: I yield.

MR. MILLER of Maryland: I share the view of the gentleman from Virginia that that may be the intention, but certainly the language here does not indicate how it would be possible to bring out evidence that you knew was going to degrade somebody except in executive session. I do not see any language here that permits that.

MR. FORRESTER: No matter where it is brought out, if it is in executive session, then, of course, you can deal with it, but if it is in public session, then you simply suspend and go into executive session and determine whether or not there is a reason to expose that man's name publicly. That is a right which the Congress should be the first to concede to any person. . . .

This clause aroused some criticism, as shown in the remarks below:[20]

MR. HARDY: I am in complete accord with the objectives of the committee, and I congratulate the committee on attempting to deal with a very difficult problem. However, I think that subsection (m), as now written, will hamper every investigation that is ever undertaken.

MR. FORRESTER: I do not think so. * * *

MR. [KENNETH B.] KEATING [of New York]: * * * I am also puzzled and troubled a little about subparagraph (m) and the way it is intended to work. In the first place, it specifies that "if the committee determines" that certain evidence or testimony is defamatory, degrading, or incriminating, it must then hear the same in executive session—but in order for the committee to make such a determination it would appear that some consideration of the evidence or testimony would already have to have taken place. So I wonder if the requirement is not self-defeating, in that the harm would be done before the committee would ever be in a position to provide the intended protection.

In passing, I should also like to raise a grave question about this matter of executive sessions. Undoubtedly, it is a good and desirable thing to create a right, at least in limited circumstances, for a person who is likely to be injured by testimony to have the testimony taken at a secret hearing. I favor that, if some practical way to accord it without tying the committee's hands can be worked out.

But I am also persuaded that there is, as a practical possibility at least, a considerable danger of abuse in the other direction, namely, a danger that the secret hearing may also be used as a truly terrible reincarnation of the star chamber. If a hostile and unwill-

20. 101 CONG. REC. 3573, 3583, 84th Cong. 1st Sess.

ing witness is forced to submit to lengthy examination, under oath and on record, in a secret session, he can be put at a terrible disadvantage when the committee later raises the curtain and conducts the interrogation again publicly. He is bound to everything he said, at the peril of imminent prosecution for perjury, and his interrogators are able to pick and choose from only the most damaging concessions and exactions. In some of the drafts last year this matter was handled by creating, in the witness, a right to insist upon being heard publicly if he feared the secret session. There are some possible difficulties with this, although the hostile witness who invokes such a right would probably be of little legitimate value to the committee in any case. . .[21]

Receiving Testimony in Executive Session

§ 15.2 A point of order was raised against a committee report citing a witness in contempt, on the ground that the committee had violated a House rule by not receiving certain testimony in executive session.

On Oct. 18, 1966, Mr. Sidney R. Yates, of Illinois, raised points of order against House Report Nos. 2302 [22] 2305 [23] and 2306 [24] relating to refusals of three named individuals to testify before the Committee on Un-American Activities, on the ground that the committee violated Rule XI clause 27(m), [1] by not receiving in executive session evidence and testimony which would allegedly defame, degrade, or incriminate these individuals.

Speaker John W. McCormack, of Massachusetts, overruled each point of order, stating as his reasons those set forth in sections following.[2]

Prerequisite for Committee Determination

§ 15.3 Where a person subpenaed as a witness responded to his name and then left the hearing room without making any statement other than that he refused to testify, the committee could not be said to violate the House rule relating to derogatory informa-

21. See § 13.2, supra, for other criticism of this provision.

22. See § 15.3, infra, for this point of order.

23. See § 15.6, infra, for this point of order.

24. See 112 CONG. REC. 27505, 89th Cong. 2d Sess., for this point of order.

1. See House Rules and Manual § 735(m) (1973).

2. See §§ 15.3, 15.6, infra.

tion since the proceedings had never reached the point where the testimony could be said to tend to degrade, defame, or incriminate.

On Oct. 18, 1966,[3] Speaker John W. McCormack, of Massachusetts, in response to a point of order by Mr. Sidney R. Yates, of Illinois, against privileged House Report No. 2302, citing Milton Mitchell Cohen, of Chicago, Ill., in contempt for refusal to respond to questions at a hearing, ruled that the Committee on Un-American Activities had not violated Rule XI clause 27(m),[4] because the proceedings had not reached the stage at which the committee determines whether to hear evidence or testimony in executive session.

PROCEEDINGS AGAINST MILTON MITCHELL COHEN

MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Speaker, I rise on a question of the privilege of the House, and by direction of the Committee on Un-American Activities I submit a privileged report—House Report No. 2302. . . .

MR. YATES: Mr. Speaker, I make a point of order against the resolution offered by the Committee on Un-American Activities. The committee appears here today claiming the privilege of the House. It asserts that this House has been injured, that its dignity and its integrity have been threatened, even impaired, by reason of the refusal of the respondents to give testimony to the committee at a public hearing duly convened. It now asks this House in this resolution to hold the respondent in contempt so that he may be punished by the criminal processes of the law for his refusal to testify.

Mr. Speaker, there is no doubt that the respondent did refuse to give testimony. The question I raise for the consideration of the Chair is whether a witness may be required to give such testimony when the committee itself has violated the [rights] of the respondent by refusing to follow the Rules of the House which were specifically established to protect the rights of the respondents for this purpose. . . .

This committee, the Committee on Un-American Activities, has failed and refused to follow the Code of Fair Procedure by denying the request of the respondent that his testimony be taken in executive session. . . .[5]

May a committee of this House deny the protection of the rules which were approved by this House for the purpose of protecting witnesses who request that protection? There are no precedents of the House on this point, but the Supreme Court[6] faced with a

3. See the proceedings at 112 CONG. REC. 27439–48, 89th Cong. 2d Sess.

4. See *House Rules and Manual* § 735(m) (1973).

5. See § 13.1, supra, for discussion of adoption of this code.

6. See *Yellin* v *United States*, 374 U.S. 109 (1963), which reversed a conviction because the Committee on Un-American Activities failed to comply with its own rule, not a House rule, regarding executive sessions rather

similar question decided that a committee could not compel a witness to testify under such circumstances, and the Court, the Supreme Court of the United States, vacated a criminal contempt conviction that had been entered against a defendant whose case had come up from the Committee on Un-American Activities.

Mr. Speaker, what does rule 26(m) provide? I read it, Mr. Speaker. It says this:

If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall do the following:

First. It shall receive such evidence or testimony in executive session;

Second. It shall afford such person an opportunity voluntarily to appear as a witness; and—not "or" but "and," Mr. Speaker.

Third. Receive and dispose of requests from such persons to subpena additional witnesses.

It is to be noted, Mr. Speaker, that the three requirements of the committee are not in the alternative. They are cumulative.

In his letter of May 25, the chairman of this committee wrote a letter to the respondent saying that the committee was acting pursuant to [Rule XI clause 27(m)] in offering to take the testimony in executive session. Thus, the rule had been activated and a decision had been made by the committee that the testimony was of a type that would tend to defame, degrade, or incriminate.

Mr. Speaker, in offering the witness this opportunity to appear voluntarily and give testimony in executive session, the committee was complying with section 2 of the rule.

But, Mr. Speaker, when the witnesses did not appear voluntarily, in spite of the fact that the conditions for requiring testimony to be taken in executive session were still present; namely, that the testimony would tend to degrade, defame, or incriminate, the committee determined to receive the testimony in public session. . . .

The SPEAKER: The Chair will hear the gentleman from Georgia [Mr. Weltner].

MR. [CHARLES L.] WELTNER: . . .

[T]he report before the Speaker and before the Members shows that on May 18, Mr. Cohen, without relying upon any constitutional protection, announced through his attorney that he was departing from the witness room without submitting himself to any questions by the committee, after stating only his name and address.

The rules of the House have been religiously followed in this instance, in each case, in each of the three burdens upon the House committee pursuant to rule 26(m). . . .

There was a request by his attorney that he be called and examined in executive session. The record of the hearing will show, Mr. Speaker, that subsequent to the making of that request, this committee recessed the public hearings; that it undertook to consider his request in executive session; that the factors making up the substance of his request were considered; and the request was by unanimous vote of that committee denied. . . .

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than the House rule discussed here. *Yellin* is discussed at § 1 5.6, infra.

The SPEAKER: The Chair is ruling only in these cases on this particular case concerning Milton Mitchell Cohen. The gentleman from Illinois [Mr. Yates] has raised a point of order against the privileged report filed by the gentleman from Georgia [Mr. Weltner] citing a witness before a subcommittee of the Committee on Un-American Activities of the House for contempt. The point of order is based on the ground that the subcommittee while holding hearings in Chicago failed or refused to follow the rules of the House, specifically rule XI, clause 26(m) and, at the demand of the witnesses' attorney, take the testimony in executive session rather than in an open hearing. . . .

The Chair agrees with the gentleman from Illinois that the three subclauses are not in the alternative. Each subclause stands by itself. The Chair will point out, however, that the subsection places the determination with the committee, not with the witness. . . .

Now the Chair will cite clause 26(a) of rule XI, which states that the rules of the House are the rules of its committees so far as applicable. This provision also applies to the subcommittees of any such committee. Consequently, the Chair must examine the facts to see if the subcommittee did in fact comply with clause 26(m) of rule XI.

The Chair will call attention to the fact that it is pointed out on page 8 of the report that the witness was invited to appear and testify in executive session. The invitation was ignored.

It will be noted, on pages 11 and 12 of the committee report, that the attorney for witness Cohen instructed his client not to give any testimony pending determination of a legal action in the U.S. District Court for the Northern District of Illinois.

The witness then left the hearing room, notwithstanding the admonition of the chairman of the subcommittee.

The Chair fails to see how clause 26 (m) of rule XI becomes involved since the witness left the hearing room after his attorney had instructed him not to answer any questions pending determination of the legal proceedings.

The Chair, therefore, overrules the point of order.

Committee Determinations

§ 15.4 The determination that evidence may tend to defame, degrade, or incriminate a person, a prerequisite to certain procedural steps under House rules lies with the committee and not with the witness.

On Oct. 18, 1966, Speaker John W. McCormack, of Massachusetts, in the course of ruling on the point of order discussed above, stated[7] that the committee, not

7. 112 CONG. REC. 27448, 89th Cong. 2d Sess. See § 15.3, supra, for the point of order. See also § 15.6 and 112 CONG. REC. 27505, 27506, 89th Cong. 2d Sess., Oct. 18, 1966, for the same ruling on this issue to points of order raised by Mr. Sidney R. Yates (Ill.), against H. REPT. Nos. 2305 and 2306 relating to refusals of Yolanda Hall and Dr. Jeremiah

the witness, determines whether evidence may tend to defame, degrade, or incriminate a person under Rule XI clause 27(m).[8]

The SPEAKER: . . . The point of order is based on the ground that the subcommittee while holding hearings in Chicago failed or refused to follow the rules of the House, specifically rule XI, clause 26(m) and, at the demand of the witnesses' attorney, take the testimony in executive session rather than in an open hearing. . . .

The Chair has . . . refreshed his recollection of clause 26(m), rule XI, which reads as follows:

> If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—
>
> (1) receive such evidence or testimony in executive session;
>
> (2) afford such person an opportunity voluntarily to appear as a witness; and
>
> (3) receive and dispose of requests from such person to subpena additional witnesses.

The Chair agrees with the gentleman from Illinois that the three subclauses are not in the alternative. Each subclause stands by itself. The Chair will point out, however, that the subsection places the determination with the committee, not with the witness.

§ 15.5 With respect to evidence or testimony at an investigative hearing which may tend to defame, degrade, or incriminate a person, the committee, under the rules of the House, determines whether to hold an executive session or publicize material which has been received in executive session.

On Apr. 5, 1967,[9] during consideration of House Resolution 221, providing additional expense funds for the Committee on Un-American Activities, Speaker John W. McCormack, of Massachusetts, responded to parliamentary inquiries relating to the discretion of a committee under Rule XI clause 27(m).[10]

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker [rule XI, 27(m)] of the Rules of the House of Representatives states as follows:

> If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—
>
> (1) receive such evidence or testimony in executive session;

Mr. Speaker, my question is this: If the committee determines that the evidence it is about to receive may tend to defame, degrade or incriminate a witness, is it not compulsory under the Rules of the House for the committee

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Stamler, respectively, to testify before the Committee on Un-American Activities.

8. See *House Rules and Manual* § 735(m) (1973).

9. 113 CONG. REC. 8420, 8421, 90th Cong. 1st Sess.

10. See *House Rules and Manual* § 735(m) (1973).

to hold such hearings in executive session?

THE SPEAKER: The Chair will state that that is a matter which would be in the control of the committee for committee action. . . .

MR. YATES: I must say that I do not understand the ruling. Is the Chair ruling that a committee can waive this rule? That it can refuse to recognize this rule?

THE SPEAKER: The Chair would not want to pass upon a general parliamentary inquiry, as distinguished from a particular one with facts, but the Chair is of the opinion that if the committee voted to make public the testimony taken in executive session, it is not in violation of the rule, and certainly that would be a committee matter.

MR. YATES: A further parliamentary inquiry, Mr. Speaker. What the Chair is now stating is that if the committee votes at a subsequent time to make public such a hearing, under the rules it may do so. But that does not bear upon the question I addressed to the Speaker, which was this: in the first instance, when testimony is to be taken by the committee, and such testimony tends to defame, degrade, or incriminate any person, must it be taken in executive session? . . .

THE SPEAKER: The Chair will be very frank. The Chair recognizes the power of the committee. If the committee goes into executive session, the Chair is not going to make a ruling under those circumstances as to whether a committee could make public testimony taken in executive session.

MR. YATES: May I pursue one further parliamentary inquiry, Mr. Speaker. The rule states:

> If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—
>
> (1) receive such evidence or testimony in executive session.

The question I addressed to the Chair was whether the committee could waive that rule.

THE SPEAKER: The rule says:

> If the committee determines

And there has to be a determination by the committee—

> that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—

First it has to make a determination. Without passing on this, the Chair can look into the future and see where the committee might make a determination, and then when it goes into executive session and receives the evidence, it may find there the evidence did not justify the original determination, or the evidence is of such a nature that it justifies being made public.

MR. YATES: I thank the Chair. Then I take it from the Chair's response to my inquiry that so long as the committee has made such a finding and has not vacated it, the rule is applicable.

THE SPEAKER: The Chair is not even going to go that far—not on this occasion. The Chair has been perfectly frank. Of course, sometimes the word "shall" I know has been construed by the courts sometimes as "may". The gentleman is familiar with that, I am sure. The Chair is not doing that on this occasion. The Chair would have to ascertain the facts in a particular case.

Consequence of Committee Determination

§ 15.6 A point of order that a committee violated a House rule relating to the reception of derogatory evidence, made against a committee report citing a witness for refusal to testify, could not be sustained where the subpenaed witness requested through counsel that evidence and testimony be taken in executive session, and the committee recessed, considered, and denied the request, having determined during the recess that these materials would not tend to defame, degrade, or incriminate any person; such committee actions, it was held, constituted compliance with the clause.

On Oct. 18, 1966,[11] Speaker John W. McCormack, of Massachusetts, overruled a point of order raised by Mr. Sidney R. Yates, of Illinois, that the Committee on Un-American Activities violated Rule XI clause 27(m),[12] by not holding an executive session; the Speaker found that the committee had duly considered and rejected the request.

PROCEEDINGS AGAINST YOLANDA HALL

MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Speaker, I rise to a question of the privilege of the House and by direction of the Committee on Un-American Activities, I submit a privileged report-House Report No. 2305.

The Clerk read as follows: . . . [13]

MR. YATES: Mr. Speaker, I make a point of order against the resolution on the grounds that it is violative of [rule XI, paragraph 27 (m)] of the rules of the House, requiring that testimony which may tend to defame, degrade, or incriminate the witness be taken in executive session. I do not intend to go into the same delineation of my reasons that I gave in connection with the preceding resolution.[14] But I suggest, with due respect, that the Chair should consider the fact that in this case, even though the Supreme Court of the United States decision is not controlling, it is nevertheless persuasive, and I should like to read to the Chair from the decision in the case of *Yellin* v. *the United States*, 374 U.S.

11. See the proceedings at 112 CONG. REC. 27486–95, 89th Cong. 2d Sess. See also 112 CONG. REC. 27500–06, 89th Cong. 2d Sess., Oct. 18, 1966, for the same ruling on a point of order raised against H. REPT. NO. 2306, regarding the refusal of Dr. Jeremiah Stamler to testify before the Committee on Un-American Activities.

12. See *House Rules and Manual* § 735(m) (1973).

13. The report is omitted.

14. See § 15.3, supra, relating to a contempt citation against Milton Mitchell Cohen, during which Mr. Sidney R. Yates (Ill.), raised similar objections.

109, page 114, where the Court recited the rule which was then under consideration as follows:[1]

> Executive hearings: If a majority of the committee or subcommittee duly appointed as provided by the Rules of the House of Representatives believes that the interrogation of a witness in a public hearing might endanger national security or unjustly injure his reputation or the reputation of other individuals, the committee shall interrogate such witness in an executive session for the purpose of determining the necessity or the advisability of conducting such interrogation thereafter in a public hearing.

Mr. Speaker, I now read from the decision of the Court on this particular rule, where the Court, discussing the rules that make up the Code of Fair Procedure that were approved in the year 1955, said as follows:

> All these rules work for the witness' benefit. They show that the committee has in a number of instances intended to assure the witness fair treatment, even the right to advice of counsel or undue publicity, and even the right not to be photographed by television cameras.
>
> Rule IX, in providing for an executive session when a public hearing might unjustly injure a witness' reputation, has the same protection import. And if it is the witness who is being protected, the most logical person to have the right to enforce those protections is the witness himself.

I respectfully suggest, Mr. Speaker, that the respondent, who was called as a witness, requested in the instant case that she be afforded the opportunity to testify in an executive session, a request that was denied by the committee. The respondent subsequently walked out on the committee without testifying.

I read from the court, to show that the respondent had no alternative under such circumstances. On page 121 the court says this:

> Petitioner has no traditional remedy, such as the writ of habeas corpus . . . by which to redress the loss of his rights. If the Committee ignores his request for an executive session, it is highly improbable that petitioner could obtain an injunction against the Committee that would protect him from public exposure. . . . Nor is there an administrative remedy for petitioner to pursue should the Committee fail to consider the risk of injury to his reputation. To answer the questions put to him publicly and then seek redress is no answer. For one thing, his testimony will cause the injury he seeks to avoid; under pain of perjury, he cannot by artful dissimulation evade revealing the information he wishes to remain confidential. For another, he has no opportunity to recover in damages. Even the Fifth Amendment is not sufficient protection, since petitioner could say many things which would discredit him without subjecting himself to the risk of criminal prosecution. The only avenue open is that which petitioner actually took. He refused to testify.

This is the decision of the Court. I respectfully suggest to the Speaker that it would sustain the dignity and integrity of the House if the interpretation of the rule for which I contend were sustained. . . .

MR. [RICHARD H.] ICHORD [of Missouri]: . . . To assist the Chair in rul-

1. The quoted rule is taken from the rules of the Committee on Un-American Activities, not the rules of the House.

ing on the point of order of the gentleman from Illinois I would point out to the Chair that the facts are essentially the same as in the Cohen case, and that the gentleman from Illinois has raised a point of order again under [rule XI 27(m)] that the witness, Yolanda Hall, should have been afforded an executive session.

Mr. Speaker, in this case the question of executive session is not at issue. . . .

I direct the Speaker's attention to page 14 of the committee report, which sets out the hearings in full.

I direct the Speaker's attention to line 16, which will make it clear to the Speaker that the witness, Yolanda Hall, did not request an executive session from the House Committee on Un-American Activities. . . .

MR. YATES: . . . I . . . refer the Chair to page 337 of the hearings where there appears a statement by Mr. Sullivan as follows:

> I ask this committee to take in executive session any testimony by my clients, that is, Dr. Stamler and Mrs. Hall, and any testimony by any other witnesses about Dr. Stamler and Mrs. Hall. That is my request.

So that the request was made, Mr. Speaker, for testimony to be taken in executive session. . . .

THE SPEAKER: The Chair is prepared to rule.

The gentleman from Illinois [Mr. Yates] has raised a point of order against the privileged report filed by the gentleman from Louisiana, citing a witness before a subcommittee of the Committee on Un-American Activities for contempt. The point of order is based on the ground that the subcommittee, while holding hearings in Chicago, failed or refused to follow the rules of the House—specifically, [rule XI, clause 27 (m)]—and, at the demand of the witnesses' attorney, take the testimony in executive session rather than in an open hearing.

The Chair will again read [clause 27 (m), rule XI], as follows:

> (m) If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—
>
> (1) Receive such evidence or testimony in executive session;
>
> (2) Afford such person an opportunity voluntarily to appear as a witness; and
>
> (3) Receive and dispose of requests from such person to subpena additional witnesses.

The Chair again agrees with the gentleman from Illinois that the three subclauses are not in the alternative. Each subclause stands by itself. The Chair will point out, however, that the subsection places the determination with the committee, not with the witness. . . .

Now the Chair will cite [clause 27(a) of rule XI], which states that the rules of the House are the rules of its committees so far as applicable. This provision also applies to the subcommittees of any such committee. Consequently, the Chair must examine the facts to see if the subcommittee did in fact comply with [clause 27(m) of rule XI].

The Chair will call attention to the fact that it is pointed out on page 8 of the report that the witness in this instance was invited to appear and testify in executive session. The invitation was ignored.

It will be noted, on pages 11 through 14 of the committee report, that the attorney for witness Hall made demand for an executive session. You will note, on page 11 of the report, that when the demand for an executive session was made, the subcommittee took a recess. It is obvious from the subcommittee chairman's statement following that recess, that the subcommittee had considered and determined not to take the testimony in executive session. The chairman so states, on page 12 of the Hall citation:

> Your motion, now made, that Mrs. Hall be now heard in executive session I deny after consideration of the subcommittee. We have complied with [rule 27(m)] and all other applicable rules of the House and of this committee.

It is patently clear to the Chair that the subcommittee did comply with [clause 27 (m)], and made the determination necessary thereunder. Accordingly, the Chair overrules the point of order.

§ 16. Calling Witnesses; Subpenas

This section discusses the calling of witnesses generally, and, specifically, subpenas ad testificandum to compel testimony, and subpenas duces tecum to compel production of papers, before the House or Senate or their committees or subcommittees.[2] It does not encompass all material relating to calling witnesses; subjects not discussed here include court subpenas for House papers,[3] investigations leading to impeachment,[4] inquiries into conduct of Members,[5] or qualifications or disqualifications of Members or Members-elect.[6]

A subpena is not a necessary prerequisite to an indictment and conviction for contempt under the

2. See § 4, supra, for a discussion of subpenas issued to the executive branch, and § 11, supra, for discussion of fourth amendment considerations. See also 1 Hinds' Precedents § 25; 2 Hinds' Precedents §§ 1313 and 1608; 3 Hinds' Precedents §§ 1668, 1671, 1673, 1695, 1696, 1699, 1700, 1714, 1732, 1733, 1738, 1739, 1750, 1753, 1763, 1766, 1800, 1801–1810, 1813–1820; 6 Cannon's Precedents §§ 336, 338, 339, 341, 342, 344, 346–349, 351, 354, 376, for earlier precedents. For related discussion, see § 13.11, supra, regarding a subpenaed witness right not to be photographed; §§ 15.1 and 13.6, supra, relating to disposition of requests to subpena witnesses when derogatory information has and has not been received, respectively; and §§ 17.4 and 19.4, infra, relating to citation of persons who have not been subpenaed. See also all precedents in § 20, infra, as they relate to refusals to appear, be sworn, testify, or produce documents in response to subpenas.

3. See Ch. 11, supra, discussing privilege.

4. See Ch. 14, Impeachment Powers, supra.

5. See Ch. 12, supra.

6. See Ch. 7, Members, supra.

statute, 2 USC § 192, because its provisions apply to contumacy by every person who has been "summoned as a witness by the authority of either House of Congress to give testimony or to produce papers. . . ."[7]

A voluntary appearance before a committee does not immunize a person against service of a subpena. Consequently, a witness who was served with a subpena at a hearing at which he appeared voluntarily and refused to answer questions could legally be indicted and convicted of contempt.[8]

A properly authorized subpena issued by a committee or subcommittee has the same force and effect as a subpena issued by the House or Senate itself.[9] Authority to issue subpenas is granted either by provisions of the rules of the House[10] or resolutions approved by the House or Senate.[11]

Because failure to comply with procedures prescribed in the rules or authorizing resolution invalidates subpenas, a subpena signed by the chairman but not authorized by a subcommittee[12] and another authorized by the chairman after consultation with one other member but not the full subcommittee,[13] were held invalid.

Parliamentarian's Note: The committee or subcommittee must actually meet with a quorum

7. *Kamp* v *United States,* 176 F2d 618 (D.C. Cir. 1948). See also, *Sinclair* v *United States,* 279 U.S. 263, 291 (1929), which held that the contempt statute extends to a case where a witness voluntarily appears as a witness. Nonetheless, the House has deleted from a contempt citation names of persons who had not been subpenaed; see § 17.4, infra.

8. *Dennis* v *United States,* 171 F2d 986 (D.C. Cir. 1948).

9. *McGrain* v *Daugherty,* 273 U.S. 135, 158 (1927). See discussion at 6 Cannon's Precedents § 341; see also *In re Motion to Quash Subpenas and Vacate Service,* 146 F Supp 792 (W.D. Pa. 1956).

10. In the 93d Congress, five committees, Appropriations, Budget, Government Operations, Internal Security, and Standards of Official Conduct, possessed authority under the rules to grant subpenas; see Rule XI clauses 2(b), 8(d), and 11(b) respectively, *House Rules and Manual* §§ 679, 691, and 703 A (1973). In the 94th Congress, all committees functioning under Rule X or XI were granted subpena authority by the standing rules and only select committees derived subpena authority from special resolutions.

11. Note: Recent changes in the procedure described herein, including methods of authorization, will be discussed in supplements to this edition as they appear.

12. *Shelton* v *United States,* 327 F2d 601 (D.C. Cir. 1963).

13. *Liveright* v *United States,* 347 F2d 473 (D.C. Cir. 1965).

present to authorize the issuance of a subpena, since under section 407 of *Jefferson's Manual* a committee "can only act when together, and not by separate consultation and consent."

Minor irregularities in the form of a subpena do not invalidate it when the meaning is clear to the person to whom it is directed. An objection to a variance between a subpena duces tecum which directed the witness to produce records of the United Professional Workers of America, and an indictment, which alleged refusal to produce records of the United Public Workers of America, of which the witness was president, was held to be frivolous, particularly because the witness called attention to the error.(14)

A subpena directing a member of the executive board of an association to produce organizational records was held not defective as being addressed to an individual member of the board rather than to the association.(15) And postponement of a hearing did not excuse a refusal to testify on a date subsequent to the one that appeared on the subpena, despite the fact that the subpena did not contain a clause directing the witness to remain until excused, when the witness was present in Washington on the later date to attend the hearing and did not raise the issue at the time.(16)

Unlike a minor irregularity in form, a finding of invalidity of part of a subpena voids the whole subpena. Following the general rule that, "one should not be held in contempt under a subpena that is part good and part bad,"(17) a court of appeals stated in one case that the court had a burden to see that the subpena was good in its entirety. Believing that a person facing punishment should not have to cull the good from the bad, the court dismissed the indictment for contempt, because the subpena exceeded the authority delegated to the committee.(18) Similarly, the contempt conviction of the Executive Director of the Port of New York Authority, who provided subpenaed materials relating to the actual activities and

14. *Flaxer* v *United States,* 235 F2d 821 (D.C. Cir. 1956), vacated and remanded, 354 U.S. 929 (1957), aff'd., 258 F2d 413 (D.C. Cir. 1958), reversed on other grounds, 358 U.S. 147 (1958).

15. *United States* v *Fleischman,* 339 U.S. 349 (1950), rein. denied, 339 U.S. 991 (1950).

16. *United States* v *Groves,* 18 F Supp 3 (W.D. Pa. 1937).

17. *Bowman Dairy Company* v *United States,* 341 U.S. 214 (1951).

18. *United States* v *Patterson,* 206 F2d 433 (D.C. Cir. 1953).

operations of the authority but refused to supply materials relating to the reasons for these activities, was reversed on the ground that the latter category exceeded the authority granted by the House to the investigative unit, a subcommittee.[19] Nonetheless, in one case it was held that the mere possibility that the general terms of a subpena could be construed to include materials protected by the first amendment could not justify a blanket refusal to produce anything, in the absence of an objection that the subpena was too broad.[20] And a witness' conviction for obstruction of justice for mutilating or concealing records subpenaed was upheld on appeal notwithstanding the fact that the subpena had not been properly authorized. A valid subpena was not considered vital, since the defendant knew the documents were desired by a congressional committee.[1]

To assure the attendance of a witness who refused to answer questions before a committee, the House or Senate may order the Speaker or President of the Senate, respectively, to issue a warrant ordering the Sergeant at Arms to arrest the witness and bring him before the bar of the parent body, if there is a reasonable belief that important evidence may otherwise be lost.[2]

Where a committee of Congress has subpenaed a witness to appear at a hearing without defining questions to be asked, the judicial branch should not enjoin in advance the holding of the hearing or suspend the subpena; the rights of a witness regarding any question actually asked at the hearing are subject to determination in appropriate proceedings thereafter.[3]

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19. *Tobin* v *United States,* 306 F2d 279 (1962), cert. denied, 371 U.S. 902 (1962).

20. *Shelton* v *United States,* 404 F2d 1292 (D. C. Cir. 1968), cert. denied, 393 U.S. 1024 (1969).

1. *United States* v *Presser,* 292 F2d 171 (6th Cir. 1961), aff'd. 371 U.S. 71 (1961).

2. *Barry* v *United States ex rel. Cunningham,* 279 U.S. 597, 619 (1929). This case, based on an investigation of a Senator-elect, is discussed at 6 Cannon's Precedents §§ 346–349.

The fact that an alien who had been subpenaed by a House committee was arrested by Immigration and Naturalization Service officers and taken before the committee in their custody did not relieve him of his obligation to testify. Although the issue of legality or illegality of the arrest could be raised in a judicial proceeding, it was irrelevant to the committee proceedings. *Eisler* v *United States,* 170 F2d 273 (D.C. Cir. 1948), cert. dismissed, 338 U.S. 883 (1949).

3. *Mins et al.* v *McCarthy,* 209 F2d 307 (D.C. Cir. 1953).

Two recent cases discussing injunctions against compliance with congressional requests or subpenas will be treated in more detail in supplements to this edition. In an action by Ashland Oil, Inc., to enjoin the Federal Trade Commission from furnishing certain trade secrets to a congressional subcommittee, the Court of Appeals for the District of Columbia held that the Federal Trade Commission was not precluded by statute from transmitting trade secrets to Congress pursuant either to subpena or formal request. *Ashland Oil, Inc.* v *Federal Trade Commission,* 548 F2d 977 (D.C. Cir. 1976). In the other case, the Justice Department sought to enjoin American Telephone & Telegraph Co. from complying with a subpena issued by the Chairman of the House Committee on Interstate and Foreign Commerce. The information sought pursuant to the subpena related to electronic surveillance, and the executive branch contended that disclosure of the information created a risk to national security. The District Court for the District of Columbia having issued an injunction against compliance with the congressional subpena, the U.S. Court of Appeals for the District of Columbia remanded the case without decision on the merits and called for further negotiations between the parties. *United States* v *American Telephone & Telegraph Co.,* 551 F2d 384 (D.C. Cir. 1976). The Court further directed the District Court to modify the injunction with respect to information regarding domestic surveillance, disclosure of which had not been found to create an undue risk to national security.

Habeas Corpus

§ 16.1 A subcommittee may petition a court to issue a writ of habeas corpus to compel attendance of an incarcerated person at a committee hearing.

On Sept. 10, 1973,[4] the fact that the Special Subcommittee on Intelligence of the Committee on Armed Services had petitioned a U.S. district court to issue a writ of habeas corpus ad testificandum to compel the attendance of a witness, G. Gordon Liddy, before a hearing of the subcommittee, was revealed to the House in House Report No. 93–453.

BACKGROUND

At the time of the subcommittee hearings, Mr. Liddy was in confinement in the District of Columbia Jail as the result of his conviction on the Watergate breakin. Accordingly, the subcommittee petitioned Chief Judge John J. Sirica of the United States District Court for the District of Columbia for a Writ of Habeas Corpus Ad Testificandum as the only means of obtaining Mr. Liddy's presence before the subcommittee. In his discretion Judge Sirica signed that petition and an order was delivered to the United States Marshal for Mr. Liddy's appearance before the subcommittee on July

4. 119 CONG. REC. 28951, 93d Cong. 1st Sess.

20, 1973. [See Appendix 1, pp. 16–17.] Mr. Liddy appeared as ordered.

Subpena as Prerequisite for Contempt

§ 16.2 The House and not the Chair determines whether persons who have not been subpenaed may be cited for refusal to produce organizational books, records, and papers.

On Mar. 28, 1946,[5] Speaker Sam Rayburn, of Texas, responded to a point of order regarding authority to entertain a resolution citing for contempt persons who had not been subpenaed.

> MR. [JOHN S.] WOOD [of Georgia]: Mr. Speaker, by direction of the Committee on Un-American Activities, I present a privileged report and ask that it be read. . . .
>
> COMMITTEE ON UN-AMERICAN ACTIVITIES
>
> THE SPEAKER: The Clerk will read the report of the Committee on Un-American Activities.
>
> The Clerk read as follows:
>
> PROCEEDING AGAINST DR. EDWARD K. BARSKY AND OTHERS
>
> Mr. Wood, from the Committee on Un-American Activities, submitted the following report:
>
> The Committee on Un-American Activities as created and authorized by the House of Representatives by House Resolution 5 of the Seventy-ninth Congress, caused to be issued a subpena to Dr. Edward K. Barsky, chairman of the Joint Anti-Fascist Refugee Committee, an unincorporated organization with offices at 192 Lexington Avenue, New York, N.Y. The said subpena required the said person to produce books, papers, and records of the organization for the inspection of your committee; the subpena is set forth as follows: . . .

In his appearance before the committee, Dr. Barsky stated that he was unable to produce the subpenaed materials because that authority had not been granted by the members of the executive board.

At the request of a committee member, he supplied a list of names and addresses of board members. This list appeared in the report and resolution. Thereafter the following resolution was considered:

> MR. WOOD: Mr. Speaker, I offer a privileged resolution (H. Res. 573) and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> *Resolved*, That the Speaker of the House of Representatives certify the report of the House Committee on Un-American Activities as to the willful and deliberate refusal of the following persons to produce before the said committee for its inspection the books, papers, and records of an unincorporated organization known as the Joint Anti-Fascist Refugee Committee, with offices at 192 Lexington Avenue, New York, N. Y., together with all the facts relating

5. 92 CONG. REC. 2743–45, 79th Cong. 2d Sess.

thereto, under seal of the House of Representatives, to the United States attorney for the District of Columbia to the end that the said persons named below may be proceeded against in the manner and form provided by law:

Dr. Edward K. Barsky, 54 East Sixty-first Street, New York City.

Dr. Jacob Auslander, 288 West Eighty-sixth Street, New York City.

Prof. Lyman R. Bradley, New York University, New York City.

Mrs. Marjorie Chodorov, 815 Park Avenue, New York City. . . .

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

THE SPEARER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, I make a point of order against the resolution on the ground that it seeks to have cited by this House individuals who were never subpenaed, and never given an opportunity to appear and state whether or not they would or could comply with a subpena. Under those circumstances, I maintain that insofar as those individuals are concerned this matter is not properly before the House, in that neither the resolution nor the report from the committee sets forth that these individuals were subpenaed, with the exception of Dr. Barsky. None of the others were subpenaed; none of the others came before the committee and were accorded even an opportunity to say "yes" or "no" as to whether or not they had authority or control over the records and books and whether they could or would comply with the committee's subpena. For that reason, as far as they are concerned, this resolution is not properly before this House.

THE SPEAKER: The Chair is ready to rule.

The report and the resolution are both before the House for its determination, and not the determination of the Chair. The Chair overrules the point of order.[6]

D. AUTHORITY IN CASES OF CONTEMPT

§ 17. In General

The House may try a contumacious witness at its bar[7] or pur-

6. See § 17.4, infra, discussing adoption of an amendment deleting names of all persons who had not been subpenaed.

7. *Parliamentarian's Note:* No contumacious witness has been tried at the bar of the House or Senate between 1936 and 1973. In *Groppi* v *Leslie,* 404 U.S. 496 (1972), a decision which reviewed an action of the Wisconsin legislature but nonetheless rested on congressional precedents, the U.S. Supreme Court held that a witness may not be punished for contempt unless he has been accorded

sue procedures authorized by 2 USC §§ 192–194, criminal contempt statutes passed in 1857. These statutes reflected the need for more effective sanctions and a more appropriate forum to compel disclosure from a recalcitrant witness than merely ordering him held in custody until he agreed to testify. A major shortcoming of trial before the bar, in addition to the inappropriateness of the House's procedures when functioning as a judicial tribunal, and the lack of precedent on due process requirements, was that the witness could be imprisoned only as long as the House remained in session.[8] The statute designates as a misdemeanor willful[9] default or refusal to answer any question[10] pertinent[11] to the question under inquiry[12] by any person who has been summoned as a witness[13] by authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress. Punishment for violation of the statute is a fine of not more than $1,000 nor less than $100, and imprisonment for not less than one month nor more than 12 months. This statute has withstood constitutional challenges. The Supreme Court[14] rejected the contention that reference to "any" matter under inquiry was fatally defective because it was unlimited in its extent. In reaching this conclusion the court stated that, ". . . statutes should receive a sensible construction, such as will effectuate the legislative intention, and, if possible . . . avoid an unjust or absurd conclusion" and interpreted the word "any" to apply to ". . . matters within the jurisdiction of the two Houses of Congress, before them for consideration and proper for their action, to questions perti-

due process of law in a proceeding that leads to a finding of guilt. Although a legislative body does not have to accord all the procedural rights that a court must accord, it must grant notice and an opportunity for a hearing.

8. This description of the statute is taken from *Watkins* v *United States,* 354 U.S. 178, 207 n. 45 (1957).

9. See § 7, supra, for a discussion of willfulness as it relates to intent of the witness.

10. See § 20, infra, for a discussion of particular conduct as contumacious.

11. See § 6, supra, for a discussion of pertinence.

12. See § 1, supra, for a discussion of the permissible scope of legislative inquiry.

13. See § 16, supra, for a discussion of summoning witnesses.

14. *In re Chapman,* 166 U.S. 661, 667 (1897). 2 Hinds' Precedents § 1614.

nent thereto, and to facts or papers appearing therein." In the same case the court found that the adoption of a statute designed to aid each House of Congress in the discharge of its constitutional functions did not constitute an improper delegation of power to punish contempt.

A court of appeals[15] rejected the argument that 2 USC § 192 violated the "necessary and proper" clause of article 1, section 8, because the inherent power of Congress to compel attendance by civil contempt was a better means to achieve the legitimate congressional end of obtaining information than was criminal contempt. The court found that the decision to add criminal contempt powers to its inherent powers to insure the cooperation of witnesses provided a rational basis on which to enact 2 USC § 192. It was unwilling to strike down a means reasonably calculated to accomplish a valid congressional end simply because someone could conceive of an arguably better means to accomplish that end.

2 USC § 193 provides that no witness is privileged to refuse to testify to any fact, or to produce any paper on the ground that his testimony to such fact or his production of such paper may tend to disgrace him or otherwise render him infamous. 2 USC § 194 establishes a procedure for certification of a contempt citation to the appropriate U.S. Attorney.[16]

The following steps precede judicial proceedings under 2 USC §§ 192–194: (1) approval by the committee, (2) calling up and reading the committee report on the floor,[17] (3) either (if Congress is in session) House approval of a resolution authorizing the Speaker to certify the report to the U.S. Attorney for prosecution, or[18] (if Congress is not in session) an independent determination by the Speaker to certify the report,[19] (4) certification by the Speaker to the appropriate U.S. Attorney for prosecution.[20]

The remaining sections in this chapter deal with proceedings

15. *United States* v *Fort,* 443 F2d 670, 676 (D.C. Cir. 1970), cert. denied, 403 U.S. 932 (1971).

16. See § 22, infra, for a discussion of this statute.

17. See §§ 20.1, 20.3, 20.5, 20.7, 20.9, infra, for examples.

18. See §§ 20.2, 20.4, 20.6, 20.8, 20.10, and 22.1, infra, for examples.

19. See summary and analysis in § 22, infra, for a discussion of *Wilson, et al.* v *United States,* which held that the Speaker, acting in the place of the House, must exercise independent judgment.

20. See all precedents in § 22, infra, for examples.

after a committee has voted to cite a witness for contempt and prior to grand jury action.[1]

Recommittal

§ 17.1 The House may recommit a resolution certifying the contempt of a committee witness to the committee which reported the contumacious conduct.

On July 13, 1971,[2] the House on a roll call vote recommitted a resolution certifying contempt of a witness before the Committee on Interstate and Foreign Commerce.[3]

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I offer a privileged resolution, by direction of the Committee on Interstate and Foreign Commerce, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 534

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Interstate and Foreign Commerce of the House of Representatives as to the contumacious conduct of the Columbia Broadcasting System, Incorporated, and of Dr. Frank Stanton, its President, in failing and refusing to produce certain pertinent materials in compliance with a subpena *duces lecum* of a duly constituted subcommittee of said committee served upon Dr. Stanton and the Columbia Broadcasting System, Incorporated, and as ordered by the subcommittee, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that Dr. Frank Stanton and the Columbia Broadcasting System, Incorporated, may be proceeded against in the manner and form provided by law.

THE SPEAKER:[4] The gentleman from West Virginia (Mr. Staggers) is recognized for one hour. . . .

MR. STAGGERS: Mr. Speaker, I move the previous question on the resolution.

1. For earlier precedents, see 2 Hinds' Precedents §§1597–1640, 3 Hinds' Precedents §§1666–1724, and 6 Cannon's Precedents §§332–353. For other materials, see Goldfarb, Ronald L., The Contempt Power, Columbia University Press, N.Y., 1963 (this work also discusses contempt of judicial proceedings); Sky, T., Judicial Reviews of Congressional Investigations—Is There an Alternative to Contempt? 31 Geo. Wash. L. Rev. 399 (1962); Beck, Carl, Contempt of Congress, A Study of the Prosecutions Initiated by the Committee on UnAmerican Activities, 1945–1957, The Hauser Press, New Orleans, 1959; and Willis, Power of Legislative Bodies to Punish for Contempt, 2 Ind. L. J. 61 (1957).
2. 117 CONG. REC. 24723, 24752, 24753, 92d Cong. 1st Sess.
3. The Committee on Interstate and Foreign Commerce recommended the contempt citation by a vote of 25 to 23, in an executive session on July 1, 1971. See 117 CONG. REC. 24723, 92d Cong. 1st Sess., July 13, 1971.
4. Carl Albert (Okla.).

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. KEITH

MR. [HASTINGS] KEITH [of Massachusetts]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the resolution?

MR. KEITH: I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Keith moves to recommit House Resolution 534 to the Committee on Interstate and Foreign Commerce.

THE SPEAKER: Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

THE SPEAKER: The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. Keith), there were—ayes 151, noes 147.

MR. STAGGERS: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. . . .

The question was taken; and there were—yeas 226, nays 181, answered "present" 2, not voting 24, as follows: . . .

So the motion to recommit was agreed to.

§ 17.2 The House rejected a motion to recommit to a select committee a privileged resolution from the Committee on Un-American Activities which authorized the Speaker to certify a contempt citation to the U.S. Attorney.

On Oct. 18, 1966,[5] the House by a roll call vote of 90 yeas, 181 nays, and 161 not voting, rejected a motion to recommit to a select committee a privileged resolution authorizing the Speaker to certify a committee report to the U.S. Attorney. The report cited Milton Mitchell Cohen in contempt for refusal to answer questions before the Committee on Un-American Activities. The select committee would have been instructed to examine the sufficiency of the citation.[6]

PROCEEDINGS AGAINST MILTON MITCHELL COHEN

MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Speaker, I offer a privileged resolution (H. Res. 1060) from the Committee on Un-American Activities and ask for its immediate consideration.

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5. 112 CONG. REC. 27448, 27484, 27485, 89th Cong. 2d Sess.

6. See also, for example, 112 CONG. REC. 27511, 27512, 89th Cong. 2d Sess., Oct. 18, 1966, for rejection on a roll call vote of 54 yeas to 182 nays of a motion by Mr. Sidney R. Yates (Ill.), to recommit to a select committee privileged H. Res. 1062, authorizing the Speaker to certify to a U.S. Attorney H. REPT. No. 2306, relating to the refusal of Dr. Jeremiah Stamler to testify before the Committee on Un-American Activities.

The Clerk read the resolution, as follows:

H. RES. 1060

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Un-American Activities of the House of Representatives as to the refusals of Milton Mitchell Cohen to answer questions pertinent to the subject under inquiry before a duly authorized subcommittee of the said Committee on Un-American Activities, and his departure without leave, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States attorney for the northern district of Illinois, to the end that the said Milton Mitchell Cohen may be proceeded against in the manner and form provided by law. . . .

The previous question was ordered.

THE SPEAKER:[7] The question is on the resolution.

For what purpose does the gentleman from Massachusetts rise?

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the resolution?

MR. CONTE: I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Conte moves to recommit the resolution of the Committee on Un-American Activities to a select committee of seven Members to be appointed by the Speaker with instructions to examine the sufficiency of the contempt citations under existing rules of law and relevant judicial decisions and thereafter to report it back to the House, while Congress is in session, or, when Congress is not in session, to the Speaker of the House, with a statement to its findings.[8]

THE SPEAKER: Without objection, the previous question is ordered.

The question is on the motion to recommit.

The question was taken.

MR. CONTE: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors; the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 90, nays 181, not voting 161, as follows: . . .

The result of the vote was announced as above recorded.

The doors were opened.

THE SPEAKER: The question is on the adoption of the resolution.

The question was taken, and the Speaker announced that the ayes appeared to have it.

MR. [JAMES C.] CLEVELAND [of New Hampshire]: Mr. Speaker, on that I demand the yeas and nays.

7. John W. McCormack (Mass.).

8. See 112 CONG. REC. 27461, 27462, 89th Cong. 2d Sess., Oct. 18, 1966, for a statement in which Mr. Conte indicated that a reason for the motion to recommit was the lawsuit filed by the witness, Milton Mitchell Cohen, and others challenging the constitutionality of the authority and procedures of the Committee on Un-American Activities.

The yeas and nays were refused.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

Divisibility

§ 17.3 The Speaker stated that a resolution directing the Speaker to certify a report citing certain witnesses for contempt for refusing to testify and submit subpenaed materials was not divisible.

On May 28, 1936,[9] Speaker Joseph W. Byrns, of Tennessee, responded to a parliamentary inquiry regarding divisibility of a resolution authorizing the Speaker to certify to the U.S. Attorney House Report No. 2857.

MR. [C. JASPER] BELL [of Missouri]: Mr. Speaker, by direction of the select committee, I now present a privileged resolution and send it to the Clerks desk and ask that it be read.

The Clerk read as follows:

HOUSE RESOLUTION 532

Resolved, That the Speaker of the House of Representatives certify the report of the Select Committee to Investigate Old Age Pension Plans as to the willful and deliberate refusal of Francis E. Townsend, Clinton Wunder, and John B. Kiefer to testify before said committee, together with all the facts in connection therewith, under seal of the House of Representatives, to the United States attorney for the District of Columbia, to the end that the said Francis E. Townsend, Clinton Wunder, and John B. Kiefer may be proceeded against in the manner and form provided by law. . . .

THE SPEAKER: The Chair recognizes the gentleman from Missouri.

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DIRKSEN: Is the resolution divisible as to the three gentlemen named?

THE SPEAKER: It is not.[10]

Deletion of Names of Persons Not Subpenaed

§ 17.4 The House amended a resolution citing persons for contempt by deleting the names of all who had not been subpenaed, leaving only the name of Dr. Edward K. Barsky.

On Mar. 28, 1946,[11] the House by voice vote agreed to an amendment deleting the names of all persons who had not been subpenaed from House Resolution 573, authorizing the Speaker to certify to the U.S. Attorney the report of the Committee on Un-American

9. 80 CONG REC. 8222, 74th Cong. 2d Sess.

10. See § 17.4, infra, in which all but one of the names of persons listed in such a resolution were deleted by amendment.

11. 92 CONG. REC. 2745, 2749, 79th Cong. 2d Sess.

Activities regarding refusal to produce requested records, books, and papers.

MR. [JOHN S.] WOOD [of Georgia]: Mr. Speaker, I offer a privileged resolution (H. Res. 573) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the House Committee on Un-American Activities as to the willful and deliberate refusal of the following persons to produce before the said committee for its inspection the books, papers, and records of an unincorporated organization known as the Joint Anti-Fascist Refugee Committee, with offices at 192 Lexington Avenue, New York, N.Y., together with all the facts relating thereto, under seal of the House of Representatives, to the United States attorney for the District of Columbia to the end that the said persons named below may be proceeded against in the manner and form provided by law:

Dr. Edward K. Barsky, 54 East Sixty-first Street, New York City.

Dr. Jacob Auslander, 286 West Eighty-sixth Street, New York City.

Prof. Lyman R. Bradley, New York University, New York City.

Mrs. Marjorie Chodorov, 815 Park Avenue, New York City. . . .

MR. WOOD: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wood: Strike from the resolution the names of all individuals except that of Edward K. Barsky.

The amendment was agreed to.

Parliamentarian's Note: Dr. Barsky was the only person who had been subpenaed. All the others, members of the executive board of the organization, were cited in the report and resolution because the board refused to permit Dr. Barsky to produce the subpenaed materials. Mr. Wood was Chairman of the Committee on Un-American Activities.[12]

§ 18. Time for Consideration

Reports

§ 18.1 A report from a committee relating to the refusal of a witness to produce certain subpenaed documents is privileged; it is presented and read before a resolution is offered directing the Speaker to certify the refusal to a U.S. Attorney.

On Aug. 23, 1960,[13] Speaker Sam Rayburn, of Texas, indicated the order in which to read a report and resolution relating to contempt of a witness.

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I rise to a question

12. See 92 CONG. REC. 2744, 2745, 79th Cong. 2d Sess., for the text of the report and § 19.4, infra, for a discussion of this incident as it relates to a point of order challenging citation of persons who had not been subpenaed.

13. 106 CONG. REC. 17278, 86th Cong. 2d Sess.

of the privilege of the House and offer a resolution which I send to the Clerk's desk along with a privileged report (Rept. No. 2117) of the Committee on the Judiciary detailing the facts concerning the contumacious conduct of the subject of the resolution.

THE SPEAKER: The Chair would think that the gentleman would desire to file the report first and then offer the resolution.

MR. CELLER: The report has been filed, Mr. Speaker.

THE SPEAKER: The Clerk will read the report, then.[14]

§ 18.2 Because a report on the contemptuous conduct of a witness before a committee gives rise to a question of privileges of the House (relating both to the implied constitutional power of the House and its authority under Rule IX to dispose directly of questions affecting the dignity and integrity of House proceedings), it is privileged for consideration immediately upon presentation to the House.

On July 13, 1971,[15] Speaker Carl Albert, of Oklahoma, ruled that House Report No. 92–349, citing the Columbia Broadcasting System, Inc. and its president, Frank Stanton, for contempt for refusal to submit subpenaed materials to the Committee on Interstate and Foreign Commerce, was privileged under Rule IX,[16] and consequently could be considered on the same day it was reported notwithstandIng the requirement of Rule XI clause 27(d)(4),[17] that reports from committees be available to Members for at least three calendar days prior to their consideration.

PROCEEDING AGAINST FRANK STANTON AND COLUMBIA BROADCASTING SYSTEM, INC.

MR. [HARLEY O.] STAGGERS [of West Virginia]: I rise to a question of the

14. This report cited Austin J. Tobin, executive director of the Port Authority of New York for contempt for his refusal to submit subpenaed documents before Subcommittee No. 5 of the Committee on the Judiciary. The resolution, H. Res. 606, authorized the Speaker to certify the report to a U.S. Attorney. See 106 CONG. REC. 17281, 86th Cong. 2d Sess., Aug. 23, 1960, for the text of this resolution and 106 CONG. REC. 17313 (H. REPT. No. 2120) and 17316 (H. Res. 607), 86th Cong. 2d Sess., Aug. 23, 1960, for similar proceedings against S. Sloan Colt, chairman of the board of commissioners of the Authority; and 106 CONG. REC. 17316 (H. REPT. No. 2121) and 17319 (H. Res. 608), 86th Cong. 2d Sess., Aug. 23, 1960, for similar proceedings against Joseph G. Carty, secretary of the authority.

15. 117 CONG. REC. 24720, 24721, 92d Cong. 1st Sess.

16. House Rules and Manual § 661 (1973).

17. House Rules and Manual § 735(d)(4) (1973).

privilege of the House, and I submit a privileged report (Report No. 92–349).

The Clerk proceeded to read the report.

MR. [SAM M.] GIBBONS [of Florida]: Mr. Speaker, I want to raise a point of order against the consideration of this matter at this time.

THE SPEAKER: The gentleman will state his point of order.

MR. GIBBONS: Mr. Speaker, I rise to object to the consideration of this matter at this time in that I believe that it violates clause 27, subparagraph (d)(4) of rule XI of the Rules of the House of Representatives.

Mr. Speaker, I refer to the language contained on page 381 of the House Rules and Manual, 92d Congress. I would call your attention to the fact that the rule, subparagraph (d)(4), clause 27 of rule XI was adopted last year in the Legislative Reorganization Act, and was readopted earlier this year.

Mr. Speaker, I think it would be best if I read just a portion of the rule, and this rule reads as follows:

> A measure or matter reported by any committee (except the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct) shall not be considered in the House unless the report of that committee upon that measure or matter has been available to the Members of the House for at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of that measure or matter in the House.

Now, there is some more to that rule. The next sentence goes on to deal with the hearings of the committee, but then there is an exception to that rule, and it is:

> This subparagraph shall not apply to—
>
> (A) any measure for the declaration of war or the declaration of a national emergency, by the Congress; and
>
> (B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

Mr. Speaker, that rule was adopted last year. I have examined the committee report. It is obvious the reasoning for its adoption was to prevent the premature or rapid or precipitous consideration of matters such as this kind, even though they dealt with a matter of privilege. The matter of privileged matters is specifically not excepted from this rule because I think many Members helping to frame these rule changes last year felt that the Congress had not acted wisely on some of these things that have come up pretty fast.

The committee report, which is still classified as a committee print, without any number, was not available until 10:30 this morning. It is 272 pages long. I presume it is well written, I have not had a chance to read it, and I doubt that very many other Members have had a chance to read it in full.

I would hope that the Chair would sustain this point of order. I do not believe there is any grave emergency. I do not believe that the person sought to be cited, or the organization sought to be cited are about to leave the country. I would hope that the House could

consider this matter in a more rational manner and after it has had the opportunity to read and examine the report.

Mr. Speaker, I realize that some may say a matter of this sort is a matter of privilege and, therefore, is excepted from the rule. It is my contention, Mr. Speaker, that the matter of privilege was specifically not excluded from the requirement of a 3-day layover for the printing of the report but that the Committees on Appropriations, House Administration, Rules, and Standards of Official Conduct—those being the committees that generally deal with matters of privilege—were set down under specific exception and that it was never intended that citations such as this could be considered in such a preemptive type of procedure as is now about to take place.

MR. [OGDEN R.] REID of New York: Mr. Speaker, will the gentleman yield?

MR. GIBBONS: l yield to the gentleman.

MR. REID of New York: Mr. Speaker, in furtherance of the point that the gentleman is making, if the Chair will look at rule IX, it states in the rule:

> Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings;

I would say, Mr. Speaker, that the 3-day rule is an important principle, uniquely relevant to the Constitutional question. This is the very idea of the 3-day rule and I believe that today to rush through an important question does not comport with an enlightened discharge of our responsibility.

Mr. Speaker, I hope the point of order is upheld.

THE SPEAKER: Does the gentleman from West Virginia (Mr. Staggers) desire to be heard on the point of order?

MR. STAGGERS: I do, Mr. Speaker.

THE SPEAKER: The gentleman is recognized.

MR. STAGGERS: Mr. Speaker, rule IX provides that "Question of privilege shall be, first, those affecting the rights of the House collectively"—as the gentleman from New York has just read—"its safety, dignity and the integrity of its proceedings."

Privileges of the House includes questions relating to those powers to punish for contempt witnesses who are summoned to give information.

House Rule 27(d) of rule XI the so-called 3-day rule, clearly does not apply to questions relating to privileges of the House. The rule applies only to simple measures or matters reported by any committee. It excludes matters arising from the Committee on Appropriations, House Administration, Rules, and Standards of Official Conduct.

It is clear that the terms "measure" or "matter" as used in rule 27(d) do not apply to questions of privilege.

To apply it in such a way would utterly defeat the whole concept of the question of privilege.

Too, a privileged motion takes precedence over all other questions except the motion to adjourn.

The fact that the 3-day rule excludes routine matters from the Appropriations, Administration, Rules, and Standards of Official Conduct Committees clearly shows that the 3-day rule does not apply to privileged questions.

If the rule were meant to apply to questions of privilege, it surely would not make exceptions for routine business coming from regular standing committees.

THE SPEAKER: The Chair is ready to rule.

The Chair appreciates the fact that the gentleman from Florida has furnished him with a copy of the point of order which he has raised and has given the Chair an opportunity to consider it.

The gentleman from Florida (Mr. Gibbons) makes a point of order against the consideration of the report from the Committee on Interstate and Foreign Commerce on the grounds that it has not been available to Members for at least 3 days as required by clause 27(d)(4) of rule XI. The Chair had been advised that such a point of order might be raised and has examined the problems involved.

The Chair has studied clause 27(d)(4) of rule XI and the legislative history in connection with its inclusion in the Legislative Reorganization Act of 1970.

That clause provides that "a matter shall not be considered in the House unless the report has been available for at least 3 calendar days."

The Chair has also examined rule IX, which provides that:

> Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings . . . and shall have precedence of all other questions, except motions to adjourn.

Under the precedents, a resolution raising a question of the privileges of the House does not necessarily require a report from a committee. Immediate consideration of a question of privilege of the House is inherent in the whole concept of privilege. When a resolution is presented, the House may then make a determination regarding its disposition.

When a question is raised that a witness before a House committee has been contemptuous, it has always been recognized that the House has the implied power under the Constitution to deal directly with such conduct so far as is necessary to preserve and exercise its legislative authority. However, punishment for contemptuous conduct involving the refusal of a witness to testify or produce documents is now generally governed by law—Title II, United States Code, sections 192–194—which provides that whenever a witness fails or refuses to appear in response to a committee subpena, or fails or refuses to testify or produce documents in response thereto, such fact may be reported to the House. Those reports are of high privilege.

When a resolution raising a question of privilege of the House is submitted by a Member and called up as privileged, that resolution is also subject to immediate disposition as the House shall determine.

The implied power under the Constitution for the House to deal directly with matters necessary to preserve and exercise its legislative authority; the provision in rule IX that questions of privilege of the House shall have precedence of all other questions; and the fact that the report of the committee has been filed by the gentleman from West Virginia as privileged—all refute the argument that the 3-day layover requirement of clause 27(d)(4) applies in this situation.

The Chair holds that the report is of such high privilege under the inherent constitutional powers of the House and

under rule IX that the provisions of clause 27(d)(4) of rule XI are not applicable.

Therefore, the Chair overrules the point of order.

The Clerk will continue to read the report.

Point of Order Regarding House Trial

§ 18.3 The point of order was made that the House should itself try contempt cases, rather than certify such matters to the courts; the report which was objected to having just been read, the Speaker indicated that submission of such issue (which is one to be decided by the House) should be postponed until a resolution was actually presented for consideration by the House.

On May 28, 1936,[18] after the reading of a privileged report from the Select Committee on Investigating Old Age Pensions, House Report No. 2857, regarding contempt of Dr. Francis E. Townsend, president and founder, and two members of the national board of directors of Old Age Revolving Pensions, Ltd., for failure to provide subpenaed testimony and documents, Speaker Joseph W. Byrns, of Tennessee, responded to a point of order regarding the procedure to try and punish contempt.

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, I make the point of order that under the Constitution of the United States the House of Representatives of the legislative branch is a separate and distinct department of government from the judiciary, or the courts, that this is undoubtedly a contempt of the House of Representatives, the legislative branch, and is a contempt that should be tried and punished, not by the courts, but by the House of Representatives itself. We ought not to pass the buck to the courts. We ought to assume the responsibility ourselves.

I admit that all three witnesses clearly are in contempt, and deserve punishment and that the House ought to try these three witnesses, convict them of contempt, and punish all three of them with a heavy fine and send them all to jail, until they can have some respect for the institutions of their country. I therefore make the point of order that the House of Representatives should try its own contempt proceedings and fix its own punishment.

THE SPEAKER: That matter is not under discussion now. This is simply a report from a select committee which has been read and which has been ordered printed. The Chair recognizes the gentleman from Missouri.

It should be noted that the Speaker did not indicate that the point of order, even if timely, would have been valid. Rather, the Speaker implied that such

18. 80 CONG. REC. 8221, 74th Cong. 2d Sess.

issues were to be determined by the House by voting on whatever resolution was presented to the House.[19]

Resolutions

§ 18.4 A resolution directing the Speaker to certify to the U.S. Attorney the refusal of a witness to respond to a subpena issued by a House committee may be offered from the floor as privileged and may be disposed of immediately.

On July 13, 1971,[20] House Resolution 534, authorizing the Speaker to certify to the U.S. Attorney a report citing the contemptuous refusal of the Columbia Broadcasting System and its president, Frank Stanton, to respond to a subpena duces tecum issued by the Committee on Interstate and Foreign Commerce, and House Report No. 92–349, citing this contempt, were offered from the floor. The resolution was considered as privileged by the Speaker.[1]

19. See § 19.2, infra, for a discussion of the proceedings as they relate to the authority of a committee to report the contempts of witnesses.

20. 117 CONG. REC. 24720, 24721, 24723, 92d Cong. 1st Sess.; see § 18.2, supra, for the text of the point of order and ruling regarding the privileged status of the report.

1. Carl Albert (Okla.).

§ 18.5 Because it is a matter of high privilege, a resolution directing the Speaker to certify an individual in contempt may be called up at any time.

On Aug. 2, 1946,[2] Speaker Sam Rayburn, of Texas, responded to a parliamentary inquiry regarding the privileged status of a resolution authorizing the Speaker to certify an individual in contempt.

PROCEEDING AGAINST RICHARD MORFORD

THE SPEAKER: For what purpose does the gentleman from Mississippi rise?

MR [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I send to the Clerk's desk a privileged resolution and ask that it be read.

THE SPEAKER: The Clerk will read the resolution.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, has not the Speaker the power to determine the order of business by recognizing or not recognizing gentlemen requesting the consideration of various pieces of legislation? I make that parliamentary inquiry because there is very important business pending before the House—social security, appro-

2. 92 CONG. REC. 10746, 79th Cong. 2d Sess.

priations for terminal-leave pay, and for automobiles for amputees—and I see no reason why this resolution should be given preference.

THE SPEAKER: It would not be given preference if it were an ordinary resolution, but this is a resolution of high privilege.

Calendar Wednesday

§ 18.6 A report of a committee citing a witness for contempt was considered on Calendar Wednesday.

On June 26, 1946,[3] Calendar Wednesday, the House considered a privileged report from the Committee on Un-American Activities, House Report No. 2354, citing Corliss G. Lamont, chairman of the National Council of American-Soviet Friendship, Inc., for contempt for his refusal to produce subpoenaed materials.[4]

§ 19. Matters Decided by House

Content of Report

§ 19.1 The House, not the Chair, determines whether a report citing an individual for refusal to produce subpenaed materials must contain the full testimony or only selected portions thereof.

On June 26, 1946,[5] Speaker Sam Rayburn, of Texas, responded to a point of order regarding the sufficiency of a hearing transcript in a committee report citing a I witness for contempt.

PROCEEDINGS AGAINST CORLISS G. LAMONT

MR. [JOHN S.] WOOD [of Georgia]: Mr. Speaker, by direction of the Committee on Un-American Activities, I present a privileged report and ask that it be read.

The Clerk read as follows:

> The Committee on Un-American Activities, as created and authorized by the House of Representatives by House Resolution 5 of the Seventy-ninth Congress, caused to be issued a subpena to Corliss G. Lamont, chairman of the National Council of American-Soviet Friendship, Inc., with offices at 114 East Thirty-second Street, New York City, N.Y. The said subpena required the said person to produce books, papers, and records of the organization for the inspection of your committee. The subpena is set forth as follows: . . .
>
> In response to the said subpena the said Corliss Lamont appeared before your committee on February 6, 1946, and your committee then

3. See 92 CONG. REC. 7589–91, 79th Cong. 2d Sess., for the text of the report.
4. This report is discussed at § 19.1, infra.
5. 92 CONG. REC. 7589–91, 79th Cong. 2d Sess. See § 18.6, supra, for a discussion of this instance as it relates to consideration on Calendar Wednesday.

and there demanded the production of the said books, papers, and records, and the said Lamont refused to produce as required by the said subpena. The said Lamont was duly sworn by the chairman and gave his testimony under oath. The material parts of his testimony follow: . . .

MR. [VITO] MARCANTONTO [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, I make the point of order against the report on the ground that it does not contain all of the transcript of what transpired before the committee with respect to this witness. On page 2 of the report, at the end of the first paragraph, the committee concedes that this is not a full transcript. It states: "The material parts of his testimony follow." In other words, the House has before it only that portion of the testimony which the committee conceives to be material. This deprives the House of having the full proceedings before it; consequently, the House will be asked to vote on whether or not this witness is to be cited for contempt and whether or not the House is to recommend prosecution of this witness, without having the full story before it, without having all of the testimony before it. All that is given is part of the testimony which the committee describes as material.

I respectfully submit in support of my point of order, Mr. Speaker, that what is material and what is not material should be determined by the House, because the House has to pass on this question and the majority of the Members of this House must vote in the affirmative in order to recommend these contempt proceedings. To do so it must have the entire transcript before it. Consequently I submit that the report is defective and that the report should be referred back to the committee by the Speaker, directing it to produce the full transcript of what transpired so that the House may have the entire proceedings before it before the House Members cast their votes.

THE SPEAKER: The Chair thinks that the gentleman from New York [Mr. Marcantonio] has stated the point exactly, and that is that this is not a matter for the Chair to pass upon but is a matter for the House to pass upon. The Chair overrules the point of order.

Authority of Committee

§ 19.2 Whether a committee exceeded its authority in making a report citing certain recalcitrant witnesses in contempt was held to be a matter for the House to decide, and not a matter to be decided on the basis of a point of order raised against submission of the report.

On May 28, 1936,[6] Speaker Joseph W. Byrns, of Tennessee, responded to a point of order regarding authority to report contemptuous conduct.

THE TOWNSEND OLD-AGE PENSION PLAN

MR. [C. JASPER] BELL [of Missouri]: Mr. Speaker, by direction of the Select

6. 80 CONG. REC. 8219–22, 74th Cong. 2d Sess.

Committee Investigating Old Age Pensions, I present a privileged report (Reps. No. 2857) and send it to the Clerk's desk, and ask that the Clerk read it. . . .[7]

MR. [JOSEPH P.] MONAGHAN [of Montana]: . . . Mr. Speaker, I wish to make a point of order.

THE SPEAKER: The gentleman will state his point of order.

MR. MONAGHAN: Mr. Speaker, my point of order goes to the fact that this report is completely out of order.

THE SPEAKER: The gentleman will state his point of order. . . .

MR. MONAGHAN: The point of order I make is that the committee has exceeded its function in the process of the inquiry that the House authorized it to proceed under.

THE SPEAKER: Let the Chair make this statement. That is not under consideration now. This is simply a report of the select committee, and the question as to whether or not the committee has exceeded its authority cannot arise at this time.

MR. MONAGHAN: But the question that the committee has exceeded its authority is involved in the question of whether or not it shall be permitted to make a report of this sort.

THE SPEAKER: The committee is within its right in submitting its report; it is its duty to report what it has done in order that the House may take such action as it determines to take. Therefore, the Chair overrules that point of order.

An appeal from the decision of the Chair was laid on the table.

Need to Read Testimony

§ 19.3 The House, not the Chair, determines whether a report summarizing the testimony of witnesses and minutes of proceedings of investigative hearings is sufficient on which to base a contempt citation.

On Apr. 16, 1946,[8] Speaker Sam Rayburn, of Texas, responded to a point of order regarding reading of investigative hearing testimony before the House.

JOINT ANTI-FASCIST REFUGEE COMMITTEE

MR. [JOHN S.] WOOD [of Georgia]: Mr. Speaker, by direction of the Committee on Un-American Activities, I present a privileged report and ask that it be read.

The Clerk read as follows:

PROCEEDING AGAINST THE JOINT ANTI-FASCIST REFUGEE COMMITTEE

Mr. Wood, from the Committee on Un-American Activities, submitted the following report:

7. This report citing Dr. Francis E. Townsend, president and founder, and Clinton Wunder and John B. Kiefer, members of the national board of directors of the Old Age Revolving Pensions, Ltd., for contempt for failure to provide subpenaed testimony and documents to the select committee is omitted.

8. 92 CONG. REC. 3761, 3762, 79th Cong. 2d Sess.

The Committee on Un-American Activities, created and authorized by the House of Representatives by House Resolution 5 of the Seventy-ninth Congress, caused to be issued subpenas to the Joint Anti-Fascist Refugee Committee, an unincorporated organization, with offices at 192 Lexington Avenue, New York, N. Y., service being made upon Helen R. Bryan, executive secretary, and to the members of the executive board of the said organization whose names are listed below. The said subpena required the said persons to produce books, papers, and records for inspection by your committee. The form of the subpenas follows: . . .

Your committee has caused to be printed the testimony of each and every one of the persons named herein given on April 4, 1946, and the said testimony will be filed with the Clerk of the House as an appendix to this report. . . .

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, prefacing my point of order, I would like to make a parliamentary inquiry. Must not a resolution of this nature contain the testimony, or at least a pertinent part of the testimony? It is related in the statement that the testimony is appended, but that testimony has not been read to the House, and for that reason I make the point of order that the resolution is defective.

THE SPEAKER: No resolution has been offered as yet. This is simply the report of the committee.

MR. MARCANTONIO: Very well; in the report we have before us it merely says that the testimony is appended. I submit the House should have that testimony before it. As I understand it, the Members of the House have received, what I hold in my hand, the hearings of April 4. That was received only yesterday. It contains over 100 pages of testimony. This case is very important, and I maintain that the testimony or the relevant portion of the testimony should be read to the House.

THE SPEAKER: The testimony has already been printed, and reference to it is made in this report. The other matter that the gentleman refers to is a question for the House to pass upon, and not the Speaker.

MR. MARCANTONIO: Mr. Speaker, on that point, this is most unusual. Heretofore every report that we have had upon which a resolution for contempt was based, we have read to the House the minutes of the proceedings upon which the contempt citation is requested.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, that never has been done.

THE SPEAKER: That also is within the control of the House. The gentleman from Georgia is recognized.

Citation of Witnesses Absent Subpena

§ 19.4 The House, not the Chair, determines whether persons who have not been subpenaed may be cited for refusal to produce organizational books, records, and papers.

On Mar. 28, 1946,[9] Speaker Sam Rayburn, of Texas, re-

9. 92 CONG. REC. 2744, 2745, 79th Cong. 2d Sess.

sponded to a point of order regarding authority to entertain a resolution citing for contempt persons who had not been subpenaed.[10]

COMMITTEE ON UN-AMERICAN ACTIVITIES

THE SPEAKER: The Clerk will read the report of the Committee on Un-American Activities.

The Clerk read as follows:

PROCEEDING AGAINST DR. EDWARD K. BARSKY AND OTHERS

Mr. Wood, from the Committee on Un-American Activities, submitted the following report:

The Committee on Un-American Activities as created and authorized by the House of Representatives by House Resolution 5 of the Seventy-ninth Congress, caused to be issued a subpena to Dr. Edward K. Barsky, chairman of the Joint Anti-Fascist Refugee Committee, an unincorporated organization with offices at 192 Lexington Avenue, New York, N.Y. The said subpena required the said person to produce books, papers, and records of the organization for the inspection of your committee; the subpena is set forth as follows: . . .

In his appearance before the committee, Dr. Barsky stated that he was unable to produce the subpenaed materials because that authority had not been granted by the members of the executive board. At the request of a committee member he supplied a list of names and addresses of board members. This list appeared in the report and resolution.

MR. [JOHN S.] WOOD [of Georgia]: Mr. Speaker, I offer a privileged resolution (H. Res. 573) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the House Committee on un-American Activities as to the willful and deliberate refusal of the following persons to produce before the said committee for its inspection the books, papers, and records of an unincorporated organization known as the Joint Anti-Fascist Refugee Committee, with offices at 192 Lexington Avenue, New York, N.Y., together with all the facts relating thereto, under seal of the House of Representatives, to the United States attorney for the District of Columbia to the end that the said persons named below may be proceeded against in the manner and form provided by law:

Dr. Edward K. Barsky, 54 East Sixty-first Street, New York City.

Dr. Jacob Auslander, 286 West Eighty-sixth Street, New York City.

Prof. Lyman R. Bradley, New York University, New York City.

Mrs. Marjorie Chodorov, 815 Park Avenue, New York City. . . .

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

The SPEAKER: The gentleman will state it.

Mr. MARCANTONIO: Mr. Speaker, I make a point of order against the resolution on the ground that it seeks to have cited by this House individuals

10. See summary and analysis in § 16, supra, for a discussion which indicates that a subpena is not a necessary prerequisite for a contempt conviction.

who were never subpenaed, and never given an opportunity to appear and state whether or not they would or could comply with a subpena. Under those circumstances, I maintain that insofar as those individuals are concerned this matter is not properly before the House, in that neither the resolution nor the report from the committee sets forth that these individuals were subpenaed, with the exception of Dr. Barsky. None of the others were subpenaed; none of the others came before the committee and were accorded even an opportunity to say "yes" or "no" as to whether or not they had authority or control over the records and books and whether they could or would comply with the committee's subpena. For that reason, as far as they are concerned, this resolution is not properly before this House.

The SPEAKER: The Chair is ready to rule.

The report and the resolution are both before the House for its determination, and not the determination of the Chair. The Chair overrules the point of order.[11]

§ 20. Particular Conduct as Contumacious

The contempt statute, 2 USC § 192, penalizes any person summoned as a witness by a committee who "willfully[12] makes default" or who, having appeared, "refuses to answer any question. . . ." The word "default" means failure to appear in response to a summons[13] as well as failure to produce papers.[14] With respect to a witness summoned to give testimony, "default" includes not only failure to appear, but refusal to be sworn.[15]

A district court[16] held that the contempt statute proscribes every willful failure to comply with a summons, not merely the failure to appear pursuant to a summons, and interpreted the word "default" to mean failure to give testimony or produce papers as well as refusal to testify or appear. "Default" also applies to a witness' withdrawal from a hearing without consent of the committee.[17]

11. See § 17.4, supra, in which the House agreed to an amendment deleting names of all persons who had not been subpenaed.

12. See § 7, supra, for a discussion of willfulness in relation to intent of witness.

13. *United States* v *Bryan,* 339 U.S. 323, 327 (1950). See §§ 20.1, 20.2, infra.

14. *United States* v *Bryan,* 339 U.S. 323, 327 (1950). See §§ 20.9, 20.10, infra.

15. *Eisler* v *United States,* 170 F2d 273 (D.C. Cir. 1948), cert. dismissed, 338 U.S. 883 (1949); *United States* v *Josephson,* 165 F2d 82 (2d Cir. 1947), cert. denied, 333 U.S. 838 (1948). See §§ 20.3, 20.4, infra.

16. *United States* v *Hintz,* 193 F Supp 325 (N.D. Ill. 1961).

17. *United States* v *Costello,* 198 F2d 200 (2d Cir. 1952), cert. denied, 344 U.S. 874 (1952); *Townsend* v *United States,* 95 F2d 352 (D.C. Cir. 1938), cert. denied, 303 U.S. 664 (1938). See §§ 20.7, 20.8, infra.

The portion of the statute regarding refusal to answer any question is closely related to willfulness, an element which has been read into the statute notwithstanding the fact that "willful" or "willfully" does not expressly modify refusal to answer. A court of appeals[18] explained.

> The statute uses the word "willfully" as a word of art to define the offense of failing to appear; "willfully" is not used with respect to a person "who having appeared, refuses to answer. . . . " The act of refusing (as distinguished from failing) to answer is a positive, affirmative act; the result is conscious and intended. Congress recognized that a failure to appear in response to a summons could well be due to other causes than willfulness or deliberate purpose to disobey the summons or the statute. . . . To decline or refuse to answer a question, however, is by its own nature a deliberate and willful act.

A committee's failure to give a witness a clear direction to answer a question has constituted a ground on which to reverse contempt convictions.[19]

The precedents in this section illustrate particular conduct that has been regarded as contumacious.

Refusal to Appear

§ 20.1 A committee filed a privileged report which included a contempt citation and facts relating to the refusal of a witness to appear before it.

On Apr. 22, 1947,[20] the Committee on Un-American Activities offered a privileged report, House Report No. 289, relating to a witness' refusal to appear in response to a subpena ad testificandum.

> PROCEEDINGS AGAINST EUGENE DENNIS, ALSO KNOWN AS FRANCIS WALDRON
>
> MR. [J. PARNELL] THOMAS of New Jersey: Mr. Speaker, by direction of the Committee on Un-American Activities, I present a privileged report, which I send to the Clerk's desk and ask to have read.
>
> The SPEAKER:[1] The Clerk will read the report.
>
> The Clerk read as follows:

18. *Deutch* v *United States,* 235 F2d 858 (D.C. Cir. 1956).

19. *Emspak* v *United States,* 349 U.S. 190, 202 (1955); *Quinn* v *United States,* 349 U.S. 155, 165 (1955); *Bart* v *United States,* 349 U.S. 219, 221 (1955).

20. 93 Cong. Rec. 3813, 3814, 80th Cong. 1st Sess. On the same day, the House adopted a resolution (H. Res. 193) certifying the contemptuous conduct to the appropriate U.S. attorney. See also *United States* v *Dennis,* 171 F2d 986 (D.C. Cir. 1948), aff'd. 339 U.S. 162 (1950), wherein defendant's subsequent conviction was affirmed.

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

REPORT CITING EUGENE DENNIS, ALSO KNOWN AS FRANCIS WALDRON

The Committee on Un-American Activities as created and authorized by the House of Representatives through the enactment of Public Law No. 601, section 121, subsection Q (2), caused to be issued a subpena to Eugene Dennis, also known as Francis Waldron, who is general secretary of the Communist Party of the United States. The said subpena directed Eugene Dennis, also known as Francis Waldron, to be and appear before the said Committee on Un-American Activities on April 9, 1947, and then and there to testify touching matters of inquiry committed to the said committee; the subpena being set forth in words and figures as follows:

"By authority of the House of Representatives of the Congress of the United States of America, to Robert E. Stripling: You are hereby commanded to summon Eugene Dennis, also known as Francis Waldron, general secretary, Communist Party of the United States, to be and appear before the Un-American Activities Committee of the House of Representatives of the United States, of which the Honorable J. Parnell Thomas is chairman, in their chamber in the city of Washington, on the 9th day of April 1947, at the hour of 10 a.m., then and there to testify touching matters of inquiry committed to said committee; and he is not to depart without leave of said committee. Herein fail not, and make return of this summons.

"Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 26th day of March 1947.

"J. PARNELL THOMAS, *Chairman*.

"Attest:

"JOHN ANDREWS, *Clerk*."

The said subpena was duly served, as appears by the return made thereon by Robert E. Stripling, chief investigator of the Committee on Un-American Activities, who was duly authorized to serve the said subpena and who served the said subpena upon instructions received from the chairman of the Committee on Un-American Activities. The return of the service by the said Robert E. Stripling being endorsed thereon, which is set forth in words and figures as follows:

"Subpena for Eugene Dennis also known as Francis Waldron before the Committee on Un-American Activities, United States House of Representatives, served at 11:35 a.m., March 26, 1947, in the committee's chambers in Washington, D.C.

"ROBERT E. STRIPLING,
"Chief Investigator,
Committee on Un-American Activities."

On April 7, 1947, a telegram was sent to Mr. Eugene Dennis, general secretary of the Communist party of the United States, which is set forth herein in words and figures as follows:

"April 7, 1947.

Mr. Eugene Dennis,
"General Secretary,
"Headquarters, Communist Party,
"50 East Thirteenth Street,
"New York, N.Y.

"This is to notify you that in response to the subpena which was served upon you March 26, you are to appear before the Committee on Un-American Activities, at the committee's chambers, 225 Old House Office Building, at 10 a.m., April 9, 1947, to then and there give testimony under oath concerning matters pertinent to the committee's inquiry.

"ROBERT E. STRIPLING,
"Chief Investigator,
Committee on Un-American Activities."

The said Eugene Dennis, also known as Francis Waldron, failed to appear before the said Committee on

Un-American Activities on April 9, 1947, as directed by the subpena served upon him on March 26, 1947, and the willful and deliberate refusal of the witness to appear before the Committee on Un-American Activities is a violation of the subpena served upon him by the Committee on Un-American Activities and places the said Eugene Dennis, also known as Francis Waldron, in contempt of the House of Representatives of the United States.

§ 20.2 The House agreed to a privileged resolution directing the Speaker to certify to the appropriate U.S. Attorney a report citing a witness in contempt for refusing to appear at an investigative hearing to which he had been subpenaed.

On Feb. 5, 1952,[2] the House on a roll call vote of 316 yeas to 0 nays approved a resolution directing the Speaker to certify a report.

MR. [JOHN S.] WOOD of Georgia: Mr. Speaker, I offer a privileged resolution (H. Res. 517) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Un-American Activities of the House of Representatives as to the willful default of Sidney Buchman in failing to appear before the Committee on Un-American Activities in response to a subpena duly served upon him, together with all the facts in connection therewith, under seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that the said Sidney Buchman may be proceeded against in the manner and form provided by law.. . .

THE SPEAKER:[3] The question is on the resolution.

Mr. WOOD of Georgia: On that, Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 316, nays 0, not voting 115, as follows: . . .

So the resolution was agreed to.

Refusal to Be Sworn

§ 20.3 A committee files a privileged report which includes

2. 98 CONG. REC. 829, 832, 82d Cong. 2d Sess. See also, as a further example, 93 CONG. REC. 3806, 3811, 80th Cong. 1st Sess., Apr. 22, 1947, for the approval, on a vote of 357 yeas to 2 nays, of H. Res. 190, directing the Speaker to certify to the U.S. Attorney for the District of Columbia, H. REPT. NO. 281, citing Leon Josephson in contempt for refusing to appear before the Committee on Un-American Activities; and 93 CONG. REC. 3814, 3820, 80th Cong. 1st Sess., Apr. 22, 1947, for the approval, on a vote of 196 yeas to 1 nay, of H. Res. 193, directing the Speaker to certify to the U.S. Attorney for the District of Columbia H. REPT. NO. 289, citing Eugene Dennis, also known as Francis Waldron, in contempt for refusing to appear before the Committee on Un-American Activities.

3. Sam Rayburn (Tex.).

a contempt citation and facts relating to the refusal of a witness to be sworn.

On Sept. 10, 1973,[4] the Committee on Armed Services filed a privileged report relating to the refusal of G. Gordon Liddy to be sworn.

PROCEEDINGS AGAINST GEORGE GORDON LIDDY

MR. [LUCIEN N.] NEDZI [of Michigan]: Mr. Speaker, I rise to a question of the privilege of the House, and, by direction of the Committee on Armed Services, I submit a privileged report (H. Rept. No. 93–453).

The Clerk read as follows:

REPORT CITING GEORGE GORDON LIDDY

INTRODUCTION

On Friday, July 20, 1973, during an executive session of the Special Subcommittee on Intelligence of the House Committee on Armed Services, Mr. George Gordon Liddy, who was called as a witness, pursuant to a Writ of Habeas Corpus, refused to be sworn prior to offering any testimony or claiming his privilege under the Fifth Amendment. A quorum being present, the subcommittee voted to report the matter to the full House Committee on Armed Services with a recommendation for reference to the House of Representatives under procedures which could ultimately result in Mr. Liddy being cited for contempt of Congress. [See Appendix 1.] On July 26, 1973 the House Committee on Armed Services met to receive the report of the Special Subcommittee on Intelligence with regard to the refusal of Mr. Liddy to be sworn. On July 31, 1973, the full committee, a quorum being present, on a record vote of 33–0, recommended the adoption of a resolution as follows:

"RESOLUTION

"*Resolved*, That the Speaker of the House of Representatives, certify the report of the Committee on Armed Services of the House of Representatives as to the refusal of George Gordon Liddy to be sworn or to take affirmation to testify before a duly authorized subcommittee of the said Committee on Armed Services on July 20, 1973, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that the said George Gordon Liddy may be proceeded against in the manner and form provided by law."

[See Appendix 2.]

BACKGROUND

At the time of the subcommittee hearings, Mr. Liddy was in confinement in the District of Columbia Jail as the result of his conviction on the Watergate breakin. Accordingly, the subcommittee petitioned Chief Judge John J. Sirica of the United States District Court for the District of Columbia for a Writ of Habeas Corpus Ad Testificandum as the only means of obtaining Mr. Liddy's presence before the subcommittee. In his discretion Judge Sirica signed that petition and an order was delivered to the United States Marshal for Mr. Liddy's appearance before the sub-

4. 119 CONG. REC. 28951, 28952, 93d Cong. 1st Sess. On the same date, the House considered the report and adopted a resolution certifying the matter to the appropriate U.S. attorney. See also *U.S.* v *Liddy*, Crim. No. 74–117 (D.D.C. 1974).

committee on July 20, 1973. [See Appendix 1, pp. 16–17.] Mr. Liddy appeared as ordered.

In his appearance Mr. Liddy was asked to rise and take the oath. He refused to take the oath as a witness. Subsequently, his counsel presented an extensive brief after which Mr. Liddy again refused to take the oath. The witness claimed he had the absolute right under the Fifth Amendment to remain completely silent with regard to any offering before the subcommittee. He sought to establish that contention based upon his current conviction on the Watergate breakin which is under appeal, and the possibility of future indictments being brought against him. He further argued a Sixth Amendment right to avoid what he claims to be prejudicial publicity in the media should he claim his Fifth Amendment rights. Mr. Liddy agreed that his refusal to be sworn was not based on any religious grounds.

AUTHORITY

The Special Subcommittee on Intelligence is a duly constituted subcommittee of the House Committee on Armed Services pursuant to House Resolution 185, 93d Congress, and the appointment made during the organization meeting of the Committee on Armed Services on February 27, 1973. [See Appendix 1, pp. 11–16.] In addition, the chairman of the subcommittee was given an order directing an inquiry into any CIA involvement in Watergate-Ellsberg matters. The subcommittee recommended those hearings on May 11, 1973, and in sixteen sessions since that date has had before it some twenty-four witnesses bearing on the subject of the inquiry. Prior to his appearance on July 20, 1973, Mr. Liddy, through his attorney, was advised by telephone of the purpose of the investigation and was asked to acknowledge that information by letter. That was done by Mr. Liddy's attorney on June 20, 1973. [See Appendix 1, pp. 17–18]. As indicated above, Mr. Liddy was properly before the subcommittee on a valid, duly executed Writ of Habeas Corpus Ad Testificandum [See Appendix 1, p. 16.]

CONCLUSION

The position of the committee is that all substantive and procedural legal prerequisites have been satisfied to date and that the House of Representatives should adopt the resolution to refer the matter to the appropriate U.S. Attorney. Title 2, United States Code, Sections 192 and 194 provide the necessary vehicles for taking this action. Section 192 provides the basis for indictment should a witness before either House of Congress refuse to answer any question pertinent to the inquiry. Section 194 provides the vehicle for certifying such a result to the appropriate U.S. Attorney. The central question is whether failure to take the oath constitutes a refusal to give testimony. We believe it does.

Accordingly, it is the position of the committee that the proceedings to date are in order and we recommend that the House adopt the resolution to report the fact of the refusal of George Gordon Liddy to be sworn to testify at a meeting of the Special Subcommittee on Intelligence on July 20, 1973 together with all the facts in connection therewith to the end that he may be proceeded against as provided by law.

A memorandum of law is contained in Appendix 3.[5]

§ 20.4 The House agreed to a privileged resolution direct-

5. Appendices 1, 2, and 3, the hearings of the subcommittee, meetings of the committee, and a legal memorandum, respectively, on pp. 28952–59, are omitted.

ing the Speaker to certify to the appropriate U.S. Attorney a report citing a witness in contempt for refusing to be sworn or make affirmation to testify at an investigative hearing.

On Sept. 23, 1970,[6] the House by a vote of 337 yeas to 14 nays approved House Resolution 1220, authorizing the Speaker to certify a report on a witness' refusal to testify to a U.S. Attorney.

MR. [RICHARD H.] ICHORD [of Missouri]: Mr. Speaker, by direction of the House Committee on Internal Security, I offer a privileged resolution (H. Res. 1220) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1220

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Internal Security of the House of Representatives as to the refusal of Arnold S. Johnson to be sworn or to make affirmation to testify before a duly authorized subcommittee of the said Committee on Internal Security, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that the said Arnold S. Johnson may be proceeded against in the manner and form provided by law. . . .

MR. ICHORD: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[7] The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

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6. 116 CONG. REC. 33269, 33278, 91st Cong. 2d Sess. See also, as examples, 119 CONG. REC. 28960, 28962, 28963, 93d Cong. 1st Sess., Sept. 10, 1973, for the approval, by a vote of 334 yeas to 11 nays, of H. Res. 536, directing the Speaker to certify to the U.S. Attorney for the District of Columbia, H. REPT. No. 93–453, from the Committee on Armed Services, citing G. Gordon Liddy for contempt for his refusal to be sworn or take affirmation to testify before the Special Subcommittee on Intelligence; and 93 CONG. REC. 1128, 1129, 1137, 80th Cong. 1st Sess., Feb. 18, 1947, for the approval by 370 yeas to 1 nay of H. Res. 104, directing the Speaker to certify to the U.S. Attorney for the District of Columbia the report [H. REPT. No. 43] citing Gerhart Eisler for contempt for his refusal to be sworn and testify before the Committee on Un-American Activities. Counsel for Mr. Liddy filed a memorandum outlining the English common law background of the fifth amendment. See 119 CONG. REC. 28952, 28953, 93d Cong. 1st Sess., Sept. 10, 1973.

7. Neal Smith (Iowa).

The question was taken; and there were—yeas 337, nays 14, not voting 78, as follows: . . .

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

Refusal to Answer Questions

§ 20.5 A committee filed a privileged report which included a contempt citation and facts relating to the refusal of a witness to answer questions.

On May 11, 1954,[8] the Committee on Un-American Activities offered a privileged report relating to the refusal of Francis X. T. Crowley to testify.[9]

PROCEEDINGS AGAINST FRANCIS X. T. CROWLEY

MR. [HAROLD H.] VELDE [of Illinois]: Mr. Speaker, by direction of the Committee on Un-American Activities, I present a privileged report (H. Rept. No. 1586).

The Clerk read the report, as follows:

The Committee on Un-American Activities, as created and authorized by the House of Representatives, through the enactment of Public Law 601, section 121, subsection (q)(2) of the 79th Congress, and under House Resolution 5 of the 83d Congress, caused to be issued a subpena to Francis X. T. Crowley, 226 Second Avenue, Apartment 15, New York, N.Y. The said subpena directed Francis X. T. Crowley to be and appear before said Committee on Un-American Activities on May 4, 1953, at the hour of 10:30 a.m., then and there to testify touching matters of inquiry committed to said committee, and not to depart without leave of said committee. The subpena served upon said Francis X. T. Crowley is set forth in words and figures, as follows:

"By authority of the House of Representatives of the Congress of the United States of America, to George C. Williams: You are hereby commanded to summon Francis X. T. Crowley to be and appear before the Committee on Un-American Activities, or a duly authorized subcommittee thereof, of the House of Representatives of the United States, of which the Honorable Harold H. Velde is chairman, in their chamber in the city of New York, room 110, Federal Building, on Monday, Mav 4, 1953, at the hour of 10:30 a.m., then and there to testify touching matters of inquiry committed to said committee; and he is not to depart without leave of said committee.

"Herein fail not, and make return of this summons.

"Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 9th day of April, 1953.

"HAROLD H. VELDE,
"Chairman.

"Attest: LYLE O. SNADER,
"Clerk."

The said subpena was duly served as appears by the return made thereon by George C. Williams, in-

8. 100 CONG. REC. 6400, 6401, 83d Cong. 2d Sess.

9. This citation was rescinded after Mr. Crowley answered questions before the committee. See § 21.1, infra, for the report of his purgation.

vestigator, who was duly authorized to serve the said subpena. The return of the service by the said George C. Williams, being endorsed thereon, is set forth in words and figures, as follows:

"Subpena for Francis X. T. Crowley, before the Committee on Un-American [Activities]. Served at home, 226 2d Avenue, Apt. 15, N.Y.C. on 4–24–53 at 6:32 p.m.

"GEORGE. C. WILLIAMS,
"Investigator, House of Representatives."

On May 4, 1953, a telegram was sent to Francis X. T. Crowley by Harold H. Velde, chairman of the House Committee on Un-American Activities, which is set forth in words and figures, as follows:

"NEW YORK, N.Y., *May 4, 1953.*

"FRANCIS X. CROWLEY, *226 Second Ave., New York City:*

"Your appearance before Committee on Un-American Activities is hereby postponed to Monday, June 8, 1953, 10:30 a.m., 226 House Office Building, Washington, D.C.

"HAROLD H. VELDE,
"Chairman."

The said Francis X. T. Crowley, pursuant to said subpena and in compliance therewith, appeared before the said committee on June 8, 1953, to give such testimony as required under and by virtue of Public Law 601, section 121, subsection (q)(2) of the 79th Congress, and under House Resolution 5 of the 83d Congress. The said Francis X. T. Crowley, having appeared as a witness and having been asked questions, namely:

"When you were in Boston, Mass. . . . were you a member of the West End Club of the Communist Party?

"Have you ever been associated with any members of the West End Club of Boston?

"Have you ever at any time been a member of the Communist Party?"

which questions were pertinent to the subject under inquiry, refused to answer such questions; and as a result of Francis X. T. Crowley's refusal to answer the aforesaid questions, your committee was prevented from receiving testimony and information concerning a matter committed to said committee in accordance with the terms of the subpena served upon the said Francis X. T. Crowley.

The record of the proceedings before the committee on June 8, 1953, during which Francis X. T. Crowley refused to answer the aforesaid questions pertinent to the subject under inquiry is set forth in fact as follows:

"UNITED STATES HOUSE
OF REPRESENTATIVES,
"SUBCOMMITTEE OF
THE COMMITTEE
ON UN-AMERICAN ACTIVITIES,
"Washington, D.C.,
Monday, June 8,1965.

"EXECUTIVE SESSION

The subcommittee of the Committee on Un-American Activities met, pursuant to call, at 10:43 a.m. in room 226 of the Old House Office Building, Hon. Bernard W. Kearney, presiding.

Committee member present: Representative Bernard W. Kearney (presiding).

* * * * *

"MR. KEARNEY. The committee will be in order.

"Let the record show that, for the purpose of the hearing this morning, a subcommittee has been set up composed of Mr. Kearney from New York. The hearing will be conducted under the authority granted for subcommittee by the chairman of the committee, Mr. Velde.

* * * * *

"Will you stand and be sworn?

"Do you solemnly swear the testimony you shall give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

"MR. CROWLEY. I do.

"TESTIMONY OF FRANCIS XAVIER THOMAS CROWLEY

"MR. KUNZIG. Mr. Crowley, are you accompanied by counsel here this morning?

"MR. CROWLEY. No; I am by myself.

"MR. KUNZIG. You understand, of course, your right to be accompanied by counsel if you so desire?

"MR. CROWLEY. I do.

"MR. KUNZIG. And it is your wish to be here present at this hearing today without counsel?

"MR. CROWLEY. Yes.

"MR. KUNZIG. Would you give your full name, please?

"MR. CROWLEY. Francis Xavier Thomas Crowley. The Thomas was a confirmation.

"MR. KUNZIG. And your present address, Mr. Crowley?

"MR. CROWLEY. 226 Second Avenue, New York.

"MR. KUNZIG. And what is your age at the present time?

"MR. CROWLEY. Twenty-seven.

* * * * *

"MR. KUNZIG. Mr. Crowley, when you were in Boston, Mass., that period of time prior to going to the University of Michigan that you have just told us about, were you a member of the West End Club of the Communist Party?

"MR. CROWLEY. Well, I can't answer that.

"MR. KEARNEY. What do you mean—you can't answer it?

"MR. CROWLEY. I won't answer it.

"MR. KEARNEY. On what grounds?

"MR. CROWLEY. It goes against my conscience to speak about it. I don't believe I should be in a position where I have to speak about anyone except my priest, and I have spoken to him about it. . . .

"MR. KEARNEY. . . . Have you ever been associated with any members of the West End Club of Boston?

"MR. CROWLEY. That comes to the same thing. I won't answer that either.

"MR. KEARNEY. You won't answer it?

* * * * *

"MR. CROWLEY. No.

"MR. KEARNEY. As I understand your testimony, you just refuse to answer any questions concerning your activities with communism?

"MR. CROWLEY. Yes, sir.

"MR. KEARNEY. Are you now a member of the Communist Party?

"MR. CROWLEY. No.

"MR. KEARNEY. Do you have any other questions?

"MR. KUNZIG. I think we better follow it up by asking: Have you ever at any time been a member of the Communist Party?

"MR. CROWLEY. I refuse to answer that."

* * * * *

Because of the foregoing, the said Committee on Un-American Activities was deprived of answers to pertinent questions propounded to said Francis X. T. Crowley relative to the subject matter which, under Public Law 601, section 121, subsection (q)(2) of the 79th Congress, and under House Resolution 5 of the 83d Congress, the said committee was instructed to investigate, and the refusal of the witness to answer questions, namely:

"When you were in Boston, Mass. . . . were you a member of

the West End Club of the Communist Party?

"Have you ever been associated with any members of the West End Club of Boston?

"Have you ever at any time been a member of the Communist Party?" which questions were pertinent to the subject under inquiry, is a violation of the subpena under which the witness had previously appeared, and his refusal to answer the aforesaid questions deprived your committee of necessary and pertinent testimony, and places the said witness in contempt of the House of Representatives of the United States.

§ 20.6 The House agreed to a privileged resolution directing the Speaker to certify to the U.S. Attorney a report citing a witness in contempt for refusing to answer questions at an investigative hearing.

On Sept. 3, 1959,[10] the House by voice vote approved a resolution directing the Speaker to certify a report citing a witness in contempt.

PROCEEDINGS AGAINST MARTIN POPPER

MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Speaker, I offer a privileged resolution (H. Res. 374) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Un-American Activities of the House of

10. 105 CONG. REC. 17934, 17935, 86th Cong. 1st Sess. See also, for example, 101 CONG. REC. 11521, 84th Cong. 1st Sess., July 26, 1955, for the voice vote approval of H. Res. 315, directing the Speaker to certify to the U.S. Attorney for the District of Columbia H. REPT. No. 1406, citing John T. Gojack, in contempt for refusing to testify before the Committee on Un-American Activities; and 100 CONG. REC. 11613, 83d Cong. 2d Sess., July 23, 1954, for the voice vote approval of H. Res. 666, directing the Speaker to certify to the U.S. Attorney for the District of Columbia H. REPT. No. 2457, citing Lloyd Barenblatt in contempt for refusing to testify before the Committee on Un-American Activities.

For related court proceedings, see *Gojack* v *United States*, 280 F2d 678 (D.C. Cir. 1960), rev'd sub nom., *United States* v *Russell*, 369 U.S. 749 (1962), wherein the court, in reversing defendant's conviction, held that a grand jury indictment under the contempt statute, 2 USC § 192, must state the subject matter under inquiry at the time of defendant's refusal to answer the committee's questions, so as to enable courts to determine the pertinency of the questions. See also *Popper* v *United States*, 306 F2d 290 (D.C. Cir. 1962), wherein the defendant's conviction was reversed because the indictment had insufficiently set forth the question under inquiry. And see *Barenblatt* v *United States*, 240 F2d 875 (D.C. Cir. 1957), vacated and rem'd, 354 U.S. 930, 252 F2d 129 (1958), aff'd., 360 U.S. 109 (defendant's conviction upheld).

Representatives as to the refusal of Martin Popper to answer questions before a duly constituted subcommittee of the Committee on Un-American Activities, together with all of the facts in connection therewith, under the seal of the House of Representatives, to the United States attorney for the District of Columbia, to the end that the said Martin Popper may be proceeded against in the manner and form provided by law. . . .

THE SPEAKER:[11] The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Refusal to Answer Questions and Departure Without Leave

§ 20.7 A committee filed a privileged report citing a witness in contempt for his failure to answer questions and his departure without leave.

On Oct. 18, 1966,[12] the Committee on Un-American Activities offered a privileged report citing Dr. Jeremiah Stamler in contempt for his refusal to answer questions and his departure without leave.

MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Speaker, I rise to a question of the privilege of the House and by direction of the Committee on Un-American Activities I submit a privileged report (Rept. No. 2306).

The Clerk read as follows:

PROCEEDINGS AGAINST JEREMIAH STAMLER

[Pursuant to Title 2, United States Code, Sections 192 and 194]

The Committee on Un-American Activities, as created and authorized by the House of Representatives, through the enactment of Public Law 601 of the 79th Congress, section 121, subsection (q)(2), and under House Resolution 8 of the 89th Congress, duly authorized and issued a subpena to Jeremiah Stamler. The subpena directed Jeremiah Stamler to be and appear before the said Committee on Un-American Activities, of which the Honorable Edwin E. Willis is chairman, or a duly appointed subcommittee thereof. . . .

This subpena was duly served as appears by the return thereon made by Neil E. Wetterman, who was duly authorized to serve it. The return of service of said subpena is set forth in words and figures as follows: . . .

The said Jeremiah Stamler, summoned as aforesaid, appeared and was called as a witness on May 27, 1965, to give testimony, as required by the said subpena, at a meeting of a duly authorized subcommittee of the Committee on Un-American Activities at the Old U.S. Court of Appeals Building in Chicago, Ill. He was accompanied by his counsel, Albert E. Jenner, Jr., and co-counsel, Thomas P. Sullivan, Esquires.

Having been sworn as a witness, he was asked to state his full name and residence for the record, to which he responded, giving same.

Thereafter, the witness was asked the question, namely: "Would you state the place and date of your birth, Dr. Stamler?" which question

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11. Sam Rayburn (Tex.).

12. 112 CONG. REC. 27500, 27501, 89th Cong. 2d Sess. The House adopted a resolution (H. Res. 1062) certifying the contempt on the following day. *Id.* at pp. 27641, 27642. See also *Stamler* v *Willis*, 415 F2d 1365 (7th Cir. 1969), cert. denied, 399 U.S. 929 (1970).

was pertinent to the subject under inquiry. He refused to answer said question and, in addition, stated that he would not answer any further questions that might be put to him touching matters of inquiry committed to said subcommittee.

The witness then departed the hearing room without leave of said subcommittee.

The foregoing refusals by Jeremiah Stamler to answer the aforesaid question and to answer any further questions, and his willful departure without leave, deprived the Committee on Un-American Activities of pertinent testimony regarding matters which the said committee was instructed by law and House resolution to investigate, and place the said Jeremiah Stamler in contempt of the House of Representatives of the United States.

Pursuant to resolution of the Committee on Un-American Activities duly adopted at a meeting held January 13, 1966, the facts relating to the aforesaid failures of Jeremiah Stamler are hereby reported to the House of Representatives, to the end that the said Jeremiah Stamler may be proceeded against for contempt of the House of Representatives in the manner and form provided by law.

The record of the proceedings before the said subcommittee, so far as it relates to the appearance of Jeremiah Stamler, including the statement by the chairman of the subject and matter under inquiry, is set forth in Appendix I, attached hereto and made a part hereof.

Other pertinent committee proceedings are set forth in Appendix II, and made a part hereof.[13]

§ 20.8 The House agreed to a privileged resolution directing the Speaker to certify a report citing a witness in contempt for refusal to testify and his departure without leave.

On Oct. 18, 1966,[14] the House by voice vote approved a resolution directing the Speaker to certify a report citing a witness in contempt.[15]

PROCEEDINGS AGAINST MILTON MITCHELL COHEN

MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Speaker, I offer a privileged resolution (H. Res. 1060) from the Committee on Un-American Activities and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1060

Resolved, That the Speaker of the House of Representatives certify the

13. The appendices have been omitted.

14. 112 CONG. REC. 27448, 27484, 27485, 89th Cong. 2d Sess. See also, for example, 112 CONG. REC. 27495, 27500, 89th Cong. 2d Sess., for the voice vote approval of H. Res. 1061, directing the Speaker to certify to the U.S. Attorney for the Northern District of Illinois H. REPT. No. 2305, citing Yolanda Hall in contempt for her refusal to testify and her departure without leave before the Committee on Un-American Activities.

15. Prior to approving the resolution, the House by a vote of 90 yeas to 181 nays rejected the motion of Mr. Silvio O. Conte (Mass.), to recommit this resolution to a select committee of seven members to examine the sufficiency of the citations. See § 17.2, supra, for the text of this motion to recommit.

report of the Committee on Un-American Activities of the House of Representatives as to the refusals of Milton Mitchell Cohen to answer questions pertinent to the subject under inquiry before a duly authorized subcommittee of the said Committee on Un-American Activities, and his departure without leave, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States attorney for the northern district of Illinois, to the end that the said Milton Mitchell Cohen may be proceeded against in the manner and form provided bylaw. . . .

THE SPEAKER:[16] The question is on the adoption of the resolution.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Refusal to Produce Materials

§ 20.9 A committee filed a privileged report which included a contempt citation and facts relating to the refusal of a witness to produce subpenaed materials.

On Aug. 23, 1960,[17] the Committee on the Judiciary filed a privileged report relating to the refusal of a witness to produce subpenaed materials.

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I send to the desk a privileged report (Reps. No. 2120) from the Committee on the Judiciary in relation to the conduct of S. Sloan Colt.

THE SPEAKER:[18] The Clerk will read the report.

The Clerk read as follows:

PROCEEDINGS AGAINST S. SLOAN COLT

Subcommittee No. 5 of the Committee on the Judiciary, as created and authorized by the House of Representatives through the enactment of Public Law 601, section 121, of the 79th Congress, and under House Resolution 27 and House Resolution 530, both of the 86th Congress, caused to be issued a subpena duces tecum to S. Sloan Colt, chairman, board of commissioners of the Port of New York Authority, 111 Eighth Avenue, New York, N.Y. The subpena directed S. Sloan Colt to be and appear before Subcommittee No. 5 of the Committee on the Judiciary, at 10 a.m. on June 29, 1960, in their chamber in the city of Washington, and to bring with him from the files of the Port of New York Authority certain specified documents, and to testify touching matters of inquiry committed to the subcommittee.

The subpena was duly served as appears by the return made thereon by counsel for the committee who was duly authorized to serve the subpena.

S. Sloan Colt, pursuant to the subpena duly served upon him, appeared before Subcommittee No. 5 of the Committee on the Judiciary on June 29, 1960, to give testimony as required by Public Law 601, section 121, of the 79th Congress, and by House Resolutions 27 and 530 of the 86th Congress. However, S. Sloan Colt, having appeared as a witness and having complied in part with the

16. John W. McCormack (Mass.).

17. 106 CONG. REC. 17313–15, 86th Cong. 2d Sess. A resolution certifying the contemptuous conduct was acted on immediately after the report was filed and considered.

18. Sam Rayburn (Tex.).

subpena duces tecum served upon him by bringing with him part of the documents demanded therein, (1) failed and refused to produce certain other documents in compliance with the subpena duces tecum, which documents are pertinent to the subject matter under inquiry, and (2) failed and refused to produce certain documents as ordered by the subcommittee, which documents are pertinent to the subject matter under inquiry.

At those proceedings the subcommittee chairman explained in detail the authority for the subcommittee's inquiry, the purpose of the inquiry, and its scope. The subcommittee also gave to the witness a lengthy and detailed explanation of the pertinence to its inquiry of each category of documents demanded in the subpena served upon the witness. Notwithstanding these explanations and notwithstanding a direction by the subcommittee to produce the documents required by the subpena, S. Sloan Colt contumaciously refused to produce the following categories of documents under his control and custody:

(1) Internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants;

(2) All agenda of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff; and

(3) All communications in the files of the Port of New York Authority and in the files of any of its officers and employees including correspondence, interoffice and other memorandums, and reports relating to:

(a) The negotiation, execution, and performance of construction contracts; negotiation, execution, and performance of insurance contracts, policies, and arrangements; and negotiation, execution, and performance of the public relations contracts, policies, and arrangements;

(b) The acquisition, transfer, and leasing of real estate;

(c) The negotiation and issuance of revenue bonds;

(d) The policies of the authority with respect to the development of rail transportation.

The subcommittee was thereby deprived by S. Sloan Colt of information and evidence pertinent to matters of inquiry committed to it under House Resolutions 27 and 530, 86th Congress. His persistent and illegal refusal to supply the documents as ordered deprived the subcommittee of necessary and pertinent evidence and places him in contempt of the House of Representatives.

Incorporated herein as appendix I is the record of the proceedings before Subcommittee No. 5 of the Committee on the Judiciary on the return of the subpenas duces tecum served upon S. Sloan Colt and others. The record of proceedings contains, with respect to Mr. Colt:

(1) The full text of the subpena duces tecum (appendix, pp. 21–22);

(2) The return of service of the subpena by counsel for the committee, set forth in words and figures (appendix, p. 26);

(3) The failure and refusal of the witness to produce documents required by the subpena issued to and served upon him (appendix, pp. 23–25);

(4) The explanation given to the witness as to the authority for, purpose and scope of, the subcommittee's inquiry (appendix, pp. 1–20);

(5) The explanation given the witness of the pertinence of each category of requested documents (appendix, pp. 48–52);

(6) The subcommittee's direction to the witness to produce the required documents (appendix, pp. 52–53);

(7) The failure and refusal of the witness to produce the documents pursuant to direction (appendix, pp. 53–54);

(8) The ruling of the chairman that the witness is in default (appendix, p. 55).

OTHER PERTINENT COMMITTEE PROCEEDINGS

At the organizational meeting of the Committee on the Judiciary for the 86th Congress, held on the 27th day of January 1959, Subcommittee No. 5 was appointed and authorized to act upon matters referred to it by the chairman. On June 8, 1960, at an executive session of Subcommittee No. 5 of the Committee on the Judiciary, at which Chairman Emanuel Celler, Peter W. Rodino, Jr., Byron G. Rogers, Lester Holtzman, Herman Toll, William M. McCulloch, and George Meader were present, Subcommittee No. 5 formally instituted an inquiry into the activities and operations of the Port of New York Authority under the interstate compacts approved by Congress in 1921 and 1922. At that meeting the subcommittee also unanimously resolved to request the following specified items from the files of the Port of New York Authority by letter and to subpena the same documents from the appropriate officials in the event this information was not voluntarily supplied:

(1) All bylaws, organization manuals, rules, and regulations;

(2) Annual financial reports; internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants;

(3) All agenda and minutes of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff;

(4) All communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memorandums, and reports relating to-

(a) The negotiation, execution, and performance of construction contracts; negotiation, execution, and performance of insurance contracts, policies, and arrangements; and negotiation, execution, and performance of public relations contracts, policies, and arrangements;

(b) The acquisition, transfer, and leasing of real estate;

(c) The negotiation and issuance of revenue bonds;

(d) The policies of the authority with respect to the development of rail transportation.

On June 29, 1960, following the appearance of the aforesaid witness, Subcommittee No. 5 of the Committee on the Judiciary, at an executive session at which all members of the subcommittee were present, unanimously resolved to report the contumacious conduct of S. Sloan Colt and others to the Committee on the Judiciary with the recommendation that the committee report this conduct to the House of Representatives together with all particulars and recommend that the House cite S. Sloan Colt for contempt of the House of Representatives.

At an executive session on June 30, 1960, the Committee on the Judiciary approved the recommendations of Subcommittee No. 5 to report to the House all details concerning the contumacious conduct of S. Sloan Colt and others, and resolved to recommend that S. Sloan Colt be cited for contempt of the House of Representatives.

MINORITY VIEWS OF REPRESENTATIVE JOHN V. LINDSAY

I cannot agree with the majority recommendations in the committee

report. The committee proceeding, calculated to form a basis for contempt citations under title 2, United States Code, section 192, in my opinion constitutes an unprecedented, unlawful, and unconstitutional exercise of Federal authority over a bistate agency, which can and should be avoided. The Port of New York Authority was created by the States of New York and New Jersey with the consent of Congress to exercise delegations of State, not Federal, powers.

My objections are threefold: (1) The committee acted without legal authority and exceeded its jurisdiction; (2) the committee lacked a legislative purpose in inquiring into the internal affairs of a bistate agency; and (3) the committee inadvisably and without caution initiated an unprecedented exercise of Federal control in the delicate area of State sovereignty despite the pleas of the two interested Governors to be accorded a hearing before the return fate of the subpenas. As a result, and I emphasize this point, the documentary material, which the witnesses did not produce, was withheld pursuant to written instructions from Governors Rockefeller and Meyner. The witnesses were damned if they complied with the subpenas and damned if they didn't. . . .

MINORITY VIEWS OF REPRESENTATIVE JOHN H. RAY

The majority of the Judiciary Committee recommends that contempt citations under title 2, United States Code, section 192, be issued against the chairman, the executive director, and the secretary of the Port of New York Authority. In my opinion the action so recommended by the majority would not only be unprecedented and unwise as a matter of Federal and State relations, it is not sanctioned by law and should and would be held unconstitutional.

§ 20.10 The House agreed to a privileged resolution directing the Speaker to certify to the appropriate U.S. Attorney a report citing a witness in contempt for refusing to produce subpenaed materials.

On Aug. 2, 1946,[19] the House by voice vote approved a resolu-

19. 92 CONG. REC. 10748, 79th Cong. 2d Sess. See also, for example, 112 CONG. REC. 1754, 1763, 89th Cong. 2d Sess., Feb. 2, 1966, for the approval, on a vote of 344 yeas to 28 nays, of H. Res. 699, directing the Speaker to certify to the U.S. Attorney for the District of Columbia, H. REPT. No. 1241, citing Robert M. Shelton, allegedly of the Ku Klux Klan, in contempt for refusal to produce subpenaed materials to the Committee on Un-American Activities (resolutions against other alleged Klan members follow the Shelton resolution. In *Shelton* v *United States*, 404 F2d 1292 (D.C. Cir. 1968), cert. denied, 393 U.S. 1024 (1969), the defendant's conviction was upheld by the appellate court. The same defendant had earlier been convicted of contempt of Congress following an appearance before the Senate Judiciary Committee's Subcommittee on Internal Security. *United States* v *Shelton*, 148 F Supp 926 (D.D.C. 1957), aff'd., 280 F2d 701, rev'd and rem'd, 369 U.S. 749 (1962), 211 F Supp 829, aff'd., 327 F2d 601 (D.C. Cir. 1963).

See 106 CONG. REC. 17313, 86th Cong. 2d Sess., Aug. 23, 1960, for

tion citing a witness in contempt for refusal to produce subpenaed materials.

PROCEEDINGS AGAINST RICHARD MORFORD

THE SPEAKER:[20] The Clerk will read the resolution.

The Clerk read as follows:

HOUSE RESOLUTION 752

Resolved, That the Speaker of the House of Representatives certify the foregoing report of the House Committee on Un-American Activities as to the willful and deliberate refusal of the following person to produce before the said committee for its inspection certain books, papers, and records which had been duly subpenaed, and to testify under oath concerning all pertinent facts relating thereto; under seal of the House of Representatives to the United States attorney for the District of Columbia to the end that the said person named below may be proceeded against in the manner and form provided by law; Richard Morford, 114 East Thirty-second Street, New York, N.Y. . . .

The previous question was ordered.

THE SPEAKER: The question is on the resolution.

The question was taken; and on a division (demanded by Mr. Marcantonio) there were—ayes 166, noes 17.

So the resolution was agreed to.

A motion to reconsider was laid on the table.[21]

Senate Precedents

§ 20.11 The Senate agreed to a resolution directing its President to certify to a U.S. Attorney a report citing a witness in contempt for failing to appear before an investigative hearing.

On May 6, 1953,[22] the Senate approved a resolution directing its

the approval, on a vote of 190 yeas to 60 nays, of H. Res. 606, directing the Speaker to certify to the U.S. Attorney for the District of Columbia H. REPT. No. 2117, citing Austin J. Tobin, of the Port of New York Authority in contempt for refusal to produce subpenaed materials to Subcommittee No. 5, of the Committee on the Judiciary (resolutions against other Port Authority officials follow the Tobin resolution).

In *United States* v *Tobin*, 195 F Supp 588 (D.D.C. 1961), rev'd 306 F2d 270, cert. denied, 371 U.S. 902 (1962), defendant's conviction was reversed on appeal, the court holding that certain documents demanded by the committee were not within the scope permitted by the pertinent congressional resolution.

20. Sam Rayburn (Tex.).

21. See also *Morford* v *United States*, 72 F Supp 58 (D.D.C. 1947), aff'd., 176 F2d 54 (1949), rev'd 339 U.S. 258 (1950), rem'd, 184 F2d 864, cert. denied, 340 U.S. 878 (1950). The Supreme Court initially reversed defendant's conviction because defendant had not been permitted to question four government employees on the jury panel as to the impact of Executive Order No. 9835 (the "Loyalty Order") on their ability to render a just and fair verdict. On retrial, defendant waived a jury and was convicted again.

22. 99 CONG. REC. 4603, 83d Cong. 1st Sess.

President to certify to a U.S. Attorney a contempt citation.

THE PRESIDING OFFICER:[23] Is there objection to the consideration of the resolution? There being no objection, the resolution (S. Res. 103) was considered and agreed to, as follows:

Resolved, That the President of the Senate certify the report of the Committee on Government Operations of the United States Senate as to the willful default of Russell W. Duke in failing to appear to testify before the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations of the United States Senate in response to a subpena, together with all the facts in connection therewith, under the seal of the United States Senate, to the United States attorney for the District of Columbia, to the end that the said Russell W. Duke may be proceeded against in the manner and form provided by law.

§ 20.12 The Senate agreed to a resolution directing its President to certify to a U.S. Attorney a report citing a witness in contempt for refusing to answer questions at an investigative hearing.

On Feb. 4, 1955,[24] the Senate approved a resolution directing its President to certify to a U.S. Attorney a contempt citation.

CITATION OF DIANTHA D. HOAG FOR CONTEMPT OF THE SENATE

MR. [EARLE C.] CLEMENTS [of Kentucky]: Mr. President, I move that the Senate proceed to the consideration of Calendar No. 3, Senate Resolution 31.

THE PRESIDING OFFICER:[1] The resolution will be stated by title for the information of the Senate.

THE LEGISLATIVE CLERK: A resolution (S. Res. 31) citing Diantha D. Hoag for contempt of the Senate.

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to, and the Senate proceeded to consider the resolution which was read as follows:

Resolved, That the President of the Senate certify the report of the Committee on Government Operations of the United States Senate as to the refusal of Diantha D. Hoag to answer questions before the Senate Permanent Subcommittee on Investigations, said refusal to answer being pertinent to the subject matter under inquiry, together with all the facts in connection therewith, under

23. Alvin R. Bush (Pa.).

24. 101 CONG. REC. 1159, 84th Cong. 1st Sess. See also, for example, 101 CONG. REC. 11678, 84th Cong. 1st Sess., July 27, 1955, for the voice vote approval of S. Res. 129, citing Joseph Starobin in contempt for refusing to answer questions before the Senate Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws of the Committee on the Judiciary; and 98 CONG. REC. 1311, 82d Cong. 2d Sess., Feb. 25, 1952, for the voice vote approval of S. Res. 281 and 282, citing Roger Simkins and Emmitt Warring, respectively, in contempt for refusing to answer questions before the Committee on the District of Columbia.

1. William S. Hill (Colo.).

the seal of the United States Senate to the United States attorney for the District of Columbia, to the end that the said Diantha D. Hoag may be proceeded against in the manner and form provided by law.

MR. [GEORGE H.] BENDER [of Ohio]: Mr. President, the Senator from Wisconsin [Mr. McCarthy], who reported the resolution to the Senate, is absent, and he asked me to pursue it for him. However, I am sure there is no need for any speech on the subject.

THE PRESIDING OFFICER: The question is on agreeing to the resolution.

The resolution (S. Res. 31) was agreed to.[2]

§ 20.13 The Senate agreed to a resolution directing its President to certify to the appropriate U.S. Attorney a report citing a witness in contempt for his refusal to answer questions and his departure without leave at an investigative hearing.

On July 19, 1968,[3] the Senate approved a resolution directing its President to certify to a U.S. Attorney a report citing a witness in contempt.

CITATION FOR CONTEMPT OF THE SENATE

MR. [ROBERT C.] BYRD of West Virginia: Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 379.[4]

THE PRESIDING OFFICER:[5] The resolution will be stated by title.

THE ASSISTANT LEGISLATIVE CLERK: A resolution (S. Res. 379) citing Jeff Fort for contempt of the Senate.

THE PRESIDING OFFICER: Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, as follows:

S. RES. 379

Resolved, That the President of the Senate certify the report of the Com-

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2. See also *United States* v *Hoag*, 142 F Supp 667 (D.D.C. 1956). The defendant was found not guilty, the court ruling that by answering a limited number of the committee's questions, she did not waive her privilege against self-incrimination under the fifth amendment. Thus, defendant's subsequent refusal to answer questions regarding possible activities on behalf of the Communist Party did not constitute violation of the statute making it an offense for a person to refuse to testify (2 USC § 192).

3. 114 CONG. REC. 22351, 22361, 22362, 90th Cong. 2d Sess. See also *United States* v *Fort*, 443 F2d 670, cert. denied, 403 U.S. 932 (1971), wherein the defendant's conviction was upheld. The right to confront witnesses was not applicable, in the court's view, because a legislative inquiry is not the same as a criminal proceeding.

4. *Parliamentarian's Note:* A resolution citing a person for contempt for refusing to answer questions is privileged under Senate rules. This particular resolution was called up by unanimous consent because it was not controversial and was considered out of the regular order of business.

5. Joseph D. Tydings (Md.).

mittee on Government Operations of the United States Senate on the appearance of Jeff Fort before the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations on July 9, 1968, in Washington, District of Columbia, at which he—

(1) refused to answer one question,

(2) refused to answer any and all questions that were to be put to him by the subcommittee,

(3) departed the hearing without leave, such conduct and refusals to answer questions being pertinent to the subject matter under inquiry, together with all the facts in connection therewith, under the seal of the United States Senate, to the United States Attorney for the District of Columbia, to the end that the said Jeff Fort may be proceeded against in the manner and form provided by law. . . .[6]

THE PRESIDING OFFICER: All time has been yielded back. The question is on agreeing to Senate Resolution 379. On this question, the yeas and nays have been ordered, and the clerk will call the roll. . . .

The result was announced—yeas 80, nays 0, as follows: . . .

So the resolution (S. Res. 379) was agreed to.

§ 20.14 The Senate agreed to a resolution directing its President to certify to a U.S. Attorney a report citing witnesses in contempt for refusing to produce subpenaed materials.

6. The excerpts from the report are omitted.

On May 5, 1969,[7] the Senate agreed to a resolution directing its President to certify to a U.S. Attorney a contempt citation.

CITATION OF ALAN AND MARGARET MCSURELY FOR CONTEMPT OF CONGRESS

The resolution (S. Res. 191) citing Alan and Margaret McSurely for contempt of Congress was considered and agreed to, as follows:

S. RES. 191

Resolved, That the President of the Senate certify the report of the Com-

7. 115 CONG. REC. 11278, 91st Cong. 1st Sess. See *United States* v *McSurely*, 473 F2d 1178 (D.C. Cir. 1972), wherein defendant's conviction was reversed, the trial court having erred in receiving in evidence subpenas which were based ultimately on the fruits of an illegal search and seizure.

See also 101 CONG. REC. 10916, 84th Cong. 1st Sess., July 19, 1955, for the voice vote approval of S. Res. 135, citing Eugene C. James in contempt for refusing to produce subpenaed materials and answer questions; and 99 CONG. REC. 8883, 8884, 83d Cong. 1st Sess., July 15, 1953, for the voice vote approval of S. Res. 139, citing Timothy J. O'Mara in contempt for refusing to produce subpenaed materials and answer questions.

In *United States* v *O'Mara*, 122 F Supp 399 (1954), the defendant was convicted, the court having found, in part, that information sought was pertinent to the inquiry.

mittee on Government Operations of the United States Senate on the appearance of Alan McSurely and Margaret McSurely before the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations on March 4, 1969, in Washington, District of Columbia, at which they—

(1) refused to produce books and records lawfully subpenaed to be produced before the said subcommittee, and

(2) failed to appear or to produce the said books and records pursuant to the order and direction of the chairman with the approval of the subcommittee before noon on March 7, 1969, together with all the facts in connection therewith, under the seal of the United States Senate, to the United States Attorney for the District of Columbia, to the end that the said Alan McSurely and Margaret McSurely may be proceeded against in the manner and form provided by law.

§ 21. Purging Contempt

As the following precedents reveal, a witness may be purged of, or freed from, contempt under procedures parallel to those used in citing for contempt: submission of a report of the committee and approval of a resolution authorizing the Speaker to notify the U.S. Attorney to drop the prosecution.[8]

Courts have not been sympathetic to witnesses' contentions that they have purged themselves. For example, an argument that an unexcused withdrawal from a hearing did not obstruct a committee's inquiry because the witness returned later and answered all questions put to him was held irrelevant, because a witness does not have a legal right to dictate the conditions under which he will testify.[9] In fact, a witness' offer of proof that he had purged himself by testifying freely before another Senate committee and by opening union files to its scrutiny was rejected on the ground that the defense of purging in criminal contempt has been abolished in the federal courts.[10] A court may, however, suspend the sentence of a witness convicted of violating 2 USC § 192 and give him an opportunity to avoid punishment by giving testimony before a committee whose questions he had refused to answer.

Report

§ 21.1 The Committee on Un-American Activities reported

8. See 3 Hinds' Precedents §§ 1670, 1682, 1684, 1686, 1687, 1689, 1692, 1694, 1701, 1702, for earlier precedents relating to purgation.

9. *United States* v *Costello*, 198 F2d 200 (2d Cir. 1952), cert. denied, 344 U.S. 874 (1952).

10. *United States* v *Brewster*, 154 F Supp 126, 135 (D.D.C. 1957), reversed on other grounds, 255 F2d 899 (D.C. Cir. 1958), cert. denied, 358 U.S. 842 (1958).

to the House testimony purging a witness who had been cited for his previous refusal to testify and recommended that legal proceedings against the witness be terminated.

On July 23, 1954,[11] a report purging a witness of contempt was presented and read.[12]

IN THE MATTER OF FRANCIS X. T. CROWLEY

MR. [HAROLD H.] VELDE [of Illinois]: Mr. Speaker, by direction of the Committee on Un-American Activities, I submit a privileged report (Rept. No. 2472).

The Clerk read as follows:

IN THE MATTER OF FRANCIS X. T. CROWLEY

Mr. Velde, from the Committee on Un-American Activities, submitted the following report:

The Committee on Un-American Activities, as created and authorized by the House of Representatives, through the enactment of Public Law 601, section 121, subsection (q) (2) of the 79th Congress, and under House Resolution 5 of the 83d Congress, caused to be issued a subpena to Francis X. T. Crowley, 226 Second Avenue, apartment 15, New York, N. Y. The said subpena directed Francis X. T. Crowley to be and appear before said Committee on Un-American Activities, of which the Honorable Harold H. Velde is chairman, on May 4, 1953, at the hour of 10:30 a.m., then and there to testify touching matters of inquiry committed to said committee, and not to depart without leave of said committee.

The said Francis X. T. Crowley did appear before said committee and did refuse to answer questions pertinent to the subject under inquiry, and his refusal to answer said pertinent questions deprived your committee of necessary and pertinent testimony and placed the said witness in contempt of the House of Representatives of the United States.

In Report No. 1586, 83d Congress, 2d session, your committee reported to the House of Representatives the said actions of Francis X. T. Crowley. On May 11, 1954, the House of Representatives adopted by vote of 346 to 0, House Resolution 541, which is set forth in words and figures as follows:

"*Resolved*, That the Speaker of the House of Representatives certify the report of the Committee on Un-American Activities of the House of Representatives as to the refusal of Francis X. T. Crowley to answer questions before the said Committee on Un-American Activities, together with all the facts in connection therewith, under seal of the House of Representatives, to the United States attorney for the District of Columbia, to the end that the said Francis X. T. Crowley may be proceeded against in the manner and form provided by law."

On June 28, 1954, the said Francis X. T. Crowley did appear voluntarily before your committee in public session in Washington, D.C., and did

11. 100 CONG. REC. 11650, 83d Cong. 2d Sess.

12. See § 21.2, infra, for the resolution purging Mr. Crowley, and 100 CONG. REC. 6400, 6401, 83d Cong. 2d Sess., May 11, 1954, for the texts of H. REPT. No. 1586, relating to the refusal of Mr. Crowley to testify, and H. Res. 541, authorizing the Speaker to certify that report to the U.S. Attorney for legal action.

answer all questions which he had previously refused to answer. In addition, the said Francis X. T. Crowley voluntarily did give your committee extensive information concerning the operation of the Communist conspiracy in the United States of America.

At the conclusion of the testimony of the said Francis X. T. Crowley before your committee on June 28, 1954, the chairman, Hon. Harold H. Velde, made a statement which is set forth in words as follows: . . .

"MR. VELDE. May I say that we certainly do appreciate the information you have given here voluntarily to the committee.

"As I mentioned before the committee would not be authorized as a body to ask for immunity from prosecution for you. However, I do feel that many of the members of the committee, probably a big majority, feel that you have performed a service to your country by giving us the information that you have, and that would possibly be a good reason why the Attorney General should drop prosecution in your particular case for contempt.

* * * * *

"MR. VELDE. The witness is excused with the committee's thanks."

Because of the foregoing, on July 16, 1954, your committee voted that it was the sense of the committee that the said Francis X. T. Crowley, because of his voluntary answers to pertinent questions before the committee and the extensive voluntary information he offered concerning the operation of the Communist conspiracy in the United States of America, did purge himself of contempt of the House of Representatives of the United States.

Resolution

§ 21.2 The House debated and approved a resolution purging the contempt of a witness who had previously refused to testify before the Committee on Un-American Activities.

On July 23, 1954,[13] the House debated and approved a resolution authorizing the Speaker to certify to the U.S. Attorney a report purging a witness of contempt.[14]

MR. [HAROLD H.] VELDE [of Illinois]: Mr. Speaker, I offer a resolution (H. Res. 681) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Un-American Activities of the House of Representatives concerning the action of Francis X. T. Crowley in

13. 100 CONG. REC. 11650–52, 83d Cong. 2d Sess. See also § 21.3, infra, for the Speaker's announcement that he had certified the purgation and § 21.4, infra, for the U.S. Attorney's statement that the prosecution would be dropped.

14. See § 21.1, supra, for the report on this matter and 100 CONG. REC. 6400, 6401, for the texts of H. REPT. NO. 1586, relating to the refusal of Mr. Crowley to testify, and H. Res. 541, authorizing the Speaker to certify the report to the U.S. Attorney for legal action.

purging himself of contempt of the House of Representatives of the United States, together with all the facts in connection therewith, under seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that legal proceedings based upon the matter certified by the Speaker pursuant to H. Res. 541, 83d Congress, second session, against the said Francis X. T. Crowley may be withdrawn and dropped in the manner and form provided by law.

MR. VELDE: Mr. Speaker, I yield such time as he may desire to the gentleman from California [Mr. Jackson].

MR. [DONALD L.] JACKSON [of California]: Mr. Speaker, on May 11, 1954, the House adopted by a vote of 346 to 0, House Resolution 541 citing Francis X. T. Crowley for contempt of Congress. On June 28, 1954, Mr. Crowley again appeared before the House Committee on Un-American Activities at his own request and answered all questions, giving the Congress and the committee extensive information relative to his activities and those of others in the Communist Party.

The action here proposed, while not without precedent, is most unusual, in that the House Committee on Un-American Activities is today asking the House to concur in a committee recommendation that a witness who was previously cited by the House for contempt, and in the light of subsequent cooperation with the committee, be purged of that contempt.

It is the sense of the committee that Mr. Crowley should be purged of contempt. However, Mr. Speaker, I should like to emphasize one important point relative to Francis X. T. Crowley. When the witness refused originally to testify before the committee and later came back to testify, it is our clear understanding that he was acting upon his own initiative. He came back to testify on his own volition. He was not acting in furtherance of any conspiracy. He was not attempting to impede legitimate congressional investigations, in the opinion of the committee.

The committee wants it clearly understood that its unusual action today in recommending that Francis X. T. Crowley be considered as having purged himself of contempt must not be considered as a precedent for any witness to commit contempt on one day and attempt to purge himself of the charge on the next. In such case, a witness would thereby be able to select the time and place of giving his testimony. A congressional committee is entitled to testimony when and where it deems it necessary and proper to have that testimony. The power to decide when and where one shall testify is not properly, under the law, in the hands of a witness. The Crowley case is no precedent for any such interpretation.

It must further be remembered that Mr. Crowley came back voluntarily before the committee, and was promised nothing in the way of any remuneration, reward, or forgiveness. He understood that he was promised nothing and that he testified freely of his own will because he desired strongly so to testify.

It is the hope of the committee that the House will accept the recommendation that Mr. Crowley be purged of contempt in this instance.

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Speaker, will the gentleman yield?

MR. JACKSON: I yield to the gentleman from Pennsylvania.

MR. FULTON: If the House adopts this recommendation as a practice, and leaving this particular case out of it, will it not weaken the Committee on Un-American Activities? Will not witnesses who become the defendants in these citations for contempt proceedings feel that they have up until the time they are brought into court to change their minds? If the committee adheres to a rule that the witnesses are required to come before the Un-American Activities Committee in the beginning and testify, will it not expedite the committee's hearings, instead of waiting for the defendant to turn milk toast later on?

MR. JACKSON: It would simplify matters a great deal if we could adopt a rule that would require them to testify in their first appearance. If that could be achieved, there would be no need for contempt proceedings in the House. However, there are instances where it is believed that a witness in good faith, through misunderstanding of the circumstances, or upon poor advice, refuses to testify. Mr. Crowley, following his appearance here, went to a priest, who recommended that he return to the committee and tell the full truth. He did so. I have tried to point out in my remarks, I will say to the gentleman from Pennsylvania, that the committee is not establishing, and wants it clearly understood that this is not to be considered as establishing, any precedent relative to purge of contempt.

MR. FULTON: Would the gentleman permit me to ask another question?

MR. JACKSON: Surely.

MR. FULTON: When a person is cited and becomes a defendant in a case before the United States district court, is it within our power, our discretion, or our jurisdiction in the House then to withdraw the citation? Why does not the gentleman who has been cited by the Un-American Activities Committee for contempt, and who refused to answer questions on his subversive activities for the overthrow of the United States Government, go to the proper authorities on the judicial side and say that he has now changed, although he committed the offense, and ask that this later repentance and change of mind be taken in mitigation of what the penalty might be? The point is this: Are we in the House responsible for relieving such a cited individual of all penalty, or should he go to the Attorney General, to whom this citation has been referred, and the judiciary, to get the penalty mitigated, now that he has changed his mind?

MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Speaker, will the gentleman yield?

MR. JACKSON: I yield to the gentleman from Pennsylvania.

MR. WALTER: I think it is important to understand that in this particular case we are just where we were after the vote to cite this man was taken. No further steps have been taken. The matter has not been presented to the grand jury. There has been no indictment, so that we are still in control of this entire situation.

MR. FULTON: Then will the committee at this juncture limit this type of case to the jurisdiction where it has still the actual control of the citation as in this situation? Once the citation

is handed over into the hands of a United States attorney, I believe it should be the United States attorney that goes before the court and asks for the mitigation or the dismissal.

MR. WALTER: I am quite certain that the United States attorney does not know anything about this case. It has been referred to the Department of Justice, but I do not believe the matter has gone to the United States attorney. Further, this is an unusual case in this, that this man realized after he searched his soul and conscience that he had done something injurious to his country, and he convinced us that he was willing and anxious to cooperate with the work the Congress of the United States has imposed upon this committee. It is entirely a bona fide, genuine action on the part of this man. I do not believe in the light of these circumstances he should be put to the trouble and expense of defending an action even though ultimately the United States attorney would recommend leniency.

MR. JACKSON: May I say to the gentleman it is my understanding that the Attorney General's office and the United States attorney's office are in accord with the action that is here proposed.

MR. VELDE: Mr. Speaker, will the gentleman yield?

MR. JACKSON: I yield to the gentleman from Illinois.

MR. VELDE: Let me point out, too, that this witness was not a vicious and physically contemptuous witness. He felt within his conscience, at least we members of the committee felt that he had it within his conscience, that he should refuse to answer certain questions. I certainly would not indiscriminately recommend that all these witnesses who come forward after being cited be purged by the House of Representatives. I think you can depend upon the members of our Committee on Un-American Activities, who voted unanimously to submit this resolution, to take those cases where it seems it is proper to make the purge or to ask for a purging resolution.

MR. JACKSON: I thank the gentleman. I might say that we are frequently belabored in some quarters for being unduly harsh. I believe the adoption of this resolution will indicate that the committee is trying its best to be fair and just

MR. [KIT] CLARDY [of Michigan]: Mr. Speaker, will the gentleman yield?

MR. JACKSON: I yield to the gentleman from Michigan.

MR. CLARDY: Is it not true that this witness when he came before us was a more or less confused young man who did not raise the fifth amendment, did not raise any of the amendments, but merely had a mistaken belief that by cooperating with the committee he would be violating something that was within his conscience, unlike most of those who come before the committee, and that we thought the spirit of Christian charity ought to prevail in this case because it was perhaps the first and maybe the last and only instance in which we would find a man of that character coming before us?

MR. JACKSON: Yes. I sensed that to be the feeling of the committee in this connection.

MR. CLARDY: After he had appeared the first time he became married, he consulted with his wife, he consulted

with his priest, he consulted with his friends, and finally he came back before us, because he was in his conscience convinced he could do his country a service. I would hate to see the House turn down this one case.

MR. JACKSON: I am inclined to think, if we give the House a chance, it will vote this resolution.

MR. FULTON: If the gentleman will yield, I want to ask the chairman of the Un-American Activities Committee a question. I may be pressing the point, but this is establishing a precedent which will be followed hereafter. I cannot accept the ground that maybe a member of the committee thought this was being done in charity. I would therefore ask the chairman of the Committee on Un-American Activities to state expressly the rule that will be followed by the Un-American Activities Committee in cases where there is a change of mind and the witness decides he will purge himself of this contempt after he has been cited by the House in accordance with the Un-American Activities Committee's own recommendations. I would like that stated right here for a precedent on the first one that comes up, so that there is a precedent and a rule for future cases.

MR. VELDE: The gentleman knows it is impossible for me to say what the committee will do under any of these circumstances. I am sure they will be reasonable. On top of that the House of Representatives is not establishing a precedent in the sense that it is a legal precedent established by the Supreme Court. The House of Representatives can vote on any of these resolutions as they see fit.

Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER:[15] The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Certification of Purgation

§ 21.3 The Speaker informed the House when he had, pursuant to authority granted him by resolution, certified purgation of contempt to the U.S. Attorney.

On July 26, 1954,[16] Speaker Joseph W. Martin, Jr., of Massachusetts, informed the House that he had certified to the U.S. Attorney for the District of Columbia the report, House Report No. 2472, purging Francis X. T. Crowley of contempt.

CITATIONS FOR CONTEMPT

THE SPEAKER: The Chair desires to announce that pursuant to sundry resolutions of the House he did, on Friday, July 23, 1954, make certifications to the United States attorney, District of Columbia, the United States attorney, southern district of California, the United States attorney, eastern district of Michigan, the United States attorney for the district of Oregon, and the United States attorney, western district of Washington, as follows:

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

16. 100 CONG. REC. 12023, 12024, 83d Cong. 2d Sess.

TO THE UNITED STATES ATTORNEY
DISTRICT OF COLUMBIA: . . .

House Resolution 681, concerning the action of Francis X. T. Crowley in purging himself of contempt of the House of Representatives.[17]

U.S. Attorney's Response

§ 21.4 The Speaker laid before the House the U.S. Attorney's affirmative response to a resolution requesting withdrawal of contempt proceedings against a person who had purged himself of contempt by cooperating with a committee.

On Aug. 9, 1954,[18] Speaker Joseph W. Martin, Jr., of Massachusetts, laid before the House a letter from the U.S. Attorney for the District of Columbia.[19]

PROCEEDINGS AGAINST FRANCIS X. T. CROWLEY

The Speaker laid before the House the following communication:

AUGUST 5, 1954.

Hon. JOSEPH W. MARTIN, Jr.,
Speaker of the House of Representatives, Washington, D.C.

In re Francis X. T. Crowley, cited for contempt of the House by House Resolution 541, 83d Congress.

DEAR MR. SPEAKER: On May 12, 1954, pursuant to House Resolution 541, 83d Congress, you certified to me the contempt of the above individual for refusing to answer questions before the Committee on Un-American Activities on June 8, 1953.

On July 23, 1954, that committee by Report No. 2472, reported that Crowley on June 28, 1954, appeared voluntarily before it in public session and answered all questions which he had previously refused to answer and, in addition, voluntarily gave extensive information concerning the operation of the Communist conspiracy in this country. That committee further reported that it was the sense of the committee that Crowley had thereby purged himself of his previous contempt of the House of Representatives.

House Resolution 681 of July 23, 1954, resolved that the Speaker certify to the United States attorney House Report No. 2472, referred to above, "to the end that legal proceedings based upon the matter certified by the Speaker pursuant to House Resolution 541, 83d Congress, 2d session, against the said Francis X. T. Crowley may be withdrawn and dropped in the manner and form provided by law."

In my opinion this action by the committee and by the House has the effect of withdrawing the original citation of Crowley to my office and of relieving me of the statutory duty to put the matter before the grand jury, as provided by title 2, United States Code, section 194.

Inasmuch as Crowley has purged himself, and in view of the wish of the House, expressed in House Reso-

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17. See § 21.2, supra, for the text of H. Res. 681, and § 21.4, infra, for the response of the U.S. Attorney.

18. 100 CONG. REC. 13734, 83d Cong. 2d Sess.

19. See §§ 21.1 and 21.2, supra, for the texts, respectively, of H. REPT. NO. 2472, purging Mr. Crowley of contempt, and H. Res. 681, authorizing the Speaker to certify the report. See also 100 CONG. REC. 6400, 6401, for the texts of H. REPT. NO. 1586, relating to the original refusal to testify, and H. Res. 541, authorizing the Speaker to certify that report to the U.S. Attorney.

lution 681, that contempt proceedings against Crowley be dropped, I shall not present the matter to the grand jury and I shall close the prosecution on my records.

Sincerely,

LEO A. ROVER,
United States Attorney.

(Copy to Hon. Harold H. Velde, chairman Committee on Un-American Activities, House of Representatives, Washington, D.C.)

§ 21.5 The U.S. Attorney, in response to a letter received during an adjournment informing him that a witness who had been cited by the House for contempt had later purged himself, advised the Speaker by letter that he would not present the contempt to the grand jury and would close the prosecution on his records.

On Mar. 10, 1955,[20] the following item appeared in the *Congressional Record*.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

527. A letter from the United States Attorney, District of Columbia, Department of Justice, relative to a letter addressed to Hon. Francis Walter, chairman, committee on Un-American Activities of the House of Representatives, relating to the case of Wilbur Lee Mahaney, Jr., cited for contempt of the House of Representatives by House Resolution 535, 83d Congress; to the Committee on Un-American Activities.[1]

Parliamentarian's Note: In a letter dated Mar. 3, 1955, the U.S. Attorney for the District of Columbia, Leo A. Rover, informed the Chairman of the Committee on Un-American Activities of the 84th Congress, Francis E. Walter, of Pennsylvania, that he would drop legal action against Wilbur Lee Mahaney, Jr., because the former chairman, Harold H. Velde, of Illinois, had by letter indicated that it was the sense of the committee that the witness had purged himself. The body of

20. 101 CONG. REC. 2659, 84th Cong. 1st Sess.

1. See 100 CONG. REC. 6386–89, 83d Cong. 2d Sess., May 11, 1954, for the texts of H. REPT. NO. 1580, citing Mr. Mahaney for contempt for refusal to testify, and H. Res. No. 535, authorizing the Speaker to certify to the U.S. Attorney the report, respectively.

Parliamentarian's Note: This letter was not laid before the House; an adjournment prevented action on a resolution certifying the purgation.

See §§ 21.1, 21.2, and 21.4, supra, for the texts of a report purging a witness, a resolution authorizing the Speaker to certify the purging report to the U.S. Attorney, and the response of the U.S. Attorney in the case of Francis X. T. Crowley, respectively, when the House was able to receive and act on the committee report because it was in session.

the U.S. Attorney's letter to Chairman Walter follows:

By letter dated December 30, 1954, the Honorable Harold H. Velde, Chairman, Committee on Un-American Activities of the House of Representatives, informed me that on November 28, 1954, the Committee voted that it was the sense of the Committee that Mahaney, on July 30, 1954, had purged himself of the contempt theretofore committed by him in refusing to answer questions on February 16, 1954, for which refusals Mahaney had been cited for contempt by the House of Representatives on May 11, 1954.

In the letter of December 30, 1954, Chairman Velde stated that the report and statement of Mahaney's purge were being forwarded to this office to the end that legal proceedings on the contempt citation against Mahaney may be withdrawn and dropped.

Mr. Velde further stated that the report and statement were being forwarded directly by the Chairman of the Committee inasmuch as the House of Representatives was adjourned. It is my understanding that the Speaker of the House was out of the city and unavailable to receive and transmit the report and statement to this office as is provided by 2 U.S.C. 194 for citations of contempt when Congress is not in session.

It appears, under these circumstances, that this action by the Committee may be regarded as having the effect of withdrawing the original citation of Mahaney to my office and of relieving me of the statutory duty to put the matter before the grand jury, as provided by 2 U.S.C. 194.

Inasmuch as Mahaney has been considered by the Committee as having purged himself, and in view of the wish of the Committee expressed by Committee in the aforementioned letter of its Chairman, that contempt proceedings against Mahaney be dropped, I shall not present the matter to the grand jury and I shall close the prosecution on my records.

For your information, I do not propose to give notification of this action to Mahaney.

§ 22. Certification to U.S. Attorney

A statute[2] imposes a duty on the Speaker of the House or President of the Senate to certify to the appropriate U.S. Attorney statements of facts relating to contumacious conduct of witnesses. The statute requires a committee to report such facts to the House or Senate when Congress is in session, or to the Speaker or President of the Senate when Congress is not in session.

When either the House or Senate receives a report of contumacious conduct from a committee, it routinely considers a resolution offered by a committee member authorizing the Speaker or President of the Senate to certify the facts to the U.S. Attorney. By reviewing this resolution, the body checks the action of the committee.

2. 2 USC § 94. See 3 Hinds' Precedents §§ 1672, and 1691 for earlier precedents relating to certification.

Although the necessity of a certification as a prerequisite to prosecution has long been assumed,[3] some conflict has arisen among different jurisdictions with respect to such requirement. One district court held that an indictment which failed to set forth compliance with the procedure outlined in 2 USC § 194 was not fatally defective and should not be dismissed;[4] another, in a habeas corpus proceeding, held that a person charged with a violation of the contempt statute, 2 USC § 192, for refusal to testify before a committee could not legally be held under a warrant issued by a U.S. Commissioner which was based on an affidavit of the secretary of the Committee on Un-American Activities and not on a certification from the Speaker.[5]

The portion of the statute which authorizes the Speaker or President of the Senate, without action of the House or Senate, to certify statements of facts he receives while Congress is not in session—a procedure designed to avoid delay in prosecuting contumacious witnesses—was interpreted in one case to be not automatic but discretionary.[6] Thus, it was held that, in order to furnish the protection afforded by legislative review of contempt citations, the Speaker or President of the Senate must act in place of the full House or Senate in such circumstances, by examining the merits of the citation. The Speaker, stated the three-judge court, in a two to one opinion, erred in interpreting the statute to prohibit him from exercising his independent judgment notwithstanding any reservations he had about the validity of the committee's contempt citation. Accordingly, the court reversed the contempt convictions in the case.[7]

Failure to make a report or issue a certificate has been held to be a matter to be raised by way of defense.[8]

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3. *In re Chapman,* 166 U.S. 661, 667 [1897] (see 2 Hinds' Precedents §§ 1612–1614 for a discussion of this ease); *United States* v *Costello,* 198 F2d 200, 204 (2d Cir. 1952), cert. denied, 344 U.S. 374 (1952); and *Wilson* v *United States,* 369 F2d 198 (D.C. Cir. 1966).

4. *Ex Parte Frankfeld,* 32 F Supp 915 (D.D.C. 1940).

5. *United States* v *Josephson,* 74 F Supp 958 (S.D. N.Y. 1947), aff'd., 165 F2d 82 (2d Cir. 1947); cert. denied, 333 U.S. 838 (1948).

6. *Wilson, et al.* v *United States,* 369 F2d 198 (D.C. Cir. 1966). See § 22.8, infra, for further discussion.

7. This ruling would not affect the principle (§ 22.2, infra) that no action of the House is necessary when the Speaker certifies a statement of facts to the U.S. Attorney, inasmuch as the ruling deals only with the duty of the Speaker.

8. *In re Chapman,* 166 U.S. 661, 667 (1897), discussed at 2 Hinds' Prece-

During Congressional Session

§ 22.1 A contempt citation reported while Congress is in session is certified to the appropriate U.S. Attorney by the Speaker by authority of a privileged resolution.

On Sept. 3, 1959,[9] the House by voice vote approved a resolution authorizing the Speaker to certify to U.S. Attorney a report citing a witness in contempt.[10]

MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Speaker, I offer a privileged resolution (H. Res. 375) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Un-American Activities of the House of Representatives as to the refusal of Edwin A. Alexander to answer questions before a duly constituted subcommittee of the Committee on Un-American Activities, together with all of the facts in connection therewith, under seal of the House of Representatives, to the United States Attorney for the Northern District of Illinois, to the end that the said Edwin A. Alexander may be proceeded against in the manner and form provided by law. . . .

MR. WALTER: Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER:[11] The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

During Adjournment

§ 22.2 The statute, 2 USC § 194, provides that when Congress is not in session, the Speaker shall certify to a U.S. Attorney reports and statements of facts submitted by investigating committees describing refusals of individuals to testify or produce subpenaed materials; consequently, no action by the House is necessary.

On Nov. 14, 1944,[12] Speaker Sam Rayburn, of Texas, explained

dents § 1614; *United States* v *Dennis*, 72 F Supp 417, 422 (D.D.C. 1947), aff'd. 171 F2d 986 (D.C. Cir. 1948), aff'd. 339 U.S. 162 (1950), and *United States* v *Shelton*, 211 F Supp 869 (D.D.C. 1962).

9. 105 CONG. REC. 17945, 86th Cong. 1st Sess.; see also, for example, §§ 20.2, 20.4, 20.6, 20.8, and 20.10, supra, for other resolutions authorizing the Speaker to certify reports to the U.S. Attorney.

10. See 22.2, infra, which states that no action of the House is necessary to authorize the Speaker to certify a statement of facts relating to a witness' contumacy received when Congress is not in session. In such a case authority for certification is 2 USC 194, rather than a resolution.

11. Sam Rayburn (Tex.).

12. 90 CONG. REC. 8163, 78th Cong. 2d Sess. See *United States* v *Rumely*,

the procedure for certifying reports to the U.S. Attorney under 2 USC § 194.[13]

EDWARD A. RUMELY AND JOSEPH P. KAMP

THE SPEAKER: The Chair desires to announce that during the past recess of the Congress the Special Committee to Investigate Campaign Expenditures authorized by House Resolution 551, Seventy-eighth Congress, reported to and filed with the Speaker statements of facts concerning the willful and deliberate refusal of Edward A. Rumely of the Committee for Constitutional Government and Joseph P. Kamp of the Constitutional Educational League, Inc., to testify and to produce the books, papers, records, and documents of their respective organizations before the said Special Committee of the House, and the Speaker, pursuant to the mandatory provisions of [2 USC § 194] certified to the United States attorney, District of Columbia, the statement of facts concerning the said Edward A. Rumely on September 26, 1944, and the statement of facts concerning the said Joseph P. Kamp on November 2, 1944.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Mr. Speaker, what is necessary to dispose of the document which the Speaker has just read? Will it require a resolution by the House or will it be referred to some committee?

THE SPEAKER: That is not necessary under the statute. It is before the court now.

MR. RANKIN: I understand, but in order to call for court action it will be necessary, as I understand it, to have a resolution from the House.

THE SPEAKER: The Chair thinks not, under the law.

Announcement of Certification

§ 22.3 The Speaker informs the House when he has, pursuant to authority granted him by resolution, certified contempt cases to U.S. Attorneys.

On Feb. 7, 1936,[14] Speaker John W. McCormack, of Massa-

197 F2d 166 (D.D.C. 1952), cert. granted, 344 U.S. 812, aff'd., 345 U.S. 41 (1953), in which defendant's conviction for contempt of Congress was reversed on grounds that his first amendment rights superseded the congressional investigative power in this instance. See also *United States* v *Kamp,* 102 F Supp 757 (D.D.C. 1952) [defendant found not guilty, as government failed to prove default beyond a reasonable doubt].

13. See § 22.1, supra, for the procedure for authorizing a certification of a report received when Congress is in session.

14. 112 CONG. REC. 2290, 89th Cong. 2d Sess. See also, for example, 105 CONG. REC. 18175, 86th Cong. 1st Sess., Sept. 4, 1959, for an announcement by Speaker Sam Rayburn (Text), that he had, pursuant to H. Res. 374 and 375, certified to the

chusetts, announced that he had certified to the U.S. Attorney for the District of Columbia contempt cases against alleged members of the Ku Klux Klan who had refused to testify.(15)

U.S. Attorney for the District of Columbia and the Northern District of Illinois reports regarding refusals of Martin Popper and Edwin W. Alexander, respectively, to testify before the Committee on Un-American Activities; 98 CONG. REC. 886, 82d Cong. 2d Sess., Feb. 6, 1952, for an announcement by Speaker Rayburn that he had, pursuant to H. Res. 517, certified to the U.S. Attorney for the District of Columbia a report regarding the refusal of Sidney Buchman to appear before the Committee on Un-American Activities; and 92 CONG. REC. 10782, 79th Cong. 2d Sess., Aug. 2, 1946, for an announcement by Speaker Rayburn that he had, pursuant to H. Res. 752 and 749, certified to the U.S. Attorney for the District of Columbia reports regarding refusals of Richard Morford and George Marshall to produce materials to the Committee on Un-American Activities.

15. When the House is in session the Speaker certifies reports of contumacy of witnesses pursuant to authority of the House granted by approval of a simple resolution. When the House is not in session, however, the Speaker certifies a statement of facts of the contumacy pursuant to authority granted by 2 USC § 194. See § 22.2, supra, in which the Speaker indicated that no action of the House was necessary to authorize him to certify a statement of facts as to a witness' refusal to testify or produce materials received while the Congress was not in session.

CERTIFICATIONS TO THE U.S. ATTORNEY FOR THE DISTRICT OF COLUMBIA—ANNOUNCEMENT

THE SPEAKER: The Chair desires to announce that, pursuant to sundry resolutions of the House agreed to on February 2, 1966, he did on February 3, 1966 make certifications to the U.S. attorney, District of Columbia, as follows:

House Resolution 699: The refusal of Robert M. Shelton to produce certain pertinent papers before the Committee on Un-American Activities.

House Resolution 700: The refusal of Calvin Fred Craig to produce certain pertinent papers before the Committee on Un-American Activities.

House Resolution 701: The refusal of James R. Jones to produce certain pertinent papers before the Committee on Un-American Activities.

House Resolution 702: The refusal of Marshall R. Kornegay to produce certain pertinent papers before the Committee on Un-American Activities.

House Resolution 703: The refusal of Robert E. Scoggin to produce certain pertinent papers before the Committee on Un-American Activities.

House Resolution 704: The refusal of Robert Hudgins to produce certain pertinent papers before the Committee on Un-American Activities.

House Resolution 705: The refusal of George Franklin Dorsett to produce certain pertinent papers before the Committee on Un-American Activities.

§ 22.4 At the next meeting of the House the Speaker announces that he has, during an adjournment to a day certain and pursuant to statute, certified to the U.S. Attorney of the District of Columbia statements of facts regarding the refusal of individuals to testify and produce subpenaed materials before a special committee authorized to make investigations.

On Nov. 14, 1944,[16] the first day after an adjournment to a day certain, Speaker Sam Rayburn, of Texas, announced certification of reports and statements of facts to the U.S. Attorney for the District of Columbia.

EDWARD A. RUMELY AND JOSEPH P. KAMP

THE SPEAKER: The Chair desires to announce that during the past recess of the Congress the Special Committee to Investigate Campaign Expenditures authorized by House Resolution 551, Seventy-eighth Congress, reported to and filed with the Speaker statements of facts concerning the willful and deliberate refusal of Edward A. Rumely of the Committee for Constitutional Government and Joseph P. Kamp of the Constitutional Educational League, Inc., to testify and to produce the books, papers, records, and documents of their respective organizations before the said Special Committee of the House, and the Speaker, pursuant to the mandatory provisions of Public Resolution No. 123, Seventy-fifth Congress, certified to the United States attorney, District of Columbia, the statement of facts concerning the said Edward A. Rumely on September 26, 1944, and the statement of facts concerning the said Joseph P. Kamp on November 2, 1944.

Parliamentarian's Note: Public Law No. 123, to which the Speaker referred, has been codified as 2 USC § 194.[17]

§ 22.5 On one occasion, where the Speaker, during a sine die adjournment and pursuant to statute, had certified to a U.S. Attorney a contempt case arising from a committee and reported to him, he notified the House at its next meeting through its new Speaker, who laid the communication before the House.

On Jan. 5, 1955,[18] Speaker Sam Rayburn, of Texas, laid be-

16. 90 CONG. REC. 8163, 78th Cong. 2d Sess.

17. See § 22.2 supra, which states that no action of the House is necessary in this situation.

18. 101 CONG. REC. 11, 84th Cong. 1st Sess. See also *United States* v *Russell,* 280 F2d 688 (D.C. Cir. 1960), rev'd, 369 U.S. 749 (1962) [defendant's conviction reversed, the court stating that a grand jury indictment must state the question which was under inquiry at time of defendant's default or refusal to answer].

fore the House a communication from the Speaker of the 83d Congress.[19]

MATTER OF LEE LORCH, ROBERT M. METCALF, AND NORTON ANTHONY RUSSELL

The Speaker laid before the House the following communication.

The Clerk read the communication, as follows:

JANUARY 5, 1955.

The SPEAKER,
House of Representatives,
United States, Washington, D.C.

DEAR MR. SPEAKER: I desire to inform the House of Representatives that subsequent to the sine die adjournment of the 83d Congress the Committee on Un-American Activities reported to and filed with me as Speaker a statement of facts concerning the refusal of Lee Lorch, Robert M. Metcalf, and Norton Anthony Russell to answer questions before the said committee of the House, and I, pursuant to the mandatory provisions of Public Resolution 123, 75th Congress, certified to the United States attorney, southern district of Ohio, the statement of facts concerning the said Lee Lorch and Robert M. Metcalf on December 7, 1954, and certified to the United States attorney, District of Columbia, the statement of facts concerning the said Norton Anthony Russell on December 7, 1954.

Respectfully,
JOSEPH W. MARTIN, Jr.[20]

§ 22.6 At the opening meeting of the new Congress, the Speaker announces to the House that he has during the adjournment sine die, as Speaker of the prior Congress, certified to the U.S. Attorney statements of facts regarding the refusal of individuals to testify, before investigating committees.

On Jan. 7, 1959,[1] the opening day of the 86th Congress, Speaker Sam Rayburn, of Texas, notified the House that he had certified statements of facts to U.S. Attorneys.[2]

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19. See also 93 CONG. REC. 39, 40, 80th Cong. 1st Sess., Jan. 3, 1947, in which the Speaker of the 80th Congress, Joseph W. Martin, Jr. (Mass.), laid before the House a letter from the Speaker of the 79th Congress, Sam Rayburn (Tex.), relating to his certification subsequent to the *sine die* adjournment of the 79th Congress and pursuant to 2 USC 194, to the U.S. Attorney for the District of Columbia of a statement of facts relating to the refusal of Benjamin J. Fields to produce materials before the Select Committee to Investigate the Disposition of Surplus Property. See also *Fields* v *United States*, 164 F2d 97 (D.C. Cir. 1947), cert. denied, 332 U.S. 851 [defendant's conviction affirmed].

20. Mr. Martin was the Minority Leader of the 84th Congress.

1. 105 CONG. REC. 17, 86th Cong. 1st Sess. See *Wheedlin* v *United States* 283 F2d 535 (9th Cir. 1960), in which the defendant's subsequent conviction for contempt of Congress was affirmed.

2. See also 111 CONG. REC. 25, 89th Cong. 1st Sess., Jan. 4, 1965, for an

COMMITTEE ON UN-AMERICAN ACTIVITIES

THE SPEAKER: The Chair desires to announce that subsequent to the sine die adjournment of the 85th Congress, the Committee on Un-American Activities reported to and filed with the Speaker statements of fact concerning the refusal of Donald Wheedlin and Harvey O'Connor to appear in response to subpenas and to testify before duly constituted subcommittees of the Committee on Un-American Activities of the House of Representatives, and that he did, on January 1, 1959, pursuant to the mandatory provisions of Public Resolution 123, 75th Congress, certify to the U.S. attorney, southern district of California, the statement of facts concerning the said Donald Wheedlin, and to the U.S. attorney, district of New Jersey, the statement of facts concerning the said Harvey O'Connor.

§ 22.7 The Speaker informed the House when he had, pursuant to authority granted him by resolution, certified purgation of contempt to the U.S. Attorney.

On July 26, 1954,[3] Speaker Joseph W. Martin, Jr., of Massachusetts, informed the House that he had certified to the U.S. Attorney for the District of Columbia the report purging Francis X. T. Crowley of contempt.

CITATIONS FOR CONTEMPT

THE SPEAKER: The Chair desires to announce that pursuant to sundry resolutions of the House he did, on Friday, July 23, 1954, make certifications to the United States attorney, District of Columbia, the United States attorney, southern district of California, the United States attorney, eastern district of Michigan, the United States attorney for the district of Oregon, and the United States attorney, western district of Washington, as follows:

TO THE UNITED STATES ATTORNEY, DISTRICT OF COLUMBIA

* * * * *

House Resolution 681, concerning the action of Francis X. T. Crowley in purging himself of contempt of the House of Representatives.

Certification of Contempt as Discretionary

§ 22.8 A divided three-judge federal court has held that the statute (2 USC § 194) au-

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announcement by Speaker John W. McCormack (Mass.), that he had, on Dec. 11, 1964, during an adjournment *sine die* of the 88th Congress and pursuant to 2 USC § 194, certified to the U.S. Attorney for the District of Columbia statements of facts regarding refusals of Russell Nixon, Dagmar Wilson, and Donna Allen to testify before the Committee on Un-American Activities. The named defendant's convictions were reversed in *Wilson* v *United States*, 369 F2d 198 (D.C. Cir. 1966). See § 22.8, infra, for discussion of the Wilson case.

3. 100 CONG. REC. 12023, 12024, 83d Cong. 2d Sess.

thorizing the Speaker to certify to a U.S. Attorney any contempt reported by a House committee between legislative sessions is not mandatory, but requires the Speaker to renew the contempt charge and exercise his discretion with respect thereto.

In *Wilson* v *United States,*[4] the court reviewed convictions of Russell Nixon, Dagmar Wilson, and Donna Allen for contempt of Congress based on refusals to answer questions at an executive session conducted by a subcommittee of the House Committee on Un-American Activities. The court reversed the convictions, holding that the alleged contempts had been improperly certified to the U.S. Attorney under the following statute:[5]

> Whenever a witness summoned as mentioned in section 192 . . . fails . . . or . . . refuses to answer any question pertinent to the subject under inquiry before either House . . . or any committee or subcommittee of either House of Congress [and] when Congress is not in session, a statement of fact constituting such failure is reported to . . . the Speaker of the House, it shall be the duty of the . . . Speaker . . . to certify, and he shall so certify, the statement of facts . . . to the appropriate United States attorney, whose duty it shall be to bring the matter before the grand jury for its action.

In the view of the court, the Speaker had erred in construing the statute to be mandatory and therefore to prohibit any inquiry by him; accordingly, his "automatic certification" was held to be invalid. In reaching this conclusion, the court stressed the legislative history of the provision and the established practice of the House, both of which, in the court's view, indicated a congressional intention that reports of contempt of Congress be reviewed on their merits by the House involved if in session, or by the Speaker when Congress is not in session.

A dissenting opinion, relying in part on the principle that statutory language is to be interpreted wherever possible in its ordinary, everyday sense, stressed the unambiguous language of the statute itself. The dissent further emphasized the importance of committee reports in studying the legislative history of provisions, and indicated that the reports on the provisions regarding the Speaker's duty to certify contempt charges between sessions revealed an intent to facilitate prompt action in cases of contempt reported at such times. The practice of Congress when in session was not, in the dissenting view, considered to be

4. 369 F2d 198 (D.C. Cir. 1966).

5. 2 USC §194.

instructive in determining the duty of the Speaker between sessions.

CHAPTER 16

Introduction and Reference of Bills and Resolutions

§ 1. Introduction
§ 2. Sponsorship
§ 3. Reference

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Commentary and editing by John R. Graham, J.D.

Introduction and Reference of Bills and Resolutions

§ 1. Introduction

Procedures relating to the introduction of petitions, memorials, or bills, both public[1(1)] and private,[1(2)] are outlined in the House Rules. In general, such bills and other documents are filed with the Clerk (by placing them in the hopper at the Clerk's desk).[1(3)]

Rules of the House also regulate the introduction "by request" of bills, resolutions, and memorials,[(4)] and prohibit certain private bills.[(5)]

Bills and resolutions may be introduced either by Members in the House, or by message from the Senate.[(6)] But a bill may not be introduced by a Member-elect prior to taking the oath.

Generally, bills and resolutions are introduced by Members actually present in the House; but on at least one occasion, the House, by unanimous consent, permitted the introduction of bills notwithstanding the absence of their sponsor.[(7)] Similarly, while the introduction of proposed legislation usually occurs when the House is in session, the introduction of a bill after adjournment has been authorized by unanimous consent.[(8)]

Although most bills are introduced by Members who support their passage, the House on occasion has received and considered bills introduced by Members opposed to their passage.[(9)]

Methods of Introduction

§ 1.1 Bills may be introduced by Members in the House or are received in the House by message from the Senate.

On Jan. 14, 1937,[(10)] Mr. John J. O'Connor, of New York, called up a resolution[(11)] which provided

1. Rule XXII clause 4, *House Rules and Manual* § 854 (1973).
2. Rule XXII clause l, *House Rules and Manual* § 849 (1973).
3. For discussion of precedents affecting introduction and reference of bills prior to 1936, see, for example, 4 Hinds' Precedents §§ 3364–3366; and 7 Cannon's Precedents §§ 1027–1033.
4. Rule XXII clause 6, *House Rules and Manual* § 860 (1973). See § 1.2, infra, for further discussion.
5. Rule XXII clause 2, *House Rules and Manual* § 852 (1973).
6. See § 1.1, infra.
7. See § 1.3, infra.
8. See § 1.4, infra.
9. See § 1.6, infra.
10. 81 Cong. Rec. 236, 237, 243, 75th Cong. 1st Sess.
11. H. Res. 60.

for the referral to a Select Committee on Government Organization of "All bills and resolutions introduced in the House proposing legislation concerning reorganization, coordination, consolidation, or abolition of, or reduction of personnel in, organizations or units in the executive branch of the Government." Following the presentation of the resolution, the following proceedings occurred:

> MR. [SAMUEL B.] PETTENGILL [of Indiana]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[12] The gentleman will state it.
>
> MR. PETTENGILL: In reference to the words in lines 7 and 8, "introduced in the House", a bill or resolution which came over from the Senate which, had it been introduced in the House, would go to this select committee, would then go to the Committee on Expenditures in the Executive Departments, would it not?
>
> THE SPEAKER: Replying to the gentleman's inquiry, it is the present opinion of the Chair that any bills that came from the Senate would be introduced in the House by a message from the Senate and would properly be referred to this select committee if they were within the jurisdiction of the committee.

Introduction of Petitions "by Request"

§ 1.2 A citizens' petition is sometimes introduced by a Member "by request" and referred to a committee pursuant to Rule XXII clause 6, in which case the words "by request" are entered on the Journal and printed in the Record following the name of the Member.

On Apr. 13, 1961,[13] Mr. Perkins Bass, of New Hampshire, introduced (by request) the petition[14] of 67 faculty members of Dartmouth College seeking the elimination of the House Committee on Un-American Activities as a standing committee. Following its receipt, the petition was referred to the Committee on Rules.

Effect of Sponsor's Absence

§ 1.3 On one occasion, the House, by unanimous consent, permitted a Delegate to introduce bills notwithstanding his absence from the House that day.

On Jan. 3, 1953,[15] Mr. Charles A. Halleck, of Indiana, asked unanimous consent that the Delegate from Hawaii, Joseph Rider Farrington, be permitted to intro-

12. William B. Bankhead (Ala.).

13. 107 CONG. REC. 5900, 87th Cong. 1st Sess.

14. No. 118.

15. 99 CONG. REC. 29, 83d Cong. 1st Sess.

duce bills that day notwithstanding his absence from the House. There was no objection to the gentleman's request.

Introduction After Adjournment

§ 1.4 The introduction of a measure after the adjournment of the House may be permitted by unanimous consent, but is not a request normally entertained by the Speaker.

On Oct. 16, 1967,[16] Mr. George H. Mahon, of Texas, asked for and was granted unanimous consent to have until midnight to file a House joint resolution providing for continuing appropriations.

Parliamentarian's Note: House Joint Resolution 888, providing for continuing appropriations, was actually introduced before the House adjourned—so the permission granted above was not utilized.

While permission may be granted by the House, by unanimous consent, to introduce a bill at a time when the House is not in session, the practice has been consistently discouraged. Only one other example of such permission is to be found in the precedents.[17]

16. 113 CONG. REC. 28962, 90th Cong. 1st Sess.

17. See 7 Cannon's Precedents § 1030.

Messaging After Sine Die Adjournment

§ 1.5 A Senate bill, messaged to the House following *sine die* adjournment, is referred to committee on opening day of the next session of the same Congress.

On Jan. 10, 1966,[18] the opening day of a new session of the same Congress, a Senate bill[19] which had been messaged to the House following *sine die* adjournment, was referred to the Committee on Merchant Marine and Fisheries.

Introduction by One Opposed to Bill

§ 1.6 Occasionally, bills have been introduced by Members opposed to their passage.

On June 14, 1967,[20] at the commencement of debate on a joint resolution[1] in Committee of the Whole, Mr. Harley O. Staggers, of West Virginia, addressed the following remarks to the Chair:[2]

18. 112 CONG. REC. 36, 89th Cong. 2d Sess.

19. S. 2471, an act to improve and clarify certain laws of the Coast Guard.

20. 113 CONG. REC. 15822, 15823, 90th Cong. 1st Sess.

1. H.J. Res. 559, providing for the settlement of a railroad labor dispute.

2. Wilbur V. Mills (Ark.).

MR. STAGGERS: Mr. Chairman I am here today in a most unusual position. I was requested by the President to introduce the bill we have before us today, and because of my responsibilities as chairman of the committee, I introduced the bill. If the House was to be given an opportunity to work its will on this legislation, it was necessary that hearings begin promptly and continue as expeditiously as possible, and I think the record will bear me out, that the hearings before our committee have been prompt, they have not been delayed in any respect.

In fact we interrupted consideration of a very important piece of health legislation in order to take up this bill. We have heard every witness who wanted to be heard on the legislation. I did this because I felt it to be my responsibility to the House as chairman of the committee.

Following the conclusion of our hearings I promptly scheduled executive sessions for consideration of the bill and we met as promptly as possible both morning and afternoon and the committee reported the bill to the House.

Yesterday I went before the Rules Committee as chairman of the committee to present the facts to the Rules Committee and attempt to obtain a rule so that the bill would be considered by the House. I have done these things because I felt it is my responsibility to do so as chairman of the committee.

Unfortunately, Mr. Chairman, I was opposed to this bill when I introduced it, and having heard all the witnesses and all the testimony, I am still opposed to it. For that reason I have asked the gentleman from Maryland [Mr. Friedel] to handle the bill in Committee of the Whole, so that I would be free to express my opposition to it . . .

Mr. Chairman, this concludes the presentation I desire to make on the bill. At this time I request the gentleman from Maryland [Mr. Friedel], the ranking majority member on the Interstate and Foreign Commerce Committee, to take charge of managing the bill on the floor.

Thereupon the gentleman from Maryland, Mr. Samuel N. Friedel, was recognized.

Introduction by Speaker

§ 1.7 Traditionally, the Speaker refrains from sponsoring public bills containing subject matter of general import; but sometimes the Speaker has introduced bills pertaining solely to matters within his congressional district.

On May 21, 1970,[3] Speaker John W. McCormack, of Massa-

3. 116 CONG. REC. 16643, 91st Cong. 2d Sess. See also 117 CONG. REC. 23043, 92d Cong. 1st Sess., June 30, 1971, where the House, by unanimous consent, considered and passed a concurrent resolution (H. Con. Res. 354, recognizing the importance of July 4, 1971, Honor America Day celebrations) from which Speaker Carl Albert (Okla.) had removed his name as a cosponsor pursuant to the policy followed by Speakers in recent

chusetts, introduced a public bill[4] which pertained solely to a matter within the congressional district which he represented.

Effect of Sponsor's Death

§ 1.8 The death of a Member after introduction of a bill does not preclude subsequent action thereon.

On June 29, 1964,[5] the House considered and passed a bill[6] notwithstanding the intervening death of Mr. Howard H. Baker, of Tennessee, the Member who had introduced it.

Effect of Sponsor's Resignation or Replacement

§ 1.9 A bill becomes the property of the House when introduced and is not withdrawn or canceled because of the resignation or replacement of the Member or Delegate who introduced it.

On May 3, 1960,[7] a private bill,[8] previously introduced by Delegate John Burns, of Hawaii, was considered and passed by the House notwithstanding the intervening admission of the new state of Hawaii and the replacement of the Delegate by an elected Representative.

Senate Practice

§ 1.10 At the beginning of a Congress, the Senate does not permit the introduction of bills until after the President has delivered his message on the State of the Union.

On Jan. 5, 1955,[9] Senator Lyndon B. Johnson, of Texas, made the following announcement to the Senate:

> MR. JOHNSON: . . . As is customary, the Senate will transact no further business in the way of the introduction of bills or other matters until after the President has delivered his message on the State of the Union.
>
> The President will come to the Capitol tomorrow at 12:30 p.m. to address a joint session of Congress in the Hall of the House of Representatives.
>
> It is planned to have the Senate meet at 12 o'clock, and then, after a

---

years of not introducing or cosponsoring public bills or resolutions.

4. H.R. 17750, to declare the tidewaters of the Fort Point Channel, in the city of Boston, nonnavigable.

5. 110 CONG. REC. 15274, 88th Cong. 2d Sess.

6. H.R. 7301, to amend the Internal Revenue Code.

7. 106 CONG. REC. 9246, 86th Cong. 2d Sess.

8. H.R. 2823, for the relief of Fumie Yoshioka.

9. 101 CONG. REC. 7, 84th Cong. 1st Sess.

quorum call, to proceed in a body to the Hall of the House of Representatives at about 12:10 or 12:15 p.m.

I now move that the Senate adjourn until 12 o'clock noon tomorrow.

The motion was agreed to.

§ 1.11 On one occasion, bills were introduced for a Senator who was hospitalized.

On May 23, 1957,[10] the following exchange occurred:

MR. [LYNDON B.] JOHNSON of Texas: Mr. President, on behalf of the Senator from Missouri [Mr. Hennings], I introduce three bills:[11]

Yesterday, I visited the Senator from Missouri, who is in Bethesda Naval Hospital. . . . I announce for the benefit of his friends, that he is resting comfortably; and all of us hope he will return to the Senate in a few days.

I ask unanimous consent to have printed in the Record statements prepared by the Senator from Missouri, relating to each of the bills just introduced.

THE VICE PRESIDENT:[12] The bills will be received and appropriately referred; and, without objection, the statements will be printed in the Record.

§ 2. Sponsorship

House Rule XXII clause 4,[13] permits the joint sponsorship of public bills by at least two but not more than 25 Members.[14] The rule has been interpreted to permit the sponsor of a bill having the maximum permissible number of cosponsors to introduce other bills with identical text with additional cosponsors.[15]

The House by precedent has determined the order of appearance of the names of the chief sponsors and the cosponsors which are listed on jointly sponsored bills;[16] moreover, pursuant to a directive from the Speaker, no such bill will be accepted for introduction without the signature of its prime sponsor.[17]

Following the introduction of a jointly sponsored bill, a cosponsor's name may not be deleted therefrom; but, by unanimous consent, the House may expunge the cosponsor's name from the Record.[18]

Prime Sponsor's Signature

§ 2.1 By directive of the Speaker, all bills and resolutions must be signed by the prime sponsor thereof in order to be accepted for introduction.

10. 103 CONG. REC. 7491, 85th Cong. 1st Sess.
11. S. 2148, S. 2149, and S. 2150.
12. Richard M. Nixon (Calif.).
13. *House Rules and Manual* § 854 (1973).
14. See § 2.2, infra.
15. See § 2.3, infra.
16. See § 2.4, infra.
17. See § 2.1, infra.
18. See § 2.5, infra.

On Feb. 3, 1972,[1] the Speaker,[2] in response to a parliamentary inquiry by Mr. Robert H. Steele, of Connecticut, made a statement concerning the introduction of bills as follows:

> THE SPEAKER: . . . It has come to the attention of the Chair that several bills have been introduced recently in the names of Members who have no knowledge of or responsibility for their introduction.
>
> Rule XXII of the rules of this House makes it clear that Members, and Members alone, have the right to introduce bills—that is, to cause them to be placed in the hopper here at the Clerk's desk. When a bill is found in the hopper, it has been assumed to be authentic.
>
> The Chair has observed, and knows it has become common practice, that Members' offices often send bills to the floor by messenger or page and ask that they be dropped in the hopper by a page or a doorman. The pages and doormen, of course, have no way of knowing the authenticity of bills which they receive by messenger or otherwise.
>
> It would seem to the Chair that it would be a much safer practice if Members, in addition to having their names typed or printed on the bills, would also affix their signatures thereon. Members would also be protecting their own interests if they would personally place their bills in the hopper.
>
> The Chair feels that the right to introduce legislation is one of the most important and fundamental rights of the Members of this House. It should not be a slipshod or casual practice. In the interest of safeguarding the integrity of this process, and to protect Members against future instances where bills are introduced without their authorization, the Chair is issuing instructions that the pages, their overseers, and other employees in the Chamber shall have no authority to place any bill, memorial, petition, or other material in the hopper unless it bears the original signature of a Member thereon. In the case of a bill or resolution which is jointly sponsored, the signature must be that of the Member first named thereon. The bill clerk is instructed to return to the Member any bill which appears in the hopper without an original signature of the Member.
>
> Finally, the Chair suggests that the Clerk of the House notify all Members of this statement so that they will be aware of this new policy and procedure for the introduction of legislation.

Parliamentarian's Note: On Jan. 27, 1972, six bills separately sponsored by six different Members dealing with the subject of fire research and safety were placed in the hopper and referred without the knowledge of those Members. Neither the chief sponsor nor the other Members were able to explain the source of the introduc-

1. 118 CONG. REC. 2521, 92d Cong. 2d Sess. See also 119 CONG. REC. 30, 93d Cong. 1st Sess., Jan. 3, 1973, where the Speaker announced that bills placed in the hopper must bear the original signature of the chief sponsor or first-named Member.
2. Carl Albert (Okla.).

tion of those bills. To prevent a recurrence of this problem, the Speaker announced his directive as to the signing of proposed bills and resolutions.

Joint Sponsorship

§ 2.2 The rules of the House were amended to permit joint sponsorship of public bills by up to 25 Members.

On Apr. 25, 1967,[3] Mr. William M. Colmer, of Mississippi, by direction of the Committee on Rules, called up and asked for the immediate consideration of a resolution as follows:

H. RES. 42

Resolved, That paragraph 4 of rule XXII of the Rules of the House of Representatives is amended by adding at the end thereof the following sentence: "Two or more but not more than ten Members may introduce jointly any bill, memorial, or resolution to which this paragraph applies."

Debate on the resolution ensued, during the course of which Mr. Colmer proposed and the House agreed to an amendment striking the word "ten" in line four and inserting in lieu thereof the words "twenty-five." At the conclusion of debate, the resolution as amended was agreed to.

§ 2.3 The rule providing for joint sponsorship of House bills [Rule XXII clause 4] permits the names of the sponsor and up to 24 cosponsors to appear on any public bill; but the rule is interpreted to permit the sponsor to introduce other bills, with identical text, with additional cosponsors.

On June 6, 1968,[4] Mrs. Leonor K. Sullivan, of Missouri, introduced five identical bills[5] cosponsored by 107 other Members. The bills were referred to the Committee on Agriculture.

§ 2.4 Bills which are jointly sponsored first carry the name of the chief sponsor, then the names of those Members who are cosponsors.

As an example, on Apr. 26, 1967,[6] Mr. Spark M. Matsunaga, of Hawaii (for himself and Mrs. Patsy T. Mink, of Hawaii) introduced the first jointly sponsored bill[7] pursuant to the amendment

3. 113 CONG. REC. 10708–12, 90th Cong. 1st Sess.

4. 114 CONG. REC. 16307–09, 16319, 90th Cong. 2d Sess.

5. H.R. 17721, H.R. 17722, H.R. 17723, H.R. 17724, and H.R. 17725, to amend the Food Stamp Act of 1964, as amended.

6. 113 CONG. REC. 10892, 90th Cong. 1st Sess.

7. H.R. 9316.

of Rule XXII clause 4 agreed to on the preceding day. The bill first carried the name of Mr. Matsunaga, its chief sponsor, then the name of Mrs. Mink, a cosponsor.

Erroneous Listing of Sponsors

§ 2.5 Where a public bill or resolution is introduced in the House with several Members listed as cosponsors, the names cannot thereafter be deleted from the bill or resolution; but a statement indicating that an error was made in listing one of the names has been made on the floor in conjunction with a unanimousconsent request that the Record be corrected accordingly.

On Oct. 9, 1969,[8] the following proceedings occurred:

> MR. [JEFFERY] COHELAN [of California]: Mr. Speaker, I rise to correct an error in the sponsorship of House Joint Resolution 927 which provided for the funding of Health, Education, and Welfare under a continuing resolution at the House-passed levels. The name of the Honorable Michael J. Kirwan, of Ohio, appears as a cosponsor of this resolution. I have been informed that Mr. Kirwan's name was incorrectly added to the list of cosponsors and I ask unanimous consent that the Record stand corrected.
>
> THE SPEAKER PRO TEMPORE:[9] The gentleman's statement will appear in the Record. There is no way of correcting the resolution.

Parliamentarian's Note: Since a bill as introduced in the House becomes the property of the House, the sponsor thereof cannot, after its introduction, add to or delete from the list of cosponsors appearing on the bill as introduced.

Withdrawal of Cosponsor's Support

§ 2.6 While a Member may not withdraw his name from a bill which he has cosponsored once the bill has been introduced and referred, he may announce to the House his withdrawal of support for the bill.

On Mar. 29, 1971,[10] Mr. Harold R. Collier, of Illinois, pursuant to a grant of permission to address the House for one minute and to revise and extend his remarks, announced the withdrawal

8. 115 CONG. REC. 29347, 91st Cong. 1st Sess. See also 114 CONG. REC. 1873, 1922, 90th Cong. 2d Sess., Feb. 1, 1968, where Mr. Walter B. Jones (N.C.) announced to the House that a hill (H.R. 15030) had been introduced containing the names of two Members who had not authorized the use of their names as cosponsors.

9. Richard Bolling (Mo.).

10. 117 CONG. REC. 8268, 92d Cong. 1st Sess.

of his cosponsorship and support of a bill[11] which had previously been introduced and referred.

Senate Practice

§ 2.7 A Senator's name may be deleted from the list of cosponsors of a bill.

On Feb. 17, 1959,[12] Senator Hubert H. Humphrey, of Minnesota, asked unanimous consent that the name of the Senator from New York' Senator Jacob K. Javits, be deleted as a cosponsor of a bill[13] which had been introduced. There being no objection, it was so ordered.

§ 3. Reference

Bills, petitions, and other matters are referred to committees of the House in accordance with the House rule[14] establishing the jurisdiction of committees over particular subjects.[15] Petitions, memorials and bills of a private nature are delivered to the Clerk, endorsed with the sponsors names and the reference or disposition to be made thereof.[16] The referral of public bills, memorials and resolutions is the responsibility of the Speaker.[17] Bills and messages from the Senate are referred to committees in the same manner as public bills presented by the Members.[18]

Referral of bills and resolutions generally occurs on the same day as their introduction. Due to the large number of bills introduced on a session's opening day, however, the referral of all such bills may not be completed until the following day.[19] Bills so introduced which are referred only as of the following day are neverthe-

11. H.R. 6360, to establish a National Legal Services Corporation.
12. 105 CONG. REC. 2470, 86th Cong. 1st Sess. See also 103 CONG. REC. 2666, 85th Cong. 1st Sess., Feb. 27, 1957, where the Senate, by unanimous consent, permitted the names of four Senators to be stricken as cosponsors of an amendment to a bill (H.R. 4090).
13. S. 812, to establish a Youth Conservation Corps.
14. Rule XI, *House Rules and Manual* §§ 675–724 (1973).

For a discussion of rule changes in the 94th Congress affecting referral of bills to standing committees, see supplements to this edition as they appear.

15. For a discussion of jurisdiction of committees, generally, see Ch. 17, infra.
16. Rule XXII clause 1, *House Rules and Manual* § 849 (1973).
17. RULE XXII CLAUSE 4, *House Rules and Manual* § 854 (1973). See §§ 3.2–3.5, infra, for further discussion.
18. RULE XXIV CLAUSE 2, *House Rules and Manual* § 882 (1973).
19. See §§ 3.6, 3.7, infra.

less printed in the Record of the following day with the date of their original introduction.

Occasionally, of course, errors in reference of bills to committees may occur. In the case of private bills, errors may be corrected without action by the House at the suggestion of the committee having possession of the bill.[20] Similarly, a House rule[1] provides for procedures to be followed in case of an error in reference of a public bill. The House pursuant to the rule has rereferred erroneously referenced public bills both by unanimous consent[2] and by agreement to rereferral motions of the committees claiming or relinquishing jurisdiction over the matters in question.[3] Rereferral either on motion or by unanimous consent is determined without debate.[4]

It should be noted that once a bill has been reported for floor action from a committee, points of order against its reference and motions for its rereferral may not be entertained.[5]

On rare occasions a bill is called up for consideration by unanimous consent without being referred to a committee.[6]

Consideration Without Reference

§ 3.1 On rare occasions a private bill is introduced from the floor and called up for consideration by unanimous consent without being referred to a committee.

On Apr. 16, 1969,[7] Mr. Carl Albert, of Oklahoma, asked unanimous consent for the immediate consideration of a bill[8] to provide mail service for the widow of a former President. No objection being heard to the request of the gentleman from Oklahoma, the bill was read to the House, was ordered to be engrossed and read a third time, was read a third time and passed. A motion to reconsider was laid on the table.

Parliamentarian's Note: The proposal was transmitted to the Congress as Executive Communication No. 686 and was received in the Speaker's Rooms at 11:30 a.m., April 16. The Parliamen-

20. Rule XXII clause 3, *House Rules and Manual* § 853 (1973).

1. Rule XXII clause 4, *House Rules and Manual* § 854 (1973).

2. See §§ 3.14, 3.15, infra.

3. See §§ 3.10–3.13, infra.

4. See § 3.13, infra.

5. See § 3.16, infra.

6. See § 3.1, infra.

7. 115 CONG. REC. 9258, 91st Cong. 1st Sess.

8. H.R. 10158.

tarian called it to the attention of the Speaker who then directed the Majority Leader to clear it for immediate consideration by unanimous consent.

Speaker's Responsibilities

§ 3.2 The referral of a public bill to the proper committee, under the rules of the House, is the responsibility of the Speaker, who, on occasion, has taken the floor to explain his reference of a bill.

On Mar. 2, 1966,[9] during debate in Committee of the Whole concerning a bill[10] providing for the participation of the United States in the 1967 Alaska Centennial, the Chair[11] recognized Speaker John W. McCormack, of Massachusetts, who delivered the following remarks:

> MR. MCCORMACK: . . . Mr. Chairman, in view of the remarks made by the gentleman from New Hampshire [Mr. Cleveland] about the reference of this bill, and overhearing them and confining myself to that aspect of his remarks, I simply want to advise the Members of the House that in my judgment as the Speaker, this bill was properly referred to the Committee on Public Works.
>
> In the original bill, the bill calls for the participation in the 1967 exposition, jointly with the State of Alaska through economic development projects such as industrial, agricultural, educational, research, or commercial facilities, and so forth.
>
> Mr. Chairman, I thoroughly respect the views of my friend, the gentleman from New Hampshire [Mr. Cleveland], but I cannot be on the floor and listen to one challenge the reference of a bill that I made. I realize that I might make mistakes occasionally, but I will always make the reference of a bill that the rules call for. In my clear judgment this bill was properly referred to the Committee on Public Works.

§ 3.3 The referral of a Senate bill on the Speaker's table to the proper committee is within the discretion of the Speaker.

On June 6, 1949,[12] the following proceedings took place:

> MR. [WRIGHT] PATMAN [of Texas]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[13] The gentleman will state it.

9. 112 CONG. REC. 4579, 4580, 89th Cong. 2d Sess. See Rule XXII clause 4, *House Rules and Manual* § 854 (1973).
10. H.R. 9963.
11. Charles A. Vanik (Ohio).
12. 95 CONG. REC. 7255, 81st Cong. 1st Sess. For further illustrations, see 80 CONG. REC. 4547, 74th Cong. 2d Sess., Mar. 27, 1936; and 72 CONG. REC. 7236, 7237, 71st Cong. 2d Sess., Apr. 17, 1930. And see Rule XXIV clause 2, *House Rules and Manual* § 882 (1973).
13. Sam Rayburn (Tex.).

MR. PATMAN: Mr. Speaker, may I ask the status of the bill S. 1008, which, I understand, was messaged over from the Senate on Friday last?

THE SPEAKER: The Chair understands it is on the Speaker's table.

MR. PATMAN: Will it be referred to the Committee on the Judiciary?

THE SPEAKER: The Chair does not know about that.

MR. PATMAN: What action will be necessary in order to get it referred to the committee?

THE SPEAKER: It is the duty and the privilege of the Chair to refer bills to whatever committee he desires, after consultation with the Parliamentarian, of course. The Chair will not recognize any motion in that regard at this time.

§ 3.4 On one occasion a Senate bill which had been held at the Speaker's table pending disposition of a similar House measure was referred by the Speaker to the same House committee to which the House bill had been recommitted.

On June 22, 1962,[14] the Speaker[15] referred to the Committee on Agriculture a Senate bill,[16] following the recommittal on the previous day of a similar House bill[17] to the same committee.

14. 108 CONG. REC. 11433, 11434, 87th Cong. 2d Sess.

15. John W. McCormack (Mass.).

16. S. 3225.

17. H.R. 11222, food and agricultural bill of 1962.

§ 3.5 The Chair does not indicate in advance the committee to which he will refer public bills subsequently introduced.

On Jan. 24, 1944,[18] during House debate relating to a motion to discharge the Committee on Rules from further consideration of a resolution,[19] a parliamentary inquiry was propounded by Mr. Pete Jarman, of Alabama, questioning whether the discharge of the committee and the adoption of the resolution would result in the reference of certain proposed legislation to the Committee on World War Veterans' Legislation. Responding to the inquiry, the Speaker[20] remarked as follows:

THE SPEAKER: The Chair . . . is compelled to say to the gentleman from Alabama that as bills are submitted reference would have to be made under the rules of the House.

The Chair does not want to decide at this time that he would be compelled to refer all legislation of that kind and character to this committee. A great many times bills are introduced having three or four subjects in them and

18. 90 CONG. REC. 629, 631–33, 78th Cong. 2d Sess. For a further example of the Speaker's refusal to speculate on the referencing of future bills, see 112 CONG. REC. 1716, 89th Cong. 2d Sess., Feb. 1, 1966.

19. H. Res. 29, amending Rule XI clause 40.

20. Sam Rayburn (Tex.).

there may be a choice of which committee should have jurisdiction.

Reference on Opening Day

§ 3.6 Bills placed in the hopper on the opening day of a new Congress are not referred until after the adoption of the rules. The titles of bills that are not referred on the opening day are sometimes printed in the next day's Record with a date corresponding to the date on which the rules were adopted.

On Jan. 21, 1971,[1] the Speaker[2] made the following announcement to the House:

> THE SPEAKER: The Chair would like to make a statement concerning the introduction and reference of bills.
>
> Heretofore on the opening day of a new Congress, several thousand bills have been introduced under adopted rules permitting their introduction by Members and reference by the Speaker. On those occasions, the Speaker announced his intention to examine and refer as many bills as possible, and he asked the indulgence of Members if he was unable to refer all introduced bills.
>
> Since the rules of the 92d Congress have not yet been adopted, the right of Members to introduce bills, and the authority of the Speaker to refer them, is technically delayed. The Chair will state that bills dropped in the hopper will be held until the adoption of the rules, at which time they will be referred as expeditiously as possible to the appropriate committee. At that time, the bills which are not referred and do not appear in the Record as of that day will be included in the next day's Record and printed with a date as of the time the rules were adopted.

§ 3.7 As a result of the large number of bills introduced on opening day, the Speaker has on that occasion announced his intention to examine and refer as many bills as possible and to ask the indulgence of the Members if he was unable to refer all introduced bills.

On Jan. 3, 1969,[3] the Speaker[4] made the following announcement to the House:

> THE SPEAKER: The Chair would like to make a statement concerning the introduction and reference of bills today.
>
> As Members are aware, they have the privilege today of introducing bills. Heretofore on the opening day of a new Congress, several thousand bills have been introduced. It will be readily ap-

1. 117 CONG. REC. 16, 92d Cong. 1st Sess.
2. Carl Albert (Okla.).
3. 115 CONG. REC. 37, 91st Cong. 1st Sess. For further illustrations, see 113 CONG. REC. 34, 90th Cong. 1st Sess., Jan. 10, 1967; 111 CONG. REC. 26, 27, 89th Cong. 1st Sess., Jan. 4, 1965; and 109 CONG. REC. 23, 24, 88th Cong. 1st Sess., Jan. 9, 1963.
4. John W. McCormack (Mass.).

parent to all Members that it may be a physical impossibility for the Speaker to examine each bill for reference today. The Chair will do his best to refer as many bills as possible, but he will ask the indulgence of Members if he is unable to refer all the bills that may be introduced. Those bills which are not referred and do not appear in the Record as of today will be included in the next day's Record and printed with a date as of today.

§ 3.8 A Senate bill, messaged to the House following sine die adjournment, is referred to committee on opening day of the next session of the same Congress.[5]

Correcting Date of Reference

§ 3.9 On one occasion two bills delivered to the Parliamentarian for reference after adjournment, when it was too late to process them for inclusion in the Record of that day, were held for reference on the following day; subsequently, upon assurances by the sponsor that the bills had been placed in the hopper before adjournment on the preceding day, they were printed as having been introduced on the preceding day and notations of the date, as corrected, of introduction were made in both the Record and the Journal.

On Jan. 26, 1970,[6] the announcement of the Jan. 22 introduction and referral of two bills, introduced Jan. 22 but omitted from the Record of that date, was made as follows:

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*Omitted from the Record of Jan. 22, 1970*]

By Mr. Bennett (for himself, Mr. Brock, Mr. Broomfield, Mr. Chappell, Mr. Cleveland, Mr. Daddario, Mr. Dulski, Mr. Edmondson, Mr. Foley, Mr. Helstoski, Mr. Hull, Mr. Kee, Mr. Kuykendall, Mr. McCloskey, Mr. Mikva, Mrs. Mink, Mr. Olsen, Mr. Pryor of Arkansas, Mr. Purcell, Mr. Rarick, Mr. Reifel, Mr. Ruppe, Mr. Saylor, Mr. Scherle, and Mr. Skubitz):

H.R. 15521. A bill to amend the act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archaeological data; to the Committee on Interior and Insular Affairs.

By Mr. Bennett (for himself, Mr. Stephens, Mr. Tiernan, Mr. Tunney, Mr. Udall, Mr. Waldie, and Mr. Vanik):

H.R. 15522. A bill to amend the act of June 27, 1960 (74 Stat. 220), relat-

5. See the proceedings discussed in § 1.5, supra.

6. CONG. REC. (daily ed.), 91st Cong. 2d Sess.

ing to the preservation of historical and archaeological data; to the Committee on Interior and Insular Affairs.

The Record was corrected accordingly.

Rereferral by Motion

§ 3.10 On occasion, the House has rejected a motion for the rereferral of a bill, offered in accordance with Rule XXII clause 4 by a Member at the direction of the committee claiming jurisdiction.

On May 4, 1939,[7] Mr. William T. Schulte, of Indiana, by direction of the Committee on Immigration and Naturalization, submitted a motion that a bill[8] be rereferred from the Committee on the Judiciary to the Committee on Immigration and Naturalization. The motion was subsequently rejected on a division—ayes 17, noes 128.

§ 3.11 The rule providing for rereference of bills on motion of a committee claiming jurisdiction is construed to require that the motion be made before any business has been transacted; but the motion may be made after one-minute speeches.

On Apr. 21, 1942,[9] subsequent to the submission by Mr. Samuel Dickstein, of New York (at the direction of the Committee on Immigration and Naturalization) of a motion to rerefer a bill[10] from the Committee on the Judiciary to the Committee on Immigration and Naturalization, a point of order was raised by Mr. John E. Rankin, of Mississippi, asserting that the motion had been made too late. In overruling the point of order, the Speaker[11] said:

> On the point that the motion comes too late in that business has been transacted in the House today, the Chair may say that since the reading of the Journal the only business that has been transacted has been 1-minute speeches. The Chair is constrained to overrule the point of order of the gentleman from Mississippi on the ground that he thinks it involves too technical a construction of the rule.

§ 3.12 The House has granted unanimous consent that it

7. 84 Cong. Rec. 5119, 5120, 76th Cong. 1st Sess.
8. H.R. 5138, relating to unlawful attempts to overthrow the government of the United States.
9. 88 Cong. Rec. 3571, 77th Cong. 2d Sess. For an additional example, see 79 Cong. Rec. 4878, 4879, 74th Cong. 1st Sess., Apr. 2, 1935, where a motion to rerefer a bill was made and considered subsequent to the House's entertainment of unanimous-consent requests.
10. H.R. 6915.
11. Sam Rayburn (Tex.).

may be in order for a Member to move the rereference of a bill at any time during the day notwithstanding the rule requiring that such motions be made immediately after the reading of the Journal.

On June 18, 1952,[12] the following proceedings occurred:

MR. [CARL] VINSON [of Georgia]: Mr. Speaker, I ask unanimous consent that it may be in order for me to make a motion today to rerefer a bill.[13]

THE SPEAKER:[14] Is there objection to the request of the gentleman from Georgia?

MR. [WILLIAM C.] LANTAFF [of Florida]: Mr. Speaker, reserving the right to object, what is the bill?

MR. VINSON: Mr. Speaker, I am simply trying to preserve my right so that the chairman of the committee may be here.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, reserving the right to object, if this unanimous-consent request is granted the gentleman proposes to make such motion later today?

MR. VINSON: Yes; I am asking unanimous consent that later on during the day I may have the right to propound a unanimous-consent request or to move to rerefer a bill. I am doing this to preserve my rights and to give the chairman of the Expenditures Committee an opportunity to be here. He is just leaving his office.

Mr. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, reserving the right to object, do I understand the gentleman to say that he is asking unanimous consent that he may make the same request later on?

MR. VINSON: That is right exactly, because under the rules of the House this is the time it has to be made and I propound a unanimous-consent request now to be permitted during today to offer a motion to rerefer a bill.

MR. HOFFMAN of Michigan: Why does not the gentleman ask it now?

MR. VINSON: I am withholding the motion pending the arrival of the gentleman from Illinois [Mr. Dawson].

MR. HOFFMAN of Michigan: Mr. Speaker, if that is the only purpose, I withdraw my reservation of objection.

THE SPEAKER: Is there objection to the request of the gentleman from Georgia?

There was no objection.

Later in the day, Mr. Vinson asked for and was granted unanimous consent to rerefer the bill from the Committee on Expenditures in the Executive Departments to the Committee on Armed Services.

§ 3.13 A motion made pursuant to Rule XXII clause 4 to rerefer a bill to a committee claiming jurisdiction is not debatable.

12. 98 CONG. REC. 7532, 7542–44, 82d Cong. 2d Sess.

13. H.R. 8130, to promote economy and efficiency through certain reorganizations and the integration of supply and service activities within and among the military departments.

14. Sam Rayburn (Tex.).

On Apr. 2, 1935,[15] during consideration of a motion submitted by Mr. Emanuel Celler, of New York, to rerefer a bill[16] to the Committee on the Judiciary, a parliamentary inquiry was raised by Mr. Sam D. McReynolds, of Tennessee, asking if the Chair had recognized the gentleman from New York for that purpose. Responding in the affirmative, the Speaker[17] stated as follows:

> The gentleman has the floor and has made a motion that is in order at this time. The gentleman from New York moves that the bill H.R. 6547 be rereferred to the Committee on the Judiciary. The Chair may state to the gentleman from Tennessee that the motion is not debatable.

Rereferral by Unanimous Consent

§ 3.14 Rereferral of a bill has been permitted by unanimous consent.

On July 15, 1970,[1] the following proceedings occurred:

> MR. [JACK T.] BRINKLEY [of Georgia]: Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 18365) to amend title 10 of the United States Code to permit actions against the United States for damage to the good name and reputation of members of the Armed Forces charged with committing certain crimes against civilians in combat zones if such members are cleared of such charges, and for other purposes, of which I am the author, and that the bill be rereferred to the Committee on Armed Services.
>
> In this regard, Mr. Speaker, I have gotten the permission of the chairman of the Committee on the Judiciary and of the Committee on Armed Services.
>
> THE SPEAKER:[2] Is there objection to the request of the gentleman from Georgia?

There being no objection, the bill was rereferred.

Parliamentarian's Note: Normally the chairman of one of the committees involved makes the unanimous-consent request, and not the sponsor of the bill.

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15. 79 CONG. REC. 4878, 4879, 74th Cong. 1st Sess. For further example, see 87 CONG. REC. 127, 128, 77th Cong. 1st Sess., Jan. 13, 1941, where an objection based on the nondebatability of motions to rerefer bills was made when the Speaker sought to state, in reply to a parliamentary inquiry, his reasons for referring the bill to a certain committee.

16. H.R. 6547, authorizing the appointment of a Commissioner for the United States Court for China.

17. Joseph W. Byrns (Tenn.).

1. 116 CONG. REC. 24451, 91st Cong. 2d Sess. For a further illustration see 113 CONG. REC. 29560, 29561, 29564–67, 90th Cong. 1st Sess., Oct. 20, 1967, where 68 bills and resolutions dealing with veterans' cemeteries were, by unanimous consent, rereferred from the Committee on Interior and Insular Affairs to the Committee on Veterans' Affairs.

2. John W. McCormack (Mass.).

§ 3.15 Where the chairman of a committee wishes to ask unanimous consent for the rereference of a bill, it is customary to consult with the chairman of the committee to which the bill is to be referred; on one occasion, the Speaker declined to recognize a chairman of a committee for a unanimous-consent request to rerefer a bill until the chairman of the other committee was consulted.

On Mar. 25, 1948,[3] subsequent to the unanimous-consent request of Mrs. Edith Nourse Rogers, of Massachusetts, that a bill[4] be referred from the Committee on Veterans' Affairs to the Committee on the Judiciary, the following exchange took place:

> THE SPEAKER:[5] Has the gentlewoman conferred with the chairman of the Committee on the Judiciary?
>
> MRS. ROGERS of Massachusetts: I have not, Mr. Speaker.
>
> THE SPEAKER: It is customary to consult with the chairman of the committee to whom the bill is to be referred. No harm will come if this matter is delayed until Monday.
>
> MRS. ROGERS of Massachusetts: I withdraw the request, Mr. Speaker.

3. 94 CONG. REC. 3573, 80th Cong. 2d Sess.
4. H.R. 5515, for the relief of Mr. and Mrs. Albert Chandler.
5. Joseph W. Martin, Jr. (Mass.).

Rereferral of Reported Bills

§ 3.16 Once a bill has been reported by the committee to which it was referred, points of order against reference of the bill and motions for its rereferral are not entertained.

On May 2, 1939,[6] subsequent to the introduction of a resolution[7] reported from the Committee on Rules providing for the consideration of a bill,[8] Mr. Samuel Dickstein, of New York, made the following point of order:

> Mr. Speaker, I make a point of order to the substance of the resolution and the adoption of the resolution for consideration of this bill upon the ground that this bill did not have a hearing before the committee authorized by the rules of the House, and that the Rules Committee had no right to hear it, because there was no proper report from a committee authorized to conduct the hearings on this legislation or to sanction the approval of this bill.

6. 84 CONG. REC. 5052–55, 76th Cong. 1st Sess. For further illustrations, see 89 CONG. REC. 6209, 78th Cong. 1st Sess., June 21, 1943; 84 CONG. REC. 9532, 76th Cong. 1st Sess., July 19, 1939; and 83 CONG. REC. 1142, 1143, 75th Cong. 3d Sess., Jan. 26, 1938.
7. H. Res. 175.
8. H.R. 5643, investing the circuit courts of appeals of the United States with original and exclusive jurisdiction in certain cases involving alien affairs.

This bill is 100 percent immigration, but was referred to the Committee on the Judiciary; and I submit, Mr. Speaker, I should like to have some time to go into the precedents and the rules of the House which will establish definitely that this bill is improperly before the House for consideration under a rule or under any other provision of the laws of this Congress or any other Congress, and that this is an immigration bill and the Immigration Committee has had no consideration of this measure by hearings or otherwise. . . .

Considerable debate on the point of order ensued, at the conclusion of which, the Speaker,[9] overruling the point of order, made the following statement:

The gentleman from Mississippi, on behalf of the Committee on Rules of the House, has offered a resolution, which has been reported, providing for the consideration of H.R. 5643.

The gentleman from New York, chairman of the Committee on Immigration and Naturalization, has raised a point of order, which may be stated in two different forms, possibly, that the resolution now offered is out of order. Primarily, as the Chair understands, the point of order is raised against consideration of the bill because of the fact that the Committee on the Judiciary, to which it was referred, had no jurisdiction or authority under the rules of the House to consider the bill; therefore it had no legal right to report the bill to the House for its consideration under the rules of the House.

The Chair has given considerable consideration to the problem, because it is a matter of some importance. It is a matter of grave importance, of course, to all committees, their chairmen and members, affecting as it does the matter of jurisdiction of the committees over important legislation. . . .

This is not a new matter that is now raised by the gentleman from New York. It may be proper here to state that the present occupant of the chair nor any other Speaker who has been his predecessor has had any personal interest in reference to any bill. The Speaker does not participate in the deliberations by the committees. His function is entirely to undertake to preserve the rules and precedents of the House as its presiding officer.

This bill now being attacked in the ordinary course was referred to the Parliamentarian, and, with the consent of the Speaker, referred to the Committee on the Judiciary, for the reasons rather admirably stated by the gentleman from Alabama. It was felt at that time that the Committee on the Judiciary was the proper committee to which the bill should be referred. . . .

The defect in the position taken by the gentleman from New York . . . is that under the uniform practices and precedents of the House, as far as the Speaker has been able to find them, the gentleman has slept upon his rights in raising this question . . . although he may not have been actually advised of this bill until recently called to his attention; however, constructively at least, he has been guilty of parliamentary laches.

In making this ruling, the Chair desires to refer to a decision heretofore

9. William B. Bankhead (Ala.).

made by the present Speaker of the House on an identical question involving the jurisdiction of a committee. This is found on page 1526 of the Congressional Record of January 26, 1938.

On January 26, 1938, Mr. May, by direction of the Committee on Military Affairs, called up the bill (H.R. 8176) providing for continuing retirement pay, under certain conditions, of officers and former officers of the Army, Navy, and Marine Corps of the United States, other than officers of the Regular Army, Navy, or Marine Corps, who incurred physical disability while in the service of the United States during the World War, and for other purposes.

The gentlemen from Texas [Mr. Patman] made the point of order that the bill was improperly referred to the Committee on Military Affairs, the proper committee being the Committee on World War Veterans' Legislation. He made the point of order that the bill was not in order for consideration at that time. As the Chair understands that is the principle invoked by the gentleman from New York.

The gentlemen from Kentucky [Mr. May] made the point of order that the question of order raised by Mr. Patman came too late, inasmuch as the bill had been reported to the House.

The Speaker, in sustaining a point of order made by Mr. May, said:

> The gentleman from Texas [Mr. Patman] raises the point of order against consideration of the bill, that it was not referred under the rules of the House to the Committee on World War Veterans' Legislation, to which, according to his contention, it should have originally been referred.
>
> Pending that question the gentleman from Kentucky [Mr. May], the chairman of the Committee on Military Affairs, raises the point of order that the point of order made by the gentleman from Texas comes too late. . . .
>
> . . . [T]here have been a number of decisions and precedents upon this particular question. The Chair refers especially to a decision made by Mr. Speaker Longworth, as reported in volume 7 of Cannon's Precedents of the House of Representatives, section 2113.

Then quoting Speaker Longworth's decision:

> After a public bill has been reported—

As is the case here, the bill having been referred to the Committee on the Judiciary, whether properly or erroneously referred, the quotation goes on to say:

> it is not in order to raise a question of committee jurisdiction—

And so forth. The gentleman from Michigan has cited for consideration of the Chair a syllabus found on page 401, section 854, of the House Rules Manual which the Chair will quote:

> According to the later practice, the erroneous reference of a public bill, if it remains uncorrected in effect, gives jurisdiction to the committee receiving it, and it is too late to move a change of reference after such committee has reported the bill.

The Chair desires particularly to direct the attention of the House to a decision made by Mr. Speaker Crisp which may be found in Hinds' Precedents, volume IV, section 4365. In that instance Speaker Crisp delivered an elaborate opinion on a question which the Chair thinks is on all fours with the one now before him.

. . . [T]he Chair is clearly of the opinion that despite the fact there might be considerable merit in the contention made by the gentleman from New York so far as the spirit and purposes in the establishment of committees are concerned, nevertheless, under these precedents, which seem to be absolutely uniform, the Chair is constrained to overrule the point of order made by the gentleman from New York.

CHAPTER 17

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Initial commentary and editing by David P. Gery, J.D.

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Committees

A. CREATING AND ORGANIZING COMMITTEES

§ 1. In General

There are three types of committees that are common to the House—(1) standing committees, (2) special or select committees, and (3) joint committees. Standing committees which are usually, though not necessarily, established by amending the rules of the House, comprise the largest group. The jurisdiction of standing committees[(1)] is usually set out in the rules[(2)] and the Speaker refers[(3)] measures or matters to them pursuant to those provisions. Members of standing committees are elected and serve through the Congress for which elected. Special or select committees are established by a resolution setting forth the particular jurisdiction and the method of selection for membership.[(4)] Normally the Speaker appoints special or select committees, and they expire with their report or at the end of the Congress or as otherwise provided.[(5)] Joint committees are established by an act of Congress or concurrent resolution[(6)] which sets forth the particular subject matter of concern to both Houses.

The reader should note that citations to Rule X and Rule XI contained in the precedents sometimes referred to older sections of Rule X and Rule XI. Those rules were rewritten and redesignated by the adoption of House Resolution 988, the Committee Reform Amendments of 1974.

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1. See § 2.1, infra. See also §§ 30–51, 53, infra.

2. In 1973, for example, the jurisdiction of the standing committees was set forth in Rule XI. See Rule XI clauses 1–22, *House Rules and Manual* §§ 677–725 (1973). The Committee Reform Amendments of 1974, H. Res. 988, 93d Cong. 2d Sess., transferred the jurisdiction of the standing committees to Rule X, effective Jan. 3, 1975.

3. See § 27, infra.

4. See § 5.2, infra, for example. As to subjects of investigation by select or special committees, and the distinction between such committees, see § 6, infra.

5. See § 5.5, infra, for an instance in which a select committee was reconstituted and given an express calendar day limitation on the filing of its final report.

6. See § 7, infra.

Select Committee to Study House Committee System

§ 1.1 The House considered under a special rule and agreed to a resolution reported from the Committee on Rules, creating a select committee to study House committee jurisdiction, staffing, procedures and facilities and to report to the House. Under the resolution, committee membership and staff expenses were to be paid from the contingent fund on vouchers approved by the Speaker.

On Jan. 31, 1973,[7] the House agreed to a resolution (H. Res. 176) reported out by the Committee on Rules which provided that upon its adoption the House would consider in the House a resolution (H. Res. 132) to create a select committee to study the operation and implementation of Rules X and XI.

The Speaker[8] then directed the Clerk to read House Resolution 132, which stated:

> *Resolved,* That there is hereby created a select committee to be composed of ten Members of the House of Representatives to be appointed by the Speaker; five from the majority party and five from the minority party, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the manner in which the original appointment was made.
>
> The select committee is authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of rules X and XI of the Rules of the House of Representatives, including committee structure of the House, the number and optimum size of committees, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities.
>
> The select committee is authorized and directed to report to the House by bill, resolution, or otherwise, with respect to any matters covered by this resolution.
>
> For the purposes of this resolution, the select committee or any subcommittee thereof is authorized to sit and act during sessions of the House and during the present Congress at such times and places whether or not the House has recessed or adjourned. The majority of the members of the committee shall constitute a quorum for the transaction of business, except that two or more shall constitute a quorum for the purpose of taking evidence.
>
> To assist the select committee in the conduct of its study under this resolution, the committee may employ investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assist-

7. 119 Cong. Rec. 2804–12, 93d Cong. 1st Sess.

8. Carl Albert (Okla.).

ants; and all expenses of the select committee, not to exceed $1,500,000 to be available one-half to the majority and one-half to the minority, shall be paid from the contingent fund of the House on vouchers signed by the chairman of the select committee and approved by the Speaker.

Following some debate on the measure, the vote was ultimately taken by electronic device,[9] and the resolution was agreed to—yeas 282, nays 91.[10]

Parliamentarian's Note: The provision authorizing the Speaker to approve the committee's vouchers was intended to bypass approval by the Committee on House Administration, which is required by House rules[11] and by law.[12] House Resolution 132 was not a privileged resolution because it contained this provision paying money from the contingent fund (a matter within the jurisdiction of the Committee on House Administration). Thus the Committee on Rules reported House Resolution 176 providing for consideration of House Resolution 132 in the House (in effect a "closed" rule).

Continuing Authority of Committees During Subsequent Congress

§ 1.2 The Senate being a "continuing body," its committees remain in existence from one Congress to the next, and may be authorized by simple resolution to conduct investigations during the subsequent Congress.

On Dec. 31, 1970,[13] Senator Abraham Ribicoff, of Connecticut, was recognized by unanimous consent by the Presiding Officer[14] of the Senate. Senator Ribicoff submitted a resolution (S. Res. 504) which provided for the granting of authority to the Committee on Government Operations to continue its investigations, hearings, and reports on efficiency and economy in government pursuant to a previously agreed upon resolution.[15]

Pursuant to the Chair's request, the legislative clerk read Senate Resolution 504, as follows:

9. 119 Cong. Rec. 2815, 93d Cong. 1st Sess.

10. *Id.* at p. 2816.

11. Rule XI clauses 9(a), 9(b), 9(c), 9(f), *House Rules and Manual* § 693 (1973).

12. 2 USC § 95.

13. 116 Cong. Rec. 44456, 91st Cong. 2d Sess.

14. William B. Saxbe (Ohio).

15. S. Res. 308. See 116 Cong. Rec. 3411, 3412, 91st Cong. 2d Sess., Feb. 16, 1970.

RESOLUTION

Continuing for 1 month certain authority for investigations by the Committee on Government Operations into the efficiency and economy of operations of all branches of Government

Resolved. That the authority to make investigations conferred upon the Committee on Government Operations by Senate Resolution 308, Ninety-first Congress, agreed to February 16, 1970, together with any authority contained in section 7 of such resolution, is extended until February 28, 1971. In carrying out investigations, holding hearings, and reporting such hearings under the authority of such resolution and this resolution, the Committee on Government Operations is authorized to expend any part of the amount specified in section 8 of such Senate Resolution 308 which remains unexpended on January 31, 1970.

When the Presiding Officer asked if there were any objections to the present consideration of the resolution, Senator Jacob Javits, of New York, reserving the right to object, proceeded to ask Senator Ribicoff two questions. Although the resolution was ultimately agreed to,[16] the discussion which ensued illustrates at once the "continuing nature" of the Senate as a legislative body while underscoring Senatorial concern for those constitutional[17] safeguards designed to prevent usurpation of power by one Congress over a succeeding Congress.

The exchange, in pertinent part, took place as follows:

MR. JAVITS: Mr. President . . . I did want to ask two questions for the Record.

One, is it assumed that this resolution will mean, aside from the continuance of the work of the committee, any change in existing law respecting whether there is any authority to extend the work, in view of the fact that we will have a new Congress?

MR. RIBICOFF: Mr. President, not at all. My understanding is that basically, until the new committees are constituted, the work of the old committee will continue. The authority of this committee to act extends until January 31, 1971. There are some investigations now currently in process on which hearings are slated to be held in January and February. There will be no need for further funds. The committee has sufficient funds in its prior authority. I do not conceive of any new authority being given to the committee.

MR. JAVITS: Mr. President, if I may make the situation clear to the Senate, will it be understood that if this resolution is considered and acted on, whatever the law provides with respect to the power to continue this authority will continue to be the law, unchanged by this resolution; and will it also be understood that this resolution represents no waiver of precedent or otherwise adversely affects the right of Senators who will be sworn in or who will continue as Senators in the new Congress to challenge the continuance

16. 116 CONG. REC. 44457, 91st Cong. 2d Sess., Dec. 31, 1970.

17. U.S. Const. art. I, §5, clause 2. See also *House Rules and Manual* §59 (1973).

of the rules of the Senate under the Constitution which provides that each body shall deal with its own rules in every new Congress.

MR. RIBICOFF: That is my understanding of the situation.

MR. JAVITS: Mr. President, I thank my colleague. I have no desire in any way to stand in the way of my own committee. However, I did not wish by allowing this resolution to go through to yield or compromise any of the rights in respect of the power of the Senate to write new rules in the new Congress.

Parliamentarian's Note: The Senate's status as a continuing body is, of course, directly attributable to the method by which it is constituted. "So that one-third may be chosen every second year,"[18] the Constitution divided the first group of Senators into three classes with terms of two, four, and six years; thereafter, each succeeding term was to last six years. The House, by contrast, has always been "composed of Members chosen every second year."[19] Because the Constitution provides that "each House may determine the rules of its proceedings,"[20] the committees of the House of Representatives may remain in existence only as long as the particular Congress which created them. While most of the House's standing committees are usually reconstituted when one Congress succeeds another, all House committees spring into existence only after a new House has adopted rules or other resolutions specifically creating them anew. The House also reconstitutes select committees from time to time;"[1] however, in the absence of express authority from a new House, a select committee expires with the term of the Congress in which it was created. Joint committees[2] established by statute, of course, remain in existence beyond the Congress of their creation unless otherwise provided by the House; the House members of such joint committees, however, must be appointed or elected in each new Congress.

18. U.S. Const. art. I, § 3, clause 2.
19. U.S. Const. art. I, § 2, clause 1.
20. U.S. Const. art. I, § 5, clause 2.

§ 2. Establishing Standing Committees; Procedure

Establishing Standing Committee by Resolution

§ 2.1 A resolution establishing a standing committee [but not specifically amending the rules of the House] is reported and called up as privileged by the Committee on Rules.

1. See § 5.5, infra.
2. See § 7, infra.

On Apr. 13, 1967,[3] the following exchange took place:

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 418 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 418

Resolved, That there is hereby established a standing committee of the House of Representatives to be known as the Committee on Standards of Official Conduct (hereafter referred to as the "committee"). The committee shall be composed of twelve Members of the House of Representatives. Six members of the committee shall be members of the majority party and six shall be members of the minority party.

Sec. 2. The jurisdiction of the committee shall be to recommend as soon as practicable to the House of Representatives such changes in laws, rules, and regulations as the committee deems necessary to establish and enforce standards of official conduct for Members, officers, and employees of the House.

Sec. 3. The committee may hold such hearings and take such testimony as may be necessary to carry out the purposes of this resolution.

THE SPEAKER PRO TEMPORE:[4] The gentleman from Mississippi is recognized for 1 hour.

One week earlier, on Apr. 6, 1967,[5] the Record reveals that:

Mr. Colmer from the Committee on Rules, filed a privileged report (H. Res. 418, Rept. No. 178) which was referred to the House Calendar and ordered to be printed.

Establishing Standing Committee by Amending House Rules

§ 2.2 The establishment of a new standing committee is normally proposed by way of an amendment to the House rules, and such a resolution is reported and called up as privileged.

On July 29, 1970,[6] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 17654) amending House rules to improve the operation of the legislative branch of the federal government. In the course of the bill's consideration, Mr. James C. Cleveland, of New Hampshire, offered an amendment[7] which, if adopted and upon enactment of the bill into law, would have created a new committee.

The Clerk read Mr. Cleveland's proposed amendment, as follows:

Amendment offered by Mr. Cleveland: On page 39, immediately following line 4, insert the following:

3. 113 CONG. REC. 9425, 90th Cong. 1st Sess.
4. Wilbur D. Mills (Ark.).
5. 113 CONG. REC. 8622, 90th Cong. 1st Sess.
6. 116 CONG. REC. 26413, 91st Cong. 2d Sess.
7. *Id.* at p. 26421.

"Sec—.(a) Clause 1 of rule X of the Rules of the House of Representatives is amended by adding at the end thereof the following new paragraph:

"'(v) Minority Committee on Investigations, to consist of fifteen members as follows: Ten members of the minority party and five members of the majority party.'"

"(b) The rules of the House of Representatives are amended by adding at the end thereof the following new rules:

"'RULE XLV

"'MINORITY COMMITTEE ON INVESTIGATIONS

"'1. The Minority Committee on Investigations is authorized, acting as a whole or by any subcommittee thereof, to conduct studies and examinations of any activity of any department, agency, wholly owned Government corporation, establishment, or instrumentality of the Government of the United States or the government of the District of Columbia.

"'2. The Minority Committee on Investigations is further authorized to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses, and the production of such books, papers, documents, or vouchers by subpena or otherwise, and to take such testimony and records as it deems necessary.

"'3. Subpena may be issued over the signature of the chairman of the committee or subcommittee, or by any person designated by him, and shall be served by such person or persons as the chairman of the committee or subcommittee may designate.

"'4. The chairman of the committee or subcommittee, or any member thereof, may administer oaths to witnesses.'"

§ 2.3 The rules of the House were amended by resolution to provide for the creation of a new standing committee to be known as the Committee on Science and Astronautics.

On July 21, 1958,[8] by direction of the Committee on Rules, Mr. Richard Bolling, of Missouri, called up House Resolution 580 and asked for its immediate consideration. The Clerk read the resolution, as follows:

Resolved, That the Rules of the House of Representatives are hereby amended as follows:

Rule X, clause 1, is hereby amended by inserting after (p) the following:

"(q) Committee on Science and Astronautics, to consist of 25 members."

. . .

Rule XI is further amended by inserting after clause 16 the following:

"17. Committee on Science and Astronautics.

"(a) Astronautical research and development, including resources, personnel, equipment, and facilities.

"(b) Bureau of Standards, standardization of weights and measures, and the metric system.

"(c) National Advisory Committee for Aeronautics.

8. 104 CONG. REC. 14513, 85th Cong. 2d Sess.

"(d) National Science Foundation.

"(e) Outer space, including exploration and control thereof.

"(f) Science scholarships.

"(g) Scientific research and development."

Immediately thereafter, Mr. Bolling offered the following amendment:

Amendment offered by Mr. Bolling: On page 2, line 24, strike out line 24 through the remainder of the resolution and in lieu thereof insert the following:

"(c) National Aeronautics and Space Administration.

"(d) National Aeronautics and Space Council.

"(e) National Science Foundation.

"(f) Outer space, including exploration and control thereof.

"(g) Science Scholarships.

"(h) Scientific research and development,". . . .

Mr. Bolling explained[9] that the perfecting amendment was offered in order that the language establishing the new committee would conform to a bill (H.R. 12575) then on the President's desk which was expected to become law and which would establish the National Aeronautics and Space Administration. Following further discussion[10] in which Mr. Bolling stated that the standing committee would continue the work begun by the then-existing Select Committee on Astronautics and Space Exploration, Speaker Sam Rayburn, of Texas, put the question on the amendment[11] which was agreed to, and on the resolution, as amended, which was also agreed to.

Rules Amendment Changing Committee Name

§ 2.4 The House agreed to an amendment to its rules changing the name of the Committee on Public Lands to the Committee on Interior and Insular Affairs.

On Feb. 2, l951,[12] by direction of the Committee on Rules, Mr. John E. Lyle, Jr., of Texas, called up House Resolution 100 and asked for its immediate consideration.

The resolution, which was adopted shortly thereafter,[13] read as follows:

Resolved, That Clause (a) 14 of rule X of the Rules of the House of Representatives[14] is amended by striking

9. For a direct quote of Mr. Bolling's explanation as well as some further details regarding this measure, see 47.1, infra.

10. *See* 47.1, infra.

11. 104 CONG. REC. 14514, 85th Cong. 2d Sess.

12. 97 CONG. REC. 883, 82d Cong. 1st Sess.

13. *Id.* at p. 884.

14. This clause identified the Committee on Public Lands as being one of the

out "Committee on Public Lands" and inserting in lieu thereof "Committee on Interior and Insular Affairs."

Clause (1) (n) of rule XI [15] is amended by striking out "Committee on Public Lands" and inserting in lieu thereof "Committee on Interior and Insular Affairs."

Clause (2)(a) of rule XI[16] is amended by striking out "Committee on Public Lands" where it appears in the said clause and inserting in lieu thereof Committee on Interior and Insular Affairs."

Clause 1 of rule XII [1] is amended by striking out "Public Lands" where it appears in said clause and inserting in lieu thereof "Interior and Insular Affairs."

Transfer of Membership and Documents From One Committee to Another

§ 2.5 The House agreed to a resolution providing that those Members elected to the Committee on Public Lands were "hereby elected" to the Committee on Interior and Insular Affairs, and transfer. ring all records, papers, bills, resolutions, communications, documents, petitions, and memorials heretofore referred to the Committee on Public Lands to the Committee on Interior and Insular Affairs.

On Feb. 2, 1951,[2] immediately after the adoption of a resolution changing the name of the Committee on Public Lands to the Committee on Interior and Insular Affairs, Mr. John R. Murdock, of Arizona, offered the following resolution (H. Res. 111) to implement the resolution just adopted (H. Res. 100) and asked for its immediate consideration:

Resolved, That those Members of the House elected to the Committee on Public Lands are hereby elected to the

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standing committees of the House and specified the number of members thereon. H. Jour. 1288, 81st Cong. 2d Sess. (1950).

15. This clause prescribed the jurisdiction of the Committee on Public Lands. H. Jour. 1290, 81st Cong. 2d Sess. (1950).

16. This clause specified those subjects as to which the committee had leave to report at any time. H. Jour. 1291, 81st Cong. 2d Sess. (1950).

1. This clause specified that the [then] Delegate from Hawaii, the Resident Commissioner to the United States from Puerto Rico, and the [then] Delegate from Alaska would be elected to serve as additional members on the committee and would be accorded the same powers and privileges in the committee as they would possess in the House, and be permitted to make any motion except the motion to reconsider. H. Jour. 1291, 81st Cong. 2d Sess. (1950).

2. 97 CONG. REC. 884, 82d Cong. 1st Sess.

Committee on Interior and Insular Affairs and all records and papers of the Committee on Public Lands are hereby transferred to the Committee on Interior and Insular Affairs.

That all bills, resolutions, communications, papers, documents, petitions, and memorials heretofore referred to the Committee on Public Lands are hereby referred to the Committee on Interior and Insular Affairs.

The resolution was agreed to.

Abolition of One Committee and Replacement With Another

§ 2.6 The House agreed to an amendment to its rules abolishing the Committee on Un-American Activities and transferring its jurisdiction,[3] records, and property to a new standing committee to be known as the Committee on Internal Security.

On Feb. 18, 1969,[4] William M. Colmer, of Mississippi, Chairman of the Committee on Rules, called up House Resolution 89 and asked for its immediate consideration. The resolution called for the amending of Rules X and XI to abolish the Committee on Un-American Activities and to create in its place a new standing committee of the House to be known as the Committee on Internal Security.

The Clerk read the resolution, as follows:

H. RES. 89

Resolved, That rule XI of the Rules of the House of Representatives is amended—

(1) by striking out clause 19;

(2) by renumbering clauses 11 through 18 as clauses 12 through 19, respectively; and

(3) by inserting immediately after clause 10 the following new clause:

"1. Committee on Internal Security.

"(a) Communist and other subversive activities affecting the internal security of the United States.

"(b) The Committee on Internal Security, acting as a whole or by subcommittee, is authorized to make investigations from time to time of (1) the extent, character, objectives, and activities within the United States of organizations or groups, whether of foreign or domestic origin, their members, agents, and af-

3.T1 There were differences of opinion on the floor as to whether the jurisdiction of the Committee on Un-American Activities had been merely transferred. The process by which the latter committee was abolished and the Committee on Internal Security was created did not involve a simple renaming. Discussion ensued as to whether the jurisdiction of the Committee on Internal Security amounted to a major expansion of the jurisdiction of the Committee on Un-American Activities. See 29.8, infra.

4. 115 CONG. REC. 3723, 3724, 91st Cong. 1st Sess.

filiates, which seek to establish, or assist in the establishment of, a totalitarian dictatorship within the United States, or to overthrow or alter, or assist in the overthrow or alteration of, the form of government of the United States or of any State thereof, by force, violence, treachery, espionage, sabotage, insurrection, or any unlawful means, (2) the extent, character, objectives, and activities within the United States of organizations or groups, their members, agents, and affiliates, which incite or employ acts of force, violence, terrorism, or any unlawful means, to obstruct or oppose the lawful authority of the Government of the United States in the execution of any law or policy affecting the internal security of the United States, and (3) all other questions, including the administration and execution of any law of the United States, or any portion of law, relating to the foregoing that would aid the Congress or any committee of the House in any necessary remedial legislation.

"The Committee on Internal Security shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

"For the purpose of any such investigation, the Committee on Internal Security, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member."

Sec. 2. (a) Rule X of the Rules of the House of Representatives is amended—

(1) by striking out clause 1(s);

(2) by redesignating clauses 1(k) through 1(r) as clauses 1(l) through 1(s), respectively; and

(3) by inserting immediately after clause 1(j) the following:

"(k) Committee on Internal Security, to consist of nine Members."

(b) Clause 31 of rule XI of the Rules of the House of Representatives is amended by striking out "Un-American Activities" and inserting in lieu thereof "Internal Security".

Sec. 3. As of the date of adoption of this resolution, all property (including records) of the Committee on Un-American Activities is hereby transferred to the Committee on Internal Security and shall be available for use by the latter committee to the same extent as if such property (including records) was originally that of the Committee on Internal Security.

Sec. 4. Nothing in this resolution shall affect (1) the validity of any action or proceeding of the Committee on Un-American Activities or of the House of Representatives before the date of adoption of this resolution, or (2) the validity of any action or proceeding by any officer or agency of the executive branch of the Government, or by any court of competent jurisdiction, based on any action or proceeding referred to in clause (1) of this sentence. Any action or proceeding referred to in clause (2) of the preceding sentence and pending on the date of adoption of this resolution shall be continued by the officer, agency, or court concerned in the same manner and to the same extent as if this resolution had not been adopted.

Following extended debate, the resolution was ultimately agreed to,[5] and the rules were amended, accordingly.

§ 3.—Authorizing Investigations

As of 1973, only four standing committees possessed standby authority under the rules[6] to sit and act and to hold hearings at such times and places within the United States as the committees deemed necessary. The powers to subpena or otherwise require the attendance and testimony of witnesses and to compel the production of papers and documents were also limited under the standing rules to those same four committees. Accordingly, investigative authority was granted to all other standing, as well as special or select[7] committees by means of individual resolutions[8] reported from the Committee on Rules. While these circumstances were to change in 1975,[9] the need to obtain such specific authorizations prior to undertaking an investigation was an historic fact for most committees for more than a century.

Investigation of Alleged Subversives in Government

§ 3.1 The House approved a resolution authorizing the Committee on Appropriations to investigate allegations that certain persons employed by the federal government were unfit for continued employment because of subversive affiliations. The resolution also provided that any legislation approved by the committee as a result

5. *Id.* at p. 3746.
6. Committee on Appropriations, Rule XI clause 2(b), *House Rules and Manual* § 679 (1973); Committee on Government Operations, Rule XI clause 8(d), *House Rules and Manual* § 691 (1973); Committee on Internal Security, Rule XI clause 11 (b), *House Rules and Manual* § 703A (1973); and Committee on Standards of Official Conduct, Rule XI clause 19(h), *House Rules and Manual* § 720 (1973).
7. For treatment of special and select committee investigations, see Ch. 15, supra.
8. There were instances where two committees received investigative authority in one resolution. See § 3.9, infra.
9. See Rule XI clause 2(m), *House Rules and Manual* § 718 (1977) and further editions of this work. The Committee Reform Amendments of 1974, H. Res. 988, 93d Cong. 2d Sess., gave all committees listed under Rule X the power to conduct investigations within the United States and to issue subpenas, effective Jan. 3, 1975.

of its investigation could be incorporated in any general or special appropriation measure emanating from the committee notwithstanding the House rule against the inclusion of legislation in appropriation bills.

On Feb. 9, 1943,[10] Mr. Adolph J. Sabath, of Illinois, a member of the Committee on Rules submitted the following privileged resolution (H. Res. 105) and asked for its immediate consideration:

Resolved, That the Committee on Appropriations, acting through a special subcommittee thereof appointed by the chairman of such committee for the purposes of this resolution, is authorized and directed to examine into any and all allegations or charges that certain persons in the employ of the several executive departments and other executive agencies are unfit to continue in such employment by reason of their present association or membership or past association or membership in or with organizations whose aims or purposes are or have been subversive to the Government of the United States. Such examination shall be pursued with the view of obtaining all available evidence bearing upon each particular case and reporting to the House the conclusions of the committee with respect to each such case in the light of the factual evidence obtained. The committee, for the purposes of this resolution, shall have the right to report at any time by bill, amendment, or otherwise, its findings and determination. Any legislation approved by the committee as a result of this resolution may be incorporated in any general or special appropriation measure emanating from such committee or may be offered as a committee amendment to any such measure notwithstanding the provisions of clause 2 of rule XXI.[11]

For the purposes of this resolution, such committee or any subcommittee thereof is hereby authorized to sit and act during the present Congress at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses, and the production of such books or papers or documents or vouchers by subpena or otherwise, and to take such testimony and records as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or subcommittee, or by any person designated by him, and shall be served by such person or persons as the chairman of the committee or subcommittee may designate. The chairman of the committee or subcommittee, or any member thereof, may administer oaths to witnesses.

With the following committee amendment:

Page 2, line 4, after the period, strike out all of the language following up to the period in line 6.[12]

10. 89 CONG. REC. 734, 78th Cong. 1st Sess.

11. See *House Rules and Manual* § 834 (1973).

12. The language to be struck under the committee amendment consisted of the resolution's third sentence—

The House, by a two-thirds vote' agreed to consider the measure immediately. Following debate, the committee amendment was adopted,[13] and the resolution, as amended, was agreed to.

Investigations of Executive Agency [Veterans' Administration]

§ 3.2 The House authorized a standing committee, the Committee on World War Veterans' Legislation (now, the Committee on Veterans' Affairs), to investigate the Veterans' Administration.

On Mar. 27, 1945,[14] Mr. Roger C. Slaughter, of Missouri, by direction of the Committee on Rules, called up and asked for the immediate consideration of the following resolution (H. Res. 192):

> *Resolved*, That the Committee on World War Veterans' Legislation, acting as a whole or by subcommittee, is authorized and directed to conduct an investigation of the Veterans' Administration with a particular view to determining the efficiency of the administration and operation of Veterans' Administration facilities.
>
> The committee shall report to the House (or to the Clerk of the House if the House is not in session), as soon as practicable during the present Congress, the results of its investigation, together with such recommendations for legislation as it deems advisable.
>
> For the purposes of this resolution the committee, or any subcommittee thereof, is authorized to sit and act during the present Congress at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such records, documents, and papers, to administer oaths, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee, or by any member designated by such chairman, and may be served by any person designated by such chairman or member.

As Mr. Slaughter explained, two investigatory resolutions had been under consideration by the Committee on Rules, and:

> It was the judgment of the Rules Committee, however, that [one of the two proposals] was somewhat too sweeping in character and embraced subjects that, at least in the judgment of the committee, should not be taken up at this time. After a full and frank discussion of these two resolutions it was concluded to report the so-called Rankin resolution which provides for an investigation of the Veterans' Bureau by the committee that has juris-

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granting the committee "the right to report at any time by bill, amendment or otherwise, its findings and determination."

13. 89 CONG. REC. 742, 78th Cong. 1st Sess.

14. 91 CONG. REC. 2871, 79th Cong. 1st Sess.

diction of that Bureau and by the committee which presumptively is the committee best advised as to the operation of the Veterans' Administration.

Shortly thereafter,[15] the resolution was agreed to on a roll call vote.[16]

Defining Extent of Probe

§ 3.3 The House authorized the Committee on the District of Columbia to conduct investigations within its jurisdiction as set forth in the House rules.

On Mar. 6, 1973,[17] by direction of the Committee on Rules, Mr. Richard Bolling, of Missouri, a member of that committee, called up and asked for the immediate consideration of the following resolution (H. Res. 162):

Resolved, That, effective January 3, 1973, the Committee on the District of Columbia, acting as a whole or by subcommittee, is authorized to conduct full and complete studies and investigations and make inquiries within its jurisdiction as set forth in clause 5 of rule XI[18] of the Rules of the House of Representatives. However, the committee shall not undertake any investigation of any subject which is being investigated for the same purpose by any other committee of the House.

Sec. 2. (a) For the purpose of making such investigations and studies, the committee or any subcommittee thereof is authorized to sit and act, subject to clause 31 of rule XI[19] of the Rules of the House of Representatives, during the present Congress at such times and places within the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or any member designated by him and may be served by any person

15. *Id.* at p. 2881.

16. Duties of the Committee on World War Veterans' Legislation were assumed by the Committee on Veterans' Affairs which was established in 1947. See Rule X clause 1(u), *House Rules and Manual* § 690 (1979).

17. 119 CONG. REC. 6385, 93d Cong. 1st Sess.

18. This provision defines the jurisdiction of the Committee on the District of Columbia as extending to "all measures relating to the municipal affairs" of the city, in general, "other than appropriations therefor [Rule XI clause 5(a) (1973)]." The remaining clauses [5(b)–5(i)] clarify what subjects are included therein. See Rule XI clause 5, *House Rules and Manual* § 685 (1973).

19. This provision requires all but five standing committees to obtain "special leave" in order to sit "while the House is reading a measure for amendment under the five-minute rule." See Rule XI clause 31, *House Rules and Manual* § 739 (1973).

designated by such chairman or member. The chairman of the committee, or any member designated by him, may administer oaths to any witness.

(b) Pursuant to clause 238 of rule XI [20] of the Rules of the House of Representatives, the committee shall submit to the House, not later than January 2, 1975, a report on the activities of that committee during the Congress ending at noon on January 3, 1975.

Immediate consideration of the resolution was agreed to by a two-thirds vote,[1] end shortly thereafter, the resolution, itself, was agreed to.

Parliamentarian's Note: Prior to the effective date of House Resolution 988, 93d Cong. 2d Sess., which gave all committees listed under Rule X the power to conduct investigations and issue subpenas, only specified committees had such permanent authority under the rules. Other committees were authorized by separate resolution, of which the above is typical, to conduct investigations. The present rule is contained in Rule XI clause 2(m), *House Rules and Manual* § 718 (1979).

Expansion of Investigations Beyond U.S. Borders

§ 3.4 The House authorized the Committee on Public Works to send abroad a limited number of its members and staff (1) to attend the United Nations Conference on the Human Environment being held in Sweden; and (2) to inspect, on the return trip, various projects relating to public works, resource usage, and pollution control in specified foreign lands.

On June 1, 1972,[2] by direction of the Committee on Rules, Mr. Spark M. Matsunaga, of Hawaii, called up and asked for the immediate consideration of House Resolution 985, which read, in part as follows:

Resolved, That notwithstanding the provisions of H. Res. 142, Ninety-second Congress,[3] the Committee on

20. This reference (to "clause 238") appears to be a typographical error in the Record, and most likely refers to § 738 of Rule XI [i.e., Rule XI clause 30, *House Rules and Manual* § 738 (1973)] which requires certain salary and accounting information to be reported by each committee to the Clerk's office biannually.

1. 119 CONG. REC. 6386, 93d Cong. 1st Sess.

2. 118 CONG. REC. 19486, 92d Cong. 2d Sess.

3. H. Res. 142 [117 CONG. REC. 4604, 4605, 92d Cong. 1st Sess., Mar. 2, 1971] as amended and agreed to by the House, was an investigatory and funding authorization which permitted the Public Works Committee for the purposes of its studies to "sit and act . . . at such times and

Public Works is authorized to send not more than three members of such committee as congressional adviser and alternates to the United States delegation to the United Nations Conference on the Human Environment (such adviser having been designated by the Speaker of the House and appointed by the Secretary of State), and not more than two staff assistants, to attend the conference to be held in Stockholm, Sweden, during June 5 through June 16, inclusive; and in returning to the United States, also to inspect various projects and programs of significant national and international importance relating to public works, resource management and development, and antipollution in the Netherlands, Germany, Scandinavia, and the United Kingdom.

Notwithstanding the provisions of H. Res. 142 of the Ninety-second Congress, first session, local currencies owned by the United States shall be made available to the members of the Committee on Public Works of the House of Representatives and employees engaged in carrying out their official duties for the purpose of carrying out the authority as set forth in this resolution, to travel outside the United States.[4]

Two proposed committee amendments[5] were agreed to, after which the resolution was briefly debated and agreed to.[6]

§ 3.5 The House authorized a limited number of members from the Committee on Post Office and Civil Service (which had been limited by prior resolution to domestic investigations) to study civilian manpower usage by the Department of Defense in Far Eastern and Western European countries.

On Oct. 19, 1966,[7] by direction of the Committee on Rules, Mr. Claude D. Pepper, of Florida, called up and asked for the immediate consideration of the following resolution (H. Res. 1048):

Resolved, That (a) notwithstanding the provisions of H. Res. 245, Eighty-ninth Congress,[8] the Committee on

places within the United States, Commonwealths, territories and possessions thereof, Canada, Mexico, and those Central American and South American countries in which the Pan American Highway is located . . . as it deems necessary. [Sec. 2. (a)]."

4. H. Res. 142 had limited committee use of local currencies owned by the United States to the countries specified in the immediately preceding footnote.

5. The amendments did not materially affect the quoted passages. The first specified the departure date [June 3]; and, the second specified the date of return [June 23].

6. 118 CONG. REC. 19487, 92d Cong. 2d Sess.

7. 112 CONG. REC. 27713, 89th Cong. 2d Sess.

8. H. Res. 245 [111 CONG. REC. 6242, 89th Cong. 1st Sess., Mar. 29, 1965] provided investigative and travel au-

Post Office and Civil Service is authorized to send not more than two members, and not more than two staff assistants, of such committee to such Far Eastern and Western European countries as the committee may determine, for the purpose of conducting studies with respect to the policies, operations, activities, and administration by the Department of Defense of the United States Government of the civilian manpower requirements, utilization, and employment policies of the Department in such countries, with particular reference to—

(1) the determination of the appropriate means of ascertaining the number of civilian employees needed by the Department of Defense in such countries, including the utilization of United States civil service employees, the direct hiring by the Department of Defense of foreign nationals, and the indirect hiring by the Department of Defense of foreign nationals through the government of the foreign countries concerned;

(2) the determination of whether sound manpower utilization policies are being applied by the Department of Defense in such countries; and

(3) the propriety of the use by the Department of Defense of personnel furnished by private contractors in such countries.

(b) Notwithstanding section 1754 of title 22, United States Code, or any other provision of law, local currencies owned by the United States shall be made available to the Committee on Post Office and Civil Service of the House of Representatives and employees engaged in carrying out their official duties under section 190d of title 2, United States Code, except that—

(1) no member or employee of said committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954, as amended by Public Law 88–633, approved October 7, 1964;

(2) no member or employee of said committee shall receive or expend an amount for transportation in excess of actual transportation costs; and

(3) no appropriated funds shall be expended for the purpose of defraying expenses of members of said committee or its employees in any country where counterpart funds are available for this purpose.

(c) Each member or employee of said committee shall make to the chairman of said committee an itemized report showing the number of days visited in each country where local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or if such transportation is furnished by an agency of the United States Government, the identification of the agency. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

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thorizations for the Committee on Post Office and Civil Service. As amended, the measure provided that "Funds authorized are for expenses incurred in the committee's activities within the United States and . . . local currencies owned by the United States in foreign countries shall not be made available . . . for expenses of [committee] members or other Members or employees traveling abroad."

Shortly thereafter, the resolution was agreed to.

§ 3.6 The House authorized the Speaker to appoint certain members from a standing committee to attend an international conference in Geneva—thereby extending the geographic bounds of that committee's investigatory authorization.

On May 29, 1963,[9] by direction of the Committee on Rules, Mr. B. F. Sisk, of California, called up and asked for the immediate consideration of the following resolution (H. Res. 368):

> *Resolved,* That the Speaker of the House of Representatives is hereby authorized to appoint a member from the majority and a member from the minority of the Committee on Education and Labor to attend the International Labor Organization Conference in Geneva, Switzerland, between June 1, 1963, and June 30, 1963.
>
> He is further authorized to appoint as alternates a member from the majority and a member from the minority of the said committee.
>
> Notwithstanding section 1754 of title 22, United States Code, or any other provision of law, local currencies owned by the United States shall be made available to the aforesaid delegates and alternates from the Committee on Education and Labor of the House of Representatives engaged in carrying out their official duties under section 190(d) of title 2, United States Code: *Provided,* (1) That no member of said committee shall receive or expend local currencies for subsistence in an amount in excess of the maximum per diem rates approved for oversee travel as set forth in the Standardized Government Travel Regulations, as revised and amended by the Bureau of the Budget; (2) that no member of said committee shall receive or expend an amount for transportation in excess of actual transportation costs;[10] (3) no appropriated funds shall be expended: for the purpose of defraying expenses of members of said committee in any country where counterpart funds are available for this purpose.
>
> That each member of said committee shall make to the chairman of said committee an itemized report showing

9. 109 Cong. Rec. 9799, 88th Cong. 1st Sess.

10. The language of this paragraph was necessitated by the passage of H. Res. 103 [109 Cong. Rec. 1553, 88th Cong. 1st Sess., Jan. 31, 1963] earlier in the session. H. Res. 103 was an investigatory and fund-authorizing measure for the Committee on Education and Labor which provided, among other things that "Funds authorized are for expenses incurred in the committee's activities within the United States; and, notwithstanding section 1754 of title 22, United States Code, or any other provision of law, local currencies owned by the United States in foreign countries shall not be made available to the Committee on Education and Labor for expenses of its members or other Members or employees traveling abroad."

the number of days visited in each country whose local currencies were spent, the amount of per diem furnished and the cost of transportation if furnished by public carrier, or if such transportation is furnished by an agency of the U.S. Government, the identification of the agency. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

In the debate which ensued, Mr. Sisk noted that a "somewhat similar resolution" had been looked upon "with some concern"[11] when it was brought to the floor several days earlier. He explained that the resolution under consideration, however, was a simpler measure. These remarks prompted the following exchange:[12]

MR. [OMAR T.] BURLESON [of Texas]: The reason for this resolution is the simple fact that the Education and Labor Committee does not have authorization to travel outside the continental limits of the United States. This authority was not included in their authorizing legislation permitting money to be appropriated to the committee for the conduct of their committee business. Is that correct?

MR. SISK: The gentleman is exactly right and I think very clearly states the need for this resolution.

MR. BURLESON: There was some misunderstanding at the time this matter was on the floor a few days ago. There was obviously some confusion as to the necessity for this resolution to be brought before us. I thought it was well to develop this point.

Debate continued briefly on the resolution after which it was agreed to—yeas 278, nays 52—by roll call vote.[13]

§ 3.7 By unanimous consent the House considered and agreed to a resolution ordered reported but not formally filed by the Committee on Rules, amending a previously adopted resolution to provide for geographic extension of the investigative authority of the Committee on Interstate and Foreign Commerce during the 85th Congress.

On Mar. 14, 1957,[14] Howard W. Smith, of Virginia, Chairman of the Committee on Rules, sought to call up House Resolution 197 to extend the territorial jurisdiction of the Committee on Interstate and Foreign Commerce.

The following exchange took place:

11. On May 14, 1963 [109 CONG. REC. 8512–20, 88th Cang. 1st Sess.], the House entertained consideration of, and ultimately chose to reject [*id.* at p 8520] a resolution (H. Res. 340) authorizing the Committee on Education and Labor to send four of its members to the identical conference.

12. 109 CONG. REC. 9800, 88th Cong. 1st Sess.

13. *Id.* at p. 9802.

14. 103 CONG. REC. 3722, 85th Cong. 1st. Sess.

MR. SMITH of Virginia: Mr. Speaker, yesterday I spoke to the Speaker about a minor resolution reported from the Committee on Rules. May I be recognzed on behalf of the Committee on Rules to call up this resolution for consideration?

THE SPEAKER:[15] The Chair will recognize the gentleman from Virginia.

MR. SMITH of Virginia: Mr. Speaker, by direction of the Committee on Rules I present a privileged resolution and ask unanimous consent for its immediate consideration.

The Clerk read as follows:

HOUSE RESOLUTION 197

Resolved, That House Resolution 99, 85th Congress, is amended by striking out the words "within the United States" where they appear on lines 19 and 20, page 3, of said engrossed resolution, and inserting in lieu thereof the words "within the United States, its Territories and possessions, and the Commonwealth of Puerto Rico."

MR. [JOSEPH W.] MARTIN [Jr., of Massachusetts]: Mr. Speaker, reserving the right to object, will the gentleman explain the resolution.

MR. SMITH of Virginia: Yes. Mr. Speaker, the Committee on Rules so far this session has not granted foreign travel privileges to any committee. We have, however, included in the resolution the right to visit any offshore territories and possessions. Inadvertently that was omitted from the resolution of the Interstate and Foreign Commerce Committee and this merely corrects that oversight. It is unanimously approved by the Committee on Rules.

MR. MARTIN: Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER: Is there objection to the request of the gentleman from Virginia?

There was no objection.

The resolution was agreed to and a motion to reconsider was laid on the table.

§ 3.8 In the 92d Congress, the House, by privileged resolution reported from the Committee on Rules, authorized the Committee on Ways and Means to conduct investigations within its jurisdiction, to hold hearings, to travel outside the United States, and to use counterpart funds.

On Nov. 5, 1971,[16] by direction of the Committee on Rules, Mr. Richard Bolling, of Missouri, a member of that committee, called up the privileged resolution (H. Res. 597) described above. In the course of the ensuing discussion, Mr. Bolling yielded some of his time to Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, who proceeded to explain the need for the resolution, as follows:[17]

MR. MILLS: . . . [I]n all fairness to the membership of the House, this idea did not originate with the committee. We do not want to take credit for it.

We were asked by the Commissioners of the European Common Mar-

15. Sam Rayburn (Tex.).

16. 117 CONG. REC. 39513, 92d Cong. 1st Sess.

17. *Id.* at p. 39514.

ket through an official invitation to visit some sessions of the European Common Market in order to discuss problems of trade between the European Common Market and the United States. This was, we thought, a matter that we could not treat lightly. We discussed it in committee. I think the committee was unanimous in its feeling that we should at least consider the invitation. It was not possible for us, because of the schedule of the committee, to avail ourselves of the opportunity to go at the time first suggested by the commissioners. That was the first week of November of this year—this week, in fact.

Now they are asking us to consider the possibility of being there for some 3 or 4 days sometime during the month of January. No decision has yet been made, and in all frankness, I am not certain yet that the committee or a part of the committee will actually go. But in the event we do go, it is necessary for us to have this permission from the House in order to do so.

Shortly thereafter, the resolution was agreed to.

Parliamentarian's Note: Counterpart funds are local currencies owned by the United States which, under 22 USC § 1754(b) may be made available to committees of Congress studying the application, administration and execution of laws, or parts of laws, the subject matter of which is within their jurisdiction.

Resolution Authorizing Investigation by Two Committees

§ 3.9 The House in one resolution authorized two standing committees, the Committee on Military Affairs and the Committee on Naval Affairs [each later combined into the Committee on Armed Services] to investigate, with subpena authority, the progress of the national defense program insofar as it related to matters within the jurisdiction of each committee.

On Apr. 2, 1941,[18] Speaker Sam Rayburn, of Texas, recognized Mr. Howard W. Smith, of Virginia, who, by direction of the Committee on Rules, called up and asked for the immediate consideration of the following resolution :[19]

HOUSE RESOLUTION 162

Resolved, That the Committee on Military Affairs and the Committee on Naval Affairs, respectively, each acting as a whole or by subcommittee, are authorized and directed to conduct thorough studies and investigations of the progress of the national-defense program insofar as it relates to matters coming within the jurisdiction of such committees, respectively, with a view to determining whether such program is being carried forward efficiently, expeditiously, and economically.

The Committee on Military Affairs and the Committee on Naval Affairs shall report to the House during the

18. 87 CONG. REC. 2898, 77th Cong. 1st Sess.

19. *Id.* at p. 2899.

present Congress the results of their studies and investigations, together with such recommendations for legislation as they deem desirable.

For the purposes of this resolution, the respective committees, or any subcommittees thereof, are authorized to hold such hearings, to sit and act during the present Congress at such times and places whether or not the House is in session, has recessed, or has adjourned, to require the attendance of such witnesses and the production of such books, papers, and documents by subpena or otherwise, and to take testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the respective committees and shall be served by any person designated by such chairmen. The chairman of each committee or any member thereof may administer oaths to witnesses.

A clerical error in the measure was corrected by unanimous consent, whereupon brief debate ensued, and the resolution was agreed to[20] on a roll call vote—yeas 327, nay 1.

Parliamentarian's Note: In 1947, the Committee on Military Affairs and the Committee on Naval Affairs were combined to establish the Committee on Armed Services pursuant to the Legislative Reorganization Act of 1946.[1]

Specificity in Investigative Resolutions

§ 3.10 The House authorized the standing Committee on Veterans' Affairs to conduct an investigation of veterans' programs and benefits, specifying the subjects of compensation and pensions, hospitalization and medical care, insurance, housing and business loans, education and training, and the furnishing of burial allowances.

On Feb. 5, 1957,[2] Howard W. Smith, of Virginia, Chairman of the Committee on Rules, called up House Resolution 64 and asked for its immediate consideration. The resolution, in pertinent part, contained the following language:

Resolved, That the Committee on Veterans' Affairs, acting as a whole or by subcommittee, is authorized and directed to conduct a full and complete investigation and study of the following programs of benefits for veterans and their dependents and survivors:

(1) The programs of compensation and pension;

(2) The programs of hospitalization, domiciliary care, medical and dental care and treatment, and furnishing of prosthetic appliances;

(3) The insurance and indemnity programs;

20. *Id.* at p. 2907.

1. See Rule XI clause 3, *House Rules and Manual* § 682 (1973).

2. 103 Cong. Rec. 1554, 85th Cong. 1st Sess.

(4) The housing and business loan programs, and the program of furnishing assistance for the acquisition of specially adapted housing;

(5) The programs of education and training (including vocational rehabilitation);

(6) The furnishing of burial allowances; and

(7) The furnishing of unemployment compensation under the Veterans' Readjustment Assistance Act of 1952; with a view to determining whether or not such programs are being conducted economically, efficiently, in the best interests of the Government and the beneficiaries of such programs, and in such a manner as to avoid the misuse of Government funds; whether or not such programs adequately serve the needs and protect the welfare of the beneficiaries of such programs; and whether changes in the law or in the administration and operation of the programs either will lead to greater efficiency and economy or will make such programs more adequately serve the needs of the beneficiaries of such programs.

Following House agreement to proposed committee amendments,[3] the resolution was agreed to.

§ 3.11 The House specified matters for investigation by the standing Committee on Interior and Insular Affairs through passage of an authorizing resolution.

On Feb. 5, 1957,[4] by direction of the Committee on Rules, Mr. James W. Trimble, of Arkansas, called up for immediate consideration a resolution (H. Res. 94) which read, in part, as follows:

Resolved, That the Committee on Interior and Insular Affairs may make investigations and studies into the following matters within its jurisdiction: In Alaska—the aboriginal and possessory rights of the Eskimos, Aleuts, and Indians in and to the public lands; in Hawaii—the operation of the Hawaiian Homes Commission under the Hawaiian Homes Commission Act of 1920, and the return of federally held lands to local authority and/or private ownership; in the Trust Territory of the Pacific Islands and Pacific-flag areas—the provisions and local conditions for an organic act for the trust territory; legislation concerning American Samoa; operation and administration of the Organic Act of Guam; and legislation affecting the civilian population of the Ryukyu Islands; in Puerto Rico—the return of federally held lands to local authority; in the Virgin Islands—the operation and administration of the Revised Organic Act of 1954 and the Virgin Islands Corporation; in the continental United States, Hawaii, Alaska, and the Virgin Islands—the operation and administration of the units of the national park system; in the continental

3. In the excerpt quoted above, the words "and directed" were struck and the resolution was (retroactively) made "effective from January 4, 1957."

4. 103 Cong. Rec. 1557, 85th Cong. 1st Sess.

United States and Alaska—the mineral resources of the public lands and mining interests generally, including but not limited to the condition, problems, and needs of the mining and minerals industries; the proposed long-range domestic minerals programs to be submitted by the Secretary of the Interior, with the approval of the President, during the first session of the 85th Congress; mineral resources surveys, exploration, development, production, and conservation minerals research, including coal research, required to improve the position of domestic minerals industries; the administration and operation of Public Law 633 (84th Cong., 2d sess.) with a view to determining the extent to which the intent of Congress to provide interim assistance to those mining industries producing tungsten, fluorspar, asbestos, and columbium-tantalum bearing ores, has been carried out; the administration and operation of Public Law 167 (84th Cong., 1st sess.) known as the Multiple Surface Use Act, and Public Law 359 (84th Cong., 1st sess.), known as the Mining Claims Restoration Act; proposed changes in the general mining laws, and the mineral leasing laws, including the laws which govern the development, utilization, and conservation of the oil, gas, and associated petroleum resources of the public lands and outer Continental Shelf of the United States and Alaska; in the continental United States—irrigation and reclamation projects proposed for authorization, including but not limited to the San Luis project in California, the Fryingpan-Arkansas project in Colorado, the San Angelo project in Texas, the Norman project in Oklahoma, the Garrison Dam diversion project in North Dakota, the Mid-State project in Nebraska, developments in the Middle and Upper Snake River Basin in Idaho, developments in the Columbia Basin in the vicinity of Wenatchee and Spokane in Washington, and developments in the Rio Grande River Basin in New Mexico, projects proposed for construction under the Small Reclamation Projects Act of 1956; disposal of Federal interests in the towns of Boulder City, Nev., and Coulee Dam, Wash., and policies relating to the establishment of such Federal cities at future damsites; applicability to Federal agencies and activities of State and Territorial laws governing the control, appropriation and use of water; in the United States and Alaska—the administration and operation of the laws governing the development, utilization, and conservation of the surface and subsurface resources of the public lands administered by the Bureau of Land Management and the forest reserves created out of the public domain; on various Indian and native lands and reservations in the United States and Alaska—for the purpose of improving the management of the Bureau of Indian Affairs; the administration and operation of the Indian health program; and for the purpose of planning the ultimate release of the Indians from Federal wardship.

After agreement to proposed committee amendments,[5] the resolution was agreed to.

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5. Only one amendment affected the quoted portion of the resolution. It was made "effective from January 4, 1957."

§ 3.12 The House authorized the Committee on Banking and Currency to investigate prices of lumber and plywood, and conferred special subpena authority for the purpose of carrying out the investigation.

On Aug. 14, 1972,[6] by direction of the Committee on Rules, Mr. William M. Colmer, of Mississippi, called up for immediate consideration the following resolution (H. Res. 1037):

> *Resolved,* That the Committee on Banking and Currency, acting as a whole or by subcommittee, is authorized and directed to conduct a full and complete investigation and study of the high price of lumber and plywood.
>
> For the purpose of carrying out this resolution the committee or subcommittee is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary; except that neither the committee nor any subcommittee thereof may sit while the House is meeting unless special leave to sit shall have been obtained from the House. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him . . . and may be served by any person designated by such chairman or member.
>
> The committee shall report to the House on or before November 1972 the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

Shortly after agreeing to two proposed amendments,[7] the House agreed to the resolution.[8]

Rejection of Authorizing Resolution

§ 3.13 The House rejected a resolution authorizing the Committee on Banking and Currency to make certain investigations.

On June 15, 1955,[9] the following resolution (H. Res. 210) was reported from the Committee on Rules and called up by Mr. W. Homer Thornberry, of Texas, who asked for its immediate consideration:

> *Resolved,* That the Committee on Banking and Currency, acting as a

6. 118 Cong. Rec. 28076, 92d Cong. 2d Sess.

7. The combined effect of the amendments was to strike out the words "and directed" and to insert at that point the words "and requested".

8. 118 Cong. Rec. 28077, 92d Cong. 2d Sess.

9. 101 Cong. Rec. 8310, 84th Cong. 1st Sess.

whole or by subcommittee, is authorized and directed to conduct full and complete studies and investigations and make inquiries with respect to any matter or matters concerning (1) the composition, operation, and activities of the Federal Open Market Committee, (2) the fluctuation in rates of interest and prices of securities issued by the United States and the effect of such fluctuations on the public debt, general price level, employment, the cost of State and municipal financing, and other segments of the national economy, (3) the various types of Government securities, manner of issue, method of payment, maturities, character of investors, and amount and degree of speculation therein, and (4) the various proposals for Federal assistance (other than grants) in the financing of State, county, and municipal (or instrumentalities thereof) highway and school programs.

Following debate, the previous question was ordered, and, on a yea and nay vote, there were yeas 178, nays 214. So the resolution was rejected.[10]

§ 3.14 A resolution authorizing the Committee on Education and Labor to send four Members to the International Labor Organization Conference in Geneva, and one designated member of that group to conduct further studies in Europe, specifying the travel permitted at government expense, and permitting the use of local currencies for official business, was rejected by the House.

On May 14, 1963,[11] by direction of the Committee on Rules, Mr. B. F. Sisk, of California, called up House Resolution 340 and asked for its immediate consideration. The Clerk then read the resolution, as follows:[12]

Resolved, That, notwithstanding the provisions of H. Res. 103, Eighty-eighth Congress, the Committee on Education and Labor is hereby authorized to send two of its majority members and two of its minority members to attend the International Labor Organization Conference in Geneva, Switzerland, during June 1963.

It is *Resolved*, further, That Congressman James Roosevelt, who will be one of the majority members of the Committee on Education and Labor attending the International Labor Organization Conference, is hereby authorized to proceed from Geneva to Greece; Israel; Rome, Italy; and Paris, France, for the purpose of studying labor-management relations in said countries, and then return from Paris, via London, England, to the United States.

Notwithstanding section 1754 of title 22, United States Code, or any other provisions of law, local currencies owned by the United States shall be made available to the committee members engaged in carrying out their offi-

10. *Id.* at p. 8322.

11. 109 Cong. Rec. 8512, 88th Cong. 1st Sess.

12. *Id.* at pp. 8512, 8513.

cial duties under section 190(d) of title 2, United States Code: . . .

The yeas and nays were demanded, and ordered, and there were—yeas 153, nays 217, answered "present" 1. Hence, the resolution was rejected.[13]

§ 4. Committee Expenses; Use of Contingent Fund

Funds for compensation of standing committees' professional and clerical staff are carried in the annual legislative appropriations acts, which also place money in the contingent fund of the House. Each committee, other than the Committee on Appropriations,[14] and (more recently) the Committee on the Budget,[15] must obtain authorization for the payment of those expenses not covered by the legislative appropriation acts from the contingent fund of the House. The Committee Reform Amendments of 1974 (H. Res. 988, 93d Cong. effective Jan. 3, 1975), in clause 1(b), Rule XI provided authorization for all committees to conduct investigations within their jurisdictions and to incur expenses subject to the adoption of expense resolutions reported from the Committee on House Administration.

The rules provide[16] that such an authorization initially shall be procured by one primary expense resolution providing funds for the payment of all the committee's expenses for the year from the contingent fund. The resolution may not be considered in the House unless a printed report on the resolution has been available to Members for at least one calendar day prior to consideration. The report, itself, must:

> (1) state the total amount of the funds to be provided to the committee under the primary expense resolution for all anticipated activities and programs of the committee; and
>
> (2) to the extent practicable, contain such general statements regarding the estimated foreseeable expenditures for the respective anticipated activities and programs of the committee as may be appropriate to provide the House with basic estimates with respect to the expenditure generally of the funds to be provided to the committee under the primary expense resolution.

In practice, each standing committee goes before the Committee on House Administration with its

13. *Id.* at p. 8520.

14. Rule XI clause 5(a), *House Rules and Manual* § 732(a) (1979).

15. See Rule XI clause 5(a), *House Rules and Manual* § 732(a) (1979). This exemption emanated from the Congressional Budget Act of 1974 (88 Stat. 297) and dates from July 12, 1974.

16. Rule XI clause 5(a), *House Rules and Manual* § 732(a) (1979).

funding request. The latter committee possesses jurisdiction under the rules over appropriations and expenditures from the contingent fund.[17] In addition, the rules[18] accord privileged status to the reporting of any matter by the Committee on House Administration which pertains to the expenditure of the contingent fund.

Following the adoption of a committee's primary expense resolution by the House, authorization for the payment from the contingent fund of additional committee expenses not covered by statutory appropriations or by the primary expense resolution may be obtained by one or more additional expense resolutions. Again, any such expense resolution must be accompanied by a printed report made available to Members at least one calendar day prior to the consideration of the resolution.[19] And, the report accompanying such an additional expense resolution must:

> (1) state the total amount of additional funds to be provided to the committee under the additional expense resolution and the purpose or purposes for which those additional funds are to be used by the committee; and
>
> (2) state the reason or reasons for the failure to procure the additional funds for the committee by means of the primary expense resolution.

It should be noted none of the requirements applicable to primary and additional expense resolutions obtain with respect to those resolutions providing for contingent fund payment of a committee's expenses from and after the beginning of a year and before the adoption by the House of the committee's primary expense resolution.[20] Similarly ex-

17. Rule X clauses 1(j)(1), 1(j)(6), *House Rules and Manual* § 679(a) (1979).

18. Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

19. Rule XI clause 5(b), *House Rules and Manual* § 732 (b) (1979).

20. In recent Congresses, "continuing" resolutions have been considered by unanimous consent at the beginning of each Congress (where the Committee on House Administration had not been organized and could not report privileged resolutions) to provide for temporary payments from the contingent fund, usually for a period of up to three months and at rates in existence at the end of the prior Congress, for expenses of standing and select committees established in House rules (see e.g., H. Res. 84, 121 CONG. REC. 1160, 1161, 94th Cong. 1st Sess., Jan. 23, 1975; H. Res. 11, 123 CONG. REC. 74, 95th Cong. 1st Sess., Jan. 4, 1977; H. Res. 49, 125 CONG. REC.—, 96th Cong. 1st Sess., Jan. 18, 1979). See also § § 13.1–13.9, infra, for discussion of resolutions permitting continued committee employment in new Congresses. This concept of "continuing

cluded from such requirements is:[1]

> any resolution providing in any Congress, for all of the standing committees of the House, additional office equipment, airmail and special delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from the contingent fund of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until enactment of the provisions of the resolution as permanent law.[2]

Allocation of Funds for Committee Personnel; for Minority Party Funding

§ 4.1 The 92d Congress by resolution adopted rules striking out the statutory requirement (which was contained as a rulemaking exercise in an Act passed the previous year) that not less than one-third of funds for standing committee investigative personnel be made available to the minority party, and inserting the requirement that the minority be given fair consideration in the allocation of such funds.

On Jan. 21, 1971,[3] Mr. William M. Colmer, of Mississippi, offered a privileged resolution (H. Res. 5) and asked for its immediate consideration. The resolution provided:

> That the Rules of the House of Representatives of the Ninety-first Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended, and the Legislative Reorganization Act of 1970, be, and they are hereby adopted as the Rules of the House of Representatives of the Ninety-second Congress, with the following amendments as part thereof. . . .

Among the amendments which were then listed was the following:

> In Rule XI, strike out clause 32(c)[4] and insert in lieu thereof the following:

resolutions" is to be distinguished from "continuing appropriations joint resolutions" for operation of departments of government pending enactment of annual general appropriations bills, discussed in Ch. 25 (Appropriations), infra, in this work.

1. Rule XI clause 5(c)(2), *House Rules and Manual* § 732 (c) (1979).
2. Information with respect to the compensation of committee employees, as well as particulars about their appointment and employment may be found at § 13, infra.
3. 117 CONG. REC. 14, 92d Cong. 1st Sess.
4. On July 16, 1970 [116 CONG. REC. 24590, 91st Cong. 2d Sess.], by a teller vote of 105 ayes to 63 nays, the Committee of the Whole agreed to an amendment to the Legislative

"(c) The minority party on any such standing committee is entitled to and shall receive fair consideration in the appointment of committee staff personnel pursuant to each such primary or additional expense resolution."

On Jan. 22, 1971,[5] as discussion of House Resolution 5 continued, much of the debate focused on the minority staffing amendment. The Democratic Caucus had bound[6] its members to vote to remove that provision of clause 32(c) [Rule XI which entitled the minority party of an affected committee to control at least one-third of the funds set aside for the appointment of committee staff.

Those in favor of modifying the "one-third funding" provision cited that rule's inflexible and "arbitrary" standard which, it was argued, would impose divisiveness and controversy into committees which already had agreeable and workable arrangements.[7] It was also felt that the rigid standard would be a step in the direction of a "spoils" system and away from the development of professional staff careers.

Those opposing change in the funding provision argued that the "one-third funding" provision ensured development of a minority staff capable of constructively evaluating legislation offered by the majority; offering intelligent alternatives in a strengthened adversary system; fully clarifying or defending minority views; and protecting against abuses in the executive branch.[8]

Reorganization Act of 1970 (H.R. 17654), offered by Mr. Frank Thompson, Jr., of New Jersey, which amended section (c) of the newly proposed clause 32, Rule XI, such that the latter provision [clause 32(c), Rule XI] would read thusly: "The minority party on any such standing committee is entitled to if they so request not less than one-third of the funds provided for the appointment of committee staff personnel pursuant to each such primary or additional expense resolution." This provision, frequently referred to as the "Thompson-Schwengel amendment" owing to its joint authorship by Mr. Thompson and Mr. Fred Schwengel, of Iowa, remained intact when the Legislative Reorganization Act of 1970 became law [Pub. L. No. 91–510], and thus was in effect as of Jan. 1, 1971.

5. 117 CONG. REC. 132, 92d Cong. 1st Sess.

6. A brief discussion of the extent to which caucus members were "bound" was provided by Mr. Frank Thompson, of New Jersey [*Id.* at p. 138]. For further details as to the role of party caucuses, in general, see Ch. 3, supra, particularly § 10, discussing the extent to which party decisions could be made binding on members.

7. See remarks of Mr. John A. Blatnik (Minn.) at 117 CONG. REC. 138, 92d Cong. 1st Sess.

8. See, generally, 117 CONG. REC. 135140, 92d Cong. 1st Sess.

After debate, the resolution was amended[9] in a manner not affecting the minority staffing provision. As amended, House Resolution 5 was agreed to,[10] on a roll call vote thereby eliminating the "one-third control" proviso and substituting the requirement of "fair consideration" in the allocation of such funds to the minority.

Parliamentarian's Note: Subsequently, in the 93d Congress, the House tentatively restored, effective Jan. 3, 1975, the requirement for one-third minority staff funding (the Committee Reform Amendments of H. Res. 988, 93d Cong.). This requirement,, however, was never effectuated, being in turn superseded on Jan. 14, 1975, by clause 5(d) Rule XI, in which the 94th Congress provided instead a new mechanism for staff entitlement and selection. Thus, for example, one subcommittee staff member is provided for each chairman and ranking minority subcommittee member, to be counted against permanent staff positions unless made available pursuant to an expense resolution reported from the Committee on House Administration. (See future editions for more detailed treatment of this rule.)

9. *Id.* at p. 143.
10. *Id.* at pp. 143, 144.

Resolution Paying Expenses from Contingent Fund; Privilege of Resolution

§ 4.2 A resolution reported by the Committee on House Administration, providing for the payment of a standing committee's expenses from the contingent fund of the House, is reported and called up as privileged.

On Aug. 10, 1967,[11] Charles M. Price, of Illinois, Chairman of the Committee on Standards of Official Conduct, introduced a resolution (H. Res. 871) authorizing funds for the operation of the Committee on Standards of Official Conduct pursuant to House Resolution 418.[12] The measure was referred to the Committee on House Administration.

Several weeks later, on Sept. 21, 1967,[13] Mr. Samuel N. Friedel, of Maryland, was recognized by the Speaker[14] and proceeded to make the following statement:

> Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Repts. No.

11. 113 CONG. REC. 22340, 90th Cong. 1st Sess.
12. See § 2.1, supra.
13. 113 CONG. REC. 26375, 90th Cong. 1st Sess.
14. John W. McCormack (Mass.).

651) on the resolution (H. Res. 871) authorizing funds for the operation of the Committee on Standards of Official Conduct pursuant to House Resolution 418, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 871

Resolved, That, effective April 13, 1967, in carrying out its duties during the Ninetieth Congress, the Committee on Standards of Official Conduct is authorized to incur such expenses (not in excess of $10,000) as it deems advisable. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, and signed by the chairman thereof.

Sec. 2. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Parliamentarian's Note: The rules provide that certain committees shall "have leave to report at any time" on certain matters.[15] Under this proviso, the Committee on House Administration may report at any time "on all matters of expenditure of the contingent fund of the House," among other things.

Use of Motion to Recommit Relative to Funding

§ 4.3 That which may not be done directly by amendment may not be done indirectly by motion to recommit with instructions; thus, where the amount of authorized funds provided in an investigatory resolution is diminished by floor amendment, a motion to recommit with instructions to restore the difference by again changing the same sum is out of order.

On Apr. 5, 1967,[16] the House entertained consideration of a privileged resolution (H. Res. 221) reported from the Committee on House Administration providing investigatory funds from the contingent fund for the Committee on Un-American Activities. The proposed authorization having then been reduced by floor amendment[17] from $400,000 to $350,000, Speaker John W. McCormack, of Massachusetts, recognized Mr. John M. Ashbrook, of Ohio, who offered the following motion to recommit:

Mr. Ashbrook moves to recommit the resolution (H. Res. 221) to the Committee on House Administration with instructions to report the resolution forthwith with the following amendment: On page 1, line 5, strike out "$350,000" and insert in lieu thereof "$400,000."

Immediately thereafter, the ensuing exchange took place:

15. Rule XI clause 22, *House Rules and Manual* § 726 (1973).

16. 113 CONG. REC. 8419–43, 90th Cong. 1st Sess.

17. *Id.* at p. 8441.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker——

THE SPEAKER: For what purpose does the gentleman rise?

MR. HAYS: Mr. Speaker, I make a point of order against the motion to recommit on the grounds that the House has just adopted the committee amendment to cut the amount from $400,000 to $350,000. The gentleman now offers a motion to recommit to restore it from the $350,000 to $400,000 and it is clearly out of order.

THE SPEAKER: Does the gentleman from Ohio [Mr. Ashbrook] desire to be heard?

MR. ASHBROOK: Yes, Mr. Speaker.

Mr. Speaker, it appears to me that we voted to order the previous question on the amendments and the motion to recommit, in my opinion, would be a proper motion to recommit. I hope that the Chair will so hold.

THE SPEAKER: The Chair will call attention to that fact that the previous question was ordered and the amendments were adopted by the House.

It is not in order to do indirectly by a motion to recommit with instructions that which may not be done directly by way of amendment.

An amendment to strike out an amendment already adopted is not in order. The subject matter of the motion to recommit has already been passed upon by the House.

The Chair sustains the point of order.[18]

§ 4.4 The House having under consideration an investigatory, funding resolution for the Committee on Un-American Activities, a motion to recommit that resolution to the Committee on House Administration with instructions that open hearings be held to justify such funding, was rejected on a roll call vote.

On Apr. 5, 1967,[19] following lengthy consideration of an investigatory funding resolution (H. Res. 221) for the Committee on Un-American Activities, Speaker John W. McCormack, of Massachusetts, recognized Mr. Don Edwards, of California, who offered the following motion to recommit:

> Mr. Edwards of California moves to recommit the resolution (H. Res. 221) to the Committee on House Administration with instructions that open hearings be held on justification for such additional funds of the House Committee on Un-American Activities as provided in House Resolution 221.

Immediately thereafter, the Chair put the question on the motion, and on a roll call vote of yeas 92, nays 304, it was rejected.

§ 4.5 A resolution providing for payment of a standing committee's expenses out of the contingent fund of the House is subject to a motion to recommit (with instructions).

18. *Id.* at pp. 8441, 8442.

19. 113 CONG. REC. 8442, 90th Cong. 1st Sess.

On Mar. 1, 1961,[20] after the previous question was ordered on a resolution (H. Res. 167) providing $331,000 for the operations of the Committee on Un-American Activities, the Speaker[21] initiated the following exchange:

THE SPEAKER: The question is on the resolution.

MR. [JAMES] ROOSEVELT [of California]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. ROOSEVELT: Is it not proper to offer a motion to recommit at this point?

THE SPEAKER: If the gentleman can qualify.

MR. ROOSEVELT: I think I can qualify, Mr. Speaker.

I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the resolution?

MR. ROOSEVELT: I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Roosevelt moves to recommit the resolution to the Committee on House Administration with instructions to report forthwith with the following amendment: On page 2, after the period, line 1, add the following: "*Provided*, That the committee shall not use any of its funds to undertake any investigation of any subject which is being investigated by any other committee of the House."

THE SPEAKER: The question is on the motion to recommit.

The motion to recommit was rejected and the resolution was agreed to.

Contingent Fund Moneys for Subcommittee's Expenses

§ 4.6 The House refused to agree to a resolution authorizing the use of contingent fund moneys to cover the expenses incurred by a subcommittee on poverty created by the Committee on Education and Labor.

On Aug. 14, 1964,[22] by direction of the Committee on House Administration, Mr. Samuel N. Friedel, of Maryland, called up House Resolution 663. The Clerk then read the resolution, as follows:

> *Resolved*, That the expenses of an investigation authorized by H. Res. 103, Eighty-eighth Congress, with respect to the proposals for an attack on poverty recommended by the President in a special message to Congress incurred by the ad hoc subcommittee of the Committee on Education and Labor which was specially created to make such investigation, not to exceed $20,000, including expenditures for the employment of necessary professional and stenographic assistance, and all expenses necessary for travel and subsistence incurred by members and employees who will be engaged in the ac-

20. 107 CONG. REC. 2989, 87th Cong. 1st Sess.

21. Sam Rayburn (Tex.).

22. 110 CONG. REC. 19711, 88th Cong. 2d Sess.

tivities of the subcommittee, shall be paid out of the contingent fund of the House. All accounts authorized to be paid out of the contingent fund by this resolution shall be paid on vouchers authorized and signed by the chairman of the committee, and approved by the Committee on House Administration.

With the following committee amendment:

Page 1, line 7, strike out "$20,000" and insert "$10,000".

Discussion ensued, and in an effort to clarify what had transpired, Mr. James Roosevelt, of California, stated:[1]

MR. ROOSEVELT: May I say again that I must emphasize what the distinguished chairman of the Committee on House Administration said, that the full committee did not envision any such activity as was called for under the poverty program, and that the chairman of the Committee on Education and Labor found it necessary to form an ad hoc committee to undertake that work, and that we then went to the Committee on House Administration and asked for a reasonable sum, $10,000, in order that this very special work might be carried out.

Shortly thereafter, Mr. Peter H. B. Frelinghuysen, Jr., of New Jersey, was recognized and responded to Mr. Roosevelt's statement, saying:

. . . The only problem was that the Committee on House Administration took no action with respect to that request for additional funds. Yet the Committee on Education and Labor in effect went ahead and spent the money anyway. It strikes me that this is unconscionable procedure. I am not saying the bill should not be paid, because that would just be making a bad matter worse, but I am pointing out the irregularity under which our committee operates. I am not pointing the finger of blame at any one individual. I am just saying if we were in charge of that committee, we would not be spending money unless it were available and we had some positive assurance that our request for funds was going to be honored. So far as I know, there was no such informal understanding that something would be forthcoming and therefore, the Committee on Education and Labor could go ahead and spend the money and simply submit its bill.

Following additional discussion of the matter, Speaker pro tempore Wilbur D. Mills, of Arkansas, put the question on the resolution.[2] The yeas and nays were then demanded and ordered, the question was taken again; and there were—yeas 115, nays 156, answered "present" 1. Accordingly, the resolution was rejected.

Use of Contingent Fund Where Fiscal Year Expenses of Committees Underestimated

§ 4.7 The House has authorized by resolution the transfer of certain sums from the contingent fund to meet com-

1. *Id.* at p. 19712.

2. *Id.* at p. 19714.

mittee payrolls where committee expenses had been underestimated for the fiscal year, resulting in a shortage of appropriated funds.

On June 29, 1966,[3] Speaker pro tempore Carl Albert, of Oklahoma, recognized Mr. Omar T. Burleson, of Texas, who called up the following resolution (H. Res. 900, reported from the Committee on House Administration on that day) and asked for its immediate consideration:

> *Resolved,* That the Clerk of the House be and is hereby directed to pay such sum as may be necessary, from the contingent fund of the House of Representatives, to meet the June 1966 payroll of committee employees.

No objection was heard to Mr. Burleson's request, and shortly thereafter the question was put,[4] and the resolution was agreed to.

§ 5. Establishing Select Committees; Procedure

Privilege of Resolution Creating Select Committee

§ 5.1 A House resolution providing for the creation of a select committee is reported and called up as privileged by the Committee on Rules.

On July 8, 1969,[5] Mr. Ray J. Madden, of Indiana, reported, from the Committee on Rules, a resolution (H. Res. 472) creating a select committee to be known as the Committee on the House Restaurant The resolution was referred to the House Calendar.

Two days later, on July 10, 1969,[6] Speaker John W. McCormack, of Massachusetts, recognized Mr. Madden who proceeded to make the following statement:

> Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 472 and ask for its immediate consideration.

The resolution was then read by the Clerk, as follows:

> *Resolved,* That (a) there is hereby created a select committee to be known as the "Committee on the House Restaurant," which shall be composed of five Members of the House of Representatives to be appointed by the Speaker, not more than three of whom shall be of the majority party, and one of whom shall be designated as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.
>
> (b) On and after July 15, 1969, until otherwise ordered by the House, the

3. 112 CONG. REC. 14623, 89th Cong. 2d Sess.
4. *Id,* at p. 14624.
5. 115 CONG. REC. 18712, 91st Cong. 1st Sess.
6. *Id.* at p. 19080.

Architect of the Capitol shall perform the duties vested in him by section 208 of Public Law 812, 76th Congress (40 U.S.C. 174k) under the direction of the select committee herein created.

Parliamentarian's Note: The Committee on Rules may report at any time "on rules, joint rules, and order of business."[7] And, it is always in order to call up for consideration a report from that committee[8] providing the report is not called up for consideration on the same day it is presented to the House [unless so determined by a vote of not less than two-thirds of the Members voting].[9] A resolution creating a select committee is deemed to be the equivalent of a new rule. Hence, the privileged status which attaches to such a measure when reported out by the Committee on Rules.

Elements of Typical Resolution

§ 5.2 The House adopted a resolution establishing a select committee to investigate government research programs, providing for appointment of a chairman and members by the Speaker, and specifying the powers and jurisdiction of the committee.

On Sept. 11, 1963,[10] Speaker John W. McCormack, of Massachusetts, recognized Mr. Carl A. Elliott, of Alabama, who, by direction of the Committee on Rules, called up House Resolution 504 and asked for its immediate consideration.

The resolution was then read by the Clerk, as follows:

Resolved, That there is hereby created a select committee to be composed of nine Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the manner in which the original appointment was made.

The said committee is directed to make a complete, full, and thorough investigation of the numerous research programs being conducted by sundry departments and agencies of the Federal Government and, without limiting the generality of the foregoing, the committee shall give special attention to the following: (1) the overall total amount of annual expenditures on re-

7. Rule XI clause 22, *House Rules and Manual* § 726 (1973).

8. See Rule XI clause 23, *House Rules and Manual* § 729 (1973).

9. This proviso, itself, does not apply during the last three days of a session.

10. 109 CONG. REC. 16744, 88th Cong. 1st Sess.

See Guidelines for the Establishment of Select Committees, Subcommittee on the Rules and Organization of the House, Committee on Rules, Committee Print, 95th Cong. 1st Sess., Oct. 31, 1977.

search programs; (2) what departments and agencies of the Government are conducting research and at what costs; (3) the amounts being expended by the various agencies and departments in grants and contracts for research to colleges, private industry, and every form of student scholarships; (4) what facilities, if any, exist for coordinating the various and sundry research programs, including grants to colleges and universities as well as scholarship grants.

In order that this investigation of the numerous research programs may be better coordinated, without limiting the scope of the said committee's investigation, it is directed, among other investigative procedures, to make use of information currently available in the various committees of Congress which have legislative jurisdiction over Government research activities to the end that the said select committee may be able to recommend the necessary legislation to coordinate and prevent unjustifiable duplication in the numerous projects and activities of the Government relating to scientific research.

The committee shall report its findings to the House with such recommended legislation as the committee may deem appropriate to correct any deficiencies. The committee shall make such reports to the House prior to December 1, 1964, and may submit such interim reports as it deems advisable. Any reports submitted when the House is not in session may be filed with the Clerk of the House.

For the purposes of this resolution the committee, or any subcommittee thereof, is authorized to sit and act during the present Congress at such times and places within the United States, whether or not the House has recessed or adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony as the committee deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any properly designated chairman of a subcommittee, or any member designated by him and may be served by any person designated by such chairman or member. The chairman of the committee or any member thereof may administer oaths to Witnesses.

The majority of the members of the committee shall constitute a quorum for the transaction of business, except two or more shall constitute a quorum for the purpose of taking of evidence including sworn testimony.

Shortly thereafter, the previous question was ordered, and the Speaker put the question on the resolution. There were—yeas 336, nays 0. Accordingly, the resolution was agreed to.[11]

Creating Select Committee Under Authority of Standing Committee

§ 5.3 The Committee on Rules reported a resolution creating a Select Committee on the House Restaurant, placing that committee under the authority of the Committee

11. *Id.* at p. 16754. See also § 13.9, infra.

on House Administration and transferring jurisdiction and control over all food service facilities in the House from the Architect of the Capitol to the Committee on House Administration.

On Mar. 25, 1971,[12] by direction of the Committee on Rules, Mr. Richard Bolling, of Missouri, called up and asked for the immediate consideration of the following resolution (H. Res. 317):

Resolved, That (a) there is hereby created, as of January 3, 1971, a select committee to be known as the Select Committee on the House Restaurant, which shall be composed of five Members of the House of Representatives to be appointed by the Speaker, not more than three of whom shall be of the majority party, and one of whom shall be designated as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

(b) In the Ninety-second Congress, the select committee shall exercise direction and supervision over the immediate management and operation of the House Restaurant and the cafeteria and other food service facilities of the House of Representatives, subject to the authority of the Committee on House Administration as provided in section 2 of this resolution.

Sec. 2. (a) Notwithstanding any other authority with respect to the jurisdiction and control over the management of the House Restaurant and the cafeteria and other food service facilities of the House of Representatives, the jurisdiction over such restaurant and facilities and authority over the direction and supervision of the immediate management and operation thereof shall be vested in the Committee on House Administration; and the immediate management and operation of such restaurant and facilities may be vested in such official or other authority, acting as the agent of the committee, as the committee may designate; and the official or authority so designated shall perform the duties vested in the Architect of the Capitol by section 208 of the First Supplemental Civil Functions Appropriation Act, 1941 (54 Stat. 1056; Public, No. 812, Seventy Sixth Congress; 40 U.S.C. 174k).

(b) The Architect of the Capitol is hereby authorized and directed to transfer, as the Committee on House Administration directs, all accounts, records, supplies, equipment, and assets of the House Restaurant and the cafeteria and other food service facilities of the House which are in the possession or under the control of the Architect of the Capitol in order that all such items may be available for the maintenance and operation of the House Restaurant under the authority of, and as directed by, the Committee on House Administration.

(c) All authority, responsibility, and functions vested in or imposed upon the Architect of the Capitol in connection with the special deposit account established by section 208 of the First Supplemental Civil Functions Appropriation Act, 1941 (40 U.S.C. 174k),

12. 117 CONG. REC. 7961, 92d Cong. 1st Sess.

shall be vested in or imposed upon such other official, authority, or authorities as the Committee on House Administration may designate.

(d) The provisions of this section shall become effective on the first day of the first calendar month beginning after the date of adoption of this resolution, until otherwise provided by law.

Shortly thereafter,[13] the resolution was agreed to.

Use of Contingent Fund for Committee Expenses; Privilege of Authorizing Resolution

§ 5.4 A resolution providing funds for a select committee out of the contingent fund of the House, reported from the Committee on House Administration, is both reported and called up as privileged under the rules.

On Aug. 6, 1969,[14] by direction of the Committee on House Administration, Wayne L. Hays, of Ohio, Chairman of that committee, submitted a privileged report (H. Rept. No. 91–428) on House Resolution 508 and asked for its immediate consideration.

The resolution read as follows:

Resolved, That effective July 10, 1969, in carrying out its duties, the select committee created by House Resolution 472 is authorized to incur such expenses not to exceed $40,000, as it deems advisable. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, signed by the chairman thereof, and approved by the Committee on House Administration.

Sec. 2. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Its privileged status was derived from the rules[15] which, in pertinent part, provides that:

The following-named committees shall have leave to report at any time on the matters herein stated, namely: . . . the Committee on House Administration . . . on all matters of expenditure of the contingent fund of the House.

Establishing Select Committee of Limited Duration

§ 5.5 By adoption of a privileged resolution reported from the Committee on Rules, the House created a Select Committee on Crime and required the final report of the select committee to be filed no later than June 30, 1973, on which date the committee would "cease to exist,"

13. *Id.* at p. 7962.

14. 115 CONG. REC. 22546, 91st Cong. 1st Sess.

15. Rule XI clause 22, *House Rules and Manual* §§ 726, 727 (1973).

with all records to be transferred to the Committee on the Judiciary.

On Feb. 28, 1973,[16] Speaker pro tempore Charles M. Price, of Illinois, recognized Mr. Richard Bolling, of Missouri, who proceeded to call up House Resolution 256 by direction of the Committee on Rules for its immediate consideration.

The resolution read as follows:[1]

Resolved, That effective January 3, 1973, and until June 30, 1973, there is hereby created a select committee to be composed of eleven Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

Sec. 2. The select committee is authorized and directed to conduct a full and complete investigation and study of all aspects of crime affecting the United States, including, but not limited to, (1) its elements, causes, and extent; (2) the preparation, collection, and dissemination of statistics and data; (3) the sharing of information, statistics, and data among law enforcement agencies, Federal, State, and local, including the exchange of information, statistics, and data with foreign nations; (4) the adequacy of law enforcement and the administration of justice, including constitutional issues and problems pertaining thereto; (5) the effect of crime and disturbances in the metropolitan urban areas; (6) the effect, directly or indirectly, of crime on the commerce of the Nation; (7) the treatment and rehabilitation of persons convicted of crime; (8) measures relating to the reduction, control, or prevention of crime; (9) measures relating to the improvement of (A) investigation and detection of crime, (B) law enforcement techniques, including, but not limited to, increased cooperation among the law enforcement agencies, and (C) the effective administration of justice; and (10) measures and programs for increased respect for the law and constituted authority.

Sec. 3. For the purpose of making such investigations and studies, the committee or any subcommittee thereof is authorized to sit and act, subject to clause 31 of rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or any member designated by him and may be served by any person designated by such chairman or member.

Sec. 4. The select committee shall report to the House as soon as possible with respect to the results of its inves-

16. 119 CONG. REC. 5920, 93d Cong. 1st Sess.

1. Id. at pp. 5920, 5921.

tigations, hearings, and studies, together with such recommendations as it deems advisable and shall submit its final report not later than June 30, 1973. Any such report or reports which are made when the House is not in session shall be filed with the Clerk of the House. The select committee shall cease to exist on June 30, 1973, and its records, files, and all current material in its possession shall be transferred to the Committee on the Judiciary.

The proposed creation of the select committee was, in fact, more in the nature of a "reconstitution", since a similar committee had been in existence since 1969.[2] Mr. Bolling described the resolution's origins in his initial remarks, when he stated:

Mr. Speaker, this resolution extending the Select Committee on Crime until the 30th of June is a compromise. It was a compromise arrived at with very considerable difficulty. A number of people wanted the committee to continue for the full period of this Congress, and a number of people wanted the committee to terminate on the first day of this Congress. The view of the committee's effectiveness was mixed, but I think everyone will agree that during its life it has accomplished something. There are critics of a variety of types, and there are supporters of all kinds, and the compromise included more than the date when that committee would cease to function. It included the understanding of those who were parties to that compromise that the Committee on the Judiciary would give special attention to the functions undertaken by this select committee, and make a judgment which would result in some of those functions at least being prosecuted in some fashion by the Committee on the Judiciary. That is, not only is the Crime Committee phased out, but there are commitments that some of its functions will be undertaken by the Committee on the Judiciary, which felt that it should have the responsibility for this work.

A brief discussion ensued after which the Chair put the question on the resolution,[3] it was taken; and, the Speaker pro tempore announced that the ayes appeared to have it. Mr. H. R. Gross, of Iowa, then made a point of no quorum which culminated in an automatic roll call. The vote then being taken by electronic device, there were—yeas 317, nays 75, answered "present" 2. Accordingly, the resolution was agreed to.[4]

Authorizing Investigation With Clerk

§ 5.6 The House agreed to a privileged resolution, reported from the Committee on Rules, establishing a select committee to investigate and report on campaign expenditures and practices by

2. See § 6.2, infra.

3. 119 Cong. Rec. *5924,* 93d Cong. 1st Sess.

4. *Id.* at p. 5925.

candidates for the House, and authorizing the select committee and the Clerk of the House to jointly investigate alleged violations of the Federal Election Campaign Act of 1971 (utilizing the committee's subpena power).

On Feb. 28, 1972,[5] by direction of the Committee on Rules, Mr. Thomas P. O'Neill, Jr., of Massachusetts, called up for immediate consideration the following resolution (H. Res. 819):

Resolved, That a special committee of five Members be appointed by the Speaker of the House of Representatives to investigate and report to the House not later than January 11, 1973, with respect to the following matters:

(1) The extent and nature of expenditures made by all candidates for the House of Representatives in connection with their campaign for nomination and election to such office.

(2) The amount subscribed, contributed, or expended, and the value of services rendered, and facilities made available (including personal services, use of advertising space, radio and television time, communications media, office space, moving picture films, and automobile and any other transportation facilities) by any individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, to or on behalf of each such candidate in connection with any such campaign or for the purpose of influencing the votes cast or to be cast at any convention or election held in 1972 to which a candidate for the House of Representatives is to be nominated or elected.

(3) The use of any other means or influence (including the promise or use of patronage) for the purpose of aiding or influencing the nomination or election of any such candidates.

(4) The amounts, if any, raised, contributed, and expended by an individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, including any political committee thereof, in connection with any such election, and the amounts received by any political committee from any corporation, labor union, individual, individuals, or group of individuals, committee, or partnership.

(5) The violations, if any, of the following statutes of the United States:

(a) The Federal Election Campaign Act of 1971.

(b) The Act of August 2, 1939, as amended, relating to pernicious political activities, commonly referred to as the Hatch Act.

(c) The provisions of section 304, chapter 120, Public Law 101, Eightieth Congress, first session, referred to as the Labor-Management Relations Act, 1947.

(d) Any statute or legislative Act of the United States or of the State within which a candidate is seeking nomination or reelection to the House of Representatives, the violation of which Federal or State statute, or statutes,

5. 118 CONG. REC. 5717, 92d Cong. 2d Sess.

would affect the qualification of a Member of the House of Representatives within the meaning of article I, section 5 of the Constitution of the United States.

(6) Such other matters relating to the election of Members of the House of Representatives in 1972, and the campaigns of candidates in connection therewith, as the committee deems to be of public interest, and which, in its opinion, will aid the House of Representatives in enacting remedial legislation, or in deciding contests that may be instituted involving the right to a seat in the House of Representatives.

(7) The committee is authorized to act upon its own motion and upon such information as in its judgment may be reasonable or reliable. Upon complaint being made to the committee under oath, by any person, candidate, or political committee, setting forth allegations as to facts which, under this resolution, it would be the duty of said committee to investigate, the committee shall investigate such charges as fully as though it were acting upon its own motion, unless, after a hearing upon such complaint, the committee shall find that the allegations in such complaint are immaterial or untrue. All hearings before the committee, and before any duly authorized subcommittee thereof, shall be public, and all orders and decisions of the committee, and of any such subcommittee, shall be public.

(8) The Clerk of the House of Representatives is authorized and directed when carrying out assigned responsibilities under the Federal Election Campaign Act of 1971 that prior to taking enforcement action thereunder, to initiate a request for consultation with and advice from the committee, whenever, at his discretion, election campaign matters arise that are included within sections (1) through (6) above and may affect the interests of the House of Representatives.

(9) The committee is authorized and directed to consult with, advise, and act in a timely manner upon specific requests of the Clerk of the House of Representatives either when he is so acting on his own motion or upon a written complaint made to the Clerk of the House under oath setting forth allegations of fact under the Federal Election Campaign Act of 1971. The committee or a duly authorized subcommittee thereof when acting upon the requests of the Clerk shall consult with him; shall act jointly with him; and shall jointly investigate such charges as though it were acting on its own motion, unless, after a hearing upon such complaint, the committee or a duly authorized subcommittee thereof shall find the allegations in such complaint are immaterial or untrue. Consultation with the committee or a duly authorized subcommittee thereof may be either in executive or in public sessions, but all hearings before the committee when acting jointly, shall be public, and all orders and decisions and advice given to the Clerk of the House of Representatives by the committee or a duly authorized subcommittee thereof shall be public.

For the purpose of this resolution, the committee or any duly authorized subcommittee thereof, is authorized to hold such public hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Ninety-second Congress, to employ such attorneys, experts, cler-

ical, and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, and to take such testimony as it deems advisable. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by such chairman, and may be served by any person designated by any such chairman or member.

(10) The committee is authorized and directed when acting on its own motion or upon a complaint made to the committee, to report promptly any and all violations of any Federal or State statutes in connection with the matters and things mentioned herein to the Attorney General of the United States in order that he may take such official action as may be proper. The committee or a duly authorized subcommittee thereof is authorized and directed when acting upon the specific request of the Clerk of the House to render advice promptly in order to give the Clerk of the House of Representatives the prior benefits of its advice and in order that he may then take such official action under the Federal Election Campaign Act of 1971 as the Clerk of the House of Representatives deems to be proper.

(11) Every person who, having been summoned as a witness by authority of said committee or any subcommittee thereof, willfully makes default, or who having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties prescribed by law.

That said committee is authorized and directed to file interim reports whenever in the judgment of the majority of the committee, or of the subcommittee conducting portions of said investigation, the public interest will be best served by the filing of said interim reports, and in no event shall the final report of said committee be filed later than January 11, 1973, as hereinabove provided.

Shortly thereafter,[6] the resolution was agreed to.[7]

Parliamentarian's Note: Select committees to investigate campaign expenditures are no longer established, since the Committee on House Administration with jurisdiction over campaign expenditures, now has standing investigatory authority and subpena power, as do all other standing committees (see Ch. 8, § 14, supra).

In the 93d Congress, the House granted the Committee on House Administration subpena power to investigate election practices, thereby enabling that standing committee to assume the functions of the select committee (H. Res. 737, 93d Cong. 2d Sess.).

§ 6. —Subjects of Investigation or Study

Select or special committees are usually created for one of four

6. *Id. at p. 5718.*
7. See Ch. 8, supra, for more information on campaign expenditure committees. See also § 6.1, infra.

purposes: (1) to investigate conditions or events about which allegations have been made; (2) to study and report on a particular matter with a view toward subsequent legislative action by standing committees; (3) to report to the House on the merits of specific legislative proposals and to encourage coordinated legislative decisions; and (4) to supervise certain routine housekeeping functions.[8]

The distinction between a select and special committee is merely one of emphasis. A "select" committee is so designated to emphasize the manner of the appointment of its membership (usually by the Speaker). In the case of a "special" committee, the designation emphasizes its purpose of performing a specific function. In fact, most special committees are select committees, and vice versa.

Arguments that were advanced in support of creating select committees usually contended: (1) that the matter which the select committee would study was of major and immediate national importance; (2) that it required a comprehensive inquiry by Congress as a necessary precursor to legislation; (3) that the jurisdictional alinements of the standing committees were such that no one standing committee could examine the matter fully; and (4) that, therefore, a select committee would be the most appropriate mechanism available in that its mandate and authority could be carefully drawn to conform with the requirements of its inquiry, and in that it could provide the House with the information it required without encroaching on the established legislative prerogatives of the standing committees.[9] In addition, it was sometimes argued that particular standing committees were simply too overburdened with current responsibilities to delve into the subject matter of a particular investigation.

Generally speaking, most select committees have been authorized to make legislative recommendations although few, until recently, have been empowered to report legislation directly to the House. Another general rule is that committee composition usually reflects the prevailing party ratios at the time of the select committee's creation.[10]

8. "Guidelines for the Establishment of Select Committees," report of the Subcommittee on the Rules and Organization of the House, Committee on Rules, U.S. House of Representatives, 95th Cong. (Oct. 31, 1977), p. 18.

9. *Id.* at p. 23.

10. Exceptions to this custom include the Select Committee on Standards

The following information provides data on each select and special committee created by the House of Representatives from 1947 through 1977. Excluded from the list are select or special committees in existence prior to 1947, but which were subsequently recreated.(11)

The information on each select committee includes its date of creation, authorizing resolution, number of members, functions and mandate, presence or absence of subpena and/or legislative authority, authority to report, special authority, extensions, and termination date.(12)

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and Conduct and the Select Committee on Committees. In each case the unique importance of the mission of the committee, i.e., ethics in the first instance and House organization in the second, seemed to warrant avoidance of even the appearance of partisanship.

11. Between the 74th and 79th Congresses, the House continued, reconstituted, or created the following select committees: Special Committee on Wild Life Resources, Special Committee on Un-American Activities, Select Committee to Investigate Real Estate Bondholders' Reorganization, Special Investigating Committee on Cross Licensing and Pooling of Patents, Special Committee to Investigate Campaign Expenditures, Special Committee Investigating American Retail Federation and Trade Practices of Big Scale Wholesale and Retail Buying and Selling Organizations and Their Associations, Special Committee to Investigate Old-Age Pension Plans, Select Committee to Investigate Executive Agencies of the Government, Select Committee on Government Organization, Special Committee to Investigate Un-American Activities, Special Committee to Investigate the National Labor Relations Board, Select Committee to Investigate the Interstate Migration of Destitute Citizens, Special Committee to Study the Anthracite Emergency Program, Select Committee Investigating National Defense Migration, Select Committee to Investigate Air Accidents, Select Committee on Small Business, Select Committee to Investigate the Federal Communications Commission, Select Committee to Investigate Acts of Executive Agencies Beyond the Scope of Their Authority, Special Committee on Post-War Economic Policy and Planning, Select Committee on Post-War Military Policy, Select Committee to Investigate Seizure of Montgomery Ward & Company, Select Committee to Investigate and Study Small Business, Select Committee to Investigate Acts of Executive Agencies Which Exceed Their Authority, Select Committee to Investigate Supplies and Shortages of Food, Particularly Meat, Special Committee on Reconstruction of House Roofs and Skylights, and Select Committee to Investigate Disposition of Surplus Property.

12. "Guidelines for the Establishment of Select Committees," report of the Subcommittee on the Rules and Or-

SELECT COMMITTEE TO CONDUCT A STUDY AND INVESTIGATION OF ALL MATTERS RELATED TO THE NEED FOR ADEQUATE SUPPLIES OF NEWSPRINT, PRINTING, AND WRAPPING PAPER, PAPER PRODUCTS, PAPER PULP AND PULPWOOD

(Also known as the Select Committee on Newsprint)

Date of creation.—February 26, 1947.

Citation.—H. Res. 58, 80th Congress, 1st Session (adopted by a record vote of 269–100).

Membership.—Number of members: 7. . . .

Functions.—Mandate: The Select Committee was "authorized to conduct a study and investigation of all matters related to the need for adequate supplies, for use in the United States (including use in time of war), of newsprint, printing and wrapping paper, paper products, paper pulp and pulpwood, and of all matters related to means by which adequate supplies thereof may be produced or secured, with particular references to—

"(1) The short-range and long-range possibilities of increased production thereof in the continental United States (including Alaska);

"(2) The short-range and long-range prospects of securing increased supplies thereof from Canada and other sources outside the United States; and

"(3) The extent to which agencies or officers of the United States may be able to assist in furthering the objective of securing increased production and supplies thereof."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was authorized to submit preliminary reports to the House from time to time as it deemed advisable. The Select Committee was ordered to submit its final report to the House together with any recommendations as soon as practicable during the 80th Congress, upon completion of its investigation.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 80th Congress.

Extensions: None.

Actual termination: Final report submitted to the House on December 31, 1948. . . .

SELECT COMMITTEE ON FOREIGN AID

Date of creation.—July 22, 1947.

Citation.—H. Res. 296; 80th Congress, 1st Session (adopted by a voice vote).

Membership.—Number of members: 19. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to make a study of: (1) Actual and prospective needs of foreign nations and peoples, including those within United States military zones, both for relief in terms of food, clothing, and so forth, and of economic rehabilitation; (2) resources and facilities available to meet such needs within and without the continental United States; (3) existing or contemplated agencies, whether private, public, do-

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ganization of the House, Committee on Rules, U.S. House of Representatives, 95th Cong. (Oct. 31, 1977), pp. 30–87.

mestic, or international, qualified to deal with such needs; (4) any or all measures which might assist in assessing relative needs and in correlating such assistance as the United States can properly make without weakening its domestic economy."

Significant changes in form or mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was authorized to report to the House (or to the Clerk of the House if the House was not in session) from time to time as it deemed appropriate, but not later than March 1, 1948 (later extended to May 1, 1948).

Authority.—Authority to issue subpoenas: None. . . .

Termination.—Original termination date: March 1, 1948 (H. Res. 296).

Extensions: Extended to May 1, 1948 by H. Res. 476 on February 24, 1948.

Actual termination: Final report submitted to the House on May 3, 1948. On June 8, 1948 the House passed H. Res. 601 which transferred all records of the Select Committee on Foreign Aid to the Joint Committee on Foreign Economic Cooperation created by section 124 of the Foreign Assistance Act of 1948 (Public Law 472). . . .

SELECT COMMITTEE TO INVESTIGATE TRANSACTIONS ON COMMODITY EXCHANGE

Date of creation.—December 18, 1947.

Citation.—H. Res. 404; 80th Congress, 1st Session (adopted by a voice vote).

Membership.—Number of members: 7. . . .

Functions.—Mandate: The Select Committee was "authorized to conduct a full and complete investigation of purchases and sales of commodities for future delivery and including: (a) The activities of any department or agency of the United States Government in connection with the purchase and sale of commodities, and into any other activities of any such agency or department that may have heretofore affected, or may hereafter affect. the price of food and other commodities; (b) the private acts, and official activities of any individual in the United States Government in connection with the purchase or sale of commodities."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was authorized to submit a report to the House (or to the Clerk of the House if the House was not in session) upon completion of its investigation as soon as practicable during the 80th Congress.

Authority.—Authority to issue subpoenas: Yes.

Termination.—Orginal termination date: End of 80th Congress.

Extensions: None.

Actual termination: End of 80th Congress; final report submitted to the House on December 31, 1948. . . .

SELECT COMMITTEE ON LOBBYING ACTIVITIES

Date of creation.—August 12, 1949.

Citation.—H. Res. 298, 81st Congress, 1st Session (adopted by a voice vote).

Membership.—Number of members: 7. . . .

Functions.—Mandate: The Select Committee was "authorized and di-

rected to conduct a study and investigation of: (1) All lobbying activities intended to influence, encourage, promote, or retard legislation; and (2) all activities of agencies of the Federal Government intended to influence, encourage, promote, or retard legislation."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was authorized to submit preliminary reports to the House from time to time as it deemed advisable; and to submit its final report on the results of its study and investigations prior to the close of the 81st Congress.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 81st Congress.

Extensions: None.

Actual termination date: End of 81st Congress. . . .

SELECT COMMITTEE TO INVESTIGATE THE USE OF CHEMICALS, PESTICIDES, AND INSECTICIDES IN AND WITH RESPECT TO FOOD PRODUCTS

Date of creation.—June 20, 1950.

Citation.—H. Res. 323; 81st Congress, 2d Session, adopted by a voice vote. H. Res. 74; 82d Congress, 1st Session, February 2, 1951 (adopted by voice vote).

Membership.—Number of members: 7. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study of—

"(1) The nature, extent, and effect of the use of chemicals, compounds, and synthetics in the production, processing, preparation and packaging of food products to determine the effect of the use of such chemicals, compounds, and synthetics: (a) upon the health and welfare of the Nation; and (b) upon the stability and well-being of our agricultural economy;

"(2) The nature, extent, and effect of the use of pesticides and insecticides with respect to food and food products, particularly the effect of such use of pesticides and insecticides upon the health and welfare of the consumer by reason of toxic residues remaining on such food and food products as a result of such use; and

"(3) The nature, effect, and extent of the use of chemicals, compounds, and synthetics in the manufacture of fertilizer, particularly the effect of such use of chemicals, compounds, and synthetics upon: (a) The condition of the soil as a result of the use of such fertilizer; (b) the quantity and quality of the vegetation growing from such soil; (c) the health of animals consuming such vegetation; (d) the quantity and quality of food produced from such soil; and (e) the public health and welfare generally."

Significant changes in mandate during lifetime: During the 82d Congress, 1st Session, on October 15, 1951, the House agreed to H. Res. 447 which expanded the mandate of the Committee to include ". . . an investigation and study of the nature, extent, and effect of the use of chemicals, compounds, and synthetics in the production, processing, preparation, and packaging of cosmetics to determine the effect of the use of such chemicals, compounds, and synthetics upon the health and welfare of the Nation."

Legislative authority: None.

Authority to report: The Select Committee was originally authorized to report to the House (or the Clerk of the House if the House was not in session) as soon as practicable during the 81st Congress on the result of its investigation, together with any recommendations for legislation. The reporting date was later extended to the end of the 82d Congress by H. Res. 74, adopted on February 2, 1951.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 81st Congress.

Extensions: Extended to end of 82d Congress by H. Res. 74 on February 2, 1951.

Actual termination: Final report submitted to the House on January 3, 1953. . . .

SELECT COMMITTEE TO INVESTIGATE ABUSES IN EDUCATION, TRAINING AND LOAN GUARANTY PROGRAMS OF WORLD WAR II VETERANS

Date of creation.—August 28, 1950.

Citation.—H. Res. 474, 81st Congress, 2d session (adopted by a voice vote). H. Res. 93, 82d Congress, 1st session, February 2, 1951 (adopted by a voice vote).

Membership.—Number of members: 9. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study of the alleged abuses in the education and training program of World War II veterans, and of action taken or the lack of action taken by the responsible officers and employees of the Veterans' Administration and State approving authorities to prevent abuses under the Servicemen's Readjustment Act, as amended."

Significant changes in mandate during lifetime: H. Res. 93, adopted on February 2, 1951, to reestablish the Select Committee for the 82d Congress, expanded the mandate of the Select Committee to include loan guaranty programs for veterans.

Legislative authority: None.

Authority to report: The original establishing resolution authorized the Select Committee to submit a report on the results of its investigation, as soon as practicable during the 81st Congress. H. Res. 93, reauthorized the Committee and extended the reporting date to the end of the 82d Congress.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 81st Congress.

Extensions: Reestablished by H. Res. 93 for the 82d Congress on February 2, 1951.

Actual termination: Final report submitted to the House on September 11, 1952. . . .

SELECT COMMITTEE TO CONDUCT AN INVESTIGATION AND STUDY OF THE KATYN FOREST MASSACRE

Date of creation.—September 18, 1951.

Citation.—H. Res. 390; 82d Congress, 1st Session (adopted by a voice vote).

Membership.—Number of members: 7. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study of the facts,

evidence, and extenuating circumstances both before and after the massacre of thousands of Polish officers buried in a mass grave in the Katyn Forest on the banks of the Dnieper in the vicinity of Smolensk, which was then a Nazi-occupied territory formerly having been occupied and under the control of the Union of Soviet Socialist Republics."

Significant changes in mandate during lifetime: H. Res. 539 of March 11, 1952 amended H. Res. 390 to permit the Select Committee to hold hearings outside the United States.

Legislative authority: None.

Authority to report: The Select Committee was ordered to report, upon completion of its hearings, to the House (or to the Clerk of the House if the House was not in session) before the adjournment of the 82d Congress. The reporting date was later extended to January 3, 1953 (commencement of the 83d Congress) by H. Res. 539.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 82d Congress.

Extensions: Extended by H. Res. 539 to January 3, 1953.

Actual termination: December 22, 1952. . . .

SELECT COMMITTEE TO INVESTIGATE TAX EXEMPT FOUNDATIONS AND OTHER ORGANIZATIONS

Date of creation.—April 4, 1952.

Citation.—H. Res. 561, 82d Congress, 2d Session (adopted by a record vote of 194–158). H. Res. 217, 83d Congress, 1st Session, July 27, 1953 (adopted by a vote of 209–163).

Membership.—Number of members: 7. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study of educational and philanthropic foundations and other comparable organizations which are exempt from Federal income taxation to determine which such foundations and organizations are using their resources for purposes other than the purposes for which they were established, and especially to determine which such foundations and organizations are using their resources for un-American and subversive activities or for purposes not in the interest or tradition of the United States."

Significant changes in mandate during lifetime: H. Res. 217 of July 27, 1953, which reestablished the Select Committee for the 83d Congress expanded the Select Committee's jurisdiction; authorizing it to investigate tax exempt foundations and organizations to determine if any such organizations were using their resources for political purposes, propaganda, or attempts to influence legislation.

Legislative authority: None.

Authority to report: The Select Committee was authorized to report to the House (or to the Clerk of the House if the House was not in session) on the results of its investigations on or before January 1, 1953. The reporting date was later extended by H. Res. 217 to January 3, 1955.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: January 1, 1953.

Extensions: Extended to January 3, 1955 by H. Res. 217 on July 27, 1953.

Actual termination: December 16, 1954. . . .

SELECT COMMITTEE TO CONDUCT AN INVESTIGATION AND STUDY OF OFFENSIVE AND UNDESIRABLE BOOKS, MAGAZINES, AND COMIC BOOKS

Date of creation.—May 12, 1952.

Citation.—H. Res. 596; 82d Congress, 2d Session (adopted by a voice vote).

Membership.—Number of members: 9. . . .

Mode of selecting members: H. Res. 596 specified that the members of the Select Committee "be appointed by the Speaker, three from the Committee on the Judiciary, three from the Committee on Post Office and Civil Service, and three from the membership of the House without reference to any committee." The resolution also specified that not more than five members of the Select Committee were to be appointed from the same political party. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study: (1) To determine the extent to which current literature-books, magazines, and comic books-containing immoral, obscene, or otherwise offensive matter, or placing improper emphasis on crime, violence, and corruption, are being made available to the people of the United States through the United States mails and otherwise; and (2) to determine the adequacy of existing law to prevent the publication and distribution of books containing immoral, offensive, and other undesirable matter."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was authorized to report to the House (or to the Clerk of the House if the House was not in session) as soon as practicable during the 82d Congress, on the results of its investigations and study, together with any recommendations, including recommendations for legislation as it deemed advisable.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 82d Congress.

Extensions: None.

Actual termination: December 31, 1952. . . .

SELECT COMMITTEE TO INVESTIGATE INCORPORATION OF LITHUANIA, LATVIA, AND ESTONIA INTO THE U.S.S.R.

(Also known as Select Committee on Communist Aggression)

Date of creation.—July 27, 1953.

Citation.—H. Res. 346; 83d Congress, 1st Session (adopted by a voice vote).

Membership.—Number of members: 7 (increased to 9 by H. Res. 438 on March 4, 1954). . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study of said seizure and forced 'incorporation' of Lithuania, Latvia, and Estonia by the Union of Soviet Socialist Republics and the treatment of the said Baltic peoples during and following said seizure and 'incorporation'."

Significant changes in mandate during lifetime: H. Res. 438 on March 4, 1954, amended the establishing resolution by expanding the mandate of the Select Committee, increasing its mem-

bership, and authorizing it to conduct hearings outside the United States after March 1, 1954. The Committee's expanded mandate is as follows:

> The committee is authorized and directed to conduct a full and complete investigation and study of: (1) The seizure and forced "incorporation" of Lithuania, Latvia, and Estonia by the Union of Soviet Socia]ist Republics and the treatment of the said Baltic peoples during and following said seizure and "incorporation"; and (2) the subversion and destruction of free institutions and human liberties in all other areas controlled, directly or indirectly, by world communism, including the treatment of the peoples in such areas.

Legislative authority: None.

Authority to report: The Select Committee was authorized to report to the House (or to the Clerk of the House if the House was not in session) as soon as practicable during the 83d Congress on the results of its investigation and study together with such recommendations as it deemed advisable.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 83d Congress.

Extensions: None.

Actual Termination: December 31, 1954. . . .

SELECT COMMITTEE TO INVESTIGATE AND STUDY CERTAIN BENEFITS FOR SURVIVING DEPENDENTS OF DECEASED MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES

Date of creation.—August 4, 1954.

Citation.—H. Res. 549, 83d Congress, 2d Session (adopted by a voice vote).

H. Res. 35; 84th Congress, 1st Session, February 2, 1955 (adopted by a voice vote).

Membership.—Number of members:

Functions.—Mandate: The Select Committee was "authorized and directed: (1) To conduct a full and complete investigation and study of the benefits provided under Federal law for the surviving dependents of deceased members and former members of the Armed Forces; and (2) on the basis of such investigation, and study, to make such recommendations as it may deem advisable and to prepare such legislation as it may consider appropriate to carry out such recommendations. "

Significant changes in mandate during lifetime: None.

Legislative authority: Yes, 84th Congress only.

The establishing resolution, H. Res. 549 authorized the Select Committee "to prepare such legislation as it may consider appropriate to carry out such recommendations." H. Res. 35, approved February 2, 1955, which reauthorized the Select Committee during the 84th Congress, expanded the authority of the Committee by authorizing it to "report to the House, by bill or otherwise .

Authority to report: The Select Committee was authorized to report to the House on the results of its investigations as soon as practicable during the 83d Congress. The reporting date was later extended to January 15, 1956 by H. Res. 35, adopted on February 2, 1955.

Authority.—Authority to issue subpoenas: No. . . .

Termination.—Original termination date: End of 83d Congress.

Extensions: Extended toJanuary15, 1956 by H. Res. 35 on February 2, 1955.

Actual termination: January 15, 1956. . . .

SELECT COMMITTEE TO INVESTIGATE AND STUDY THE FINANCIAL POSITION OF THE WHITE COUNTY BRIDGE COMMISSION

Date of creation.—May 25, 1955.

Citation.—H. Res. 244; 84th Congress, 1st Session (adopted by a record vote of 205–166).

Membership.—Number of members: 3. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study of the financial position of the White County Bridge Commission established by Public Law 37, 77th Congress, with a view to ascertaining when it may be expected that the bridge and approaches thereto operated by such commission near New Harmony, Ind., will become free of tolls, and what money has been received, and what expenditures have been made, by such commission since its establishment in 1941."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was authorized to report to the House (or to the Clerk of the House if the House was not in session) as soon as practicable during the 84th Congress on the results of its investigation and study, together with its recommendations.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 84th Congress.

Extensions: None.

Actual termination: Report submitted to the House on April 25, 1956. . . .

SELECT COMMITTEE ON THE HOUSERECORDING STUDIO

Date of creation.—June 27, 1956.

Citation.—Public Law 84–624; 84th Congress, 2d Session (2 U.S.C. 123b) (H.R. 11473, Legislative Branch Appropriations Act of 1957, approved June 27, 1956).

Membership.—Number of members: 3. . . .

Mode of selecting members: The law directed that the Select Committee be composed of three Members of the House, two from the majority party and one from the minority party, to be appointed by the Speaker. . . .

Functions.—Mandate: Public Law 84–624 directed that the House Recording Studio be operated by the "Clerk of the House of Representatives under the direction and control of a committee which is hereby created . . . composed of three members. . . ." The Select Committee was "authorized to issue such rules and regulations relating to operation of the House Recording Studio as it may deem necessary." The law directed that price fixing of disk, film, and recordings by the Clerk of the House of Representatives be subject to approval by the Select Committee. Expenditures by the House Recording Studio are subject to regulations approved by the Select Committee. The Clerk of the House of Representatives was authorized, subject to the approval of the Select Committee,

to fix the compensation of a Director of the House Recording Studio and such other employees as are deemed necessary to its operation.

Significant changes in mandate during lifetime: None.

Legislative authority: Not specified.

Authority to report: Not specified.

Authority.—Authority to issue subpoenas: None. . . .

Termination.—Original termination date: Not specified.

Actual termination: Still in existence [Speaker appoints members each Congress].

SELECT COMMITTEE ON ASTRONAUTICS AND SPACE EXPLORATION

Date of creation.—March 5, 1958.

Citation.—H. Res. 496; 85th Congress, 2d Session (adopted by a voice vote).

Membership.—Number of members: 13. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a thorough and complete study and investigation with respect to all aspects and problems relating to the exploration of outer space and the control, development, and use of astronautical resources, personnel, equipment, and facilities."

Significant changes in mandate during lifetime: None.

Legislative authority: Yes, the Select Committee was authorized to consider all bills and resolutions proposing legislation in the field of astronautics and space exploration.

Authority to report: The Select Committee was authorized to report to the House by bill or otherwise by June 1, 1958, or the earliest date thereafter, but by no later than January 3, 1959.

Authority.—Authority to issue subponeas: Yes. . . .

Termination.—Original termination date: January 3, 1959.

Extensions: None.

Actual termination: On July 21, 1958, the House approved H. Res. 580 which established a standing Committee on Science and Astronautics to continue the work of the Select Committee. On January 7, 1959, the Select Committee on Astronautics and Space Exploration issued two reports. . . .

SELECT COMMITTEE TO INVESTIGATE AND STUDY THE ADMINISTRATION OF THE EXPORT CONTROL ACT OF 1949

Date of creation.—September 7, 1961.

Citation.—H. Res. 403, 87th Congress, 1st Session (adopted by a division of 90–1).

Membership.—Number of members: 5. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study of the administration, operation, and enforcement of the Export Control Act of 1949 (63 Stat. 7), as amended, with a view to assessing the accomplishments under that Act, determining whether improvements can be made in the administration, operation, or enforcement thereof, and improving congressional oversight and guidance over the formation of United States policies involved in such Act. In carrying out such investigation and study, the committee shall give particular attention to the following matters:

"(1) The problems involved in the control of trade between the United

States and foreign countries comprising the Sino-Soviet bloc.

"(2) Present methods and procedures in the formulation of policy with respect to the determination of which articles, materials, supplies, and technical data shall be controlled under such Act, and the extent of such control.

"(3) Procedures followed under such Act in obtaining information, advice, and opinions with respect to determination of which articles, materials, supplies, and technical data shall be controlled under such Act, from departments and agencies of the United States which are concerned with aspects of our domestic or foreign policies and operations which have a bearing on exports.

"(4) The extent to which decisions heretofore made under such Act concerning the control of exports have adversely affected the security of the United States.

"(5) Whether or not such Act is being administered by the appropriate department of the Federal Government.

"(6) The interrelationship between such Act and related Acts (such as the Mutual Defense Assistance Control Act of 1951, and the Trading With the Enemy Act) and other discussions or agreements entered into by the United States (such as the coordinating committee (COCOM) discussions and agreements) which affect or relate to the control of trade between the United States and foreign countries."

Significant changes in mandate during lifetime: None. "

Legislative authority: None.

Authority to report: The Select Committee was authorized to report to the House (or to the Clerk of the House if the House was not in session) the results of its investigation and study, together with any recommendations it deemed advisable.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 87th Congress.

Extensions: None.

Actual termination: Report submitted to the House on May 31, 1962. . . .

SELECT COMMITTEE TO INVESTIGATE EXPENDITURES FOR RESEARCH PROGRAMS CONDUCTED BY OR SPONSORED BY THE DEPARTMENTS AND AGENCIES OF THE FEDERAL GOVERNMENT

(Also known as the Select Committee on Government Research)

Date of creation.—September 11, 1963.

Citation.—H. Res. 504; 88th Congress, 1st Session (adopted by a vote of 336 to 0).

Membership.—Number of members: 9. . . .

Functions.—Mandate: The Select Committee was "directed to make a complete, full, and thorough investigation of the numerous research programs being conducted by sundry departments and agencies of the Federal Government and, without limiting the generality of the foregoing, the committee shall give special attention to the following: (1) The overall total amount of annual expenditures on research programs; (2) what departments and agencies of the Government are conducting research and at what costs; (3) the amounts being expended by the

various agencies and departments in grants and contracts for research to colleges, private industry, and every form of student scholarships; (4) what facilities, if any, exist for coordinating the various and sundry research programs, including grants to colleges and universities as well as scholarship grants."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was authorized to report "its findings to the House with such recommended legislation as the committee may deem appropriate to correct any deficiencies. " The Select Committee was authorized to submit interim reports, and its final report prior to December 1, 1964.

Authority.—Authority to issue subpoenas: Yes. . . .

Special authorities: H. Res. 504 provided the following: "In order that this investigation of the numerous research programs may be better coordinated, without limiting the scope of the same committee's investigation, it is directed, among other investigative procedures, to make use of information currently available to the various committees of Congress which have legislative jurisdiction over Government research activities to the end that the said select committee may be able to recommend the necessary legislation to coordinate and prevent justifiable duplication in the numerous projects and activities of the Government relating to scientific research.". . .

Termination.—Original termination date: December 1, 1964.

Extensions: Extended to January 3, 1965, by H. Res. 810 on August 5,1964.

Actual termination: January 3, 1965. . . .

SELECT COMMITTEE TO STUDY THE FACTORS RELATING TO THE GENERAL WELFARE AND EDUCATION OF CONGRESSIONAL PAGES

Date of creation.—September 30, 1964.

Citation.—H. Res. 847; 88th Congress, 2d Session (adopted by a voice vote).

Membership.—Number of members: 5. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study of all of the factors relating to the general welfare and education of congressional pages, including, but not limited to, a study and investigation of the residential, dining, recreational, educational, and physical training facilities and opportunities for such pages, and rates of pay, hours of work, and other conditions governing the employment of such pages."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was directed to report to the House as soon as practicable during the 88th Congress on the results of its investigation and study. The Select Committee was authorized to make "recommendations regarding the feasibility and desirability of raising the minimum age for Capitol pages to eighteen years, of requiring secondary school graduation as a prerequisite for appointment as a Capitol page, and of providing for the establishment and

construction of a Capitol page school and residence, and such other recommendations as it deems advisable."

Authority.—Authority to issue subpoenas: Not specified in establishing resolution. . . .

Termination.—Original termination date: End of 88th Congress.

Extensions: None.

Actual termination: Report submitted to the House on January 4, 1965. . . .

SELECT COMMITTEE ON STANDARDS AND CONDUCT

Date of creation.—October 19, 1966.

Citation.—H. Res. 1013; 89th Congress, 2d Session (adopted by a recorded vote of 256–0).

Membership.—Number of members: 12. . . .

Mode of selecting members: The establishing resolution stipulated that the twelve members of the Committee be appointed by the Speaker as follows: six from the majority party and six from the minority party. . . .

Functions.—Mandate: The Select Committee on Standards and Conduct, was authorized to:

"(1) Recommend to the House, by report or resolution such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the House and by officers or employees of the House, in the performance of their duties and the discharge of their responsibilities; and

"(2) Report violations, by a majority vote of the Select Committee, of any law to the proper Federal and State authorities."

Significant changes in mandate during lifetime: None.

Legislative authority: Yes.

Authority to report: The Select Committee was authorized to make recommendations to the House by report or resolution on the subjects under its jurisdiction. No reporting date was specified in the establishing resolution.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 89th Congress.

Extensions: None.

Actual termination: Final report submitted to the House on December 27, 1966. On April 13, 1967 the House agreed to H. Res. 418 creating a standing Committee on Standards of Official Conduct. . . .

SPECIAL COMMITTEE TO REPORT TO THE HOUSE UPON THE QUESTION OF THE RIGHT OF ADAM CLAYTON POWELL TO BE SWORN IN AS A REPRESENTATIVE FROM THE STATE OF NEW YORK IN THE 90TH CONGRESS

Date of creation.—January 10, 1967.

Citation.—H. Res. 1, 90th Congress, 1st Session (adopted by a vote of 363–65).

Membership.—Number of members: 9. . . .

Mode of selecting members: All members of the Special Committee were appointed by the Speaker. H. Res. 1 specified that four of the nine members be members of the minority party and appointed after consultation with the Minority Leader. . . .

Functions.—Mandate: The Special Committee was appointed to consider the "question of the right of Adam Clayton Powell to be sworn in as a

Representative from the State of New York in the Ninetieth Congress, as well as his final right to a seat therein as Representative. . . .”

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Special Committee was authorized to report to the House within five weeks after the appointment of the members of the Special Committee.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: Five weeks after the appointment of the members of the Special Committee, who were appointed January 19, 1967.

Extensions: None.

Actual termination: February 23, 1967. . . .

SELECT COMMITTEE ON THE HOUSE BEAUTY SHOP

Date of creation.—December 6, 1967.

Citation.—H. Res. 1000; 90th Congress, 1st Session (adopted by a voice vote). H. Res. 258; 91st Congress, 1st Session, February 19, 1969 (adopted by a voice vote). Public Law 91–145, December 12, 1969, Legislative Branch Appropriations for fiscal year 1970.

Membership.—Number of members: 3. . . .

Functions.—Mandate: The establishing resolution directed that “until otherwise ordered by the House, the management of the House Beauty Shop and all matters connected therewith shall be under the direction of the Select Committee . . . and shall be operated under such rules and regulations as such Committee may prescribe for the operation and the employment of necessary assistance for the conduct of said Beauty Shop by such business methods as may produce the best results consistent with economical and modern management.” The Select Committee was authorized by H. Res. 1000 of the 90th Congress to purchase equipment and materials for initial operations of the shop at a cost not to exceed $15,000, to be paid from the contingent fund of the House of Representatives.

Significant changes in mandate during lifetime: The Legislative Branch Appropriations Act Approved on December 12, 1969, authorized the establishment of a Select Committee on the House Beauty Shop. The jurisdiction and membership of the Select Committee was not changed. However, the law provided for the establishment of a revolving fund for the House Beauty Shop in the United States Treasury. The General Accounting Office was authorized to audit the activities of the Beauty Shop when directed to do so by the Select Committee.

Legislative authority: Not specified.

Authority to report: Not specified.

Authority.—Authority to issue subpoenas: No. . . .

Termination.—Original termination date: End of 90th Congress.

Extensions: Extended by H. Res. 258, 90th Congress, 1st Session on February 19, 1969, to the end of the 91st Congress; and reauthorized by Public Law 91–145 on December 12, 1969.

Actual termination: Still in existence.

SELECT COMMITTEE TO REGULATE PARKING ON THE HOUSE SIDE OF THE CAPITOL

Date of creation.—March 13, 1969.

Citation.—H. Res. 282; 91st Congress, 1st Session (adopted by a voice vote). H. Res. 24; 92d Congress, 1st Session, February 10, 1971 (adopted by a voice vote). H. Res. 145; 93d Congress, 1st Session, February 7, 1973 (adopted by a voice vote).

Membership.—Number of members: 3. . . .

Functions.—Mandate: The Select Committee was "authorized to exercise direction over the Sergeant at Arms of the House of Representatives in the assignment of space for outdoor parking of automobiles in squares 639, south of 635, and 692, located adjacent to the House Office Buildings, and for all other outdoor parking of automobiles on the House side of the United States Capitol Grounds." The establishing resolution also directed the House Office Building Commission "to delegate so much of such duties as pertain to the direction and supervision of the Architect of the Capitol in the assignment of space for parking of automobiles in the garages in the Rayburn House Office Building, the Cannon House Office Building, and the two underground garages in squares 637 and 691, located adjacent to the House Office Buildings, and the issuance of regulations governing such assignments, to the select committee. . . ."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: Not specified in establishing resolution.

Authority.—Authority to issue subpoenas: None. . . .

Termination.—Original termination: End of 91st Congress.

Extensions: Reauthorized by H. Res. 24 for the 92d Congress on February 10, 1971, and by H. Res. 145 for the 93d Congress on February 7, 1973.

Actual termination: End of the 93d Congress. At the beginning of the 94th Congress, the Committee on House Administration created a Subcommittee on Parking [having been given jurisdiction effective Jan. 4, 1975, over parking facilities of the House (H. Res. 988, 93d Cong.)].

SELECT COMMITTEE ON CRIME

Date of creation.—May 1, 1969.

Citation.—H. Res. 17; 91st Congress, 1st Session (adopted by a vote of 34518). H. Res. 115; 92d Congress, 1st Session, March 9, 1971 (adopted by a voice vote). H. Res. 256; 93d Congress, 1st Session, February 28, 1973 (adopted by a vote of 317–75).

Membership.—Number of members: 7 (increased to 11 by H. Res. 115 on March 9, 1971). . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study of all aspects of crime in the United States, including: (1) Its elements, causes, and extent; (2) the preparation, collection, and dissemination of statistics thereon, and the availability of reciprocity of information among law enforcement agencies, Federal, State, and local, including exchange of information with foreign nations; (3) the adequacy of law enforcement and the administration of justice, including constitutional issues pertaining thereto; (4) the effect of crime and disturbances in the metropolitan urban areas; (5) the effect, directly or indirectly, of crime on the commerce of the Nation; (6) the treatment and rehabilitation of persons con-

victed of crimes; (7) measures for the reduction, control, or prevention of crime; (8) measures for the improvement of (a) detection of crime, (b) law enforcement, including increased cooperation among the agencies thereof, (c) the administration of justice; and (9) measures and programs for increased respect for the law."

Significant changes in mandate during lifetime: The membership of the Select Committee was increased to eleven by H. Res. 115, March 9, 1971 which reauthorized the Select Committee for the 92d Congress.

Legislative authority: None.

Authority to report: The Select Committee was authorized to report to the House as soon as practicable during the 91st Congress on the results of its investigation together with any recommendations it deemed advisable. This date was later extended to June 30, 1973.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination date: End of 91st Congress.

Extensions: H. Res. 115 on March 9, 1971 extended the Committee for the duration of the 92d Congress, H. Res. 256 on February 28, 1973, extended the Select Committee to June 30, 1973.

Actual termination: June 30, 1973 [records, files, and all current material transferred to Committee on the Judiciary pursuant to H. Res. 256, Feb. 28, 1973].

SELECT COMMITTEE ON THE HOUSE RESTAURANT

Date of creation.—July 10, 1969.

Citation.—H. Res. 472; 91st Congress, 1st Session (adopted by a voice vote). H. Res. 317; 92d Congress, 1st Session, March 25, 1971 (adopted by a voice vote). H. Res. 111; 93d Congress, 1st Session, February 7, 1973 (adopted by voice vote).

Membership.—Number of members: 5. . . .

Functions.—Mandate: The Select Committee was established to supervise the operation of the House Restaurant. The establishing resolution directed that "[O]n and after July 15, 1969, until otherwise ordered by the House, the Architect of the Capitol shall perform the duties vested in him by section 208 of Public Law 812, 76th Congress (40 U.S.C. 174K) under the direction of the Select Committee. . . ."

Significant changes in mandate during lifetime: H. Res. 317, on March 25, 1971, reauthorized the Select Committee for the 92d Congress and expanded its jurisdiction. The Committee on House Administration was delegated authority over the direction and supervision of the House Restaurant and facilities. The Select Committee was authorized to "exercise direction and supervision over immediate management and operation of the House Restaurant and the cafeteria and other food service facilities of the House of Representatives, subject to the authority of the Committee on House Administration. . . ."

Legislative authority: None.

Authority to report: Not specified in establishing resolution.

Authority.—Authority to issue subpoenas: None. . . .

Termination.—Original termination date: End of 91st Congress.

Extensions: Extended to end of 92d Congress by H. Res. 317 on March 25,

1971. Extended to end of 93d Congress by H. Res. 111 on February 7, 1973.

Actual termination: End of 93d Congress. At the beginning of the 94th Congress, the House Committee on House Administration [which, since abolition of the Committee on Accounts in 1946, has possessed legislative jurisdiction over measures relating to the House restaurant] created an Ad Hoc Subcommittee on the Restaurant.

SELECT COMMITTEE TO INVESTIGATE ALL ASPECTS OF UNITED STATES MILITARY INVOLVEMENT IN SOUTHEAST ASIA

Date of creation.—June 8, 1970.

Citation.—H. Res. 976; 91st Congress, 2d Session (adopted by a vote of 224–101).

Membership.—Number of members: 12. [Majority]: 6. [Minority]: 6.

Mode of selecting members: The establishing resolution specified that the members of the Select Committee be chosen as follows: "two from the Armed Services Committee, two from the Foreign Affairs Committee, and eight from the House at large. . . ." Appointed by the Speaker. . . ."

Functions.—Mandate: The Select Committee was authorized to "immediately proceed to Southeast Asia to investigate all aspects of the United States military involvement in Southeast Asia."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was authorized to report to the House on the results of its investigation within forty-five days after adoption of the authorizing resolution.

Authority.—Authority to issue subpoenas: No. . . .

Termination.—Original termination date: July 23, 1970.

Extensions: None.

Actual termination: Report submitted to the House on July 6, 1970. . . .

SELECT COMMITTEE ON COMMITTEES

Date of creation.—January 31, 1973.

Citation.—H. Res. 132; 93d Congress, 1st Session (adopted by a vote of 282–91).

Membership.—Number of members: 10. [Majority]: 5, [Minority]: 5.

Mode of selecting members: Appointed by the Speaker as authorized in the establishing resolution: five members from the majority and five from the minority. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of rules X and XI of the Rules of the House of Representatives, including committee structure of the House, the number and optimum size of committees, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities."

Significant changes in mandate during lifetime: None.

Legislative authority: Yes.

Authority to report: The Select Committee was authorized and "directed to report to the House by bill, resolution, or otherwise, with respect to any matters covered by this resolution."

Authority.—Authority to issue subpoenas: None. . . .

Termination.—Original termination date: End of 93d Congress.

Extensions: None.

Actual termination: December 20, 1974 (end of 93d Congress). . . .

SELECT COMMITTEE ON AGING

Date of creation.—January 3, 1975.

Citation.—H. Res. 988; 93d Congress, 2d Session (amendment adopted by a vote of 323–84, on October 2, 1974).

Membership.—Not specified in establishing resolution. [Appointed by Speaker each Congress.]

Number of members: Not specified in establishing resolution.

94th Congress: 28. . . .

95th Congress: 34. . . .

Functions.—Mandate: The permanent Select Committee on Aging is authorized—

"(1) To conduct a continuing comprehensive study and review of the problems of the older American, including but not limited to income maintenance, housing, health (including medical research), welfare, employment, education, recreation, and participation in family and community life as self-respecting citizens;

"(2) To study the use of all practicable means and methods of encouraging the development of public and private programs and policies which will assist the older American in taking a full part in national life and which will encourage the utilization of the knowledge, skills, special aptitudes, and abilities of older Americans to contribute to a better quality of life for all Americans;

"(3) To develop policies that would encourage the coordination of both governmental and private programs designed to deal with problems of aging; and

"(4) To review any recommendations made by the President or by the White House Conference on Aging relating to programs or policies affecting older Americans."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: Not specified in the establishing resolution. Each House standing committee is required under rule XI, clause 1(d) of the House Rules to submit to the House a report on the activities of that committee no later than January 2 of each odd-numbered year. To date, the House permanent Select Committee on Aging has submitted annual reports to the House for 1975 and 1976.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—The Select Committee is a permanent Select Committee [established under the standing rules of the House pursuant to H. Res. 988, 93d Cong. See Rule X clause 6(g), *House Rules and Manual* § 702 (1979)].

H. Res. 988, including the provision creating the Select Committee, became effective on January 3, 1975.

SELECT COMMITTEE ON INTELLIGENCE

Date of creation.—February 19, 1975 and July 17, 1975.

[On July 17, 1975, the House abolished the first Select Committee on Intelligence established by H. Res. 138, and created a second Select Committee on Intelligence with the same mandate, but with its membership increased by three.]

Citation.—H. Res. 138; 94th Congress, 1st Session (adopted on a vote of 286–120). H. Res. 591; 94th Congress, 1st Session (Adopted by a voice vote).

Membership.—Number of members: 10 (increased to 13 by H. Res. 591). . . .

Functions.—Mandate: The House Select Committee on Intelligence was established "to conduct an inquiry into the organization, operations, and oversight of the intelligence community of the United States Government." The Select Committee was "authorized and directed to conduct an inquiry into—

"(1) The collection, analysis, use, and cost of intelligence information and allegations of illegal or improper activities of intelligence agencies in the United States and abroad;

"(2) The procedures and effectiveness of coordination among and between the various intelligence components of the United States Government;

"(3) The nature and extent of executive branch oversight and control of United States intelligence activities;

"(4) The need for improved or reorganized oversight by the Congress of United States intelligence activities;

"(5) The necessity, nature, and extent of overt and covert intelligence activities by United States intelligence instrumentalities in the United States and abroad;

"(6) The procedures for and means of the protection of sensitive intelligence information;

"(7) Procedures for and means of the protection of rights and privileges of citizens of the United States from illegal or improper intelligence activities; and

"(8) Such other related matters as the select committee shall deem necessary to carry out the purposes of this resolution."

In carrying out the purposes of the establishing resolutions the Select Committee on Intelligence was further "authorized to inquire into the activities of the following:

"(1) the National Security Council;

"(2) the United States Intelligence Board;

"(3) the President's Foreign Intelligence Advisory Board;

"(4) the Central Intelligence Agency;

"(5) the Defense Intelligence Agency;

"(6) the intelligence components of the Departments of the Army, Navy, and the Air Force;

"(7) the National Security Agency;

"(8) the Intelligence and Research Bureau of the Department of State;

"(9) the Federal Bureau of Investigation;

"(10) the Department of the Treasury and the Department of Justice;

"(11) the Energy Research and Development Administration; and

"(12) any other instrumentalities of the United States Government engaged in or otherwise responsible for intelligence operations in the United States and abroad."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The House Select Committee on Intelligence was "authorized and directed to report to the House with respect to the matters covered . . . as soon as practicable but no later than January 31, 1976." The establishing resolution also stated that the authority granted to the Select Committee "shall expire three months

after the filing of the report with the House of Representatives." On January 29, 1970, the House adopted H. Res. 982 by a vote of 246 to 129, which reversed the decision of the Select Committee to make its final report public, and prohibited the release of the report so long as it contained information that the President believed would jeopardize the national security. The resolution directed that "the Select Committee on Intelligence shall not release any report containing materials, information, data, or subjects that presently bear security classification, unless and until such reports are published with appropriate security markings and distributed only to persons authorized to receive such classified information, or until the report has been certified by the President as not containing information which would adversely affect the intelligence activities of the CIA in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government. The resolution also authorized the Select Committee to file a supplemental report containing its recommendations by midnight on Wednesday, February 11, 1976.

Authority.—Authority to issue subpoenas: Yes. . . .

Special authorities: Section 6 of the establishing resolution authorized the Select Committee to "institute and carry out such rules and procedures as it may deem necessary to prevent: (1) The disclosure, outside the select committee, of any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not authorized by the select committee to be disclosed; and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government.". . .

Termination.—Original termination date: The Select Committee was authorized to submit a report by January 31, 1976. The authority granted the Select Committee was to expire three months after the report was filed.

Extensions: H. Res. 982 on January 29, 1976, granted Select Committee until February 11, 1976, to file a supplemental report containing its recommendations.

Actual termination: February 11, 1976, report submitted to House. [Rule XLVIII, *House Rules and Manual* (1979) established a permanent select committee to be known as the permanent Select Committee on Intelligence. The resolution creating the permanent select committee directed the committee to make a study with respect to intelligence and intelligence-related activities of the United States and to report thereon, together with appropriate recommendations, not later than the close of the 95th Congress (H. Res. 658, section 3; see H. Rept. 95–1795, Oct. 14, 1978), and transferred to the permanent Select Committee on Intelligence all records, files, documents and other materials of the Select Committee on Intelligence of the 94th Congress in the possession, custody, or control of the Clerk of the House.]

AD HOC SELECT COMMITTEE ON THE OUTER CONTINENTAL SHELF

Date of creation.—April 22, 1975.

Citation.—H. Res. 412; 94th Congress, 1st Session (adopted by a voice vote). H. Res. 97; 95th Congress, 1st Session, January 11, 1977 [adopted by a voice vote upon being called up as privileged from the floor pursuant to the Speaker's authority under Rule X clause 5 (c) to create ad hoc select committees with approval of the House].

Membership.—Number of members: 16 (increased to 19 by the Speaker on May 6, 1975). . . .

Mode of selecting members: Appointed by the Speaker from the following committees: (1) The Committee on Interior and Insular Affairs; (2) the Committee on the Judiciary; (3) the Committee on Merchant Marine and Fisheries. H. Res. 97 which reauthorized the Committee for the 95th Congress, also specified that the Select Committee be composed of "other members from other committees as the Speaker may appoint so as to insure the expeditious consideration ancl reporting of appropriate legislation."

Function.—Mandate: The ad hoc Select Committee on the Outer Continental Shelf was authorized to consider and report to the House on H.R. 6218, "a bill to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, and on any related matter on this subject within the jurisdiction . . ." of the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and the Judiciary which may be referred to it by the Speaker.

Significant changes in mandate during lifetime: None.

Legislative authority: Yes.

Authority to report: The ad hoc Select Committee on the Outer Continental Shelf was originally directed to transmit its findings and make a full report to the House on January 31, 1976. The reporting date was extended to March 31, 1976, by H. Res. 977 and to May 4, 1976, by H. Res. 1121. H. Res. 97 reestablished the Select Committee and extended its reporting date to the end of the first session of the 95th Congress. Unless extended further, the Committee was to expire "upon completion of the legislative process, including final disposition of any veto message with respect to all legislation reported by the Committee." (H. Res. 97, 95th Congress, 1st Session, January 11, 1977 p. 3).

Authority.—Authority to issue subpoenas: Yes. . . .

Special authorities: Section 2 of the establishing resolution provides that "[I]nsofar as applicable, the provisions of rule XI, clauses 1 and 2 shall apply to the Select Committee." Rule XI of the Rules of the House relate to the rules of procedures for standing committees, and clauses 1 and 2 focus on the following: adoption of written rules for committees, regular meeting days, additional and special meetings, absence of chairman, committee records, open meetings and hearings, quorum for taking testimony and certain other actions, prohibition against committee meetings during five minute rule, calling and interrogation of witnesses, investigative hearing procedures, committee procedures for reporting bills and resolutions, power to sit and act, subpoena power, and use of committee funds for travel. . . .

Termination.—Original termination date: January 31, 1976.

Extensions: Extended to March 31, 1976 by H. Res. 977 on January 26, 1976. Extended to May 4, 1976, by H. Res. 1121 on March 31, 1976. [Since H.R. 6218 did not become law in the 94th Congress, the Committee was reestablished in the 95th Congress by H. Res. 97 on Jan. 11, 1977, for purposes of considering H.R. 1614, the new version of the bill. Upon submission of the final report of the Committee, it was authorized to continue until completion of the legislative process, "including final disposition of any veto message, with respect to all legislation reported by the Committee."]

Actual termination: Still in existence during 1st Session of the 95th Congress. . . .

SELECT COMMITTEE TO STUDY THE PROBLEM OF UNITED STATES SERVICEMEN MISSING IN ACTION IN SOUTHEAST ASIA

Date of creation.—September 11, 1975.

Citation.—H. Res. 335; 94th Congress, 1st Session (adopted by a vote of 395–3).

Membership.—Number of members: 10. . . .

Functions.—Mandate: The Select Committee was "authorized and directed to conduct a full and complete investigation and study of—

"(1) The problem of United States servicemen still identified as missing in action, as well as those known dead whose bodies have not been recovered, as a result of military operations in North Vietnam, South Vietnam, Laos, and Cambodia and the problem of United States civilians identified as missing or unaccounted for, as well as those known dead whose bodies have not been recovered in North Vietnam, South Vietnam, Laos, and Cambodia;

"(2) The need for additional international inspection teams to determine whether there are servicemen still held as prisoners of war or civilians held captive or unwillingly detained in the aforementioned areas."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was directed to submit a report to the House with respect to the results of its investigation as soon as practicable, but not later than one year after the adoption of the resolution establishing it (September 11, 1976). Extended to January 3, 1977 by H. Res. 1454 on August 2, 1976.

Authority.—Authority to issue subpoenas: Yes. . . .

Special authorities: The Select Committee and its staff were authorized to conduct field hearings and investigations and to travel to Southeast Asia if necessary. . . .

Termination.—Original termination date: The Select Committee was directed to report not later than one year after adoption of the establishing resolution (September 11, 1976). The authority of the Select Committee was scheduled to expire ninety days after submission of the final report.

Extensions: Extended to January 3, 1977, by H. Res. 1454 on August 2, 1976.

Actual termination: Final report submitted to the House on December 13, 1976. [Authority of Select Committee expired prior to noon on Jan. 3, 1977, under terms of H. Res. 1454.]

SELECT COMMITTEE ON PROFESSIONAL SPORTS

Date of creation.—May 18, 1976.

Citation.—H. Res. 1186; 94th Congress, 2d Session (adopted by a voice vote).

Membership.—Number of members: 13. . . .

Functions.—Mandate: The Select Committee on Professional Sports was authorized "to conduct an inquiry into the need for legislation with respect to professional sports."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee was directed to report to the House on the results of its inquiry as soon as practicable during the 94th Congress.

Authority.—Authority to issue subpoenas: Yes. . . .

Termination.—Original termination: End of 94th Congress.

Extensions: None. On January 13, 1977, Mr. Sisk and others introduced H. Res. 111, a resolution to reestablish the Select Committee on Professional Sports for the 95th Congress. The House Committee on Rules reported favorably on this resolution on March 3, 1977. However, on March 7, 1977, the measure was rejected by the House on a rollcall vote of 75–271.

Actual termination: Final report submitted to the House on January 3, 1977. . . .

SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

Date of creation.—July 29, 1976.

Citation.—H. Res. 1350; 94th Congress, 2d Session (adopted by a vote of 360–10). H. Res. 77; 95th Congress, 1st Session, January 11, 1977 (adopted by a voice vote).

Membership.—Number of members: 18. . . .

Mode of selecting members: The establishing resolution specified that the members of the Select Committee be appointed by the Speaker and that at least one member be chosen from each by the following committees: the Committee on Armed Services, the Committee on Government Operations, the Committee on International Relations, the Committee on Interstate and Foreign Commerce, the Committee on the Judiciary, the Committee on Merchant Marine and Fisheries, and the Committee on Ways and Means. . . .

Functions.—Mandate: The Select Committee on Narcotics Abuse and Control was authorized: "(1) To conduct a continuing comprehensive study and review of the problems of narcotics abuse and control, including, but not limited to, international trafficking, enforcement, prevention, narcotics-related violations of the Internal Revenue Code of 1954, international treaties, organized crime, drug abuse in the Armed Forces of the United States, treatment and rehabilitation, and the approach of the criminal justice system with respect to narcotics law violations and crimes relating to drug abuse; and (2) to review any recommendations made by the President, or by any department or agency of the executive branch of the Federal Government, relating to programs or policies affecting narcotics abuse or control."

Significant changes in mandate during lifetime: None to date.

Legislative authority: None.

Authority to report: The Select Committee was directed to submit an annual report to the House summarizing its activities and to submit additional reports on the results of its investigations.

Authority.—Authority to issue subpoenas: Yes. . . .

Special authorities: The Select Committee was authorized to hold field hearings and inspections. . . .

Termination.—Original termination date: Not specified in establishing resolution.

Extensions: Reauthorized by H. Res. 77 on January 11, 1977, for the 95th Congress.

Actual termination: Still in existence in the 95th Congress. . . .

SELECT COMMITTEE TO INVESTIGATE THE CIRCUMSTANCES SURROUNDING THE DEATH OF JOHN F. KENNEDY AND THE DEATH OF MARTIN LUTHER KING

(Also known as the Select Committee on Assassinations)

Date of creation.—September 17, 1976.

Citation.—H. Res. 1540; 94th Congress, 2d Session (adopted by a vote of 280–65). H. Res. 222; 95th Congress, 1st Session, February 2, 1977 (adopted by vote of 237–164). H. Res. 433, 95th Congress, 1st Session, March 30, 1977 (adopted by vote of 230–181).

Membership.—Number of members: 12. . . .

Functions.—Mandate: The Select Committee was authorized to "conduct a full and complete investigation and study of the circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Junior, and of any others the select committee shall determine."

Significant changes in mandate during lifetime: H. Res. 222, which reauthorized the Select Committee for the 95th Congress, expanded its jurisdiction to include an "investigation and study of the circumstances surrounding the assassination and death of President John F. Kennedy and the assassination and death of Martin Luther King, Junior, and of any other persons the select committee shall determine might be related to either death in order to ascertain: (1) Whether the existing laws relating to the safety and protection of the President of the United States, assassinations of the President of the United States, deprivation of civil rights, and conspiracies related thereto, as well as the investigatory jurisdiction and capability of agencies and departments of the United States Government, are adequate either in their provisions or in the manner of their enforcement; and (2) whether there was full disclosure and sharing of information and evidence among agencies and departments of the United States Government during the course of all prior investigations into those deaths; and whether any evidence or information which was not in the possession of any agency or department of the United States Government investigating either death would have been of assistance to that agency or department, and why such information was not provided to or collected by the appropriate agency or department; and shall make recommendations to the House, if the select committee deems it appropriate, for the amendments of existing legisla-

tion or the enactment of new legislation." H. Res. 222 also directed that the Select Committee adopt written rules of procedure consistent with the House Rules and the establishing resolution.

Legislative authority: None.

Authority to report: The establishing resolution directed the Select Committee to submit a report to the House on the results of its investigation as soon as practicable during the 94th Congress. H. Res. 222 extended the life of the Select Committee to March 31, 1977. On March 30, 1977, the House approved H. Res. 433 which extended the life of the Select Committee for the duration of the 95th Congress.

Authority.—Authority to issue subpoenas: Yes. . . .

Special authorities: The Select Committee was authorized by H. Res. 222 to "take testimony on oath anywhere within the United States or in any other country and to authorize designated counsel for the select committee to obtain statements from any witness who is placed under oath by an authority who is authorized to administer oaths in accordance with the applicable laws of the United States or of any State . . . ." [The House by resolution authorized a select committee to make applications to courts and to bring and defend lawsuits arising out of witnesses' refusals to comply with committee subpenas and court immunity orders. In this instance, where the Select Committee on Assassinations had been established by resolution and given the authority conferred on standing committees by law to request immunity orders in court for witnesses, the Committee on Rules reported as privileged and the House adopted a subsequent resolution permitting that committee to make applications to courts and to bring and defend, but not to intervene in, lawsuits in support of committee subpenas and court immunity orders, when authorized by a majority of the committee. H. Res. 760, 95th Cong. 1st Sess., Sept. 28, 1977.] The chairman of the Select Committee was authorized to establish subcommittees as he considers appropriate. H. Res. 222 also specified that "[T]he select committee shall be considered a committee of the House of Representatives for all purposes of law, including but not limited to section 102 of the Revised Statutes of the United States (2 U.S.C. 192); and sections 6002 and 6005 of title 18, United States Code, or any other Act of Congress regulating the granting of immunity to witnesses.". . .

Termination.—Original termination date: End of 94th Congress.

Extensions: Extended to March 31, 1977, by H. Res. 222 on February 2 1977. Extended to the end of the 95th Congress by H. Res. 433 on March 30, 1977.

Actual termination: Still in existence in the 95th Congress. . . .

SELECT COMMITTEE ON ETHICS

Date of creation.—March 9, 1977.

Citation.—H. Res. 383; 95th Congress, 1st Session (adopted by a vote of 410–1).

Membership.—Number of members: 19. . . .

Functions.—Mandate: The Select Committee on Ethics was authorized to "consider and . . . report to the House on any bills or resolutions which may

include provisions incorporating and integrating into permanent law applicable provisions and appropriate modifications of rule XLIII, rule XLIV, rule XLV, rule XLVI, and rule XLVII of the Rules of the House of Representatives, and which may hereafter be referred to the Select Committee by the Speaker. The select committee shall have jurisdiction over the bills and resolutions referred to it." The Select Committee was also authorized "to adopt regulations, and issue advisory opinions, regarding the application of rules XLIII–XLVII of the Rules of the House."

Significant changes in mandate during lifetime: None.

Legislative authority: Yes.

Authority to report: The establishing resolution specified that the authority of the Select Committee on Ethics to report bills and resolutions referred to it shall expire on September 30, 1977. The Select Committee is scheduled to expire on December 31, 1977. Its records will be transferred to the House Committee on Standards of Official Conduct.

Authority.—Authority to issue subpoenas: Yes. . . .

Special authority: Whenever appropriate, clauses 1, 2, and 3 of rule XI of the House rules apply to the Select Committee on Ethics. Rule XI governs rules of procedures for House committees generally and clauses 1, 2, and 3 relate to committee rules, committee records, and broadcasting of committee hearings. . . .

Termination.—Original termination date: The authority to report bills and resolutions expires on September 30, 1977. The establishing resolution specified that the Select Committee shall adopt regulations necessary for the application of rules XLIII–XLVII by December 1, 1977. The Select Committee on Ethics is scheduled to expire on December 31, 1977.

Extensions: [The committee and its functions were extended through the "completion of its official business" in the 95th Congress (H. Res. 871, Oct. 31, 1977).]

Actual termination: Still in existence.

Select Committee on Congressional Operations

Date of creation.—March 28, 1977.

Citation.—H. Res. 420; 95th Congress, 1st Session (adopted by a vote of 211–147.)

Membership.—Number of members: 7. . . .

Functions.—Mandate: The Select Committee was authorized to continue the work of the Joint Committee on Congressional Operations for the House, by:

"(1) Making a continuing study of the organization and operation of the Congress of the United States and recommending improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, developing cooperation between the Houses of Congress, improving its relationship with other branches of the United States Government, and enabling it to meet its responsibilities under the Constitution of the United States.

"(2) Identifying any court proceeding or action which, in the opinion of the select committee, is of vital interest to the Congress, or to the House of Representatives as a constitutionally es-

tablished institution of the Federal Government, and calling such proceeding or action to the attention of the House.

"(3) Conducting a continuing study of the jurisdiction of the various standing committees of the House of Representatives and their relative workloads, and of ways of rationalizing committee jurisdictions between the two Houses of Congress, and reporting to the Committee on Rules any recommendations on the more equitable distribution of workload or the more rational combination of jurisdictional responsibilities."

The Select Committee on Congressional Operations is directed to "avoid conflict or duplication with the activities of other committees, commissions, or other entities established by the House."

The Select Committee is also authorized to "supervise and control the functions, as they relate to the House, of the Office of Placement and Office Management established by section 406 of the Legislative Reorganization Act of 1970."

Significant changes in mandate during lifetime: None.

Legislative authority: None. H. Res. 420 provides that nothing in the resolution except as specifically provided in subsection (a) (3) "shall be construed to authorize the Select Committee to make any recommendations with respect to the rules, parliamentary procedure, practices, or precedents of the House, or the consideration of any matter on the floor of the House, nor shall anything . . . be construed to authorize the Select Committee to operate or supervise a permanent system for the broadcast coverage of the proceedings of the House without the express and prior approval of the House."

Authority to report: The Select Committee was authorized to report its recommendations on "the more equitable distribution of workload or the more rational combination of jurisdictional responsibilities."

Authority.—Authority to issue subpenas: [A committee amendment to II. Res. 420 removed the subpena power granted to the select committee in the original resolution as introduced, by making clauses 1 through 3 of Rule XI applicable "insofar as applicable," inasmuch as clause 2(m)(1) [§ 718, *House Rules and Manual*, (1977)] only authorizes subpena power to committees in carrying out functions under Rules X and XI, and the select committee was not incorporated into the provisions of Rule X.]

Special authorities: The provisions of rule XI, clauses 1, 2, and 3, whenever applicable, shall apply to the Select Committee. The Select Committee is directed to adopt written rules of procedure which shall not be inconsistent with the House rules. . . .

Termination.—Original termination date: Not specified. Extensions: None.

Actual termination: Still in existence in the 95th Congress. . . .

AD HOC COMMITTEE ON ENERGY

Date of creation.—April 21, 1977.

Citation.—H. Res. 508; 95th Congress, 1st Session [adopted by a voice vote upon being called up as privileged from the floor pursuant to the Speaker's authority under Rule X clause 5(c) to create ad hoc select committees with approval of the House].

Membership.—Number of members: 37 (increased to 40 by H. Res. 509). . . .

Mode of selecting members: H. Res. 508 directed that the Ad Hoc Committee on Energy be composed of members appointed by the Speaker "from those committees of the House which he determines have subject-matter jurisdiction over the substance of the President's Message, and from such other committees as the Speaker may determine so as to insure the expeditious consideration and reporting of appropriate legislation.". . .

Functions.—Mandate: The Ad Hoc Committee on Energy was authorized "to consider and report to the House on the Message of the President dated April 20, 1977 (H. Doc. 95–128), on other messages or communications related thereto, and on any bill or resolution which the Speaker may sequentially refer thereto which the Speaker determines relates to the substance of the President's Message: *Provided, however,* that this paragraph shall not preclude initial reference to the ad hoc Committee of a bill or resolution incorporating the recommendations of the committees with subject-matter jurisdiction over the substance of the President's Message."

Significant changes in mandate during lifetime: None.

Legislative authority: Yes.

Authority to report: The Ad Hoc Committee was authorized to report to the House by bill or otherwise and shall expire "upon completion of the legislative process, including final disposition of any veto message, with respect to all legislation referred to the ad hoc Committee."

Authority.—Authority to issue subpoenas: Yes.

Provisions regarding staffing: The Ad Hoc Committee on Energy was authorized by H. Res. 508 to "utilize the services of the staffs of those committees of the House from which Members have been selected for membership on the ad hoc Committee.". . .

Termination.—Original termination date: Not specified in establishing resolution; however, subsequent funding resolutions contained expiration dates for the authorization granted to the committee. Thus, H. Res. 1051 (95th Cong. 2d Sess.) stipulated that such authorization would expire just prior to noon on Jan. 3, 1979, or upon completion of the legislative process with respect to legislation referred to the committee.

Extensions: None.

Actual termination: Still in existence as of 95th Cong. 2d Sess. . . .

PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Date of creation.—July 14, 1977.

Citation.—H. Res. 658; 95th Congress, 1st Session (adopted by a vote of 229–169); adding new Rule XLVIII to standing rules.

Membership.—Number of members: 13. . . .

Mode of selecting members: The thirteen members of the Select Committee shall include at least one member from the Committee on Appropriations, the Committee on Armed Services, the Committee on International Relations, and the Committee on the Judiciary. The establishing resolution specified that the majority and minority leaders of the House be ex officio members of

the Select Committee but shall not be counted for purposes of determining a quorum. Service on the Select Committee is limited to six years, exclusive of service during the 95th Congress. Beginning with the 97th Congress and every Congress thereafter, at least four of the members appointed to the Committee shall be Members with no previous service on the Select Committee on Intelligence.

Mode of selecting chairman: Not specified in establishing resolution; however, all Select Committee appointments are made by the Speaker.

Functions.—Mandate: The House Select Committee on Intelligence, established in accordance with H. Res. 591 on July 17, 1975, recommended that the House establish a permanent Select Committee on Intelligence with legislative, budgetary, and supervisory authority over all foreign and domestic intelligence gathering activities of the United States Government. H. Res. 658 established the House Permanent Select Committee on Intelligence to oversee, make continuing studies, and reports to the House (by legislation or otherwise) appropriate proposals concerning the intelligence and intelligence-related programs and activities of the United States Government.

The Select Committee was authorized to consider "all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

"(1) The Central Intelligence Agency and the Director of Central Intelligence.

"(2) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to, the intelligence and intelligence-related activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

"(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization related to a function or activity involving intelligence or intelligence-related activities.

"(4) Authorizations for appropriations, both direct and indirect, for the following: (a) the Central Intelligence Agency and Director of Central Intelligence; (b) the Defense Intelligence Agency; (c) the National Security Agency; (d) the intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense; (e) the intelligence and intelligence-related activities of the Department of State; and (f) the intelligence and intelligence-related activities of the Federal Bureau of Investigation including all activities of the Intelligence Division."

These provisions also apply to successors of the above-named agencies. The Select Committee was directed to report to the House on the nature and extent of the intelligence and intelligence-related activities of Federal Departments and agencies. The Select Committee was also directed to conduct a study regarding specified aspects of intelligence and intelligence-related activities.

Significant changes in mandate during lifetime: None.

Legislative authority: Yes.

Authority to report: For the purposes of accountability to the House, the Select Committee is authorized to "make regular and periodic reports to the House on the nature and extent of the intelligence and intelligence-related activities of the various departments and agencies of the United States." The Select Committee is directed to call to the attention of the House or any House Committee appropriate matters requiring the attention of the House of Representatives. In making these reports to the House, the Select Committee should follow procedures consistent with section 7 of H. Res. 658 concerning the public disclosure of information. The Select Committee is directed to report on the study performed in accordance with section 3 of H. Res. 658 no later than the close of the 95th Congress.

Authority.—Authority to issue subpoenas: Yes. . . .

Special authorities: Section 7 established procedures by which the Committee can recommend public disclosure of information previously considered classified. [Special authority was also given to determine Members' access to executive session records on an ad hoc basis, as an exception from Rule XI clause 2 which gives all Members access to other committees' files.]

Termination.—Original termination date: As a permanent Select Committee, it may only be terminated by an amendment to the House rules.

Extension: None.

Actual termination: Still in existence.

SELECT COMMITTEE ON POPULATION

Date of creation.—September 28, 1977.

Citation.—H. Res. 70; 95th Congress, 1st Session (adopted by a recorded vote of 258–147).

Membership.—Number of members: 16. . . .

Functions.—Mandate: H. Res. 70 authorized the creation of the Select Committee "to conduct a full and complete investigation and study of—

"(1) The causes of changing population conditions and their consequences for the United States and the world;

"(2) National, regional, and global population characteristics relative to the demands on limited resources and ability of nations to feed, clothe, house, educate, employ, and govern their citizens and otherwise afford them an improved standard of living;

"(3) Various approaches to population planning (including the study of family planning technology, with emphasis on measures designed to reduce the frequency of conception rather than the termination of pregnancy, and the relationship of improved economic and social opportunities to family size) in order to ascertain those policies and programs, within the United States as well as other nations, which would be most effective in coping with unplanned population change; and

"(4) The means by which the United States Government can most effectively cooperate with and assist nations and international agencies in addressing successfully, in a noncoercive manner, various national, regional, and global population-related issues."

Significant changes in mandate during lifetime: None.

Legislative authority: None.

Authority to report: The Select Committee on Population is authorized by

H. Res. 70 to make a report on the results of its investigation and study as soon as practicable during the 95th Congress. H. Res. 70 also directs that any report of the Select Committee "be referred to the committee or committees which have jurisdiction over the subject matter. . . ."

Authority.—Authority to issue subpoenas: No. . . .

Special authorities: The provisions of rule XI, clauses 1, 2, and 3 of the rules of the House which relate to rules of procedures for House committees also to apply to the Select Committee. However, clause 2(m) of the House rules relating to subpoena power does not apply to the Select Committee on Population. . . .

Termination.—Original termination date: End of 95th Congress.

Extensions: None.

Campaign Practices and Expenditures

§ 6.1 In a number of Congresses, the House has by a privileged resolution established a special committee to investigate campaign practices and expenditures.

On Aug. 4, 1970,[13] by direction of the Committee on Rules, Mr. Thomas P.O'Neill, Jr., of Massachusetts, called up and asked for immediate consideration of the following resolution (H. Res. 1062):

Resolved, That a special committee of five Members be appointed by the Speaker of the House of Representatives to investigate and report to the House not later than January 11, 1971, with respect to the following matters:

(1) The extent and nature of expenditures made by all candidates for the House of Representatives in connection with their campaign for nomination and election to such office.

(2) The amount subscribed, contributed, or expended, and the value of services rendered, and facilities made available (including personal services, use of advertising space, radio and television time, office space, moving picture films, and automobile and any other transportation facilities) by any individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, to or on behalf of each such candidate in connection with any such campaign or for the purpose of influencing the votes cast or to be cast at any convention or election held in 1970 to which a candidate for the House of Representatives is to be nominated or elected.

(3) The use of any other means or influence (including the promise or use of patronage) for the purpose of aiding or influencing the nomination or election of any such candidates.

(4) The amounts, if any, raised, contributed, and expended by any individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, including any political committee thereof, in connection with any such election, and the amounts received by any political committee from any corporation, labor union, individual, individuals, or group of individuals, committee, or partnership.

13. 116 CONG REC. 27125, 91st Cong. 2d Sess.

(5) The violations, if any, of the following statutes of the United States:

(a) The Federal Corrupt Practices Act.

(b) The Act of August 2, 1939, as amended, relating to pernicious political activities, commonly referred to as the Hatch Act.

(c) The provisions of section 304, chapter 120, Public Law 101, Eightieth Congress, first session, referred to as the Labor-Management Relations Act, 1947.

(d) Any statute or legislative Act of the United States or of the State within which a candidate is seeking nomination or reelection to the House of Representatives, the violation of which Federal or State statute, or statutes, would affect the qualification of a Member of the House of Representatives within the meaning of article I, section 5, of the Constitution of the United States.

(6) Such other matters relating to the election of Members of the House of Representatives in 1970, and the campaigns of candidates in connection therewith, as the committee deems to be of public interest, and which, in its opinion, will aid the House of Representatives in enacting remedial legislation, or in deciding contests that may be instituted involving the right to a seat in the House of Representatives.

(7) The committee is authorized to act upon its own motion and upon such information as in its judgment may be reasonable or reliable. Upon complaint being made to the committee under oath, by any person, candidate or political committee, setting forth allegations as to facts which, under this resolution, it would be the duty of said committee to investigate, the committee shall investigate such charges as fully as though it were acting upon its own motion, unless, after a hearing upon such complaint, the committee shall find that the allegations in such complaint are immaterial or untrue. All hearings before the committee, and before any duly authorized subcommittee thereof, shall be public, and all orders and decisions of the committee, and of any such subcommittee, shall be public.

For the purpose of this resolution, the committee or any duly authorized subcommittee thereof, is authorized to hold such public hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Ninety-first Congress, to employ such attorneys, experts, clerical, and other assistants, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, and to take such testimony as it deems advisable. Subpeonas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by such chairman, and may be served by any person designated by any such chairman or member.

(8) The committee is authorized and directed to report promptly any and all violations of any Federal or State statutes in connection with the matters and things mentioned herein to the Attorney General of the United States in order that he may take such official action as may be proper.

(9) Every person who, having been summoned as a witness by authority of said committee or any subcommittee

thereof, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties prescribed by law.

That said committee is authorized and directed to file interim reports whenever in the judgment of the majority of the committee, or of the subcommittee conducting portions of said investigation, the public interest will be best served by the filing of said interim reports, and in no event shall the final report of said committee be filed later than January 11, 1971, as hereinabove provided.

Shortly thereafter,[14] the resolution was agreed to.

Parliamentarian's Note: In recent years no such committee has been established,[15] since the Committee on House Administration (with jurisdiction over campaign activities) now has standing investigatory and subpena authority (see Ch. 8, § 14, supra). In the past, however, resolutions to establish such special committees had been a common occurrence.[16]

Crime Affecting the United States

§ 6.2 By resolution reported from the Committee on Rules, the House created a select committee to investigate crime affecting the United States.

On Mar. 9, 1971,[17] Speaker Carl Albert, of Oklahoma, recognized Mr. John A. Young, of Texas, who stated:

Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 115 and ask for its immediate consideration.

The Clerk then read House Resolution 115, as follows:[18]

Resolved, That, effective January 3, 1971, there is hereby created a select committee to be composed of seven Members of the House of Representatives to be appointed by the Speaker,

14. *Id.* at p. 27126.

15. See § 5.6, supra, however, where a select committee was authorized to investigate certain campaign violations jointly with the Clerk of the House. See also Ch. 8, § 14, supra.

16. See, for example, 114 CONG. REC. 25065, 90th Cong. 2d Sess., Aug. 2, 1968 [resolution providing for payment from the contingent fund of expenses of the Select Committee to Investigate Campaign Expenditures]; 114 CONG. REC. 24770, 90th Cong. 2d Sess., Aug. 1, 1968 [H. Res. 1239, authorizing the Speaker to appoint a Special Committee on Campaign Expenditures]; 112 CONG. REC. 19080, 89th Cong. 2d Sess., Aug. 11, 1966 [H. Res. 929, authorizing the Speaker to appoint a Special Committee on Campaign Expenditures]; and 108 CONG. REC. 16000, 16012, 87th Cong. 2d Sess., Aug. 9, 1962 [H. Res. 753].

17. 117 CONG. REC. 5587, 92d Cong. 1st Sess.

18. *Id.* at pp. 5587, 5588.

one of whom he shall designate as chairman. Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

Sec. 2. The select committee is authorized and directed to conduct a full and complete investigation and study of all aspects of crime affecting the United States, including, but not limited to, (1) its elements, causes, and extent; (2) the preparation, collection, and dissemination of statistics and data; (3) the sharing of information, statistics, and data among law enforcement agencies, Federal, State, and local, including the exchange of information, statistics, and data with foreign nations; (4) the adequacy of law enforcement and the administration of justice, including constitutional issues and problems pertaining thereto; (5) the effect of crime and disturbances in the metropolitan urban areas; (6) the effect, directly or indirectly, of crime on the commerce of the Nation; (7) the treatment and rehabilitation of persons convicted of crimes; (8) measures relating to the reduction, control, or prevention of crime; (9) measures relating to the improvement of (A) investigation and detection of crime, (B) law enforcement techniques, including, but not limited to, increased cooperation among the law enforcement agencies, and (C) the effective administration of justice; and (10) measures and programs for increased respect for the law and constituted authority.

Sec. 3. For the purpose of carrying out this resolution the select committee, or any subcommittee thereof authorized by the select committee, is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, whether the House is in session, has recessed, or has adjourned, to hold such hearings and conduct such investigations, and to require, by subpena, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the select committee or any member of the select committee designated by him, and may be served by any person designated by such chairman or member.

Sec. 4. The select committee shall report to the House as soon as practicable during the present Congress the results of its investigations, hearings, and studies, together with such recommendations as it deems advisable. Any such report or reports which are made when the House is not in session shall be filed with the Clerk of the House.

With the following committee amendments:

On page 1, line 2, strike the word "seven" and insert in lieu thereof the word "eleven".

Beginning on page 2, line 19, strike all through page 3, line 9, and insert in lieu thereof the following:

"Sec. 3. For the purpose of making such investigations and studies, the committee or any subcommittee thereof is authorized to sit and act, subject to clause 31 of Rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within the United States,

including any Commonwealth or possession thereof, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or any member designated by him and may be served by any person designated by such chairman or member."

As the ensuing discussion revealed, the select committee was initially created on May 1, 1969,[19] and proceeded to investigate, hold hearings, and publish reports for the remaining 20 months of that Congress. The crux of the debate centered on whether the nature of the committee's investigation warranted the costs involved. When the previous question on the resolution was ordered,[20] however, the House agreed to adopt the resolution by voice vote.[1]

Conduct of House Members, Officers and Employees

§ 6.3 By resolution reported from the Committee on Rules, the House created a Select Committee on Standards and Conduct.

On Sept. 7, 1966,[2] Mr. Claude D. Pepper, of Florida, a member of the Committee on Rules, reported the following privileged resolution (H. Res. 1013) which was referred to the House Calendar and ordered to be printed:

Resolved, That (a) there is hereby established a select committee of the House of Representatives to be known as the Select Committee on Standards and Conduct (referred to hereinafter as the "Select Committee") consisting of twelve Members of the House of whom six shall be selected from members of the majority party and six shall be selected from members of the minority party. The chairman and other members thereof shall be appointed by the Speaker of the House of Representatives.

(b) Vacancies in the membership of the Select Committee shall not affect the authority of the remaining members to execute the functions of the Select Committee, and shall be filled in the same manner as original appointments thereto are made.

(c) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business, except that the Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony. The Select Committee shall adopt rules of procedure not inconsistent with the

19. See 115 CONG. REC. 11101, 91st Cong. 1st Sess.

20. 117 CONG. REC. 5610, 92d Cong. 1st Sess., Mar. 9, 1971.

1. See also § 5.5, supra.

2. 112 CONG. REC. 21949, 89th Cong. 2d Sess.

rules of the House governing standing committees of the House.

Sec. 2. (a) It shall be the duty of the Select Committee in its discretion to—

(1) investigate allegations of improper conduct which may reflect upon the House, violations of law, and violations of rules and regulations of the House, relating to the conduct of individuals in the performance of their duties as Members of the House, or as officers or employees of the House, and to make appropriate findings of fact and conclusions with respect thereto;

(2) recommend to the House, by report or resolution by a two-thirds vote (eight members) of the Select Committee, disciplinary action to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred;

(b) the Select Committee from time to time shall transmit to the House its recommendations as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.

Sec. 3. For the purpose of this resolution the Select Committee or any subcommittee thereof is authorized to sit and act during the present Congress at such times and places within the United States, whether or not the House has recessed or adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony as the Select Committee deems necessary. Subpenas may be issued under the signature of the chairman of the Select Committee or by any member designated by such chairman and may be served by any person designated by such chairman or member. The chairman of the Select Committee or any member thereof may administer oaths to witnesses.

Sec. 4. As used in this resolution, the term "officer or employee of the House" means—

(a) an elected officer of the House of Representatives who is not a Member of the House;

(b) any person whose compensation is disbursed by the Clerk of the House.

Six weeks later, on Oct. 19, 1966,[3] by direction of the Committee on Rules, Mr. Pepper called up House Resolution 1013 and asked for its present consideration. A proposed committee amendment requiring that any allegation referred to in paragraph (1) be made under oath and state the facts on which it is based was agreed to by unanimous consent.

However, an additional amendment was later proposed by Mr. Wayne L. Hays, of Ohio, to section 2 of the resolution, which the Clerk read, as follows:[4]

Amendment offered by Mr. Hays: On page 2, strike out line 12 through line 25, and on page 3 lines 1, 2, and 3, and insert "(1) recommend to the House, by report or resolution such additional rules or regulations as the select committee shall determine to be necessary or desirable to insure proper standards

3. *Id.* at pp. 27713, 27714.

4. *Id.* at p. 27727.

of conduct by Members of the House and by officers or employees of the House, in the performance of their duties, and the discharge of their responsibilities; and

(2) report violations, by a majority vote of the select committee, of any law to the proper Federal and State authorities."

Discussion ensued, after which the question was put on the Hays amendment,[5] and it was agreed to. Immediately thereafter, the resolution, as amended, was agreed to.

Government Research Investigation

§ 6.4 In the 88th Congress, the House established a Select Committee on Research and Development.

On Sept. 11, 1963,[6] following discussion of the proposal,[7] the House agreed to the following resolution (H. Res. 504):

Resolved, That there is hereby created a select committee to be composed of nine Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the manner in which the original appointment was made.

The said committee is directed to make a complete, full, and thorough investigation of the numerous research programs being conducted by sundry departments and agencies of the Federal Government and, without limiting the generality of the foregoing, the committee shall give special attention to the following: (1) the overall total amount of annual expenditures on research programs; (2) what departments and agencies of the Government are conducting research and at what costs; (3) the amounts being expended by the various agencies and departments in grants and contracts for research to colleges, private industry, and every form of student scholarships; (4) what facilities, if any, exist for coordinating the various and sundry research programs, including grants to colleges and universities as well as scholarship grants.

In order that this investigation of the numerous research programs may be better coordinated, without limiting the scope of the said committee's investigation, it is directed, among other investigative procedures, to make use of information currently available in the various committees of Congress which have legislative jurisdiction over Government research activities to the end that the said select committee may be able to recommend the necessary legislation to coordinate and prevent unjustifiable duplication in the numerous projects and activities of the Government relating to scientific research.

The committee shall report its findings to the House with such recommended legislation as the committee may deem appropriate to correct any deficiencies. The committee shall make such reports to the House

5. *Id.* at p. 27729.
6. 109 CONG. REC. 16754, 88th Cong. 1st Sess.
7. See § 5.2, supra, for details.

prior to December 1, 1964, and may submit such interim reports as it deems advisable. Any reports submitted when the House is not in session may be filed with the Clerk of the House.

For the purposes of this resolution the committee, or any subcommittee thereof, is authorized to sit and act during the present Congress at such times and places within the United States, whether or not the House has recessed or adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony as the committee deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any properly designated chairman of a subcommittee, or any member designated by him and may be served by any person designated by such chairman or member. The chairman of the committee or any member thereof may administer oaths to witnesses.

The majority of the members of the committee shall constitute a quorum for the transaction of business, except two or more shall constitute a quorum for the purpose of taking of evidence including sworn testimony.

U.S. Military Involvement in Southeast Asia

§ 6.5 In the 91st Congress, the House agreed to establish a select committee to investigate U.S. military involvement in Southeast Asia.

On June 8, 1970,[8] by direction of the Committee on Rules, Mr. William R. Anderson, of Tennessee, called up House Resolution 976. The resolution provided for the creation of a select committee to investigate all aspects of the U.S. military involvement in Southeast Asia.

After agreement to several committee amendments,[9] the resolution read as follows:

Resolved, That—

(1) The Speaker of the House shall appoint a select committee of twelve Members of the House, six of which shall be from the majority party and six from the minority party, as follows: two from the Armed Services Committee, two from the Foreign Affairs Committee, and eight from the House at large and shall designate one Member to serve as chairman. The select committee shall immediately proceed to Southeast Asia to investigate all aspects of the United States military involvement in Southeast Asia. The select committee shall, within forty-five days of the adoption of this resolution, report to the House the results of its investigation.

(2) For the purpose of carrying out this resolution the committee is authorized to sit and act during the present Congress at such times and places as it deems appropriate whether the House is sitting, has recessed, or has adjourned.

(3) The select committee may appoint and fix the compensation of such clerks, experts, consultants, technicians, and clerical and stenographic as-

8. 116 CONG. REC. 18656, 91st Cong. 2d Sess.

9. *Id.* at pp. 18657, 18658.

sistants as it deems necessary and advisable. The select committee is authorized to reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the select committee other than expenses in connection with meetings of the select committee held in the District of Columbia.

(4) The expenses of the select committee shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the chairman of the select committee.

Following debate, the House agreed to the resolution by a yea and nay vote—yeas 224, nays 101.[10]

Small Business

§ 6.6 By privileged resolution, reported from the Committee on Rules, the House established a permanent Select Committee on Small Business.

On Mar. 2, 1971,[11] Mr. Richard Bolling, of Missouri, was recognized by Speaker Carl Albert, of Oklahoma, and called up House Resolution 19 for immediate consideration.

The resolution, as amended by the committee, read[12] as follows:[13]

That, effective January 3, 1971, there is created a permanent Select Committee on Small Business (which is not a standing committee of the House3 to be composed of nineteen Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the manner in which the original appointment was made.

Sec. 2. It shall be the duty of such committee to conduct studies and investigations of the problems of all types of small business, existing, arising, or that may arise, with particular reference to—

(1) the factors which have impeded or may impede the normal operations, growth, and development of small business;

(2) the administration of Federal laws relating specifically to small business in order to determine (A) whether such laws and their administration adequately serve the needs of small business, and (B) whether Government agencies adequately serve and give due consideration to the problems of small business; and

(3) the problems of small business enterprises generally;

and to obtain all facts possible in relation thereto which would not only be of public interest but which would aid the Congress in enacting remedial legislation. However, the committee shall not undertake any investigation of any subject which is being investigated for the same purpose by any other committee of the House.

Sec. 3. Such committee shall not have legislative jurisdiction but is au-

10. *Id.* at p. 18669.
11. 117 CONG. REC. 4593, 92d Cong. 1st Sess.
12. House Resolution 19 in it original form may be found *id.* at pp. 4593, 4594.
13. *Id.* at p. 4594.

thorized to make studies, investigations, and reports; however, no bills or resolutions shall be referred to the committee.

Sec. 4. The committee may submit from time to time to the House such reports as the committee considers advisable and, prior to the close of the present Congress, shall submit to the House a final report of the committee on the results of its studies and investigations, together with such recommendations as the committee considers advisable. Any report submitted when the House is not in session may be filed with the Clerk of the House.

Sec. 5. For the purpose of this resolution, the committee, or any subcommittee thereof, is authorized, subject to clause 31 of Rule XI of the Rules of the House of Representatives, to sit and act during the present Congress at such times and places within the United States, whether or not the House is meeting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as the committee considers necessary. Subpenas may be issued over the signature of the chairman of the committee, or by any member designated by such chairman, and may be served by any person designated by any such chairman or member. The chairman of the committee or any member thereof may administer oaths to witnesses.

Sec. 6. The majority of the members of the committee shall constitute a quorum for the transaction of business, except that two or more shall constitute a quorum for the purpose of taking evidence including sworn testimony.

Sec. 7. Funds authorized are for expenses incurred in connection with the committee's activities within the United States; and, notwithstanding section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754), or any other provision of law, local currencies owned by the United States in foreign countries shall not be made available to the committee for expenses of its members or employees, or other Members or employees, traveling abroad."

House Resolution 19 was discussed briefly, Mr. Bolling pointing out that:

> . . . The resolution before us now creates the usual Select Committee on Small Business. This time it is described as a permanent select committee, recognizing the fact that each 2 years a new Congress establishes these select committees. So we are going to accept it as a permanent select committee. But its authority is not changed. The only change that takes place in its constitution is its size, and at the request of the leadership on both sides it has been increased from 15 to 19 in this Congress.

After brief debate, the resolution was agreed to, as amended, by voice vote.[1]

Parliamentarian's Note: On Jan. 22, 1971,[2] the House had adopted rules (effective as of that date) for the 92d Congress, one of which established a permanent Select Committee on Small Business

1. *Id.* at p. 4595.
2. 117 CONG. REC. 144, 92d Cong. 1st Sess.

(Rule X clause 3).[3] House Resolution 19 was required to establish the select committee retroactively (i.e., as of Jan. 3, 1971) for staff salary purposes and to confer subpena power and authority to travel outside the United States.[4]

Welfare and Education of Congressional Pages

§ 6.7 The House adopted a resolution creating a select committee to investigate and report on the welfare and education of congressional pages.

On Sept. 30, 1964,[5] by direction of the Committee on Rules, Mr. Carl A. Elliott, of Alabama, called up and asked for immediate consideration of the following resolution (H. Res. 847):

> *Resolved,* That there is hereby created a select committee to be composed of five Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.
>
> The Committee is authorized and directed to conduct a full and complete investigation and study of all of the factors relating to the general welfare and education of congressional pages, including, but not limited to, a study and investigation of the residential, dining, recreational, educational, and physical training facilities and opportunities for such pages, and rates of pay, hours of work, and other conditions governing the employment of such pages.
>
> For the purpose of carrying out this resolution the Committee, or any subcommittee thereof authorized by the Committee to hold hearings, is authorized to sit and act during the present Congress at such times and places

3. The rules were effected by the passage of H. Res. 5, the pertinent text of which may be found at 117 CONG. REC. 14, 92d Cong. 1st Sess., Jan. 21, 1971, although, as heretofore indicated, the resolution, itself, was not agreed to until the following day.

A standing Committee on Small Business was created effective Jan. 3, 1975 (H. Res. 988, 93d Cong. 2d Sess.), transferring legislative jurisdiction over problems of small business from the Committee on Banking and Currency and from the Committee on the Judiciary.

4. While the adoption of H. Res. 5 resulted in the incorporation into the rules of the Select Committee on Small Business as a permanent select committee, the resolution did not grant investigatory authority, per se, to that committee. As was the case with the overwhelming majority of standing committees, a separate investigatory authorization was required to enable the select committee to actually undertake an investigation or to utilize subpena power. See § 3, supra.

5. 110 CONG. REC. 23187, 88th Cong. 2d Sess.

within the District of Columbia, whether the House is in session, has recessed, or adjourned, and to hold such hearings as it deems necessary; except that neither the Committee nor any subcommittee thereof may sit while the House is meeting unless special leave to sit shall have been obtained from the House.

The Committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with recommendations regarding the feasibility and desirability of raising the minimum age for Capitol pages to eighteen years, of requiring secondary school graduation as a prerequisite for appointment as a Capitol page, and of providing for the establishment and construction of a Capitol page school and residence, and such other recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

Shortly thereafter,[6] the resolution was agreed to.

The Select Committee on the Welfare and Education of Congressional Pages filed a report (H. Rept. No. 1945) on Oct. 3, 1964 (H. Jour. 898, 88th Cong. 2d Sess.). Continuing concern for the welfare and education of congressional pages became a factor during consideration of the Legislative Reorganization Act of 1970. The report of the Joint Committee on the Organization of Congress on the measure which eventually became that act included a recommendation that the limits on the age of pages be raised. The report of the Committee on Rules on H.R. 17654 (H. Rept. No. 91–1215, 91st Cong. 2d Sess.) proposed that a person not serve as a page until he has completed the 12th grade of school. The House ultimately accepted limits on the age of pages of 16 to 18 years; but the Senate voted to retain age limits for Senate pages of 14 to 17 years.

In response to a perceived need for better supervision, housing, and educational facilities for the pages, the Congress also included in the Legislative Reorganization Act of 1970, a provision authorizing construction of a building to contain dormitory and classroom facilities for the pages, to be designated the John W. McCormack Residential Page School. The Supplemental Appropriations Act of 1971 (Pub. L. No. 91–655) appropriated funds to enable the Architect of the Capitol to make preliminary plans for the structure. Then on July 12, 1973 (119 CONG. REC. 23473, 93d Cong. 1st Sess.) the Senate passed S. 2067, the primary purpose of which was to provide for replacement of the existing page corps with an older group of pages who would not require the supervision felt to be

6. *Id.* at p. 23188.

necessary for younger pages, and also to eliminate the need for construction of the residential page classroom and dormitory building, and therefore to repeal authorization for such building. In the House, the bill was referred to the Committee on Rules on July 16, 1973; no further action was taken.

§ 7. Joint Committees

Joint committees may be created by statute[7] or by concurrent resolution.[8] Joint resolutions have been used to create joint committees for whatever period (or indefinitely) specified in that law,[9] but concurrent resolutions, which do not require the President's signature, have been used for this purpose with greater frequency although their duration cannot then extend beyond the Congress during which created.[10] Simple resolutions have been used in the past to appoint Members of the House to a committee to work in conjunction with a similar Senate committee, but this was infrequent.[11]

Members are selected for service on joint committees primarily through appointment by the Speaker. There have been instances, however, in which the members of a joint committee were elected by the House.[12]

Recent joint committees have featured an equal number of members from both Houses, with the chairmanship alternating between the House and Senate. As distinguished from conference committees, voting is per capita—that is, with each member having one vote.[13]

7. See, for example, 42 USC § 2251 (Joint Committee on Atomic Energy).

According to Jefferson's Manual, the use of joint committees originated in the English Parliament. See *House Rules and Manual* § 325 (1979). Indeed, a joint committee was appointed to arrange for the inauguration of President Washington. 3 Hinds' Precedents § 1986.

8. 3 Hinds' Precedents §§ 1998, 1999; 4 Hinds' Precedents §§ 4409, 4410, 4412–4416; 6 Cannon's Precedents § 380.

9. See, for example, 6 Cannon's Precedents § 371.

10. See 4 Hinds' Precedents § 4409, in which a joint resolution was amended so that it became concurrent in form, and the signature of President Andrew Johnson was not required.

11. 1 Hinds' Precedents § 3; 3 Hinds' Precedents § 1953; 4 Hinds' Precedents § 4411.

12. In 1821 the House ordered that the members from the House on the joint committee on the admission of Missouri to statehood be elected by ballot. 4 Hinds' Precedents § 4471.

13. Historically, however, there were usually more House Members than Senators on joint committees, al-

Joint committees are advisory in nature. They seldom have legislative jurisdiction, and do not ordinarily have the power to report legislative measures for consideration with the exception of the former Joint Committee on Atomic Energy. They generally function in areas beyond the jurisdiction of any particular committee of either House. They are considered advantageous in that they can avoid the repetition of testimony before both Houses, harmonize the congressional approach to a subject, concentrate a limited supply of competent technical staff personnel and minimize risks where security and secrecy is essential.

Until the 95th Congress, the Joint Committee on Atomic Energy was composed of nine Senators and nine Representatives. The Speaker appointed the House members, no more than five of whom could be from one political party.(14) The chairmanship alternated with each Congress between the House and the Senate.(15)

In the performance of its duties, the committee held hearings, both public and executive, issued subpenas, hired experts, and classified information it received.(16) It studied problems relating to the development, use, and control of atomic energy. Government agencies were directed to furnish the committee with information with respect to activities or responsibilities in the field of atomic energy. Bills and other measures in either the House or the Senate respecting the development, use, or control of atomic energy were referred to the committee, which, unlike most joint committees, had the power to report legislation and make recommendations within its jurisdiction.(17) However, on Jan. 4, 1977, the rules of the House were amended so as to abolish the legislative jurisdiction of this committee, and to transfer such jurisdiction to other committees. Its members were not reappointed.(18)

Established by the Legislative Reorganization Act of 1970,(19) the

though the voting was per capita; a Senator often served as the joint committee chairman. 3 Hinds' Precedents § 1946; 4 Hinds' Precedents §§ 4425–4431.

14. 42 USC § 2251.

15. 42 USC § 2253.

16. 42 USC § § 2254–2256.

17. 42 USC § 2252.

18. The legislative jurisdiction of the Joint Committee on Atomic Energy was divided among several standing committees, in the House, on the basis of subject matter. See *House Rules and Manual* § 983a (1979). See also H. Res. 5, 95th Cong. 1st Sess. (1977), amending Rule X clause 5(e), *House Rules and Manual* § 700 (1979).

19. 2 USC § § 411–417.

Joint Committee on Congressional Operations was composed of five Members from the House, appointed by the Speaker, and five Senators, appointed by the President of the Senate. Two of the committee members from each House were from the minority party. During even-numbered Congresses, the House Members selected the committee chairman, while the Senators selected the vice chairman, with the process being reversed during odd-numbered Congresses.[1]

The Joint Committee on Congressional Operations had three principal responsibilities: identifying court proceedings affecting Congress and calling such proceedings to the attention of Congress; making a continuing study of the organization and operation of the Congress and recommending improvements therein; and supervising the Office of Placement and Management, which was created to provide congressional offices with trained personnel on request.[2]

The Joint Committee on Defense Production was established pursuant to the provisions of the Defense Production Act of 1950.[13] This committee consists of five Senators from the Senate Committee on Banking and Currency and five House Members, all of whom also serve on the House committee with jurisdiction over banking and currency. The chairmen of the respective Senate and House standing committees select the members, of whom at least two must be from the minority party in each House.[4]

Under the provisions of the Defense Production Act of 1950, the joint committee was charged with the responsibility of making continuing studies and reviewing the progress achieved under the various programs established by the act. These programs included such matters as the requisition of property needed for national defense, expansion of productive capacity and supply, wage and price stabilization, settlement of labor disputes, control of consumer and real estate credit, and priorities and allocations in contracts and materials designed to aid the national defense.[5] More recently, the joint committee has focused on

1. *Parliamentarian's Note:* The members of the Joint Committee on Congressional Operations were not reappointed to office in the 95th Congress. The Select Committee on Congressional Operations was created in the House in its place.
2. 2 USC §§ 412, 416.
3. 50 USC App. §§ 2061 et seq. The committee itself was established pursuant to 50 USC App. § 2161.
4. 50 USC App. § 2162(a)(2).
5. 50 USC App. §§ 2061 et seq.

reviewing the condition of federal emergency preparedness and mobilization policies, programs and organizations, and examining the development of federal materials policy in terms of availability for defense purposes.[6] The joint committee monitors the integrity of defense contracts and the procurement process. It also develops legislative recommendations in connection with antitrust immunity for voluntary agreements in support of national energy or defense programs.[7]

Upon request, the joint committee provides aid to the committees of Congress having legislative jurisdiction over the subject matter and programs authorized under the Defense Production Act. The joint committee reports to the Senate and House, from time to time, concerning the results of its studies and any recommendations developed from such studies.[8]

In the performance of its responsibilities, the joint committee is authorized to hold hearings, issue subpenas duces tecum, administer oaths to witnesses, and procure the printing of testimony and reports.[9]

Parliamentarian's Note: Although the legislation which established the joint committee was extended through Sept. 30, 1979, no appropriation for salaries and expenses of the joint committee was made for the fiscal year ending Sept. 30, 1978. The sum of $225,000 requested for the operation of the joint committee during 1978 was eliminated from the Legislative Branch Appropriation Act, 1978 (Pub. L. No. 95–94). See the debate on funding for the committee beginning at 123 CONG. REC. 21399, 95th Cong. 1st Sess., June 29, 1977. No appointments were made to the joint committee in the 95th and 96th Congresses.

The Joint Committee on Internal Revenue Taxation is composed of five members from the House and five from the Senate. Of the five House members, all are from the Committee on Ways and Means and two represent the minority party. The five Senate members are from the Committee on Finance and two of them are from the minority party.[10] By the provisions of the statute, the joint committee elects a chairman and vice chairman from among its members.[11]

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6. Annual Report of the Joint Committee on Defense Production. H. Rept. No. 95–352, p. 1, 95th Cong. 1st Sess. (1976).

7. *Id.*

8. 50 USC App. § 2162(2)(b).

9. 50 USC App. § 2162(2) (c), (d).

10. 26 USC § 8002.

11. 26 USC § 8003.

Parliamentarian's Note: In practice, the chairmanship of the joint

The joint committee has several investigative functions. It studies the operation and effect of internal revenue taxes and the administration of such taxes by the Internal Revenue Service and other executive departments. Another related function of the joint committee is to explore measures and methods for the simplification of these taxes, and to publish the results of such investigations from time to time.[12]

The joint committee is directed to report annually to Congress on refunds and credits on income, war profits, excess profits, estate, or gift taxes in excess of $100,000, including the names of all persons and corporations to whom such amounts have been credited or paid.[13]

The Joint Committee on the Library is the permanent mechanism through which the two Houses of Congress coordinate their supervision of the Library of Congress. This committee is composed of the chairmen and four other members from the principal House and Senate committees with jurisdiction over measures concerning the management of the Library: the Committee on House Administration in the House, and the Senate Committee on Rules and Administration[14] (in addition to the Chairman of the Committee on House Administration, the other House members are elected to the joint committee each Congress by resolution).

The Legislative Reorganization Act of 1946 established a new method for determining the joint committee's membership and abolished the separate standing committees on the Library that existed in each House.[15] Before the

committee alternates between the House and Senate members, with a House Member becoming chairman in odd-numbered sessions.

12. 26 USC § 8022.

Pursuant to its authority to make investigations, the joint committee is authorized to secure information from the Internal Revenue Service and the executive branch, which is required to furnish such information to the joint committee. 26 USC § 8023.

The joint committee is empowered to issue subpenas, hold hearings, and procure printing as it deems advisable. 26 USC § 8021.

13. 26 USC § 6405.

14. 2 USC § 132b. For the relevant jurisdiction of the Committee on House Administration, see § 39, infra.

Parliamentarian's Note: By agreement, the chairmanship of the joint committee alternates each year between the two Houses. The chairman of the House committee chairs the joint committee during the first session of a Congress; the chairman of the Senate committee holds that position during the second session.

15. See 2 USC § 132b.

1946 act, the "Joint Committee of Congress upon the Library" consisted of five Senators and five Representatives;[16] the five House members of the joint committee also comprised, and exercised the functions of, a standing committee of the House, while the five Senators on the joint committee, together with five additional Senators, enjoyed the same status in the Senate. As standing committees, they were authorized to receive measures and to report such measures to their respective Houses.[17]

In the process of consolidating the then 48 House standing committees into 19, and the then 32 Senate standing committees into 15, the 1946 Reorganization Act abolished as separate entities the House and Senate standing committees on the Library. In the House, the Library committee was combined with 11 other committees to form the Committee on House Administration.[18]

An important function of the joint committee is to direct the laying out of sums appropriated by Congress for the increase of the general library.[19] In addition, within the framework of the law empowering the Librarian of Congress to "make rules and regulations for the government of the Library,"[20] the Librarian frequently consults with the chairman and vice chairman of the joint committee about Library matters. He keeps them informed of significant developments affecting, or likely to affect, the Library, and seeks their advice and recommendations on major policy matters which arise at the Library.

For almost a century, the Joint Committee on the Library has acted as the agent of Congress for supervising the acceptance and placement of works of art in the Capitol, usually through the Architect of the Capitol. The joint committee is authorized to accept, on behalf of Congress, any work of the fine arts offered for that building.[1] The Capitol rooms may not be used for private studios or works of art without the written permission of the joint committee.[2]

The chairman of the joint committee is a member of the Library

16. 32 Stat. 735 (1902).

17. For precedents relating to the jurisdiction of the joint committee, see 4 Hinds' Precedents §§ 4337–4346 and 7 Cannon's Precedents §§ 2081–2091.

18. Joint Committee on the Organization of Congress, committee print, pp. 2–4, 79th Cong. 2d Sess., July 22, 1946.

19. 2 USC § 132a.

20. 2 USC § 139.

1. 40 USC § 188.

2. 40 USC § 190.

of Congress Trust Fund Board. Statutes require the approval of the joint committee before that board may accept gifts, bequests, or devises of property for the benefit of, or in connection with, the Library.[3]

The joint committee is also charged with direction of the Botanical Garden and its personnel.[4]

The Chairman and two members of the Committee on House Administration and the Chairman and two members of the Senate Committee on Rules and Administration constitute the membership of the Joint Committee on Printing,[5] and, in the House, are elected to the joint committee each Congress by resolution.

Although the joint committee is generally authorized to remedy neglect, delay, duplication, or waste in the public printing and distribution of government publications,[6] its primary activity is controlling the arrangement and style of the *Congressional Record* and arranging for the semimonthly publication of an index thereto.[7] In fulfilling this function, the joint committee provides for the printing in the daily Record of the legislative program for the day, together with a list of congressional committee meetings and hearings.[8]

The Joint Economic Committee was established by the Employment Act of 1946.[9] The committee is comprised of 10 Senators appointed by the President of the Senate and 10 House Members appointed by the Speaker. In each case, the majority party is to be represented by six members and the minority party by four members. [10] By the committee rules, the chairmanship and vice chairmanship of the committee alternate from Congress to Congress between the House and Senate.[11]

The Joint Economic Committee provides facts and analyses to keep Congress abreast of developing economic trends. It advises Congress as to the appropriate mix of public and private policies most likely to achieve the Nation's economic objectives as set forth in the Employment Act of 1946. It

3. 2 USC §§154, 156.

4. 40 USC §216.

5. 44 USC §101.

6. 44 USC §103.

7. 44 USC §901. For discussion of the purpose and format of the *Congressional Record*, see Ch. 5, §§15–20, supra.

8. *House Rules and Manual* §983h (1977).

9. 15 USC §1021 et seq.

10. 15 USC §1024(a).

11. Rule VI, Rules of the Joint Economic Committee, as amended, approved Dec. 6, 1955.

does not draft or report legislation.

The committee makes its services available principally through publications, including reports and collections of professional materials. It also publishes each month up-to-date data in *Economic Indicators*, [12] which is prepared for the committee by the Council of Economic Advisers.[13]

A primary function of the Joint Economic Committee is the report filed by Mar. 1 of every year [14] to serve as a guide to the several committees of Congress dealing with legislation relating to the President's Economic Report. The committee report contains the findings and recommendations of the committee with respect to each of the main recommendations made by the President.

Use of Concurrent Resolution to Create Joint Committee

§ 7.1 A privileged concurrent resolution to establish a Joint Committee on the Organization of the Congress was reported and called up by the House Committee on Rules. The concurrent resolution was agreed to by the House.

On Mar. 3, 1965, [15] Mr. Ray J. Madden, of Indiana, of the Committee on Rules, reported the following privileged [16] resolution (H. Con. Res. 4) which was referred to

12. 15 USC § 1025.

13. The Council of Economic Advisors is composed of three members appointed by the President by and with the consent of the Senate. The council employs specialists to analyze and evaluate various federal programs. It recommends to the President national economic policies intended to foster and promote free competitive enterprise and to avoid fluctuations in the American economy. The council gathers information on national economic trends and furnishes studies, reports, and recommendations on matters of federal economic policy and legislation as requested by the President. 15 USC § 1023.

14. 15 USC § 1024(b)(3). The date for filing the committee report has frequently been extended by law or by unanimous consent in the House. See §§ 61.10, 61.11, infra.

15. 111 CONG. REC. 3995, 89th Cong. 1st Sess.

16. The rules provide that certain committees may report at any time on certain subjects; see Rule XI clause 22, *House Rules and Manual* § 726 (1973). Matters giving rise to this privilege when reported from the Committee on Rules are "rules, joint rules, and order of business." However, there are some limitations on the power of the Committee on Rules to call up a report for consideration; see Rule XI clause 23, *House Rules and Manual* § 729 (1973). See also §§ 52–57, infra, and Ch. 21, infra.

the House Calendar and ordered to be printed:

Resolved by the House of Representatives (the Senate concurring), That there is hereby established a Joint Committee on the Organization of the Congress (hereinafter referred to as the committee) to be composed of six Members of the Senate (not more than three of whom shall be members of the majority party) to be appointed by the President of the Senate, and six Members of the House of Representatives (not more than three of whom shall be members of the majority party) to be appointed by the Speaker of the House of Representatives. The committee shall select a chairman and a vice chairman from among its members. No recommendation shall be made by the committee except upon a majority vote of the members representing each House, taken separately.

Sec. 2. The committee shall make a full and complete study of the organization and operation of the Congress of the United States and shall recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, improving its relationship with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution. This study shall include, but shall not be limited to, the organization and operation of each House of the Congress; the relationship between the two Houses; the relationships between the Congress and other branches of the Government; the employment and remuneration of officers and employees of the respective Houses and officers and employees of the committees and Members of Congress; and the structure of, and the relationships between, the various standing, special, and select committees of the Congress: *Provided*, That nothing in this concurrent resolution shall be construed to authorize the committee to make any recommendations with respect to the rules, parliamentary procedure, practices, and/or precedents of either House, or the consideration of any matter on the floor of either House: *Provided further*, That the language employed herein shall not prohibit the committee from studying and recommending the consolidations and reorganization of committees.

Sec. 3. (a) The Committee, or any duly authorized subcommittee thereof, is authorized to sit and act, at such places and times during the sessions, recesses, and adjourned periods of the Eighty-ninth Congress, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable.

(b) The committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable.

(c) The expenses of the committee, which shall not exceed $150,000 through January 31, 1966, shall be paid from the contingent fund of the Senate upon vouchers signed by the chairman.

(d) The committee shall report from time to time to the Senate and the

House of Representatives the results of its study, together with its recommendations, the first report being made not later than one hundred and twenty days after the effective date of this concurrent resolution. If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be. All reports and findings of the committee shall, when received, be referred to the Committee on Rules and Administration of the Senate and the appropriate committees of the House. . . .

On Mar. 11,[17] by direction of the Committee on Rules, Mr. Madden called up House Concurrent Resolution 4, and asked for its immediate consideration.

The Clerk read the resolution and debate thereon followed. Much of the discussion centered on the proviso barring the joint committee from authorization "to make any recommendations with respect to the rules, parliamentary procedure, practices, and/or precedents of either House. . . ." as well as on the fact that privileged consideration of the concurrent resolution in the House under the "hour rule" prohibited any amendments to the resolution. The House agreed to the concurrent resolution,[18] however, by voice vote.

Immediately thereafter, Speaker John W. McCormack, of Massachusetts, recognized Mr. Madden who then sought unanimous consent to take from the Speaker's desk a concurrent resolution (S. Con. Res. 2) to establish a Joint Committee on the Organization of the Congress. This resolution was identical [19] to the one (H. Con. Res. 4) just agreed to. Unanimous consent was granted and the Senate concurrent resolution was concurred in. House Concurrent Resolution 4 was then laid on the table.

Parliamentarian's Note: The Joint Committee on the Organization of Congress laid the groundwork for the Legislative Reorganization Act of 1970, which was considered and enacted in the 91st Congress (H.R. 17654) by the Committee on Rules.

§ 7.2 The Joint Committee on Washington Metropolitan Problems was created by concurrent resolution.

17. 111 Cong. Rec. 4768, 89th Cong. 1st Sess.

18. *Id.* at D. 4780.

19. The language of H. Con. Res. 4 and S. Con. Res. 2 was also substantially similar to that employed in the 79th Congress in setting up the joint committee which resulted in the Legislative Reorganization Act of 1946. See H. Con. Res. 18, 91 Cong. Rec. 346, 347, 79th Cong. 1st Sess., Jan. 18, 1945; and 91 Cong. Rec. 1272, 79th Cong. 1st Sess., Feb. 19, 1945.

House Concurrent Resolution 172 was reported from the Committee on Rules and later called up as follows on June 21, 1957:[20]

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I call up the concurrent resolution (H. Con. Res. 172) to establish a joint congressional committee to investigate matters pertaining to the growth and expansion of the District of Columbia and its metropolitan area and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved by the House of Representatives (the Senate concurring), That there is hereby established a joint congressional committee to be composed of the members of the Committee on the District of Columbia of the Senate and the members of the Committee on the District of Colunbia of the House of Representatives. The joint committee shall select a chairman and a vice chairman from among its members. A majority of the joint committee shall constitute a quorum except that a lesser number, to be fixed by the joint committee, shall constitute a quorum for the purpose of administering oaths and taking sworn testimony.

Sec. 2. The joint committee, or any duly authorized subcommittee thereof, shall examine, investigate, and make a complete study of any and all matters pertaining to (a) the problems created by the growth and expansion of the District of Columbia and its metropolitan area, (b) how and with what degree of success such problems are handled and resolved by the various agencies and instrumentalities of the Government which are charged with the duty of resolving such problems, and (c) how the resolution of such problems is affecting the affairs of the District of Columbia. The joint committee shall report its findings, together with its recommendations for such legislation as it deems advisable, to the Senate and the House of Representatives at the earliest practicable date, but not later than January 31, 1958. Upon the submission of such report, the joint committee shall cease to exist and all authority conferred by this resolution shall terminate.

Sec. 3. The joint committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times within the United States, to hold such hearings, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony as it deems advisable.

Sec. 4. The joint committee shall have power to employ and fix the compensation of such experts, consultants, and other employees as it deems necessary in the performance of its duties.

After passage on that day, and amendment and adoption by the Senate on Aug. 26, 1957, the following proceedings took place in the House on Aug. 28, 1957:[21]

MR. SMITH of Virginia. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the concurrent resolution (H. Con. Res. 172) to establish a joint Congressional committee to investigate matters pertaining to the growth and expansion of the District of Columbia and its metropolitan area, with Senate amendments thereto, concur in

20. 103 CONG. REC. 10022, 85th Cong. 1st Sess.

21. *Id.* at p. 16288.

Senate amendments Nos. 1½, 2, and 3, and concur in Senate amendment No. 1 with an amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendments as follows:

> Senate amendment No. 1½ Page 2, line 14, strike out "January 31, 1958," and insert "January 31, 1959."

Page 2, line 17, after "terminate" insert "but the joint committee shall make a progress report on its activities by January 31, 1958."

Page 3, after line 3, insert:

"Sec. 5. The expenses of the joint committee, through January 31, 1958, which shall not exceed $50,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the joint committee."

THE SPEAKER [Sam Rayburn, of Texas]: Is there objection to the request of the gentleman from Virginia?

There was no objection.

Senate amendments Nos. 1½, 2, and .3 were concurred in.

THE SPEAKER: The Clerk will report Senate amendment No. 1.

The Clerk read as follows:

> Page 1, line 2, strike out all after "concurring)," down to and including "Representatives." in line 6, and insert "That there is hereby established a joint Congressional committee to be composed of three members of the Committee on the District of Columbia of the Senate, to be appointed by the chairman of such committee, and three members of the Committee on the District of Columbia of the House of Representatives, to be appointed by the chairman of such committee."

MR. SMITH of Virginia: Mr. Speaker, I offer an amendment to the Senate amendment.

The Clerk read as follows:

> Amendment offered by Mr. Smith of Virginia: Strike out all after the word "Senate," and insert "to be appointed by the chairman of such committee, and three members of the Committee on the District of Columbia of the House of Representatives, to be appointed by the Speaker of the House of Representatives."

The amendment to the Senate amendment was agreed to.

The Senate amendment as amended was concurred in.[22]

Subsequently, the Joint Committee on Washington Metropolitan Problems was extended by concurrent resolutions in the first and second sessions of the 86th Congress.[23] Hearings were also authorized to be held by Senate Concurrent Resolution 101, 86th Congress second session.

Continuation of Joint Committee by Concurrent Resolution

§ 7.3 A concurrent resolution continuing the Joint Committee on the Organization of the Congress, established by concurrent resolution in the 89th Congress, and providing additional funds for its operation, was considered by unanimous consent and agreed to by the House.

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22. The Senate agreed to the House amendment to the Senate amendment on Aug. 28, 1957.

23. See § 7.9, infra.

On Jan. 31, 1967,[1] Mr. Ray J. Madden, of Indiana, a member of the Committee on Rules, sought unanimous consent to take from the Speaker's desk Senate Concurrent Resolution 2 and to concur therein. The resolution read as follows:

> *Resolved by the Senate (the House of Representatives concurring*), That the Joint Committee on the Organization of the Congress, established by Senate Concurrent Resolution 2, Eighty-ninth Congress, agreed to March 11, 1965, is hereby continued through June 30, 1967.
>
> Sec. 2. The joint committee is hereby authorized to make expenditures from February 1, 1967, through June 30, 1967, not to exceed $60,000, to be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the joint committee.

Following brief debate, the resolution was concurred in,[2] and a similar concurrent resolution (H. Con. Res. 51) was laid on the table.

Use of Joint Resolution to Create Joint Committee

§ 7.4 The House passed a joint resolution providing for the creation of a Joint Committee to Investigate Crime after amending the joint resolution to limit the existence of the joint committee to that Congress.

On July 12, 1968,[3] by direction of the Committee on Rules, Mr. Claude D. Pepper, of Florida, called up a joint resolution (H.J. Res. 1) creating a Joint Committee to Investigate Crime, and asked for its immediate consideration.

The Clerk then read the proposal with the recommended committee amendments as follows:

> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) there is hereby created a Joint Committee To Investigate Crime, to be composed of seven Members of the House of Representatives to be appointed by the Speaker of the House of Representatives, and seven Members of the Senate to be appointed by the President pro tempore of the Senate. In each instance not more than four members shall be members of the same political party.
>
> (b) Vacancies in the membership of the joint committee shall affect power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as in the case of the original selection.
>
> (c) The joint committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress.
>
> Sec. 2. (a) The joint committee shall make continuing investigations and

1. 113 CONG. REC. 2081, 90th Cong. 1st Sess.
2. *Id.* at p. 2082.
3. 114 CONG. REC. 21012, 90th Cong. 2d Sess.

studies of all aspects of crime in the United States, including (1) its elements, causes, and extent; (2) the preparation, collection, and dissemination of statistics thereon, and the availability of reciprocity of information among law enforcement agencies, Federal, State, and local, including exchange of information with foreign nations; (3) the adequacy of law enforcement and the administration of justice, including constitutional issues pertaining thereto; (4) the effect of crime and disturbances in the metropolitan urban areas; (5) the effect, directly or indirectly, of crime on the commerce of the Nation; (6) the treatment and rehabilitation of persons convicted of crimes; (7) measures for the reduction, control, or prevention of crime; (8) measures for the improvement of (a) detection of crime; (b) law enforcement, including increased cooperation among the agencies thereof; (c) the administration of justice; and (9) measures and programs for increased respect for the law.

(b) The joint committee shall report to the Senate and the House of Representatives, from time to time, the results of its investigations and studies, together with such recommendations as it may deem desirable. Any department, official, or agency engaged in functions relative to investigations or studies undertaken by the joint committee shall, at the request of the joint committee, consult with the joint committee from time to time with respect to such functions or activities.

Sec. 3. (a) In carrying out its duties, the joint committee or any duly authorized subcommittee thereof is authorized to hold such hearings and investigations, to sit and act at such places and times within the United States, including any Commonwealth or possession thereof, whether the House or the Senate is in session, has recessed, or has adjourned, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems necessary. The joint committee may make such rules respecting its organization and procedures as it deems necessary. No recommendation may be reported from the joint committee unless a majority of the committee is present. Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or by the joint committee, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses.

(b) The joint committee may appoint and fix the compensation of such clerks, experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable; and, with the prior consent of the heads of departments or agencies concerned and the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Federal Government, as it deems advisable. The joint committee is authorized to reimburse the

members of its staff for travel, subsistence, and the other necessary expenses incurred by them in the performance of the duties vested in the joint committee other than expenses in connection with meetings of the joint committee held in the District of Columbia during such times as the Congress is in session.

Sec. 4. The expenses of the joint committee shall be paid one-half from the contingent fund of the House of Representatives and one-half from the contingent fund of the Senate, upon vouchers signed by the chairman or the vice chairman of the joint committee.

With the following committee amendments:

On page 2, line 5: After the word "members", strike the words "at the beginning of each Congress".

At the end of the joint resolution, add the following paragraph:

"Sec. 5. The Joint Committee To Investigate Crime shall expire at the end of the Ninetieth Congress."

The committee amendments were immediately agreed to, after which debate ensued on the joint resolution as amended. Upon concluding debate, the House passed[4] the proposal on a yea and nay vote—yeas 319, nays 12.

§ 7.5 The House passed a joint resolution providing for the establishment of a Joint Committee on the Environment.

On July 20, 1971,[5] pursuant to the dictates of a special rule (H. Res. 424)[6] adopted shortly before,[7] the House resolved itself into the Committee of the Whole for the consideration of a joint resolution (H.J. Res. 3) to create a Joint Committee on the Environment. After general debate and amendments under the five-minute rule, Chairman Don Fuqua, of Florida, reported the joint resolution back[8] to the House with sundry amendments adopted by the Committee of the Whole.

Shortly thereafter, Speaker pro tempore Hale Boggs, of Louisiana, put the question on the amendments adopted by the Committee of the Whole, which were agreed to. The joint resolution was then passed, as amended, and read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That

4. *Id.* at p. 21031.

5. 117 CONG. REC. 26205 92d Cong. 1st Sess.

6. *Id.* at p. 26202. Since the joint resolution contained an authorization for appropriations, it was not privileged. Moreover, the special rule served the purpose of permitting amendments under the five-minute rule in Committee of the Whole and allowing Members more time for discussion of the measure than would otherwise have been available under the "hour rule" in the House. See remarks of Mr. Richard Bolling (Mo.) at p. 26202.

7. *Id.* at p. 26205.

8. *Id.* at p. 26218.

(a) there is established a joint congressional committee which shall be known as the Joint Committee on the Environment (hereafter in this joint resolution referred to as the "committee") consisting of eleven Members of the Senate to be appointed by the President of the Senate and eleven Members of the House of Representatives to be appointed by the Speaker of the House of Representatives. Of the eleven Members of the Senate appointed under this subsection, six Members shall be from the majority party, and five Members shall be from the minority party. Of the eleven Members of the House of Representatives appointed under this subsection, six Members shall be from the majority party, and five Members shall be from the minority party. In the appointment of members of the committee under this subsection, the President of the Senate and the Speaker of the House of Representatives shall give due consideration to providing representation on the committee from the various committees of the Senate and the House of Representatives having jurisdiction over matters relating to the environment.

(b) The committee shall select a chairman and a vice chairman from among its members, at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship shall alternate between the Senate and House of Representatives with each Congress, and the chairman shall be selected by Members from that House entitled to the chairmanship. The vice chairman shall be chosen from the House other than that of the chairman by the Members of that House. The committee may establish such subcommittees as it deems necessary and appropriate to carry out the purposes of this joint resolution.

(c) Vacancies in the membership of the committee shall not affect the authority of the remaining members to execute the functions of the committee. Vacancies shall be filled in the same manner as original appointments are made.

(d) A majority of the members of the committee shall constitute a quorum thereof for the transaction of business, except that the committee may fix a lesser number as a quorum for the purpose of taking testimony.

(e) The committee shall keep a complete record of all committee actions, including a record of the votes on any question on which a record vote is demanded. All committee records, data, charts, and files shall be the property of the committee and shall be kept in the offices of the committee or such other places as the committee may direct.

(f) No legislative measure shall be referred to the committee, and it shall have no authority to report any such measure to the Senate or to the House of Representatives.

(g) The committee shall not undertake any investigation of any subject matter which is being investigated by any other committee of the Senate or the House of Representatives.

Sec. 2. (a) It shall be the duty of the committee—

(1) to conduct a continuing comprehensive study and review of the character and extent of environmental changes that may occur in the future

and their effect on population, communities, and industries, including but not limited to the effects of such changes on the need for public and private planning and investment in housing, water resources (including oceanography), pollution control, food supplies, education, automation affecting interstate commerce, fish and wildlife, forestry, mining, communications, transportation, power supplies, welfare, and other services and facilities;

(2) to study methods of using all practicable means and measures, including financial and technical assistance, in a manner calculated to foster, promote, create, and maintain conditions under which man and nature can exist in harmony, and fulfill the social, economic and other requirements of present and future generations of Americans;

(3) to develop policies that would encourage maximum private investment in means of improving environmental quality; and

(4) to review any recommendations made by the President (including the environmental quality report required to be submitted pursuant to section 201 of the National Environmental Policy Act of 1969) relating to environmental policy.

(b) The environmental quality report required to he submitted pursuant to section 201 of the National Environmental Policy Act of 1969 shall, when transmitted to Congress, be referred to the committee, which shall, as soon as practicable thereafter, hold hearings with respect to such report.

(c) On or before the last day of December of each year, the committee shall submit to the Senate and to the House of Representatives for reference to the appropriate standing committees an annual report on the studies, reviews, and other projects undertaken by it, together with its recommendations. The committee may make such interim reports to the appropriate standing committees of the Congress prior to such annual report as it deems advisable.

(d) In carrying out its functions and duties the committee shall avoid unnecessary duplication with any investigation undertaken by any other joint committee, or by any standing committee of the Senate or of the House of Representatives.

Sec. 3. (a) For the purposes of this joint resolution, the committee is authorized, as it deems advisable (1) to make such expenditures; (2) to hold such hearings; (3) to sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate and of the House of Representatives; and (4) to employ and fix the compensation of technical, clerical, and other assistants and consultants. Persons employed under authority of this subsection shall be employed without regard to political affiliations and solely on the basis of fitness to perform the duties for which employed.

(b) The committee may (1) utilize the services, information, and facilities of the General Accounting Office or any department or agency in the executive branch of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Congress, or any subcommittee thereof, the committee may utilize the facilities and

the services of the staff of such other committee or subcommittee whenever the chairman of the committee determines that such action is necessary and appropriate.

Sec. 4. To enable the committee to exercise its powers, functions, and duties under this joint resolution, there are authorized to be appropriated not to exceed $300,000 for each fiscal year to be disbursed by the Clerk of the House of Representatives on vouchers signed by the chairman or vice chairman of the committee.[9]

Parliamentarian's Note: The Senate did not take action on House Joint Resolution 3.

Establishing Special Senate Committee

§ 7.6 A Special Committee on the Organization of the Congress (composed of the Senate members of the Joint Committee on Organization) was established in the Senate to receive, consider, and report on a bill encompassing the legislative recommendations of the joint committee.

On Aug. 22, 1966,[10] the Senate proceeded to consider a resolution (S. Res. 293) creating a "Special Committee on the Organization of the Congress" consisting of the six Senators who were already members of the Joint Committee on the Organization of the Congress and providing certain instructions with respect to their duties.

The resolution, as reported by the Committee on Rules and Administration with certain recommended amendments, read as follows:

Resolved! That a special committee to be composed of the six Senators who are members of the Joint Committee on the Organization of the Congress is hereby established, with authority to sit and act during the sessions, recesses, and adjourned periods of the Eighty-ninth Congress (and such committee shall cease to exist, March 31, 1967), for the purpose of receiving and considering a bill, when introduced, and germane amendments relating thereto, having for its purpose the carrying out of the recommendations contained in the report of the Joint Committee on the Organization of the Congress, Report No. 1414, July 28, 1966. Such bill, when introduced, and amendments shall be referred to the committee for its consideration and such committee is hereby authorized to report to the Senate with respect to any such matter referred to it, together with such recommendations as it may deem advisable: *Provided*, That no report shall be made until the chairman and ranking minority member of each standing committee of the Senate shall have been given the opportunity to ap-

9. For a similar example in an earlier Congress, see 81 CONG. REC. 243, 75th Cong. 1st Sess., Jan. 14, 1937.

10. 112 CONG. REC. 20758, 20759, 89th Cong. 2d Sess. See § 7.1, supra (*Parliamentarian's Note*).

pear before the special committee and present their views. Nothing in this resolution shall be construed to authorize the committee to report any bill or amendment containing any provision which has the effect of changing the rules, parliamentary procedure, practices, or precedents of either House, or which has the effect of changing in any manner the consideration of any matter on the floor of either House, unless such provision is to carry out a recommendation contained in such report of July 28, 1966. Any vacancy occurring in the membership of the committee shall be filled by appointment by the President of the Senate.

The resolution, with the recommended amendments, was promptly agreed to.

Joint Committee on Atomic Energy

§ 7.7 The Joint Committee on Atomic Energy and not the Committee on Armed Services had jurisdiction of bills to repeal the Atomic Energy Act of 1946.

On Mar. 18, 1947,[11] Walter G. Andrews, of New York, Chairman of the Committee on Armed Services, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 2543) described above and to have it rereferred to the Joint Committee on Atomic Energy.

§ 7.8 The Joint Committee on Atomic Energy and not the Committee on the Judiciary had jurisdiction of a communication transmitting a proposed bill to provide rewards for information concerning illegal introduction into the United States or illegal manufacture or acquisition in the United States of special nuclear material and weapons.

On Aug. 5, 1954,[12] Mr. W. Sterling Cole, of New York, obtained unanimous consent that a letter (Executive Communication No. 1783) from the Attorney General described above be referred from the Committee on the Judiciary to the Joint Committee on Atomic Energy.

Joint Committee on Washington Metropolitan Problems

§ 7.9 The Joint Committee on Washington Metropolitan Problems was authorized, by concurrent resolution, to hold hearings and report to the Committees on the District of Columbia of the Senate and House on two bills to

11. 93 Cong. Rec. 2204, 80th Cong. 1st Sess.

12. 100 Cong. Rec. 13486, 83d Cong. 2d Sess.

aid in the development of an integrated system of transportation for the National Capital region.

On Apr. 21, 1960,[13] John L. McMillan, of South Carolina, Chairman of the Committee on the District of Columbia, obtained unanimous consent to have the following concurrent resolution (S. Con. Res. 101) discharged from further consideration by the Committee on Rules and brought up for immediate consideration by the House:

Resolved by the Senate (the House of Representatives concurring), That the Joint Committee on Washington Metropolitan Problems, created by House Concurrent Resolution 172, agreed to August 29, 1957, is hereby authorized to hold public hearings on the bills S. 3193 and H.R. 11135,[14] and to furnish transcripts of such hearings, and make such recommendations as it sees fit, to the Committees on the District of Columbia of the Senate and House of Representatives, respectively.[15]

Shortly thereafter, the concurrent resolution was agreed to.[16]

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13. H. Jour. 293, 86th Cong. 2d Sess.

14. Both S. 3193 [see 106 CONG. REC. 13598, 86th Cong. 2d Sess., June 21, 1960] and H.R. 11135 [see 106 CONG. REC. 14130, 86th Cong. 2d Sess., June 23, 1960] were reported as bills "to aid in the development of a unified and integrated system of transportation for the National Capital region; to create a temporary National Capital Transportation Agency; to authorize creation of a National Capital Transportation Corporation; to authorize negotiation to create an interstate transportation agency; and for other purposes."

Note: The Joint Committee on Washington Metropolitan Problems was extended by S. Con. Res. 2 (passed House Feb. 5, 1959); S. Con. Res. 59 (passed House Aug. 14, 1959); and S. Con. Res. 82 (passed House Feb. 16, 1960).

15. See § 7.2, supra, for creation of the Joint Committee on Washington Metropolitan Problems.

16. The permanent Record [106 CONG. REC. 8546, 86th Cong. 2d Sess., Apr. 21, 1960] and the House Journal [H. Jour. 293, 86th Cong. 2d Sess., Apr. 21, 1960] are at variance with respect to the passage of S. Con. Res. 101. The permanent Record merely discloses that the Committee on Rules was discharged from consideration of the measure. The Journal, however, indicates that the concurrent resolution was subsequently agreed to. Further verification of this is evidenced by the House's subsequent consideration of H.R. 11135 [106 CONG. REC. 14569, 86th Cong. 2d Sess., June 27, 1960] when Mr. John R. Foley, of Maryland, acknowledged the work performed by the Joint Committee on Washington Metropolitan Problems.

B. COMMITTEE CHAIRMEN, MEMBERS, AND EMPLOYEES

§ 8. In General; Electing Chairmen

The sections that follow discuss the manner in which the House elects chairmen of its committees.[17] Considerations involving the election of subcommittee chairmen are not reflected in the precedents, how ever. These are matters determined by the majority party of the particular Congress pursuant to that party's rules of organization.

For example, under the 1977 rules of the Democratic Caucus,[18], once the Caucus has approved that party's nominees to the standing committees (or other committees with legislative jurisdiction), the chairman of each is obliged to call a meeting of all the Democratic members of the committee, giving at least three days notice and prior to any organizational meeting of the full committee. Then, Democratic members of the committee have the right, in order of full committee seniority, or seniority on the subcommittee concerned, as the Democratic Caucus on the committee [i.e., all the Democratic members of the committee] may determine, to bid for subcommittee chairmanships.[19] The committee caucus then votes by secret ballot and the request must be supported by at least a majority of those present. If the committee caucus rejects a subcommittee chairmanship bid, the next senior Democratic member may bid for the position. An exception to this procedure occurs with respect to the subcommittees of the Committee on Appropriations—in which case it is required that the full Democratic Caucus shall also vote by secret ballot on each Member nominated to serve as chairman of an appropriations subcommittee.

Procedures affecting Republican subcommittee members have been less formalized.[20] With respect to selecting ranking Republican members on committees generally, or chairmen when the Republican party is in the majority, the Re-

17. For a discussion of the role of party organizations in this process, see Ch. 3, supra. For an in-depth treatment of how the majority party of a given Congress chooses committee chairmen nominees, see the rules of the Democratic Caucus and the minutes of the Republican Conference.

18. Democratic Caucus rules (June 2, 1977) section M III A.

19. Democratic Caucus rules (June 2, 1977) section M V A.

20. See § 9, infra.

publican Conference in 1970 adopted procedures recommended by the Conable task force[21] whereby the conference, by secret ballot, votes separately on nominations made by the Committee on Committees. Such nominations are made not necessarily on the basis of seniority.

By Resolution

§ 8.1 The chairman of a standing committee is elected by privileged resolution recommended by the majority party caucus or Committee on Committees and adopted by the House.

On June 5, 1963,[22] Speaker John W. McCormack, of Massachusetts, recognized Mr. Wilbur D. Mills,[23] of Arkansas:

> Mr. Speaker, I offer a privileged resolution (H. Res. 388) and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> *Resolved*, That Edwin E. Willis, of Louisiana, be and he is hereby elected chairman of the Standing Committee of the House of Representatives on Un-American Activities. The resolution was agreed to.

Privileged Status of Resolution Electing Chairman

§ 8.2 A resolution providing for the election of the chairman of a standing committee of the House is called up as privileged by the chairman of the majority party entity designated to recommend committee assignments.

On Nov. 18, 1970,[24] a vacancy having developed in the chairmanship of the Committee on Government Operations,[25] Mr. Wilbur D. Mills,[26] of Arkansas, offered the following privileged resolution (H. Res. 1263) and asked for its immediate consideration:

> *Resolved*, That Chet Holifield, of California, be, and he is hereby, elected Chairman of the standing committee of the House of Representatives on Government Operations.

The resolution was agreed to without debate.

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21. See Ch. 3, § 9.2, supra.

22. 109 Cong. Rec. 10187, 88th Cong. 1st Sess.

23. Mr. Mills was Chairman of the Committee on Ways and Means and Chairman of the Democratic Committee on Committees.

24. 116 Cong Rec. 37823, 91st Cong. 2d Sess.

25. The vacancy was caused by the death of William L. Dawson (Ill.), who had chaired the committee for 15 consecutive years.

26. Mr. Mills was Chairman of the Committee on Ways and Means as well as the Democratic Committee on Committees.

Death of Chairman

§ 8.3 When a vacancy is created on a standing committee by the death of its chairman, the House by resolution elects a new chairman to fill the vacancy.

On Sept. 21, 1961,[27] a vacancy having developed in the chairmanship of the Committee on Science and Astronautics,[1] Speaker pro-tempore John W. McCormack, of Massachusetts, recognized Mr. Wilbur D. Mills, of Arkansas, and the following events transpired:

> Mr. Speaker, I offer a privileged resolution (H. Res. 474) and ask for its immediate consideration.
>
> The Clerk read as follows:
>
> *Resolved*, That George P. Miller, of California, be, and he is hereby, elected chairman of the standing Committee of the House of Representatives on Science and Astronautics.
>
> The resolution was agreed to.

Election During Final Days of Congress

§ 8.4 The House adopted a privileged resolution electing a Member Chairman of the Committee on Armed Services during the final three days of the 91st Congress, to fill a vacancy.

On Dec. 30, 1970,[2] a vacancy having developed in the chairmanship of the Committee on Armed Services,[3] Mr. Wilbur D. Mills, of Arkansas, was recognized by Speaker John W. McCormack, of Massachusetts, and the following events took place:

> Mr. Speaker, by direction of the Committee on Committees, I offer a privileged resolution (H. Res. 1322), and ask for its immediate consideration.
>
> The Clerk read the resolution as follows:
>
> *Resolved*, That Philip J. Philbin, of Massachusetts, be, and he is hereby, elected chairman of the standing committee of the House of Representatives on Armed Services. The resolution was agreed to.

Election Following Resignation

§ 8.5 The House agreed to a resolution electing a chairman of a standing committee

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27. 107 CONG. REC. 20549, 87th Cong. 1st Sess.

1. The vacancy was caused by the death of Overton Brooks (La.), who had served as chairman of the committee from 1959.

2. 116 CONG. REC. 44163, 91st Cong. 2d Sess.

3. The vacancy was caused by the death of L. Mendel Rivers (S.C.) on Dec. 28, 1970. Mr. Rivers had served as chairman of the committee since 1965.

Mr. Philbin was a "lame-duck" Member of the 91st Congress, having been defeated for renomination to the 92d Congress.

after the previous chairman resigned.

On Sept. 24, 1940,[4] Speaker Sam Rayburn, of Texas, laid before the House the following communication which was read by the Clerk:

SEPTEMBER 18, 1940.

Hon. Sam RAYBURN,
Speaker of the House of Representatives, U.S., Washington, D.C.

MY DEAR MR. SPEAKER: I hereby respectfully tender my resignation as chairman of the Committee on the Public Lands [now the Committee on Interior and Insular Affairs].

It is my intention to remain on the committee as a member.

Respectfully,
RENE L. DEROUEN.

The Speaker inquired as to whether there was any objection, and none being heard, the resignation was accepted.

Immediately thereafter, the Chair recognized Mr. Robert L. Doughton,[5] of North Carolina:

Mr. Speaker, I offer the following resolution, which I send to the desk, and I move its immediate adoption.

The Clerk read as follows:

HOUSE RESOLUTION 610

Resolved, That J. W. Robinson, of Utah be, and he is hereby, elected chairman of the standing committee of the House of Representatives on Public Lands.

The resolution was agreed to.

§ 8.6 The House elected chairmen to two standing committees after accepting resignations from the previous chairmen.

On Oct. 14, 1940,[6] resignations were accepted from Mr. Lindsay C. Warren, of North Carolina, and Mr. John J. Cochran, of New York, as chairmen of their respective committees. By separate resolutions, Mr. Cochran was elected to chair the House standing Committee on Accounts [now, the Committee on House Administration] and Mr. James A. O'Leary, of New York, to chair the Committee on Expenditures in the Executive Departments [now, the Committee on Government Operations].

The Record discloses these changes to have been effected as follows:

The Speaker laid before the House the following resignation:

WASHINGTON, D.C.

Hon. SAM RAYBURN,
Speaker, House of Representatives.

MY DEAR MR. SPEAKER: I herewith submit my resignation as chairman of the Committee on Accounts, effective at the close of business October 31, 1940.

4. 86 CONG. REC. 12560, 76th Cong. 3d Sess.

5. Mr. Doughton was Chairman of the Committee on Ways and Means.

6. 86 CONG. REC. 13551, 76th Cong. 3d Sess.

Respectfully,
LINDSAY C. WARREN.

THE SPEAKER:[7] Without objection, the resignation will be accepted.

There was no objection.

The Speaker laid before the House the following resignation:

WASHINGTON, D.C.

Hon. SAM RAYBURN,
Speaker, House of Representatives, Washington, D.C.

MY DEAR MR. SPEAKER: I herewith submit my resignation as chairman of the Committee on Expenditures in the Executive Departments, effective at the close of business October 31.

It is my intention to retain my membership on the committee.

Sincerely yours,
JOHN J. COCHRAN.

THE SPEAKER: Without objection, the resignation will be accepted. There was no objection.

ELECTION TO COMMITTEES

Mr. [THOMAS H.] CULLEN [of New York]: Mr. Speaker, I offer a privileged resolution (H. Res. 626) and move its adoption.

The Clerk read as follows:

HOUSE RESOLUTION 626

Resolved, That John J. Cochran, of Missouri, be, and he is hereby, elected chairman of the standing committee of the House of Representatives on Accounts, effective as of November 1, 1940.

The resolution was agreed to.

Mr. CULLEN: Mr. Speaker, I offer a further privileged resolution (H. Res. 627) and move its adoption.

The Clerk read as follows:

HOUSE RESOLUTION 627

Resolved, That James A. O'Leary, of New York, be, and he is hereby, elected chairman of the standing committee of the House of Representatives on Expenditures in the Executive Departments, effective as of November 1, 1940.

The resolution was agreed to.

Election Resolutions; Recognition to Offer

§ 8.7 A resolution electing a Chairman of the Committee on Merchant Marine and Fisheries [a vacancy having been created by the death of the former chairman] was offered by the Chairman of the Committee on Ways and Means in his capacity as Chairman of the majority party's Committee on Committees.

On Jan. 10, 1966,[8] a vacancy having arisen in the chairmanship of the Committee on Merchant Marine and Fisheries,[9] Speaker pro tempore Carl Albert, of Oklahoma, recognized Mr. Wilbur D. Mills, of Arkansas:

Mr. Speaker, I offer a privileged resolution (H. Res. 630) and ask for its immediate consideration.

7. Sam Rayburn (Tex.).

8. 112 CONG. REC. 6, 89th Cong. 2d Sess.

9. The vacancy developed upon the death of Herbert C. Bonner (N.C.), on Nov. 7, 1965. Mr. Bonner had chaired the committee since 1955.

The Clerk recall the resolution as follows:

H. RES. 630

Resolved, That Edward A. Garmatz, of Maryland, be and he is hereby, elected chairman of the standing Committee of the House of Representatives on Merchant Marine and Fisheries.

Immediately thereafter, the resolution was agreed to.

Parliamentarian's Note: The appointment of committee chairmen is ultimately determined by the party organizations, i.e., the Democratic Caucus or the Republican Conference depending upon which party constitutes the majority party at the time. For treatment of this subject, see Chapter 3, supra.

Beginning with the 94th Congress, the Steering and Policy Committee, chosen by the Democratic Caucus, rather than the Democratic membership of the Ways and Means Committee, has acted in the capacity of the Democratic Committee on Committees. The Chairman of the Democratic Caucus is now recognized to offer resolutions electing committee chairmen and members. (See, for example, H. Jour. 127, 95th Cong. 1st Sess., Jan. 19, 1977.)

§ 9. Electing Members to Standing Committees

The sections that follow discuss the manner in which the House elects members to standing committees.[10] Considerations involving the election of members to subcommittees are not reflected in the precedents, as determinations are separately made by the majority and minority party members who constitute the membership of the committee.

For example, under the 1977 rules of the Democratic Caucus,[11] once the Caucus has approved that party's nominees to the standing committees (or other committees with legislative jurisdiction), the chairman of each is obliged to call a meeting of all the Democratic members of the committee, giving at least three days notice and prior to any organizational meeting of the full committee.[12] The Democratic members of the committee-also known as the committee caucus—then fill the subcommittee positions in the following manner:

(1) Step One—Members who served on the committee in the preceding Con-

10. For a discussion of the role of party organizations with regard to this process, see Ch. 3, supra. For an in-depth treatment of the role of party organizations with respect to committee assignments, see the rules of the Democratic Caucus and the rules of the Republican Conference.

11. Democratic Caucus rules (June 2, 1977) section M III A.

12. Democratic Caucus rules (June 2, 1977) section M V B.

gress shall be entitled to retain not more than two subcommittee assignments held on that committee in the preceding Congress. Members chosen as subcommittee chairmen . . . shall be entitled to retain only one other subcommittee assignment held on that committee in the preceding Congress.

(2) Step Two—Members who retain no subcommittee assignments in Step One and new Members shall be entitled, in order of their ranking on the full committee, to select one subcommittee position each.

(3) Step Three—Members who have selected only one subcommittee assignment shall be entitled, in order of their ranking on the full committee, to select a second subcommittee assignment, to the extent that subcommittee size permits.

(4) Step Four—Any remaining subcommittee vacancies shall be filled by additional rounds of selection in order of Members' ranking on the full committee.

(5) If a committee Caucus determines . . . that Members may bid for subcommittee chairmanships by subcommittee rather than full committee seniority, the ranking Members on each subcommittee shall be determined by the order in which Members elect to go on the subcommittee.

The Republican Conference does not have a definitive rule or procedure for selecting its proposed subcommittee members.[13]

Parliamentarian's Note: Resolutions at the commencement of a Congress initially electing Members to standing committees have traditionally been called up as privileged at the direction of the party organization.[14] As the result of adoption of the Committee Reform Amendments of 1974 (H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975), beginning in the 94th Congress the overall size of standing committees was no longer designated in the standing rules, but party caucuses were specifically vested with authority to nominate Members for election to standing committees at the commencement of each Congress.[15] Thus, beginning with the 94th Congress, the overall size of committees was in effect determined by the committee ratios negotiated by the party leaders at the direction of their respective party organizations and by the resulting numbers of Members elected to those committees by separate privileged resolutions called up by each party's designee. The party organizations retained the customary prerogative of calling up as privileged resolutions electing committee members subsequent to the election of members at the commencement of each

13. Rules of the Conference of the Republican members-elect of the United States House of Representatives, 96th Congress.

14. 8 Cannon's Precedents §§ 2179, 2182.

15. Rule X clause 6(a) (1), *House Rules and Manual* § 701(a) (1979).

Congress, either in situations where specific vacancies had been created by resignations accepted by the House, where additional majority or minority members were being elected to committees pursuant to an implicit understanding between the two party organizations as to the existence of "vacancies" based upon the ratio on, and the absence of a designated overall size of, that standing committee, or where reranking of elected Members was necessary to conform with party caucus rules on simultaneous holding of party and committee positions.

Electing Many Members Simultaneously at Beginning of Congress

§ 9.1 The House by a single privileged resolution recommended by party caucus or conference normally erects en bloc most members from a particular party to various committees of the House.

On Jan. 23, 1967,[16] Speaker John W. McCormack, of Massachusetts, recognized Mr. Wilbur D. Mills, of Arkansas, who offered the following privileged resolution (H. Res. 165):[17]

> *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 Agriculture: W. R. Poage (chairman), Texas; E. C. Gathings, Arkansas; John L. McMillan, South Carolina; Thomas G. Abernethy, Mississippi; Watkins M. Abbitt, Virginia. . . .
>
> Committee on Banking and Currency: Wright Patman (chairman), Texas; Abraham J. Multer, New York; William A. Barrett, Pennsylvania; Leonor K. (Mrs. John B.) Sullivan, Missouri; Henry S. Reuss, Wisconsin . . . .
>
> Committee on the District of Columbia: John L. McMillan (chairman), South Carolina; Thomas G. Abernethy, Mississippi; William L. Dawson, Illinois; Abraham J. Multer, New York. . . .
>
> Committee on Education and Labor: Carl D. Perkins (chairman), Kentucky; Edith Green, Oregon; Frank Thompson, Jr., New Jersey; Elmer J. Holland, Pennsylvania; John H. Dent, Pennsylvania. . . .
>
> Committee on Foreign Affairs: Thomas E. Morgan (chairman), Pennsylvania; Clement J. Zablocki, Wisconsin; Omar Burleson, Texas; Edna F. Kelly, New York. . . .
>
> Committee on Government Operations: William L. Dawson (chairman),

16. 113 Cong. Rec. 1086, 90th Cong. 1st Sess.

17. Only a few of the Members' named, are shown in this excerpt from the resolution. In its entirety, the resolution provided for the election of more than 240 Members.

Illinois; Chet Holifield, California; Jack Brooks, Texas; L. H. Fountain, North Carolina. . . .

Committee on Interior and Insular Affairs: Wayne N. Aspinall (chairman), Colorado; James A. Haley, Florida; Ed Edmondson, Oklahoma; Walter S. Baring, Nevada. . . .

Committee on Interstate and Foreign Commerce: Harley O. Staggers (chairman), West Virginia; Samuel N. Friedel, Maryland; Torbert H. Macdonald, Massachusetts; John Jarman, Oklahoma. . . .

Committee on the Judiciary: Emanuel Celler (chairman), New York; Michael A. Feighan, Ohio; Edwin E. Willis, Louisiana; Peter W. Rodino, Jr., New Jersey. . . .

Committee on Merchant Marine and Fisheries: Edward A. Garmatz (chairman), Maryland; Leonor K. (Mrs. John B.) Sullivan, Missouri; Frank M. Clark, Pennsylvania; Thomas L. Ashley, Ohio. . . .

Committee on Post Office and Civil Service: Thaddeus J. Dulski (chairman), New York; David N. Henderson, North Carolina; Arnold Olsen, Montana; Morris K. Udall, Arizona. . . .

Committee on Public Works: George H. Fallon (chairman), Maryland; John A. Blatnik, Minnesota; Robert E. Jones, Alabama; John C. Kluczynski, Illinois. . . .

Committee on Science and Astronautics: George P. Miller (chairman), California; Olin E. Teague, Texas; Joseph E. Karth, Minnesota; Ken Hechler, West Virginia. . . .

Committee on Un-American Activities: Edwin E. Willis (chairman), Louisiana; William M. Tuck, Virginia; Joe R. Pool, Texas; Richard H. Ichord, Missouri. . . .

Committee on Veterans' Affairs: Olin E. Teague (chairman), Texas; W. J. Bryan Dorn, South Carolina; James A. Haley, Florida; Walter S. Baring, Nevada. . . .

Shortly thereafter,[18] the resolution was agreed to.

Parliamentarian's Note: The Committees on Appropriations, House Administration, Rules, and Ways and Means had been previously elected, it being necessary to the early organization of the House in the 90th Congress.

Electing Members to Newly Created Committees

§ 9.2 Members are elected to newly created standing committees of the House by privileged resolution called up by the party caucus.

On May 1, 1967,[19] shortly after the House convened, Speaker John W. McCormack, of Massachusetts, recognized Mr. Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means (and the Democratic Committee on Committees), who offered a privilege resolution (H. Res. 457), which read as follows:

Resolved, That the following-named Members be, and they are hereby,

18. 113 CONG. REC. 1087, 90th Cong. Ist Sess.

19. 113 CONG. REC. 11281, 90th Cong. 1st Sess.

elected members of the standing Committee of the House of Representatives on Standard of Official Conduct: Melvin Price (chairman), Illinois; Olin E. Teague, Texas; Joe L. Evins, Tennessee; Watkins M. Abbitt, Virginia; Wayne N. Aspinall, Colorado; Edna F. Kelly, New York.

House Resolution 457 was agreed to without debate.

Immediately thereafter, Gerald R. Ford, of Michigan, the Minority Leader, offered a similarly privileged resolution (H. Res. 458) which stated:

Resolved, That the following-named Members be, and they are hereby, elected members of the standing Committee on Standards of Official Conduct: Charles A. Halleck, Indiana; Leslie C. Arends, Illinois; Jackson E. Betts, Ohio; Robert T. Stafford, Vermont; James H. Quillen, Tennessee; Lawrence G. Williams, Pennsylvania.

House Resolution 458, the minority party's counterpart to House Resolution 457, was also agreed to without debate.

Parliamentarian's Note: On occasion, the Member offering a resolution electing a person or persons to a standing committee will acknowledge the fact that such proposals arise from party determinations. See, for example, 108 CONG. REC. 263, 87th Cong. 2d Sess., Jan. 16, 1962, where Mr. Francis E. Walter, of Pennsylvania, offered a similar resolution "by direction of the Democratic Caucus."

See § 9.4, infra, for the resolution (H. Res. 418) establishing the Committee on Standards of Official Conduct.

Privileged Status of Electing Resolution

§ 9.3 A resolution providing for the election of a Member to a standing committee of the House is presented as privileged.

On July 8, 1969,[20] Speaker John W. McCormack, of Massachusetts, recognized Wilbur D. Mills, of Arkansas, who, in his capacity as Chairman of the majority party's Committee on Committees,[21] made the following statement:

Mr. Speaker, I offer a privileged resolution (H. Res. 471) and ask for its immediate consideration.

The resolution (H. Res. 471) as then read by the Clerk, as follows:

Resolved, That John Melcher, of Montana, be, and he is hereby, elected to the standing committee of the House of Representatives on Agriculture.[22]

20. 115 CONG. REC. 18608, 91st Cong. 1st Sess.

21. See Ch. 3, § 11, supra.

22. For another example see 112 CONG. REC. 27486, 89th Cong. 2d Sess., Oct. 18, 1966, where a resolution (H.

Parliamentarian's Note: Immediately prior to the consideration of House Resolution 471 as privileged, the House had by unanimous consent considered and agreed to House Resolution 470[1] which expanded the size of the Committee on Agriculture from 33 to 34 members for the remainder of the 91st Congress, in order that a vacancy could be created on that committee to which Mr. John Melcher, of Montana, could then be elected by privileged resolution reported from the Democratic Committee on Committees. This sequence of consideration of resolutions, first creating a vacancy on a standing committee and then electing a Member to fill that vacancy is illustrative of the practice traditionally followed by the House until the end of the 93d Congress. Under that practice, Rule X of the standing rules designated the overall size of each standing committee, and resolutions enlarging the size of standing committees were either considered by unanimous consent or by privileged report from the Committee on Rules. Then, with a vacancy having been so created, or by resignation of a committee member accepted by the House, the consideration of a resolution at the direction of the party caucus or committee on committees became privileged in order to fill the vacancy.

Significance of Party Ratios

§ 9.4 In both the House and Senate, the party ratios on most standing committees tend to reflect the relative membership of the two parties in the House or Senate as a whole. Sometimes, however, the membership of a committee is equally divided between the majority and minority parties where bipartisan deliberations are considered essential.

On Apr. 13, 1967,[2] by direction of the Committee on Rules, Mr. William M. Colmer, of Mississippi, called up House Resolution 418 and asked for its immediate consideration. The resolution read as follows:

> *Resolved*, That there is hereby established a standing committee of the House of Representatives to be known as the Committee on Standards of Official Conduct (hereafter referred to as

Res. 1066) providing for the election of Mr. Richard L. Ottinger [N.Y.], to the Committee on Interstate and Foreign Commerce was similarly presented as privileged.

1. 115 CONG. REC. 18608, 91st Cong. 1st Sess, July 8, 1969.

2. 113 CONG. REC. 9425, 90th Cong. 1st Sess.

the "committee"). The committee shall be composed of twelve Members of the House of Representatives. Six members of the committee shall be members of the majority party and six shall be members of the minority party.

Sec. 2. The jurisdiction of the committee shall be to recommend as soon as practicable to the House of Representatives such changes in laws, rules, and regulations as the committee deems necessary to establish and enforce standards of official conduct for Members, officers, and employees of the House.

Sec. 3. The committee may hold such hearings and take such testimony as may be necessary to carry out the purposes of this resolution.

In the course of the ensuing discussion, Mr. Colmer directly touched upon the division of the committee's membership between the parties. He explained the unusual arrangement, as follows:

The resolution authorizes that standing committee to consist of 12 members, six from the majority side and six from the minority side. Why was that done? It was done because the committee in its wisdom recognized that this aisle here, separating the minority from the majority, does not apply in the matter of honor and integrity and ethics. The subject matter is not political. For the same reason, it was made a standing committee rather than a select committee on the theory that there is no reason to suspect or to believe that the 91st Congress and its successors will be more ethical or more honorable than the 90th Congress.

The resolution was adopted[3] by a yea and nay vote of 400 to 0.[4]

Parliamentarian's Note: See Chapter 3, § 9, supra, for discussion of determinations relating to party ratios on standing committees.

§ 9.5 The Senate Majority Leader announced that the change in party affiliation by a Senator might necessitate a change in party ratios on certain committees, depending on the committee assignment given the Senator.

On Sept. 21, 1964,[5] Presiding Officer Pierre E. G. Salinger, of California, of the Senate recognized Majority Leader Michael J. Mansfield, of Montana, who then discussed the implications of a recent shift in party affiliation by a Senator who sat on the Committee on Commerce and the Committee on Armed Services. The relationship between party affiliation and the composition of most committees[6] is readily ap-

3. *Id.* at p. 9448.
4. See § 9.5, infra, where the more typical situation of maintaining appropriate party ratios within committees was discussed in the Senate relative to a decision of a Senator to change his party affiliation.
5. 110 CONG. REC. 22369, 88th Cong. 2d Sess.
6. See § 9.4, supra, for an instance in which the membership of a par-

parent in the exchange which ensued:

MR. MANSFIELD: Mr. President, in view of the fact that the distinguished Senator from South Carolina [Mr. Thurmond] has, on his own volition, changed his allegiance from the Democratic to the Republican Party, I feel that I should make a statement relative to his committee assignments.

The present Senate ratio is 66 Democrats to 34 Republicans—that is, with the Senator from South Carolina [Mr. Thurmond] going over to the Republican side of the aisle.

This means that the Democrats would be entitled to 66 percent of the membership on the two committees. The present overall membership on both committees is 17.

Prior to Senator Thurmond's change of party, the Democrats had 12 seats on each and the Republicans had 5.

When I refer to these two committees, I refer of course to the Committee on Commerce and the Committee on Armed Services.

If the party ratio of the present membership of the Senate as a whole is applied to the 17-man membership of each committee, it yields 11.2 Democrats and 5.8 Republicans. In the circumstances, unless it is intended to change the old ratio in some other committee or committees, it would appear that the Republicans would be entitled to an additional seat on each of the two committees and the Democrats would lose them. In short, the ratio would become 11 to 6 instead of 12 to 5. Following precedent, each party determines its choice of members for each committee. In the present circumstances, it would be, therefore, the decision of the Republican caucus as to whether or not Senator Thurmond retains his present membership on the two committees or some other Republican is substituted for him and he is otherwise assigned. If he remains on the Armed Services and Commerce by choice of the Republican caucus, no Senate action is necessary. If the Republicans decide to shift him, a pro forma resolution of the Senate would be necessary to reflect the shift.

MR. [EVERETT MCKINLEY] DIRKSEN [of Illinois]: Mr. President, will the majority leader yield?

MR. MANSFIELD: I yield.

MR. DIRKSEN: I am delighted that the majority leader has clarified this question concerning the party ratio on the two committees in question. We shall have a policy meeting tomorrow. And it is entirely correct that this matter should be discussed. I am delighted, indeed, that the majority leader has clarified the situation at this time.

MR. MANSFIELD: I thank the minority leader.

ticular committee in the House was divided equally between the majority and minority parties.

Designation of Rank

§ 9.6 The House adopted a resolution electing a Member to a committee of the House and designating his rank thereon.

On June 29, 1961,[7] Speaker Sam Rayburn, of Texas, recog-

7. 107 CONG. REC. 11797, 87th Cong. 1st Sess.

nized Mr. Wilbur D. Mills, of Arkansas, who offered the following privileged resolution (H. Res. 367):

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 number 10th thereon.

Immediately thereafter, the resolution was agreed to.

Parliamentarian's Note: The election of Mr. Roush to the committee was delayed pending the resolution of a contested-election case involving his seat. He did not take the oath as a Member until June 14, 1961.

§ 9.7 The House agreed to a resolution electing Members to a committee and fixing their relative rank thereon.

On Feb. 8, 1943,[8] the following resolution (H. Res. 103) was considered and agreed to:

Resolved, That the following-named Members be, and they are hereby elected members of the standing Committee of the House of Representatives on the District of Columbia, to rank as follows:

Third, Thomas D'Alesandro, Jr., Maryland.

Fifth, Sam M. Russell, Texas.

Sixth, Oren Harris, Arkansas.

Seventh, F. Edward Hébert, Louisiana.

Electing Members to Vacancies

§ 9.8 A resolution electing five Members to individual vacancies on five standing committees was agreed to by the House.

On July 25, 1963,[9] Speaker John W. McCormack, of Massachusetts, recognized Mr. Wilbur D. Mills, of Arkansas, who offered a privileged resolution (H. Res. 459) and sought its immediate consideration.

The Clerk then read the resolution, as follows:

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 Banking and Currency: Compton I. White, Idaho.

Committee on House Administration: Lucien N. Nedzi, Michigan.

Committee on the Judiciary: Don Edwards, California.

Committee on Post Office and Civil Service: Charles H. Wilson, California.

Committee on Un-American Activities: George F. Senner, Jr., Arizona.

Immediately thereafter, the resolution was agreed to.

Parliamentarian's Note: The vacancies resulted both from res-

8. 89 Cong. Rec. 692, 78th Cong. 1st Sess.

9. 109 Cong. Rec. 13336, 88th Cong. 1st Sess.

ignations accepted by the House and from failure to elect to some of the named committees in the first instance up to the total size designated in Rule X.

Electing Members of Abolished Committee to Newly Created Committee

§ 9.9 The House adopted a privileged resolution electing the sitting majority and minority members of the Committee on Un-American Activities to the newly created Committee on Internal Security and rereferring all bills and other papers pending before the Committee on Un-American Activities to the new committee.

On Feb. 18, 1969,[10] following the passage[11] of a resolution (H. Res. 89) abolishing the Committee on Un-American Activities and transferring its jurisdiction, records, and property to a new standing committee to be known as the Committee on Internal Security, Speaker John W. McCormack, of Massachusetts, recognized Wilbur D. Mills, of Arkansas, Chairman of the Democratic Committee on Committees, who offered a privileged resolution (H. Res. 251)[12] which read as follows:

> *Resolved*, That the following-named Members be, and they are hereby, elected to the standing Committee of the House of Representatives on Internal Security: Richard H. Ichord (chairman), Missouri; Claude Pepper, Florida; Edwin W. Edwards, Louisiana; Richardson Preyer, North Carolina; Louis Stokes, Ohio; John M. Ashbrook, Ohio; Richard L. Roudebush, Indiana; Albert W. Watson, South Carolina; William J. Scherle, Iowa.
>
> *Resolved*, That all bills, resolutions, executive communications, petitions and memorials heretofore referred to the Committee on Un-American Activities in the 91st Congress are hereby referred to the Committee on Internal Security.

The resolution was immediately agreed to.

Parliamentarian's Note: Both majority and minority party members were elected by name (rather than by simply electing the "sitting members of the Committee on Un-American Activities to the Committee on Internal Security") so that their election could be more easily certified to a court in case of legal proceedings dealing with the committee. This procedure avoided the necessity of referring back to the previous resolutions electing them to the Committee on Un-American Activities.

10. 115 CONG. REC. 3747, 91st Cong. 1st Sess.

11. *Id.* at p. 3746.

12. *Id.* at p. 3747.

Electing Standing Committee Members to Newly Renamed Committee

§ 9.10 The House agreed to a resolution providing that those members elected to the Committee on Expenditures in the Executive Departments were thereby elected, though not individually named, to the Committee on Government Operations, and all documents previously referred to the Committee on Expenditures in the Executive Departments were transferred to the Committee on Government Operations.

On July 4, 1952,[13] Speaker Sam Rayburn, of Texas, recognized Mr. John W. McCormack, of Massachusetts, who offered the following privileged resolution (H. Res. 735) and asked for its immediate consideration:

> *Resolved,* That those Members of the House elected to the Committee on Expenditures in the Executive Departments are hereby elected to the Committee on Government Operations, and all records and papers of the Committee on Expenditures in the Executive Departments are hereby transferred to the Committee on Government Operations.
>
> That all bills, resolutions, communications, papers, documents, petitions, and memorials heretofore referred to the Committee on Expenditures in the Executive Departments are hereby referred to the Committee on Government Operations.

Immediately thereafter, the resolution was agreed to.[14]

§ 9.11 The rules were amended to change the name of the Committee on Public Lands to the Committee on Interior and Insular Affairs. The members elected to the Committee on Public Lands were immediately thereafter elected to the Committee on Interior and Insular Affairs, and all papers and documents were to be transferred to the newly named committee.

On Feb. 2, 1951,[15] the Committee on Public Lands became the Committee on Interior and Insular Affairs. The proceedings took place, as follows:

> MR. [JOHN E.] LYLE [Jr., of Texas]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 100 and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:

13. 98 CONG. REC. 9376, 82d Cong. 2d Sess.

14. On the preceding day, the name change was effected in the rules; see 98 CONG. REC. 9217, 82d Cong. 2d Sess., July 3, 1952.

15. 97 CONG. REC. 883, 884, 82d Cong. 1st Sess.

Resolved, That Clause (a) 14 of rule X of the Rules of the House of Representatives is amended by striking out "Committee on Public Lands" and inserting in lieu thereof "Committee on Interior and Insular Affairs."

Clause (1) (n) of rule XI is amended by striking out "Committee on Public Lands" and inserting in lieu thereof "Committee on Interior and Insular Affairs."

Clause (2) (a) of rule XI is amended by striking out "Committee on Public Lands" where it appears in the said clause and inserting in lieu thereof "Committee on Interior and Insular Affairs."

Clause 1 of rule XII is amended by striking out "Public Lands" where it appears in said clause and inserting in lieu thereof "Interior and Insular Affairs.". . .

MR. [JOHN R.] MURDOCK [of Arizona]: Mr. Speaker, I offer the following resolution (H. Res. 111) to implement the resolution just adopted, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That those Members of the House elected to the Committee on Public Lands are hereby elected to the Committee on Interior and Insular Affairs, and all records and papers of the Committee on Public Lands are hereby transferred to the Committee on Interior and Insular Affairs.

That all bills, resolutions, communications, papers, documents, petitions, and memorials heretofore referred to the Committee on Public Lands are hereby referred to the Committee on Interior and Insular Affairs.

The resolution was agreed to.

Electing Incumbent Members for Specified Time for Organizational Purposes

§ 9.12 The House adopted three privileged resolutions, offered from the floor by the Chairman of the Democratic Caucus, electing [incumbent] members of the majority to certain committees until Mar. 1, 1973, or until adoption prior to that date of resolutions providing otherwise.

On Jan. 6, 1973,[16] Olin E. Teague, of Texas, Chairman of the Democratic Caucus, offered seriatim three privileged resolutions (H. Res. 95, H. Res. 96, H. Res. 97) electing incumbent members of his party to three of the House's standing committees with a proviso limiting the extent of the members' service. The proviso, identically worded in all three resolutions, indicated that the election of the Members was valid only "until March 1, 1973, unless a resolution providing otherwise is adopted by the House. . . ."

House Resolutions 95, 96, and 97—electing Democratic members to the Committees on Appropriations, Rules, and House Administration, respectively—were all agreed to, immediately.

16. 119 CONG. REC. 380, 93d Cong. 1st Sess.

Parliamentarian's Note: These resolutions reflected the policy of the Democratic Caucus that it approve of all recommendations submitted by its Committee on Committees (which had not then been organized, the Ways and Means majority no longer serving as the Democratic Committee on Committees in the 93d Congress), yet permitted the named committees to be able to transact organizational business at the beginning of the session.

Election of Delegate

§ 9.13 By privileged resolution, the House elected the Delegate from the District of Columbia to the Committee on the District of Columbia as required by the rules.

On Apr. 21, 1971,[17] Speaker Carl Albert, of Oklahoma, recognized Mr. Wilbur D. Mills, of Arkansas, who offered the following privileged resolution (H. Res. 398):

> *Resolved*, That Walter E. Fauntroy, Delegate from the District of Columbia, be, and he is hereby, elected to the standing committee of the House of Representatives on the District of Columbia.

The resolution was agreed to, immediately.

Parliamentarian's Note: The rules provide[18] that:

> The Delegate from the District of Columbia shall be elected to serve as a member of the Committee on the District of Columbia and each Delegate to the House shall be elected to serve on standing committees of the House in the same manner as Members of the House and shall possess in all committees on which he serves the same powers and privileges as the other members.

The Delegate from the District of Columbia is elected to serve as an additional member of the Committee on the District of Columbia. Prior to 1975, the rules[19] listed the numerical size of every standing committee. If the House chose to increase the size of a committee, the Members would adopt a resolution to that effect. In the traditional practice, however, the Delegate from the District of Columbia was not counted as being among the regular number of members on that committee. Accordingly, resolutions electing the Delegate did not call for an increase in the number of members on the committee. The same principle applied to the election of a Delegate or a Resident Commissioner to other committees pursuant to the rules.

Whether or not the election of a Delegate or Resident Commis-

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17. 117 Cong. Rec. 11151, 92d Cong. 1st Sess.

18. Rule XII clause 2, *House Rules and Manual* § 740 (1973).

19. See Rule X clauses 1(a)–(u), *House Rules and Manual* § 670 (1973).

sioner affects the party ratios has been a determination made by the party organizations (i.e., the Democratic Caucus and the Republican Conference) from Congress to Congress.

Election of Majority Leader to Committee

§ 9.14 A Member [who was also the Majority Leader] was elected to the Committee on Science and Astronautics.

On May 15, 1961,[1] following the passage of a resolution (H. Res. 289) providing that the Committee on Science and Astronautics would be composed of 26 members during the 87th Congress, Speaker Sam Rayburn, of Texas, recognized Mr. Wilbur D. Mills, of Arkansas, who offered the following privileged resolution (H. Res. 290) which read in part:

> *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 Science and Astronautics: John W. McCormack, Massachusetts. . . .

Immediately thereafter, the resolution was agreed to.

1. 107 CONG. REC. 7965, 87th Cong. 1st Sess.

Serving on Two or More Committees

§ 9.15 The Committee on Rules is considered by the Republican Committee on Committees to be an "exclusive" committee; therefore, Republican members of the Committee on Rules are not generally permitted to hold assignments on the other standing committees.

On Feb. 7, 1966,[2] Speaker John W. McCormack, of Massachusetts, laid before the House the following letter of resignation:

> HOUSE OF REPRESENTATIVES,
> *Washington, D. C., February 7, 1966.*
>
> Hon. JOHN W. MCCORMACK,
> *Speaker of the House,*
> *House of Representatives,*
> *Washington, D.C.*
>
> DEAR MR. SPEAKER: I herewith tender my resignation as a member of the Committee on Agriculture.
>
> Having thoroughly enjoyed my work on this committee, I wish to advise the House that this resignation is being submitted in accordance with a decision of our committee on committees that members of the Committee on Rules should not have dual committee assignments.
>
> Sincerely yours,
> DELBERT L. LATTA,
> *Representative to Congress.*

Immediately thereafter, the Chair inquired as to whether

2. 112 CONG. REC. 2383, 2384, 89th Cong. 2d Sess.

there was any objection, and none being heard, the resignation was accepted.

Membership as Retroactive

§ 9.16 The House may adopt a resolution electing a Member to a committee retroactively and fixing his rank on such committee accordingly.

On Nov. 2, 1939,[3] in a special session of Congress, Mr. E. C. Gathings, of Arkansas, was elected to membership on the Committee on Claims [later to be incorporated into the Committee on the Judiciary] .

MR. [JERE] COOPPER [of Tennessee]: Mr. Speaker, I offer the following privileged resolution, which I send to the desk and ask to have read.

The Clerk read as follows:

HOUSE RESOLUTION 322

Resolved, That E. C. Gathings, of Arkansas, be, and he is hereby, elected a member of the standing committee of the House of Representatives on Claims as of June 2, 1939, and shall take rank accordingly.

THE SPEAKER:[4] The question is on agreeing to the resolution.

The resolution was agreed to.

Parliamentarian's Note: Mr. Gathings had been serving on the committee for several months due to a misconception, shared by all committee members, that he had already been validly named to that committee.

§ 10. Appointments to Select Committees

Speaker Appoints Chairman and Members

§ 10.1 The Speaker appoints the chairmen and members of select committees; such appointments are generally made by the Speaker immediately after the adoption of the resolution creating the committee.

On July 10, 1969,[5] Speaker John W. McCormack, of Massachusetts, recognized Mr. Ray J. Madden, of Indiana, who, by direction of the Committee on Rules, called up a resolution (H. Res. 472) and asked for its immediate consideration.

The resolution read as follows:

Resolved, That (a) there is hereby created a select committee to be known as the "Committee on the House Restaurant," which shall be composed of five Members of the House of Representatives to be appointed by the

3. 85 CONG. REC. 1283, 76th Cong. 2d Sess.

4. William B. Bankhead (Ala.).

5. 115 CONG. REC. 19080, 91st Cong. 1st Sess.

Speaker, not more than three of whom shall be of the majority party, and one of whom shall be designated as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

(b) On and after July 15, 1969, until otherwise ordered by the House, the Architect of the Capitol shall perform the duties vested in him by section 208 of Public Law 812, 76th Congress (40 U.S.C. 174k) under the direction of the select committee herein created.

Mr. Madden then proceeded to explain that:

The function of this committee will be to establish rules and regulations for the management and the operation and control of all food facilities under control of the House of Representatives, and elective on July 15, 1969. The Architect of the Capitol shall manage the House food facilities under the direction of this select Committee.

The resolution was agreed to by voice vote.[6]

Immediately thereafter, the Speaker made the following announcement:

Pursuant to the provisions of House Resolution 472, 91st Congress, the Chair appoints as members of the Committee on the House Restaurant the following Members of the House: Mr. Kluczynski of Illinois, chairman; Mr. Steed of Oklahoma, Mr. Cabell of Texas, Mr. Collier of Illinois, Mr. Thomson of Wisconsin.[7]

Parliamentarian's Note: Pursuant to the rules of the House,[8] the Speaker "shall appoint [Members to] all select and conference committees" ordered by the House. This power extends to the appointment of Members to such committees when the House is in recess or during adjournment if such action has been authorized by the House.[9] Members appointed to select and conference committees have usually expressed their interest to the Speaker in advance. At some times the Member sponsoring the resolution creating a select committee has been appointed its chairman;[10] however, in modern practice, this is often disregarded.

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6. *Id.* at p. 19081.

7. For similar instances, see 114 CONG. REC. 25064, 90th Cong. 2d Sess., Aug. 2, 1968 [appointments to Special Committee on Campaign Expenditures]; 113 CONG. REC. 17792, 90th Cong. 1st Sess., June 28, 1967 [appointments to Select Committee on Parking]; 112 CONG. REC. 28112, 89th Cong. 2d Sess., Oct. 20, 1966; [appointments to Select Committee on Standards and Conduct]; and 109 CONG. REC. 16754, 88th Cong. 1st Sess., Sept. 11, 1963 [appointments to a select committee to investigate research programs].

8. Rule X clause 2, *House Rules and Manual* § 671A (1973). This provision is contained in Rule X clause 6 (e) 701(d) in the 1979 *House Rules and Manual.*

9. For examples of such authorization see §§ 10.3, 10.4, infra.

10. Rule X clause 2, *House Rules and Manual* § 671A (1973).

Appointments on Separate Days

§ 10.2 The majority and minority members of the Select Committee on Small Business were appointed by the Speaker on separate days.

On Feb. 7, 1961,[11] Speaker Sam Rayburn, of Texas, informed the House that:

> The Chair desires to make the following announcement.
>
> Pursuant to the provisions of House Resolution 46, 87th Congress, the Chair appoints as members of the Select Committee To Conduct Studies and Investigations of the Problems of Small Business the following Members of the House:
>
> Mr. Patman, Texas, chairman; Mr. Evins, Tennessee; Mr. Multer, New York; Mr. Yates, Illinois; Mr. Steed, Oklahoma; Mr. Roosevelt, California; Mr. Alford, Arkansas.

Ten days later, on Feb. 17, 1961,[12] the Speaker stated:

> Pursuant to the provisions of House Resolution 46, 87th Congress, the Chair appoints as additional members of the Select Committee To Conduct Studies and Investigations of the Problems of Small Business the following Members of the House:
>
> Mr. McCulloch, Ohio; Mr. Moore, West Virginia; Mr. Avery, Kansas; Mr. Smith, California; Mr. Robison, New York; and Mr. Derwinski, Illinois.

Parliamentarian's Note: All of those appointed on Feb. 7, 1961, were members of the Speaker's party inasmuch as minority party members had not yet acted on the recommendations of their Committee on Committees. The majority party members were appointed in order to enable the committee to organize and to permit its chairman the opportunity to certify the employment of staff personnel.

Authorizing Appointments During Recess

§ 10.3 The Speaker may be authorized by unanimous consent to appoint commissions and committees authorized by law or by the House during a recess.

On Aug. 7, 1948,[13] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Majority Leader Charles A. Halleck, of Indiana, who initiated the following exchange:

> Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until December 31, 1948, the Speaker be authorized to appoint commissions, boards, and committees authorized by law or by the House.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Indiana?

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11. 107 CONG. REC. 1820, 87th Cong. 1st Sess.

12. *Id.* at p. 2271.

13. 94 CONG. REC. 10248, 80th Cong. 2d Sess.

There was no objection.

The Speaker, acting pursuant to this authority, made the following appointment, which was announced on Dec. 31, 1948:[14]

THE SPEAKER: The Chair announces that pursuant to the provisions of House Resolution 18, Eightieth Congress, and the order of the House of August 7, 1948, empowering him to appoint commissions, boards, and committees authorized by law or by the House, he did, on August 14, 1948, appoint as a member of the Select Committee to Conduct a Study and Investigation of the Problems of Small Business the gentleman from Virginia [Mr. Hardy] to fill the existing vacancy thereon caused by the resignation of the gentleman from Tennessee [Mr. Kefauver].

Authorizing Appointments After Adjournment Sine Die

§ 10.4 The House may authorize the Speaker to appoint committees and commissions authorized by law or by the House following the adjournment of a session.

On Aug. 21, 1937,[15] Mr. Sam Rayburn, of Texas, was recognized by Speaker William B. Bankhead, of Alabama, and the following exchange took place:

MR. RAYBURN: Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the first session of the Seventy-fifth Congress the Speaker be authorized to appoint commissions and committees authorized by law or by the House.

THE SPEAKER: Is there objection to the request of the gentleman from Texas?

There was no objection.

Speaker Announces Appointments

§ 10.5 The Speaker announced his appointments to the special committee to report to the House on the right of Adam C. Powell to be sworn in as a Representative from New York.

On Jan. 19, 1967,[16] Speaker John W. McCormack, of Massachusetts, made the following announcement:

Pursuant to the provisions of House Resolution 1, 90th Congress, providing for a special committee to report to the House upon the question of the right of Adam Clayton Powell to be sworn in as a Representative from the State of New York in the 90th Congress, as well as to his final right to a seat therein, the Chair appoints the following members: Mr. Celler, of New York, chairman; Mr. Corman, of California; Mr. Pepper, of Florida; Mr. Conyers, of Michigan; Mr. Jacobs, of Indiana; Mr. Moore, of West Virginia; Mr. Teague, of California; Mr.

14. *Id.* at p. 10264.

15. 81 CONG. REC. 9640, 75th Cong. 1st Sess.

16. 113 CONG. REC. 1037, 90th Cong. 1st Sess.

MacGregor, of Minnesota; and Mr. Thomson, of Wisconsin.

Announcing Appointments Made During Recess

§ 10.6 Following a recess, the Speaker announces to the House the fact that he has, pursuant to law, made an appointment during the recess to fill a vacancy on a select committee.

On Feb. 2, 1960,[17] Speaker Sam Rayburn, of Texas, laid before the House an announcement which the Clerk read, as follows:

> Pursuant to the provisions of section 5, Public Law 115, 78th Congress, and House Resolution 165, 86th Congress, the Chair appoints as a member of the Committee on the Disposition of Executive Papers the gentleman from Iowa, Mr. Kyl, to fill the existing vacancy thereon.

§ 10.7 The Record generally discloses the Speaker's appointments to a select committee or commission during an adjournment to a day certain.

Under date of July 26, 1948,[18] the Record discloses the following information:

APPOINTMENTS MADE AFTER ADJOURNMENT

INVESTIGATION OF FEDERAL COMMUNICATIONS COMMISSION

The Speaker, pursuant to the authority conferred upon him by House Resolution 691, Eightieth Congress, and the order of the House of June 19, 1948, empowering him to appoint commissions, boards, and committees authorized by law or by the House, did on June 29, 1948, appoint as members of the select committee to conduct a study and investigation of the organization, personnel and activities of the Federal Communications Commission the following Members of the House: Hon. Forest A. Harness, Indiana, chairman; Hon. Leonard W. Hall, New York; Hon. Charles H. Elston, Ohio; Hon. J. Percy Priest, Tennessee; Hon. Oren Harris, Arkansas.

WASHINGTON AND LEE UNIVERSITY BICENTENNIAL COMMISSION

The Speaker, pursuant to the authority conferred upon him by Public Law 636, Eightieth Congress, and the order of the House of June 19, 1948, empowering him to appoint commissions, boards, and committees authorized by law or by the House, did on July 9, 1948, appoint as members of the United States-Washington and Lee University Bicentennial Commission the following members on the part of the House to serve with himself: Hon. Clarence J. Brown, Ohio; Hon. James W. Wadsworth, New York; Hon. John W. Flannagan, Jr., Virginia; Hon. Fadjo Cravens, Arkansas.

Announcing Appointments Prior to Effective Date

§ 10.8 The Speaker has announced the appointments of

17. 106 CONG. REC. 1822, 86th Cong. 2d Sess.
18. 94 CONG. REC. 9362, 80th Cong. 2d Sess.

Members to a commission, established by law, prior to the effective date of the appointments.

On Dec. 13, 1971,[1] Speaker Carl Albert, of Oklahoma, made the following announcement:

> Pursuant to the provisions of section 1202, Public Law 91–452, the Chair appoints the following Members on the part of the House to be members of the National Commission on Individual Rights, effective January 1, 1972: Mr. Celler, Mr. Mikva, Mr. McCulloch, and Mr. Sandman.

Appointment of Speaker and Leaders

§ 10.9 The Speaker appoints himself and the Majority and Minority Leaders as members of the Joint Committee on Inauguration.

On June 4, 1968,[2] immediately after the House had concurred in a Senate concurrent resolution (S. Con. Res. 73), establishing a joint committee to make arrangements for the upcoming inauguration, Speaker John W. McCormack, of Massachusetts, made the following announcement:

> Pursuant to the provisions of Senate Concurrent Resolution 73, 90th Congress, the Chair appoints as Members of the Joint Committee to make the necessary arrangements for the inauguration of the President-elect and the Vice-President-elect of the United States on the 20th day of January 1969 the following Members on the part of the House: Mr. McCormack, Mr. Albert, and Mr. Gerald R. Ford.

§ 11. Seniority Considerations[3]

Order of Members' Names on Resolution as Showing Seniority

§ 11.1 Committee seniority is shown by the order in which the Members' names are listed in the resolution electing them to a committee; and where an error was made in the order of names in a resolution, the House, by unanimous consent, vacated the proceedings, reconsidered the matter, and agreed to a corrective amendment putting the names in proper order.

On Feb. 3, 1969,[4] Speaker John W. McCormack, of Massachusetts, recognized Mr. Gerald R. Ford, of Michigan, who sought

1. 117 Cong. Rec. 46530, 92d Cong. 1st Sess.
2. 114 Cong. Rec. 15870, 90th Cong. 2d Sess.
3. See also Ch. 7, § 2, supra.
4. 115 Cong. Rec. 2433, 91st Cong. 1st Sess.

unanimous consent to vacate the proceedings whereby the House had agreed to a resolution (H. Res. 176) on Jan. 29, 1969; and he requested the immediate reconsideration of the resolution with an amendment which he sent to the desk.

House Resolution 176 provided that upon its adoption, the Members listed therein would be elected members of those standing committees which preceded their names. Among the committees and list of names was the Committee on Veterans' Affairs, as to which the resolution read as follows:[5]

> Committee on Veterans' Affairs: Charles M. Teague, California; E. Ross Adair, Indiana; William H. 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.

There was no objection to the unanimous-consent request.[6] Accordingly, the Clerk read Mr. Ford's proposed amendment,[7] a few moments later, 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;"

The Congressman was then afforded an opportunity to explain the proposal which he did:

> 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.

Immediately thereafter, the Ford amendment was agreed to, and House Resolution 176, as amended, was agreed to.

Demotions in Seniority as Affecting Other Members

§ 11.2 Where, as a matter of party policy, the Democratic Caucus instructed the Committee on Committees to assign the "last position" on a committee to a particular Member (for party disciplinary reasons), and the House agreed to a resolution with a new listing of electees, other Members, subsequently elected to the same committee, rank junior to him in committee seniority.

On Jan. 18, 1965,[8] the House adopted a resolution (H. Res. 120) electing Members to 18 standing

5. *Id.* at p. 2434.
6. *Id.* at p. 2433.
7. *Id.* at p. 2434
8. 111 Cong. Rec. 809, 810, 89th Cong. 1st Sess.

committees. The last name (and thus, by custom, the committee member of least seniority) on the list of electees for the Committees on the District of Columbia and Interstate and Foreign Commerce was Mr. John Bell Williams, of Mississippi. Mr. Williams' reduction in rank on these committees was mandated by the Democratic Caucus which, for party disciplinary reasons,[9] had directed the Democrats' Committee on Committees to assign Mr. Williams to the "last position" on each of the two committees.

On Oct. 18, 1966,[10] a resolution (H. Res. 1066) providing for the election of Mr. Richard L. Ottinger, of New York, to the Committee on interstate and Foreign Commerce was under consideration. The measure had been offered by Wilbur D. Mills, of Arkansas, in his capacity as Chairman of the Democrats' Committee on Committees.[11] This situation prompted Mr. Williams to initiate the following exchange:

> I want to ask this question. Since the gentleman from New York [Mr. Ottinger] is a freshman Member, will he go above or below me in our standing on the committee?
>
> MR. MILLS: I am delighted to advise my friend, the gentleman from Mississippi, that the gentleman from New York will go at the bottom of the committee.
>
> MR. WILLIAMS: Well, now, may I say to the gentleman that this is the second time the committee has discriminated against freshman Members to fill two vacancies below my position on the committee.
>
> As the senior member of the committee, Mr. Speaker, I feel that I should be either at the bottom of the committee or in the chair.

Speaker John W. McCormack, of Massachusetts, then put the question on the resolution, it was adopted, and Mr. Ottinger was ranked junior to Mr. Williams in committee seniority.

Amending Resolution to Adjust Seniority Rankings

§ 11.3 By unanimous consent, the House vacated the proceedings whereby it had, on a preceding day, agreed to a resolution electing minority members of the Committee on Rules; the resolution was then amended to adjust the seniority of the two ranking members on that committee.

On Jan. 26, 1973,[12] Speaker Carl Albert, of Oklahoma, recog-

9. Mr. Williams had endorsed the Republican Presidential candidate of 1964.

10. 112 CONG. REC. 2748G, 89th Cong. 2d Sess.

11. See Ch. 3, supra, for information on party organizations.

12. 119 CONG. REC. 2313, 93d Cong. 1st Sess.

nized Minority Leader Gerald R. Ford, of Michigan, after which the following exchange ensued:

> Mr. Speaker, I ask unanimous consent to vacate the proceedings whereby the House agreed to House Resolution 99 on January 6, 1973, and ask for its immediate consideration.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Michigan?
>
> There was no objection.
>
> The Clerk read the resolution, as follows:
>
> H. RES. 99
>
> *Resolved*, That the following named Members be, and they are hereby elected members of the standing committee of the House of Representatives on Rules:
>
> John B. Anderson, Illinois; Dave Martin, Nebraska; James H. Quillen, Tennessee; Delbert L. Latta, Ohio.
>
> MR. GERALD R. FORD: Mr. Speaker, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Gerald R. Ford: On line 4, strike out "John B. Anderson, Illinois; Dave Martin, Nebraska;" and insert "Dave Martin, Nebraska; John B. Anderson, Illinois;"

Mr. Ford's amendment was promptly agreed to; and the resolution, as amended, was agreed to.

Parliamentarian's Note: Upon being elected chairman of the Republican Conference, a Member was required, under the rules of that conference, to relinquish his position as ranking minority member of the Committee on Rules. Thus, while Mr. Anderson had had longer consecutive service on the Committee on Rules than had Mr. Martin, the former Member's election to the chairmanship of the Republican Conference had obligated him to relinquish his ranking position on the committee.

§ 12. Setting and Increasing Committee Membership

Until Jan. 3, 1975,[13] the rules of the House specified the number[14] of Members serving on each standing committee. Notwithstanding the presence of these figures in the rules, the House routinely changed the numerical composition of particular committees by resolution considered by unanimous consent during the course of a given Congress. At the beginning of a Congress, this was most frequently done to reconcile the new party ratio in the House and the reelection of committee members from the preceding Congress.[15] Thus, com-

13. See Note to Rule X clause 6(a), *House Rules and Manual* § 701(a) (1979).

14. See, for example, Rule X clause I, *House Rules and Manual* § 670 (1973).

15. See Note to Rule X clause 2, *House Rules and Manual* § 671A (1973).

mittee numerical membership resolutions considered at the beginning of a Congress frequently listed several committees[16] while it was not unusual for such resolutions to pertain solely to the membership of a specific committee[17] at a later point of the Congress. The timing of the resolution was of no import since changes in committee membership numbers could be effected at any time.[18] Beginning with the 94th Congress, it was no longer necessary to address committee numerical compositions by resolution since the rules do not specify committee size (except for the Budget Committee).

Setting Membership by Resolution

§ 12.1 While the number of members serving on particular committees may be changed at any time, the House, under the former practice, routinely set committee sizes by one or more resolutions at the beginning of a Congress where those sizes varied from those specified in the standing rules.

On Jan. 24, 1973,[19] Speaker Carl Albert, of Oklahoma, recognized Mr. John J. McFall, of California, who requested unanimous consent for the immediate consideration of the following resolution (H. Res. 158):

> *Resolved,* That during the Ninety-third Congress the Committee on Agriculture shall be composed of thirty-six members;
>
> The Committee on Appropriations shall be composed of fifty-five members;
>
> The Committee on Armed Services shall be composed of forty-three members;
>
> The Committee on Banking and Currency shall be composed of thirty-nine members;
>
> The Committee on Education and Labor shall be composed of thirty-eight members;
>
> The Committee on Foreign Affairs shall be composed of forty members;
>
> The Committee on Government Operations shall be composed of forty-one members;
>
> The Committee on House Administration shall be composed of twenty-six members;
>
> The Committee on Interior and Insular Affairs shall be composed of forty-one members;
>
> The Committee on Interstate and Foreign Commerce shall be composed of forty-three members;
>
> The Committee on the Judiciary shall be composed of thirty-eight members;

16. See, for example, § 12.1, infra.
17. See § 12.3, infra.
18. See, for example, § 12.6, infra.
19. 119 Cong. Rec. 2106, 93d Cong. 1st Sess.

The Committee on Merchant Marine and Fisheries shall be composed of thirty-nine members;

The Committee on Post Office and Civil Service shall be composed of twenty-six members;

The Committee on Public Works shall be composed of thirty-nine members;

The Committee on Science and Astronautics shall be composed of thirty members; and

The Committee on Veterans' Affairs shall be composed of twenty-six members.

There being no objection, the measure was considered and agreed to.[20]

Increasing Membership by Resolution

§ 12.2 The House has increased the membership of its standing committees for a particular Congress by a resolution considered by unanimous consent.

On Jan. 16, 1967,[1] Speaker John W. McCormack, of Massachusetts, recognized Mr. Carl Albert, of Oklahoma, who then offered a resolution (H. Res. 128) and asked unanimous consent for its immediate consideration. House Resolution 128 prescribed the numerical composition for the 90th Congress of 14 of the House's standing committees. As such, the resolution increased the numerical size of five of those committees from their previous makeup in the 89th Congress.[2]

The resolution [with corresponding increases in committee membership over that of the 89th Congress being shown in brackets] read as follows:

Resolved, That during the Ninetieth Congress the Committee on Agriculture shall be composed of thirty-five members;

The Committee on Appropriations shall be composed of fifty-one [previously fifty] members;

The Committee on Armed Services shall be composed of forty [previously thirty-seven] members;

The Committee on Banking and Currency shall be composed of thirty-three members;

The Committee on Education and Labor shall be composed of thirty-three [previously thirty-one] members;

The Committee on Foreign Affairs shall be composed of thirty-six members;

The Committee on Government Operations shall be composed of thirty-five [previously thirty-one] members;

20. For similar examples in earlier Congresses, see 117 CONG. REC. 1708, 92d Cong. 1st Sess., Feb. 4, 1971 (H. Res. 192); 115 CONG. REC. 2083, 91st Cong. 1st Sess., Jan. 29, 1969 (H. Res. 174); and 113 CONG. REC. 445, 90th Cong. 1st Sess., Jan. 16, 1967 (H. Res. 128).

1. 113 CONG. REC. 445, 90th Cong. 1st Sess.

2. See H. Res. 107 at 111 CONG. REC. 636, 89th Cong. 1st Sess., Jan. 13. 1965.

The Committee on Interior and Insular Affairs shall be composed of thirty-three members;

The Committee on Interstate and Foreign Commerce shall be composed of thirty-three members;

The Committee on the Judiciary shall be composed of thirty-five members;

The Committee on Merchant Marine and Fisheries shall be composed of thirty-three [previously thirty-one] members;

The Committee on Post Office and Civil Service shall be composed of twenty-six members;

The Committee on Public Works shall be composed of thirty-four members;

The Committee on Science and Astronautics shall be composed of thirty-one members.

The resolution was agreed to.[3]

§ 12.3 The House may increase the size of committee at any time during a session by resolution considered by unanimous consent.

On Apr. 12, 1972,[4] Hale Boggs, of Louisiana, offered the following resolution (H. Res. 922) and asked for its immediate consideration:

Resolved, That during the remainder of the Ninety-second Congress, the Committee on Foreign Affairs shall be composed of thirty-nine members.

The resolution was agreed to.[5]

Parliamentarian's Note: Prior to the adoption of House Resolution 922, the Committee on Foreign Affairs consisted of 38 members during the 92d Congress. That size had been approved by the House on Feb. 4, 1971,[6] by way of a resolution (H. Res. 192) establishing committee sizes for 15 standing committees.[7] House Resolution 922 was offered to en-

3. For similar instances, see also H. Res. 158, 119. CONG. REC. 2601, 93d Cong. 1st Sess., Jan. 24, 1973; H. Res. 107, 111 CONG. REC. 636, 89th Cong. 1st Sess., Jan. 13, 1965; and H. Res. 120, 105 CONG. REC. 841, 86th Cong. 1st Sess., Jan. 19, 1959.

4. 118 CONG. REC. 12287, 92d Cong. 2d Sess.

5. For similar examples, where a committee's size was increased in mid-session, see 115 CONG. REC. 33747, 91st Cong. 1st Sess., Nov. 12, 1969 [H. Res. 673, increasing size of Committee on Banking and Currency]; 100 CONG. REC. 734, 83d Cong. 2d Sess., Jan. 25, 1954 [H. Res. 418, increasing the size of Committees on Banking and Currency, Foreign Affairs, and Veterans' Affairs]; and 92 CONG. REC. 1789, 79th Cong. 2d Sess., Feb. 28, 1946 [H. Res. 537, increasing size of the Committee on Appropriations].

6. 117 CONG. REC. 1708, 92d Cong. 1st Sess.

7. Note, however, that the rules of the 92d Congress second session, set the size of the Committee on Foreign Affairs as consisting of 25 members [Rule X clause 1(g), H. Jour. 1598, 92d Cong. 2d Sess. (1972)]. The practice of including committee sizes in the rules was eliminated as of Jan. 3, 1975 [see the introductory remarks at the beginning of this section].

able Mr. Ogden R. Reid, of New York, who had switched his party affiliation, to become a majority member of the Committee on Foreign Affairs. On Apr. 13, 1972,[8] the House agreed to a resolution (H. Res. 924) electing Mr. Reid to the newly created seat on that committee.[9]

Calling Up Resolutions Increasing Committee Membership

§ 12.4 A resolution increasing the number of members on one of the standing committees of the House is not a privileged resolution [unless reported by the Committee on Rules], and must be called up by unanimous consent.

On Dec. 22, 1969,[10] Speaker John W. McCormack, of Massachusetts, recognized Majority Leader Carl Albert, of Oklahoma, who offered the following resolution (H. Res. 764) and asked for its immediate consideration:

> *Resolved*, That during the remainder of the Ninety-first Congress, the Committee on Education and Labor shall be composed of thirty-seven members.

The Speaker then inquired as to whether there was any objection to Mr. Albert's request. Mr. Joe D. Waggonner, Jr., of Louisiana, responding in the affirmative, consideration of the resolution was dropped for lack of unanimous consent.[11]

§ 12.5 By unanimous consent, the House considered and agreed to a resolution increasing the size of certain standing committees during the 93d Congress [the resolution had been erroneously designated as "privileged" in the daily Record].

On Jan. 24, 1973,[12] Speaker Carl Albert, of Oklahoma, recognized Mr. John J. McFall, of California, who sought unanimous consent[13] for the immediate con-

8. 118 Cong. Rec. 12573, 92d Cong. 2d Sess.
9. See § 12.6, infra.
10. 115 Cong. Rec. 40922, 91st Cong. 1st Sess.
11. Had the resolution been reported from the Committee on Rules, it would have been privileged, and unanimous consent for its immediate consideration would not have been required. See Ch. 21, infra, and §§ 52–57, infra.
12. 119 Cong. Rec. 2106, 93d Cong. 1st Sess.
13. The daily Record incorrectly indicated that Mr. McFall called up the resolution as privileged. The Journal [H. Jour. 134, 93d Cong. 1st Sess.] and the permanent Record, however, correctly indicate that the resolution was called up by unanimous consent. The resolution could have attained privileged status only if it had been reported by the Committee on Rules

sideration of the following resolution (H. Res. 158):

Resolved, That during the Ninety-third Congress the Committee on Agriculture shall he composed of thirty-six members;

The Committee on Appropriations shall be composed of fifty-five members;

The Committee on Armed Services shall be composed of forty-three members;

The Committee on Banking and Currency shall be composed of thirty-nine members;

The Committee on Education and Labor shall be composed of thirty-eight members;

The Committee on Foreign Affairs shall be composed of forty members;

The Committee on Government Operations shall be composed of forty-one members;

The Committee on House Administration shall he composed of twenty-six members;

The Committee on Interior and Insular Affairs shall be composed of forty-one members;

The Committee on Interstate and Foreign Commerce shall be composed of forty-three members;

The Committee on the Judiciary shall be composed of thirty-eight members;

The Committee on Merchant Marine and Fisheries shall be composed of thirty-nine members;

The Committee on Post Office and Civil Service shall be composed of twenty-six members;

The Committee on Public Works shall be composed of thirty-nine members:

The Committee on Science and Astronautics shall be composed of thirty members; and

The Committee on Veterans' Affairs shall be composed of twenty-six members.

There being no objection to Mr. McFall's request, the resolution was considered and agreed to.

Effect of Changes in Party Affiliation; Increases in Committee Size

§ 12.6 By unanimous consent, the House considered and agreed to a resolution increasing the size of a committee for the remainder of the 92d Congress, and on the next day elected a Member who had switched his party affiliation from Republican to Democrat, as a majority member of that committee.

On Apr. 12, 1972,[14] Speaker Carl Albert, of Oklahoma, recognized Mr. Hale Boggs, of Louisiana, who offered a privileged resolution (H. Res. 922), as follows:

Resolved, That during the remainder of the Ninety-second Congress, the Committee on Foreign Affairs shall be composed of thirty-nine members.

[see Ch. 21, infra, and §§ 52–57, infra].

14. 118 CONG. REC. 12287, 92d Cong. 2d Sess.

Immediately thereafter, the resolution was agreed to.

The next day, on Apr. 13, 1972,[15] Mr. Albert C. Ullman, of Oregon, offered a privileged resolution (H. Res. 924), as follows:

> *Resolved,* That Ogden R. Reid, of New York, be, and he is hereby, elected to the standing committee of the House of Representatives on Foreign Affairs.

This resolution was also agreed to.

Parliamentarian's Note: Prior to the adoption of House Resolution 922, the Committee on Foreign Affairs had been composed of 38 members during the 92d Congress.[16]

Increase in Minority Membership of Special Committee

§ 12.7 The House approved a resolution increasing the number of minority members of the Special Committee on Wildlife Conservation, the members to be appointed by the Speaker.

On Feb. 9, 1939,[17] the House agreed to consider the following resolution (H. Res. 90), by unanimous consent:

> *Resolved,* That the number of Members of the House of Representatives from the minority political party to be appointed by the Speaker on the Special Committee on Wildlife Conservation created under House Resolution 237 of the Seventy-third Congress and continued under House Resolution 44 of the Seventy-fourth Congress, House Resolution 11 of the Seventy-fifth Congress, and House Resolution 65 of the Seventy-sixth Congress, is hereby increased to five Members of the House of Representatives from the minority political party.

The resolution was agreed to immediately thereafter.

Increasing Membership of Committee Established by Statute

§ 12.8 Membership on the Joint Economic Committee, established by statute, was increased by passage of a bill from 16 to 20 members—the total number including 10 from the Senate and 10 from the House.

On Jan. 23, 1967,[18] Speaker John W. McCormack, of Massachusetts, recognized Wright Patman, of Texas, Chairman of the Committee on Banking and Currency, who thereupon obtained

15. *Id.* at p. 12573.
16. See H. Res. 192 at 117 Cong. Rec. 1708, 92d Cong. 1st Sess., Feb. 4, 1971.
17. 84 Cong. Rec. 1333, 76th Cong. 1st Sess.
18. 113 Cong. Rec. 1099, 90th Cong. 1st Sess.

unanimous consent for the immediate consideration of a bill (S. 376) fixing the representation of the majority and minority membership of the Joint Economic Committee.

The Clerk read the bill, as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5(a) of the Employment Act of 1946 (15 U.S.C. 1024(a)) is amended to read as follows:
>
> "(a) There is established a Joint Economic Committee, to be composed of ten Members of the Senate, to be appointed by the President of the Senate, and ten Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. In each case, the majority party shall be represented by six Members and the minority party shall be represented by four Members."

The bill was passed.[19]

§ 13. Appointment, Employment, and Compensation of Employees

Employment of staff by committees is covered by the House rules[20] or by committee funding resolutions with respect to investigative personnel.

Provisions affecting committee staffing have undergone significant changes between 1973 and 1979. The passage of House Resolution 988,[21] for example, effected changes [as of Jan. 3, 1975], with respect to the maximum number of professional staff members [from six to 18],[22] the maximum number of professional staff members available to the minority [from two to six],[23] the maximum number of clerical staff [from six to 12],[24] and, similarly, the maximum number of clerical staff available to the minority [from one to four].[25] Other changes include the relevant United States Code provisions setting permissible rates of staff pay,[26] the elimination of the requirement that professionals be

19. S. 376 had passed the Senate on Jan. 18, 1967 [113 CONG. REC. 839, 90th Cong. 1st Sess.], and became law [Pub. L. No. 90–2] on Jan. 25, 1967 [113 CONG. REC. 1614, 90th Cong. 1st Sess., Jan. 26, 1967].

For information on joint committees, generally, see § 7, supra.

20. Rule XI clause 6, *House Rules and Manual* § 733 (1979).

21. 120 CONG. REC. 34470, 93d Cong. 2d Sess., Oct. 8, 1974.

22. Rule XI clause 6(a)(1), *House Rules and Manual* § 733(a) (1979).

23. Rule XI clause 6(a)(1), *House Rules and Manual* § 733(c) (1979).

24. Rule XI clause 6(b)(1), *House Rules and Manual* § 734(a) (1979).

25. Rule XI clause 6(b)(2), *House Rules and Manual* § 734(b) (1979) .

26. Rule XI clause 6(e), *House Rules and Manual* § 735 (1979).

appointed without regard to political affiliation coupled with the prohibition against consideration of race, creed, sex, or age with respect to such appointments,[27] and the elimination of the requirement of semiannual reports to the Clerk for the printing in the Record of the names, salaries, and professions of committee employees.[28]

Each standing committee, subject to two provisions, may appoint, by majority vote of the committee up to 18 professional staff members.[1] Each such staff member is assigned to the chairman and the ranking minority party member of the committee, as the committee deems advisable.

One of the two aforementioned provisions, which pertains to minority staffing rights, provides:[2]

> Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing committee (except the Committee on Standards of Official Conduct) so request, not more than six persons may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members from among the number authorized by subparagraph (1) of this paragraph. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the professional staff until such appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.

Paragraph (f), which will be examined shortly, is the other relevant provision affecting the appointment of professional staff members (as well as clericals) and deals with the problem of the minority's authorization to appoint staff where the committee is already fully staffed.

A provision significantly affecting the appointment of committee staff, paragraph (d) of clause 5 of Rule XI, was adopted on Jan. 14, 1975 (H. Res. 5, 121 CONG. REC. 20, 94th Cong. 1st Sess.). The paragraph, relating to appointment of subcommittee staff, replaced the requirement of House Resolution 988 (93d Cong. 2d Sess.), that the minority party of a standing committee was enti-

27. Rule XI clause 6(a)2, *House Rules and Manual* § 733(c) (1979).

28. *House Rules and Manual* § 739 (1979).

1. Rule XI clause 6(a)(1), *House Rules and Manual* § 733(a) (1979).

2. Rule XI clause 6(a)(2), *House Rules and Manual* § 733(c) (1979).

tled, upon request of a majority of such minority, to one-third of the funds provided for the appointment of committee staff pursuant to each primary or additional expense resolution. The requirement of House Resolution 988 had become effective Jan. 3, 1975, and had superseded the provision originally added to the rules on Jan. 22, 1971 (H. Res. 5, 117 CONG. REC. 144, 92d Cong. 1st Sess.), which required "fair consideration" to the minority party of such standing committees in the appointment of committee staff personnel. Under clause 5 (d)(5) of Rule XI, staff positions made available to subcommittee chairmen and ranking minority members pursuant to the clause must be provided from staff positions available under clause 6 unless provided in a primary or additional expense resolution. (Additional investigative staff, including attorneys, clerks, and consultants, of committees are authorized by the Committee on House Administration and agreed to by the House in annual committee expense resolutions.)

As for the appointment and work assignments of committee professionals, the rules mandate that: [3]

> (3) The professional staff members of each standing committee—
>
> (A) shall be appointed on a permanent basis, without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions;
>
> (B) shall not engage in any work other than committee business; and
>
> (C) shall not be assigned any duties other than those pertaining to committee business.
>
> (4) Services of the professional staff members of each standing committee may be terminated by majority vote of the committee.
>
> (5) The foregoing provisions of this paragraph do not apply to the Committee on Appropriations and to the Committee on the Budget.

With respect to committees' clerical staffing (including minority party staffing), nature of work and method of termination, the rules [4] state:

> (b) (1) The clerical staff of each standing committee shall consist of not more than twelve clerks, to be attached to the office of the chairman, to the ranking minority party member, and to the professional staff, as the committee considers advisable. Subject to subparagraph (2) of this paragraph and paragraph (f) of this clause, the clerical staff shall be appointed by majority vote of the committee, without regard to race, creed, sex, or age. Except as provided by subparagraph (2) of this paragraph, the clerical staff shall han-

3. Rule XI clauses 6(a)(3)–(5), *House Rules and Manual* § 733(d)(1979).

4. Rule XI clauses 6(b) (1)-(b)(4), *House Rules and Manual* §§ 734(a) 734(b) (1979).

dle committee correspondence and stenographic work both for the committee staff and for the chairman and the ranking minority party member on matters related to committee work.

(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing committee (except the Committee on Standards of Official Conduct) so request, four persons may be selected, by majority vote of the minority party members, for appointment by the committee to positions on the clerical staff from among the number of clerks authorized by subparagraph (1) of this paragraph. The committee shall appoint to those positions any person so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the position involved on the clerical staff until such appointment is made. Each clerk appointed under this subparagraph shall handle committee correspondence and stenographic work for the minority party members of the committee and for any members of the professional staff appointed under subparagraph (2) of paragraph (a) of this clause on matters related to committee work.

(3) Services of the clerical staff members of each standing committee may be terminated by majority vote of the committee.

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

Paragraph 6(f),[5] as heretofore mentioned, addresses the problem of a request for the appointment of a minority professional or clerical staff member where no vacancy exists. The rule provides:

> (f) If a request for the appointment of a minority professional staff member under paragraph (a), or a minority clerical staff member under paragraph (b), is made when no vacancy exists to which that appointment may be made, the committee nevertheless shall appoint, under paragraph (a) or paragraph (b), as applicable, the person selected by the minority and acceptable to the committee. The person so appointed shall serve as an additional member of the professional staff or the clerical staff, as the case may be, of the committee, and shall be paid from the contingent fund, until such a vacancy (other than a vacancy in the position of head of the professional staff, by whatever title designated) occurs, at which time that person shall be deemed to have been appointed to that vacancy. If such vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill that vacancy.

Furthermore, paragraph (d) of clause 5 of Rule XI provides for appointment of subcommittee staff professionals in certain cases:

> From the funds provided for the appointment of committee staff pursuant

5. Rule XI clause 6(f), *House Rules and Manual* § 737 (1979).

to primary and additional expense resolutions—

(1) The chairman of each standing subcommittee of a standing committee of the House is authorized to appoint one staff member who shall serve at the pleasure of the subcommittee chairman.

(2) The ranking minority party member of each standing subcommittee on each standing committee of the House is authorized to appoint one staff person who shall serve at the pleasure of the ranking minority party member.

Two other rules' provisions affect minority staff members. For one, they must be accorded equitable treatment with respect to the fixing of rate of pay, assignment of work facilities, and accessibility of committee records.[6] In addition, the provisions which allow a majority of the minority party to request certain minority staffing are expressly clarified to indicate that where the maximum number of minority professional and clerical staff allotted (i.e., six and four, respectively) has already been met, the minority is not entitled to any additional appointments.[7]

Committees, of course, are not obliged to appoint staff on the basis of partisan considerations. Upon an affirmative vote of the majority of the members of each party, they may choose to employ nonpartisan staff in lieu of or in addition to committee staff designated exclusively for the majority or minority party.[8]

As noted above, clause 5(d) of Rule XI removed the entitlement of one-third investigative funds for minority staff contained in House Resolution 988 (93d Cong. 2d Sess.), and substituted the provisions entitling the ranking minority member of each subcommittee to appoint one minority employee to be assigned and paid out of the statutory entitlement under clause 6 unless funded separately in an investigative resolution reported by the Committee on House Administration. The following resolution (H. Res. 237, 121 CONG. REC. 5979, 94th Cong. 1st Sess., Mar. 11, 1975), reported by the Committee on House Administration, is typical of those providing for the appointment of investigative personnel:

Resolved, That, effective January 3, 1975, the expenses of the investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries, acting as a whole or by subcommittee, not to exceed $477,500, including expenditures for the employment of investigators, attorneys, individual consultants, or organizations

6. Rule XI clause 6(g), *House Rules and Manual* § 737 (1979).

7. Rule XI clause 6(h), *House Rules and Manual* § 737 (1979).

8. Rule XI clause 6(i), *House Rules and Manual* § 738 (1979).

thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $100,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Merchant Marine and Fisheries shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Salary considerations regarding committee staffers are set by clause 6(c) of Rule XI[9] which states that:

Each employee on the professional staff, and each employee on the clerical staff, of each standing committee, is entitled to pay at a single per annum gross rate, to be fixed by the chairman, which does not exceed the highest rate of basic pay, as in effect from time to time, of level V of the Executive Schedule in section 5316 of Title 5, United States Code, except that two professional staff members of each standing committee shall be entitled to pay at a single per annum gross rate to be fixed by the chairman, which does not exceed the highest rate of basic pay, as in effect from time to time, of level IV of the Executive Schedule in section 5315 of Title 5, United States Code.

It should be noted that no committee may appoint any experts or personnel detailed or assigned from any department or agency of the government, except with the written permission of the Committee on House Administration.[10]

Finally, the lack of applicability to the Committees on Appropriations and on the Budget of the provisions regarding the numbers and party makeup of their staff has heretofore been noted. With respect to these specific committees, the rules provide:[11]

9. Rule XI clause 6(c), *House Rules and Manual* § 735 (1979).

10. Rule XI clause 6(e), *House Rules and Manual* § 737 (1979).

11. Rule XI clause 6(d), *House Rules and Manual* § 736 (1979). The provision affecting the Committee on the Budget had been omitted from the rule by H. Res. 988, 120 CONG. REC.

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

Resolutions Authorizing Committee Approval of Continued Employment in New Congress

§ 13.1 Authorization for committees to approve employment and compensation of employees held over from a previous Congress was provided for by resolution.

On Jan. 3, 1961,[12] Speaker Sam Rayburn, of Texas, recognized Majority Leader John W. McCormack, of Massachusetts, who offered a resolution by unanimous consent:

Mr. Speaker, I offer a resolution (H. Res. 16) and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That standing committees of the House shall have authority to approve the employment and compensation of committee employees (other than special and select committee employees) from the effective date of the beginning of each Congress, or such subsequent date as their service commenced.

The resolution was agreed to.[13]

§ 13.2 Doubt having been expressed as to the House's legal authority to compensate committee employees held over from the 82d Congress prior to the election of the standing committees of the 83d Congress, the House adopted a resolution authorizing its standing committees to approve the employment and compensation of committee employees.

On Jan. 22, 1953,[14] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Majority Leader Charles A. Halleck, of Indiana, who offered the following resolution (H. Res. 107) and asked for its immediate consideration:

Resolved, That standing committees of the House shall have authority to

34470, 93d Cong. 2d Sess., but was reinserted by H. Res. 5, 121 CONG. REC. 20, 94th Cong. 1st Sess., on Jan. 14, 1975.

12. 107 CONG. REC. 27, 87th Cong. 1st Sess.

13. For a similar instance, see 105 CONG. REC. 16, 86th Cong. 1st Sess., Jan. 7, 1959.

14. 99 CONG. REC. 498, 83d Cong. 1st Sess.

The *Congressional Record* and the House Journal (p. 126) indicate that this resolution was called up as privileged, although not reported by committee.

approve the employment and compensation of committee employees from January 3, 1953, or such subsequent date as their service commenced.

The resolution was then agreed to.[15]

Parliamentarian's Note: Mr. Clare E. Hoffman, of Michigan, sought to have the House consider a more detailed resolution (H. Res. 108)[16] regarding "holdover" committee employees, and had obtained consent from the House to speak for five minutes on the subject. House Resolution 107, however, was agreed to prior to the Chair's recognition of Mr. Hoffman; so he did not offer his resolution.[17]

§ 13.3 The House has approved a resolution authorizing committees to approve the employment and compensation of employees held over from the previous Congress until committees were elected in the new Congress.

On Jan. 3, 1957,[18] Speaker Sam Rayburn, of Texas, recognized Majority Leader John W. McCormack, of Massachusetts, who offered the following resolution (H. Res. 13):

Resolved, That standing committees of the House shall have authority to approve the employment and compensation of committee employees from January 3, 1957, or such subsequent date as their service commenced.

Immediately thereafter, the resolution was agreed to.[19]

Parliamentarian's Note: Under modern practice, "continuing resolutions" for committee investigative staff are considered by unanimous consent unless reported from the Committee on House Administration (see detailed discussion at footnote 20 in the introduction to section 4, "Committee Expenses; Use of Contingent Fund," supra).

Use of Contingent Fund to Compensate Investigative Personnel Pending Separate Funding Resolutions for Each Committee

§ 13.4 The House agreed to a privileged resolution pro-

15. See the *Parliamentarian's Note* at § 13.3, infra.
16. 99 CONG. REC. 500, 83d Cong. 1st Sess.
17. For an insight into the legal views of the Comptroller General's Office regarding the "holdover" employee issue, see *id.* at p. 501.
18. 103 CONG. REC. 50, 85th Cong. 1st Sess.

The *Congressional Record* and the House Journal (p. 18) indicate that this resolution was called up as privileged, although not reported by committee.

19. A similar resolution was approved in the preceding Congress, see 101 CONG. REC. 13, 84th Cong. 1st Sess., Jan. 5, 1955.

viding for payment out of the contingent fund of amounts necessary to compensate investigative personnel of House committees pending the adoption of resolutions authorizing the reconstitution of such investigative committees in the 89th Congress.

On Jan. 28, 1965,[20] by direction of the Committee on House Administration, Mr. Samuel N. Friedel, of Maryland, called up the following privileged resolution (H. Res. 146):

> *Resolved*, That there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to pay the compensation for services performed during the thirty-day period beginning January 3, 1965, by each person (1) who, on January 2, 1965, was employed by any standing committee or any select committee of the Eighty-eighth Congress and whose salary was paid under authority of a House resolution adopted during the Eighty-eighth Congress, and (2) who is certified by the chairman of the appropriate committee as performing such services for such committee during such thirty-day period. Such compensation shall be paid such person at a rate not to exceed the rate he was receiving on January 2, 1965.

The resolution was agreed to immediately.

Parliamentarian's Note: While House Resolution 146 is more broadly worded than its purpose would require, the resolution was intended to cover only the committees' investigative staffs, since funds for the payment of the standing committees' professional and clerical personnel are carried in the annual legislative appropriation acts. Thus, there is no gap in the payment of these individuals' salaries once the rules are adopted and the committees established in a new Congress and their continued employment approved by those committees at their organizational meetings in accordance with Rule XI clause 6. The salaries of investigative personnel, on the other hand, are dependent upon the passage of resolutions authorizing the committees to make investigations and providing funds therefor.

§ 13.5 A resolution not formally reported by the Committee on House Administration, providing for payment from the contingent fund of salaries of investigative personnel of standing and select committees for a three-month period (pending adoption of annual committee funding resolutions) was called up by unanimous consent and agreed to.

20. 111 CONG. REC. 1427, 89th Cong. 1st Sess.

On Jan. 15, 1973,[21] Wayne L. Hays, of Ohio, Chairman of the Committee on House Administration, offered the following resolution (H. Res. 130), and sought unanimous consent to have it considered immediately:

Resolved, That there shall be paid out of the contingent fund of the House of Representatives for the period beginning January 3, 1973, and ending at the close of March 31, 1973, such sums as may be necessary for the continuance of the same necessary projects, activities, operations, and services, by contract or otherwise (including payment of staff salaries for services performed). and for the accomplishment of the same necessary purposes, undertaken by each standing or select committee of the House in the calendar year 1972 on the same basis and at not to exceed the same rates utilized in 1972. Payments of salary for services performed in the period beginning January 3, 1973, and ending at the close of March 31, 1973, shall be made to each person—

(1) (A) who, on January 2, 1973, was employed by a standing or select committee in the Ninety-second Congress and whose salary was paid under authority of a House resolution adopted in that Congress or (B) who was appointed after January 2, 1973, to fill a vacancy, existing on or occurring after that date, in a position created under authority of such House resolution; and

(2) who is certified by the chairman of such committee as performing such services for such committee in such period.

Such salary shall be paid to such person at a rate not to exceed the rate he was receiving on January 2, 1973 (or, in the case of a person appointed after January 2, 1973, to fill any such vacancy, not to exceed the rate applicable on January 2, 1973, to the vacant position), plus any increase in his rate of salary which may have been granted for periods on and after January 3, 1973, pursuant to section 5 of the Federal Pay Comparability Act of 1970.

Sec. 2. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with law.

Mr. H. R. Gross, of Iowa, cast light on the purpose and effect of House Resolution 130 in the course of the following exchange:[1]

MR. GROSS: . . . I understand that this is an interim resolution which would expire effective as of March 31.

MR. HAYS: This is a resolution, if not identical, certainly similar to other resolutions that we introduced at the beginning of Congress to allow committee staffs to be paid until such time as committee chairmen and the ranking members have had a chance to appear before the Accounts Subcommittee on House Administration and justify appropriation, which would then be brought to the floor of the House.

MR. GROSS: Do I understand that while vacancies on committee staffs

21. 119 CONG. REC. 1057, 93d Cong. 1st Sess.

1. *Id.* at pp. 1057, 1058.

may be filled during the interim period, it is not the intention of the Committee on House Administration in bringing this resolution to the floor that committee staffs be augmented or increased pending the submission of justifications for committee staffs?

MR. HAYS: The gentleman is exactly right. They can fill vacancies but not add to. I might go further and state that in the case of select committees these will not apply until they have been reconstituted by, first, the Committee on Rules and then brought before the House to be reconstituted.

It is my understanding some of them may be reconstituted very shortly. In that case this will cover them on the same prorated basis as they had in the previous Congress.

Parliamentarian's Note: Mr. Hays was obliged to offer the resolution by unanimous consent inasmuch as the Committee on House Administration had not been elected and therefore had not formally met and ordered the resolution reported.

Resolutions Effecting Temporary Staff Salary Payments From Contingent Fund During Second Session

§ 13.6 A resolution providing for the payment from the contingent fund of salaries of committee personnel, pending adoption of the regular committee funding resolutions, is reported and called up as privileged by the Committee on House Administration.

On Jan. 27, 1972,[2] by direction of the Committee on House Administration, Mr. Frank Thompson, Jr., of New Jersey, called up and obtained immediate consideration of the following privileged resolution (H. Res. 769):

Resolved, That there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to pay the compensation for services performed during the period beginning January 3, 1972, and ending at the close of January 31, 1972, by each person (1) who, on January 2, 1972, was employed by a standing committee or any select committee of the Ninety-second Congress and whose salary was paid under authority of a House resolution adopted during the Ninety-second Congress, or who was appointed after January 2, 1972, to fill an existing vacancy or a vacancy occurring subsequent to January 2, 1972, and (2) who is certified by the chairman of the appropriate committee as performing such services for such committee during such period.

As Mr. Thompson explained, the purpose of the resolution was to allow all of the committees of the House to expend moneys at the level which the House authorized them to spend during the previous year for a period of one month.

2. 118 CONG. REC. 1532, 92d Cong. 2d Sess.

Thus, committee chairmen would have time to prepare their budgets for the coming year while the Subcommittee on Accounts [of the Committee on House Administration] would have an opportunity to schedule hearings on the committee's budgetary needs for 1972.[3]

Parliamentarian's Note: The rules provide[4] that certain committees "shall have leave to report at any time" on certain matters. The Committee on House Administration enjoys such a privilege regarding "all matters of expenditure of the contingent fund of the House [among other subjects]."

§ 13.7 A resolution from the Committee on House Administration, providing for payment from the contingent fund of salaries of investigative personnel of standing and select committees for a three-month period (pending adoption of annual committee funding resolutions) is reported and called up as privileged.

On Jan. 26, 1971,[5] Wayne L. Hays, of Ohio, Chairman of the Committee on House Administration, submitted a privileged report[6] on the following resolution (H. Res. 17), as to which he obtained immediate consideration:

> *Resolved,* That there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to pay the salary for services performed in the period beginning January 3, 1971, and ending at the close of March 31, 1971, by each person—
>
> (1)(A) who, on January 2, 1971, was employed by a standing or select committee in the Ninety-first Congress and whose salary was paid under authority of a House resolution adopted in that Congress or (B) who was appointed after January 2, 1971, to fill a vacancy, existing on or occurring after that date, in a position created under authority of such House resolution; and
>
> (2) who is certified by the chairman of such committee as performing such services for such committee in such period.
>
> Such salary shall be paid to such person at a rate not to exceed the rate he

3. For a similar example, see H. Res. 96 at 115 CONG. REC. 1075, 91st Cong. 1st Sess., Jan. 16, 1969.

4. H. Jour. 1602, 92d Cong. 2d Sess. (1972); see also Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

5. 117 CONG. REC. 480, 92d Cong. 1st Sess.

6. In the 92d Congress, the three-day layover rule on committee reports was not applicable to the Committee on House Administration [Rule XI clause 27(d)(4), *House Rules and Manual* § 735 (1971)]. The one-day rule in clause 32 was not applicable to a resolution of this type, it not being a primary funding resolution.

was receiving on January 2, 1971 (or, in the case of a person appointed after January 2, 1971, to fill any such vacancy, not to exceed the rate applicable on January 2, 1971, to the vacant position), plus any increase in his rate of salary which may have been granted for periods on and after February 1, 1971, pursuant to section 5 of the Federal Pay Comparability Act of 1970.[7]

Parliamentarian's Note: The privileged status of the resolution (H. Res. 17) in the instant case was derived directly from the rules. For more than 150 years,[8] House rules have granted privilege to certain reports of specified committees. In 1971, the Committee on House Administration had "leave to report at any time on . . . all matters of expenditure of the contingent fund of the House,"[9] among other subjects.

§ 13.8 A resolution providing for payment for two months from the contingent fund of salaries of staff of a select committee of the previous Congress pending possible reconstitution of that committee is reported and called up as privileged by the Committee on House Administration.

On Feb. 7, 1973,[10] Wayne L. Hays, of Ohio, Chairman of the Committee on House Administration, called up, by direction of that committee, the following privileged resolution (H. Res. 195):

Resolved, That there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to pay the salary, for services performed in the period beginning January 3, 1973, and ending at the close of February 28, 1973, of each person performing such services who is certified by that Member who was Chairman of the Select Committee on Crime in the Ninety-second Congress as being on the staff of that committee on January 2, 1973. Such salary shall be paid to each such person at a rate not to exceed the rate he was receiving on January 2, 1973, plus any increase in his rate of salary which may have been granted for periods on and after January 3, 1973, pursuant to section 5 of the Federal Pay Comparability Act of 1970.

Sec. 2. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with law.[11]

7. For an explanation of why H. Res. 17 and similar resolutions would pertain solely to the salary needs of committees' investigative personnel, see the *Parliamentarian's Note* to § 13.4, supra.

8. See *House Rules and Manual* § 727 (1973).

9. H. Jour. 1656, 92d Cong. 1st Sess. (1971); see also Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

10. 119 CONG. REC. 3678, 93d Cong. 1st Sess.

11. See the *Parliamentarian's Note* to § 13.6, supra, regarding the privileged nature of such resolutions.

In the course of the ensuing discussion, Minority Leader Gerald R. Ford, of Michigan, initiated an exchange with Mr. Hays which pinpointed the intent of the proposal:

> Do I understand the gentleman to say that this is a temporary expedient as far as he is concerned, that this is a very unusual situation where the committee actually went out of existence with the termination of the last Congress, and this Congress has taken no affirmative action to extend its life?
>
> MR. HAYS: That is correct. I am told that there is a good deal of hardship since the staff was not told that its tenure was over. This is an attempt to pay them after the 3d of January, and allow them to terminate in an orderly fashion this month unless the House in its wisdom decides to reconstitute that committee.

Authorizing Staff of Expired Committee to Compile Report

§ 13.9 The House by unanimous consent considered and adopted a resolution authorizing designated staff members of the Select Committee on Research and Development (which expired with the 88th Congress) to compile in the 89th Congress a summary report of the work of the committee, authorizing funds for the payment of the personnel (out of the contingent fund of the House), and giving the Committee on House Administration certain supervisory responsibilities over the personnel so employed.

On Jan. 7, 1965,[12] Speaker John W. McCormack, of Massachusetts, recognized Mr. Richard Bolling, of Missouri, who thereupon sought unanimous consent for the immediate consideration of House Resolution 87. The resolution read as follows:

> *Resolved*, That, during the period beginning January 3, 1965, and ending February 28, 1965, inclusive, there shall be paid out of the contingent fund of the House of Representatives on vouchers approved by the Committee on House Administration such sums as may be necessary to pay the compensation and other expenses of assimilating data, compiling a summary report which shall be printed as part II of House Report Numbered 1941 of the Eighty-eighth Congress, and otherwise closing the work of the Select Committee on Government Research established under authority of House Resolution 504, as amended, of the Eighty-eighth Congress. Such work shall be completed by the following persons under the direction of the Committee on House Administration, and they shall receive compensation at

12. 111 CONG. REC. 411, 89th Cong. 1st Sess.

The resolution was called up by unanimous consent, since the Committee on House Administration had not been constituted.

the basic rate set forth following their name: Robert L. Hopper, staff director, $8,835; Stephen P. Strickland, chief clerk, $6,600; Edward T. Fogo, staff assistant, $6,600; Harry L. Selden, editor, $6,600; Russell Saville, staff assistant, $4,020; Rowena G. Lovette, administrative assistant, $3,780; Catherine S. Cash, secretary, $2,940.

The Committee on House Administration is authorized to employ a substitute for any such person not available to serve.

Reserving the right to object, Mr. Clarence J. Brown, of Ohio, pointed out that the Select Committee on Government Research had "died with the 88th Congress at noon on January 4. . . ."(13) He additionally stated that:(14)

. . . What this resolution really does, if adopted, is to permit the Committee on House Administration to spend some, $16,000 or $18,000 I believe to conclude the work of mailing out the final reports of the select committee, itself, to the various universities and colleges of the country, and to the research organizations that are very much interested in it, during January and February, only. Also, I understand that the select committee . . . has turned back to the contingent funds of the House, under the jurisdiction of the Committee on House Administration, some $250,000, from which these particular funds would be taken to maintain this small staff in order to wrap up, or to conclude, the work of the select committee and to send out the final reports. Is that correct?

Mr. Bolling replying in the affirmative, discussion proceeded briefly, after which the Speaker inquired as to whether there was any objection to the unanimous-consent request. No objection was heard, and the resolution was agreed to.

C. COMMITTEE PROCEDURE

§ 14. Generally

Certain of the rules of the House pertain directly to committee procedure. All committees and subcommittees are expressly subject to House rules as "far as applicable"; and each committee must adopt written adopt written rules "not inconsistent" with the rules of the House which "shall be binding" on each subcommittee thereof. Expressly deemed to be part of is parent committee, each subcommittee is "subject to the

13. For the original resolution creating what was then known as the Select Committee on Research and Development, see § 5.2, supra.

14. 111 CONG. REC. 411, 412, 89th Cong. 1st Sess.

authority and direction to that committee."[15]

The initial contact of a standing committee with a pubic measure or matter within its jurisdiction takes place formally when the Speaker, pursuant to his authority under the rules,[16] refers the particular measure or matter to the committee. Barring an error of reference [17] resulting in a re-referral, the committee then acquires jurisdiction over the measure.

Standing committees are obliged to adopt written rules establishing fixed meeting dates "not less frequent than monthly" for the transaction of business.[18] Such meetings are "open to the public except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public." [19] While the chairman of the committee may call as many additional meetings "as he considers necessary," [1] where three members of a standing committee file a written request [2] for a special meeting, and the chairman fails to act within prescribed time limits,[3] a majority of the committee members may file a written notice in the committee offices that a special meeting will be held.[4] If the

15. The exception to this rule is that a motion to express from day to day is a motion of high privilege in committees and subcommittees. See Rule XI clauses 1(a), 2(a), *House Rules and Manual* §§ 703(a), 704 (1979).

16. Rule XXII clause 4(a), *House Rules and Manual* § 854 (1979).

17. Rule XXII clause 4(a), *House Rules and Manual* § 854 (1979). See also §§ 27, 28, infra, and Ch. 16, supra.

18. Rule XI clause 2(b), *House Rules and Manual* § 705 (1979).

19. It should be noted, however, that in addition to committee members, such congressional staff and departmental representatives as the committee chooses to authorize (and only such individuals) may be present at any closed business or markup session. This provision does not apply, though, to open committee hearings or any meeting relating solely to internal budget or personnel matters; see Rule XI clause 2(g)(1), *House Rules and Manual* § 708 (1979).

1. Rule XI clause 2(c)(1), *House Rules and Manual* § 705 (1979).

2. The request, which is addressed to the chairman, must be filed in the committee offices and must specify the measure or matter to be considered. See Rule XI clause 2(c)(2), *House Rules and Manual* § 705 (1979).

3. If the chairman desires to call the special meeting, he must announce it within three calendar days of the filing of the request, and he must schedule the special meeting within seven calendar days of the filing.

4. The notice must specify the date, the hour, and the measure or matter to

chairman is not present at any meeting of the committee, the meeting is chaired by the ranking member of the majority party who is present.[5] Since 1971, committees have been permitted to sit while the House was in session,[6] although only certain committees may sit without special leave while the House is reading a measure for amendment under the five-minute rule.[7] In 1977, the rule was amended to permit committees to sit during any period for which the legislative schedule has been announced by the leadership, unless 10 or more Members object.

Committee procedures regarding records, hearings, and reports are extensively detailed in the rules. A complete record is required of all committee action.[8] Each committee must make available for public inspection at reasonable times the result of every rollcall vote taken at any committee meeting; this information must include a description of the proposition and the names of all members voting for and against "whether by proxy[9] or in person," as well as the names of those present but not voting.[10] Where a committee casts a record vote to report any public bill or resolution, the committee report must contain the total number of votes cast for and against the reporting out of the measure. Testimony from committee hearings, as well as the committee's records, data, charts, and files must be "kept separate and distinct" from the congressional office records of the chairman of the committee.[11] The testimony and data may be printed and bound by the committee, and are regarded as the property of the House—with reasonable access to be made available to all Members.

Committee hearings are governed by many provisions of the House rules. Each committee[12] must make public announcement of the date, place, and subject

be considered. Only the matter specified in the notice may be considered.

5. Rule XI clause 2(d), *House Rules and Manual* § 705 (1979).

6. See § 16, infra.

7. See Rule XI clause 2(i), *House Rules and Manual* § 710 (1979).

8. Rule XI clause 2(e)(1), *House Rules and Manual* § 706 (1979).

9. Although the House, of course, does not allow the use of proxy votes on the floor, the rules do permit their use in committees subject to certain restrictions. See Rule XI clause 2(f), *House Rules and Manual* § 707 (1979).

10. Rule XI clause 2(e)(1), *House Rules and Manual* § 706 (1979).

11. Rule XI clause 2(e)(2), *House Rules and Manual* § 706 (1979).

12. Except the Committee on Rules.

matter of any hearing it plans to conduct at least one week before the commencement of the hearing unless the committee finds good cause to begin the hearing sooner, in which event the announcement must be made at the earliest possible date.[13] The announcement is then published in the daily digest portion of the *Congressional Record*. At the commencement of an investigative hearing, the chairman must announce in an opening statement the subject of the investigation.[14]

As with committee meetings for the transaction of business, any determination to close a committee hearing to the public must be made in open session, with a majority present, and by roll call vote;[15] however, the reasons for such action are expressly limited to those circumstances (1) in which disclosure of matters to be considered would endanger the national security or violate a law or rule of the House, or (2) where evidence may ten'1 to defame, degrade, or incriminate any person. Each committee is obliged to require, "so far as practicable,"[16] that each prospective witness file a written statement of his proposed testimony in advance and limit his oral presentation to a summary thereof. In the committee's discretion, witnesses may also submit brief, sworn statements in writing for inclusion in the record.[17] They may be accompanied by their own counsel for the purpose of being advised of their constitutional rights.[18]

13. Rule XI clause 2(g)(3), *House Rules and Manual* § 708 (1979).

14. Rule XI clause 2(k)(1), *House Rules and Manual* § 712 (1979).

15. Rule XI clause 2(g)(2), *House Rules and Manual* § 708 (1979).

16. Rule XI clause 2(g)(4), *House Rules and Manual* § 708 (1979).

17. Rule XI clause 2(k)(8), *House Rules and Manual* § 712 (1979).

18. Rule XI clause 2(k)(3), *House Rules and Manual* § 712 (1979).

The following paragraph, excerpted from the Committee on Internal Security's "Rules of Committee Procedure" for the 91st Congress, may be helpful in understanding the limited role of counsel as well as the absence of the adversarial process at committee hearings.

"The rules of legislative bodies and their committees differ from those of courts. The procedures of any body must be geared to its purpose. Courts have one purpose, Congressional Committees another. Courts conduct trials to determine guilt or innocence, or to adjudicate rights. Court proceedings are adversary in nature; committee proceedings are not. Committees hold hearings to develop information that will assist in the enactment of legislation. Courtroom procedures are not followed in Congressional hearings or vice versa, because any attempt to apply the rules of one to the other would tend to frustrate the attainment of the

However, the chairman and the committee are empowered by the rules to take specified measures in the event of a breach either of order and decorum or professional ethics on the part of counsel.[19]

Witnesses are entitled to a copy of the committee rules, if any, as well as a copy of the clause governing committee hearings.[20] They may also obtain transcripts of their public testimony—committee authorization being required for transcripts of their executive session testimony.[1]

Every committee may fix a particular number of its members to constitute a quorum for purposes of taking testimony and receiving evidence, but under no circumstances may this number be less than two.[2] Where, prior to the completion of a committee hearing, a majority of the minority party members address a request to the chairman to call witnesses of their own selection to testify about the subject under consideration, those members are entitled to "at least one day of hearing thereon." Moreover, all committees must provide in their rules of procedure for the application of the five-minute rule in the interrogation of witnesses "until such time as each member of the committee who so desires has had an opportunity to question the witness."[3] If it is asserted that evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person, such evidence or testimony shall be presented in executive session if, by a majority of those present (the requisite number required under the committee rules for the purpose of taking testimony being present) the committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person. However, the committee shall proceed to receive such testimony in open session only if a majority of the members, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

different purposes for which they were created. Court procedures governing the reception of evidence and the examination of witnesses are not binding on the Committees of the Congress."

19. Rule XI clause 2(k)(4), *House Rules and Manual* § 712 (1979).

20. Rule XI clause 2(k)(2), *House Rules and Manual* § 712 (1979).

1. Rule XI clause 2(k)(9), *House Rules and Manual* § 712 (1979).

2. Rule XI clause 2(h)(1), *House Rules and Manual* § 709 (1979).

3. Rule XI clauses 2(j)(1) and 2(j)(2), *House Rules and Manual* § 711 (1979).

In either case, the committee shall afford such person an opportunity to appear as a witness, and receive and dispose of requests from such person to subpena additional witnesses.[4] The committee chairman normally receives all requests to subpena additional witnesses,[5] and requests under this provision are disposed of by the committee. No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.[6]

If a committee member intends to raise a point of order on the ground that the hearings on a measure were in violation of the committee hearing provisions of the rules,[7] such a point of order will not ultimately lie at the time the committee reports the measure unless the point of order was timely raised in the committee and improperly overruled or not, properly considered.

The House has adopted a number of provisions in the rules pertaining to the conduct of media coverage of committee hearings open to the public. The intent of the rules is to provide "for the education, enlightenment, and information of the general public on the basis of accurate and impartial news coverage."[8] It is also the rules' intent that radio and television tapes and television film not be used, or made available for use, as partisan political campaign material either to promote or to oppose the candidacy of any person for elective public office.[9] Moreover, the conduct of all individuals including committee members, staff, government officials and personnel, witnesses, members of the press, and the general public must be in "strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House."[10] The rules specify that individuals' behavior must not be such as to "distort the objects and purposes of the hearings" or to "cast discredit or dishonor on the House, the committee, or any Member." Media coverage of committee hearings, the rules additionally point out, is

4. Rule XI clause 2(k)(5), *House Rules and Manual* § 712 (1979).

5. Rule XI clause 2(k)(6), *House Rules and Manual* § 712 (1979).

6. Rule XI clause 2(k)(7), *House Rules and Manual* § 712 (1979).

7. Rule XI clause 2(g)(5), *House Rules and Manual* § 708 (1979).

8. Rule XI clause 3(a)(1), *House Rules and Manual* § 720 (1979).

9. Rule XI clause 3(b), *House Rules and Manual* § 720 (1979).

10. Rule XI clause 3(c) *House Rules and Manual* § 721 (1979).

"a privilege made available by the House"[11] and is permissible only if undertaken in "strict conformity" with the requirements laid down by the House.

In addition to the general requirements described above, the rules mandate highly specific directions to be followed by the media in covering a hearing. While any committee conducting a hearing open to the public may decide by majority vote to allow such media coverage as the committee chooses,[12] the committee must have adopted written rules pertaining thereto. Such rules must contain provisions prohibiting the following:[13] (1) any commercial sponsorship where the hearings are presented as live television or radio coverage; (2) the photographing, televising, or broadcasting of subpenaed witnesses against their will; (3) the use of more than four television cameras (each of which must occupy a fixed position); (4) the obstruction in any way by television cameras of the space between any witness and any member of the committee; (5) the placement of television cameras which unnecessarily obstruct coverage by other media; (6) the installation or removal of television or radio equipment while the committee is in session; (7) the use of floodlights, spotlights, strobelights, or flashguns in providing coverage;[14] (8) the presence of more than five still photographers from the press; (9) the intrusion, at any time, by photographers of the space between the witness table and the members of the committee; (10) the unnecessary obstruction by photographers of coverage by other media; (11) any coverage by television or radio personnel not then currently accredited to the Radio and Television Correspondents' Galleries; (12) any coverage by still photographers not then accredited to the Press Photographers' Gallery; and (13) any coverage by television, radio, or still photography personnel which fails to be orderly and unobtrusive.

Parliamentarian's Note: While the rule does not specifically address electronic taping of open meetings and hearings by persons not accredited to the Correspond-

11. Rule XI clause 3(d), *House Rules and Manual* § 721 (1979).

12. Rule XI clause 3(e), *House Rules and Manual* § 722 (1979).

13. Rule XI clauses 3(f) (1)–(13), *House Rules and Manual* §§ 723–725 (1979).

14. Though the television media may raise the ambient lighting level to "the lowest level necessary" to provide adequate coverage; Rule XI clause 3(f)(7), *House Rules and Manual* § 723 (1979).

ents' Gallery, such taping is not permitted except by express permission of the committee.

No measure or recommendation may be reported from any committee unless a majority of the committee were actually present.[15] Committee members may use proxy votes, however, providing that their committee has adopted a written rule permitting proxies which requires each such authorization to be in writing asserting that the Member is absent on official business or is otherwise unable to attend the meeting and designating the person who may cast the vote, and limiting the exercise of the proxy to a specific measure or matter and any amendments or motions pertaining thereto.[16] Any bill or resolution reported by a committee must be accompanied by a written report which shall be printed.[17]

Each committee chairman is under an affirmative duty to report or cause to be reported promptly to the House any measure approved by his committee; this duty extends to taking "the necessary steps to bring the matter to a vote.[18] However, the report of any committee[19] "shall be filed within seven calendar days [emphasis added]"[20] after the day on which the committee clerk has received a written request signed by a majority of committee members calling for the reporting of that measure.

If any committee member, at the time a measure or matter is approved by the committee,[1]

15. Rule XI clause 2(l) (2)(A), *House Rules and Manual* § 713(c) (1979). See also § 23, infra.

16. Rule XI clause 2(f), *House Rules and Manual* § 707 (1979).

17. Rule XVIII clause 2, *House Rules and Manual* § 821 (1979).

18. Rule XI clause 2(l) (1)(A), *House Rules and Manual* § 713(a) (1979).

19. This provision does not apply to the Committee on Rules; Rule XI clause 2(l)(1)(B), *House Rules and Manual* § 713(a) (1979). Nor does this provision apply to the Committee on Appropriations prior to compliance with Rule XI clause 2(l)(1)(C), requiring complete subcommittee markup and full committee action on all regular appropriation bills for that year and submission to the House of a summary report comparing the committee's recommendations with the appropriate levels of budget outlays and new budget authority as set forth in the most recently agreed to concurrent resolution on the budget for that year.

20. This time period is "exclusive of days on which the House is not in session;" Rule XI clause 2(l)(1)(B), *House Rules and Manual* § 713(a) (1979).

1. Rule XI clause 2(l)(5), *House Rules and Manual* § 714 (1979). This provi-

gives notice of his intent to file any additional views, he has at least three calendar days[2] in which to file such views, in writing and signed, with the committee clerk. All of such views filed by one or more committee members must comprise an actual part of the committee report on the measure. Moreover, the report must be printed in a single volume which, in addition to containing all timely submitted additional views, must also "bear upon its cover a recital that supplemental, minority, or additional views are included as part of the report." None of these requirements, however, precludes the immediate filing or printing of a committee report where no timely request is made to file additional views or where the committees filing of a supplemental report is required for the correction of any technical error in the previous report.

Except for those reports which are privileged under the rules[3] all committee reports together with the views of the minority must be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker.[4] Should a bill be adversely reported it is laid on the table unless the committee reporting the bill at the time or any Member within three days thereafter requests its reference to the calendar.[5]

Where a measure would repeal or amend any statute or part thereof, the committee must include in its accompanying report: (a) the relevant portion of the statute which is proposed to be repealed; and (b) a comparative print of that portion of the measure making the amendment and of that part of the statute proposed to be amended using typographical devices to indicate the omissions and insertions that are proposed.[6] Additionally the report accompanying each bill or joint resolution of a public char-

sion does not apply to the Committee on Rules.

2. This time period excludes Saturdays, Sundays, and legal holidays.

3. See Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

4. Rule XIII clause 2, *House Rules and Manual* § 743 (1979).

5. Rule XIII clause 2, *House Rules and Manual* § 744 (1979).

6. If the committee reports a bill or joint resolution with amendments or an amendment in the nature of a substitute for the entire bill, the report must include a comparative print showing any changes in existing law, proposed by the amendments or substitute instead of as in the bill as introduced; see Rule XIII clause 3, *House Rules and Manual* § 745 (1979).

acter reported by any committee (with specified exceptions) must contain:[7] (a) in the case of measures affecting the revenues, a committee estimate of the gain or loss in revenues for a one-year period; (b) in all other cases, a committee estimate of the prospective cost of carrying out a measure in the fiscal year it is reported and in each of the five fiscal years following that fiscal year;[8] and (c) a comparison of the committee estimate with any estimate made by any government agency and submitted to the committee.[9] If these estimate requirements are not within the report of the committee reporting such a measure, the measure's consideration "shall not be in order."[10] The Committee Reform Amendments imposed, effective Jan. 3, 1975, some additional requirements on the contents of reports (see § 58, infra).

Prior to House consideration of a measure or matter reported by a committee, there are certain other procedural steps which must be undertaken. With certain exceptions, no measure or matter reported by any committee may be considered in the House[11] until the third calendar day[12] after the particular committee report has been made available to House Members. In addition, if the committee held hearings on the matter, it must take "every reasonable effort to have such hearings printed and available for distribution to the Members" prior to

7. Rule XIII clause 7, *House Rules and Manual* § 748b (1979). This provision does not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct.

8. If the program does not extend to five years, then the estimate need only cover the authorized duration period.

9. The rule defines a government agency as including "any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia." See Rule XIII clause 7(c), *House Rules and Manual* § 748b (1979).

10. Rule XIII clause 7(1), *House Rules and Manual* § 748b (1979).

11. Rule XI clause 2(l)(6), *House Rules and Manual* § 715 (1979). Under Rule XXI clause 7, *House Rules and Manual* § 848 (1979) no general appropriation bill may be considered in the House until printed committee hearings and a committee report thereon have been available for the Members of the House for at least three calendar days (excluding Saturdays, Sundays, and legal holidays).

12. Excluding Saturdays, Sundays, and legal holidays; Rule XI clause 2(1)(6), *House Rules and Manual* § 715 (1979).

House consideration of the matter.[13] If, within seven calendar days after a measure has, by resolution, been made in order for consideration by the House, no motion has been offered that the House consider that measure, the Speaker may, in his discretion, recognize any member of the committee which reported that measure to offer a motion that the House shall consider that measure, if that committee has duly authorized that member to offer that motion.[14]

House rules setting forth the order of business[15] provide for a "morning hour for the consideration of bills called up by committees."[16] After unfinished business is disposed of and in the absence of any privileged interruptions,[17] the Speaker is directed by the rules[18] to "call each standing committee in regular order, and then select committees." Each committee when named may call up for consideration any bill reported by it on a previous day and on the House Calendar. If the call of the committees is not completed before the House passes to other business, the Speaker resumes the next call where he left off, giving preference to the last bill under consideration. However, if any committee has occupied the morning hour for two days, it is not in order to call up any other bill until the other committees have been called in their turn.

The "morning hour" provisions are but one method (and one infrequently utilized) through which committees call up for consideration the measures they have reported. There are several other procedures for bringing reported bills before the House which bypass the regular order of business. These include (1) consideration pursuant to a unanimous-consent request; (2) the offering of a motion by direction of the Committee on Appropriations that the House resolve itself into the Committee

13. Exceptions to this include any measure for the declaration of war or the declaration of a national emergency and any executive action which would become or remain effective unless disapproved by one or both Houses of Congress; Rule XI clause 2(1)(6), *House Rules and Manual* § 715 (1979).

14. Rule XI clause 2(l) *House Ruless and Manual* § 717 (1979).

15. For more extensive coverage of this subject, see Ch. 21, infra.

16. Rule XXIV clause 1, *House Rules and Manual* § 878 (1979).

17. There are many privileged matters which may interrupt the order of business. See *House Rules and Manual* § 880 (1979).

18. Rule XXIV clause 4, *House Rules and Manual* § 889 (1979).

of the Whole for the consideration of a general appropriation bill;[1] (3) the calling up of a conference report;[2] (4) the reporting of a special order by the Committee on Rules for the immediate consideration of a measure by the House;[3] (5) the consideration of privileged bills reported under the right to report at any time;[4] (6) the call of committees on [Calendar] Wednesdays for the consideration of bills on the House and Union Calendars;[5] (7) the consideration of measures on the Private Calendar on the first and third Tuesdays of each month;[6] (8) the offering of motions to discharge committees from public bills and resolutions on the second and fourth Mondays of each month;[7] (9) the consideration of measures reported by the Committee on the District of Columbia on the second and fourth Mondays of each month;[8] (10) the consideration of bills on the Consent Calendar on the first and third Mondays of each month;[9] (11) the making of a motion to suspend the rules and pass bills on the first and third Mondays of each month and on the Tuesdays immediately following those days;[10] and (12) the consideration of bills coming over from a previous day with the previous question ordered.[11]

The selection, duties, remuneration, and status of committees' professional staff members are

1. See Rule XVI clause 9, *House Rules and Manual* § 802 (1979), and Rule X clause 1 (b)(1), *House Rules and Manual* § 671(a) (1979). Rule XI clause 4(a), *House Rules and Manual* § 726 (1979) (H. Res. 988, 93d Cong. 2d Sess.) removed the privileged status of reports on bills raising revenue reported from the Committee on Ways and Means. Rule XVI clause 9 does not bestow privilege on revenue bills, but merely relates to their place in the order of business when otherwise in order.

2. See Rule XXVIII clause 1(a), *House Rules and Manual* § 909 (1979).

3. See Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

4. See Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

5. See Rule XXIV clause 7, *House Rules and Manual* § 897 (1979).

6. See Rule XXIV clause 6, *House Rules and Manual* § 893 (1979).

7. See Rule XXVII clause 4, *House Rules and Manual* § 908 (1979); see also Ch. 18, infra.

8. See Rule XXIV clause 8, *House Rules and Manual* § 899 (1979).

9. See Rule XIII clause 4, *House Rules and Manual* § 746 (1979).

10. In the 95th Congress, the rule was amended to permit the Speaker to recognize for such motions on every Monday and Tuesday (H. Res. 5, Jan. 4, 1977). See Rule XXVII clause 1, *House Rules and Manual* § 902 (1979).

11. See note to Rule XXIV clause 3, *House Rules and Manual* § 887 (1979).

also subject to certain procedural requirements specified in the rules.

With the exceptions of the Committee on Appropriations and the Committee on the Budget, all standing committees are granted authorization for the payment of their expenses, other than those expenses to be paid from appropriations provided by statute, through the means of primary expense resolutions and, if necessary, additional expense resolutions during the year.[12] This information is discussed at length in the immediately preceding section. The primary expense resolution is intended to provide funds from the contingent fund of the House to pay committee expenses for the particular year. No primary expense resolution may be considered unless a printed report from the Committee on House Administration on the measure has been available to the Members for at least one calendar day prior to its consideration in the House. The report must state the total amount of funds sought for all anticipated activities and programs of the committee as well as a breakdown, to the extent practicable, of the foreseeable expenditures for the anticipated activities and programs of the committee.[13] If the primary expense resolution has been adopted by the House, and thereafter the committee needs additional funds for expenses, such funding may be procured by one or more additional expense resolutions.[14] An additional expense resolution may not be considered unless a report on the resolution has been available to Members for at least one calendar day prior to its consideration in the House. The report must state the total amount of additional funds sought by the committee, the purpose or purposes for which additional funding is necessary, and the reason or reasons for failure to procure the additional funds through the primary resolution.[15]

12. Rule XI clause 5, *House Rules and Manual* § 732(a) (1979). Excluded from the provisions of the rule are certain resolutions relating to the payment of a committee's expenses prior to adoption of the committee's primary expense resolution; and any resolution providing, in any Congress, for payment of specified additional expenses for all standing committees of the House, "subject to and until enactment of the provisions of the resolution as permanent law." Rule XI clause 5(c), *House Rules and Manual* § 732(c)(1979).

13. Rule XI clauses 5(a) (1) and (2), *House Rules and Manual* § 732(b) (1979).

14. Rule XI clause 5(b), *House Rules and Manual* § 732(c) (1979).

15. Prior to the 94th Congress, both primary expense resolutions and addi-

The rules[16] provide that each standing committee[17] "shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee."[18]

In the course of consideration of all bills and joint resolutions of a public character within its jurisdiction, each committee must "endeavor to insure" that all continuing programs of the federal government (and of the government of the District of Columbia) within its jurisdiction, are designed, and all continuing activities of government agencies, within the committee's jurisdiction, are carried on "so that, to the extent consistent with the nature, requirements, and objectives of those programs and activities, appropriations therefor will be made annually."[19] Moreover, each standing committee is obliged to review "from time to time" all continuing programs within its jurisdiction for which appropriations are not made annually in order to ascertain whether such programs could be modified so that appropriations therefor would be made annually[20] The Committee Reform Amendments of 1974 imposed, effective Jan. 3, 1975, new general and specific oversight activities on committees.[1]

The House rules provide that each committee clerk must, within three days of the final adjournment of a Congress, deliver to the Clerk of the House "all bills, joint resolutions, petitions, and other papers referred to the committee, together with all evidence" taken by the committee pursuant to House authorization during the Congress and not reported to the House. Moreover, if for any reason any committee clerk fails to com-

tional expense resolutions must have granted certain considerations in the appointment of committee staff personnel to the minority party members on a committee. See note to Rule XI clause 5, *House Rules and Manual* § 732(e) (1979).

16. Rule X clause 2, *House Rules and Manual* § 692(a) (1979).

17. With the exception of the Committees on Appropriations and the Budget; Rule X clause 2(b)(1), *House Rules and Manual* § 692(a) (1979).

18. See Rule X clause 2, *House Rules and Manual* §§ 692(a), 692(b) (1979). For the practice regarding general oversight responsibilities prior to the 94th Congress, see the note to Rule X clause 2.

19. Rule X clause 4(f)(1), *House Rules and Manual* § 699(a) (1979) .

20. Rule X clause 4(f)(2), *House Rules and Manual* § 699(a) (1979).

1. See Rule X clauses 2, 3, and 4, added by H. Res. 988, 93d Cong. 2d Sess., *House Rules and Manual* §§ 692(a)–699(c) (1979).

ply with this rule, the Clerk of the House is obliged, within three days thereafter, to "take into his keeping all such papers and testimony." The rules further provide that at the close of each Congress, the Clerk of the House must obtain all noncurrent records of each committee (and of the House) and transfer them to the General Services Administration "for preservation subject to the order of the House."[2]

Collateral Reference

Leading Cases on Congressional Investigatory Power, compiled by the Joint Committee on Congressional Operations, Committee Print, 94th Cong. 2d Sess., Jan. 1976.

Five-minute Rule for Interrogation of Witnesses

§ 14.1 The 92d Congress added a new provision to the rules requiring committees to apply the five-minute rule during interrogation of witnesses until each member has had the opportunity to question each witness.

On Jan. 21, 1971,[3] the House entertained consideration of a resolution (H. Res. 5) which provided, in part:

> That the Rules of the House of Representatives of the Ninety-first Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended, and the Legislative Reorganization Act of 1970, be, and they are hereby adopted as the Rules of the House of Representatives of the Ninety-second Congress, with the following amendments as part thereof. . . .

Among the amendments referred to therein was the following:

> In clause 27(f)(4) of Rule XI,[4] insert the following new sentence at the end thereof:
>
> "All committees shall provide in their rules of procedure for the application of the 5 minute rule in the interrogation of witnesses until such time as each member of the committee who so desires has had an opportunity to question the witness."

Further consideration of the proposal having been put over

2. Rule XXXVI clauses 1 and 2, *House Rules and Manual* § 932 (1979).

3. 117 CONG. REC. 14, 92d Cong. 1st Sess.

4. This clause then read [Rule Xl clause 27(f)(4), *House Rules and Manual* § 735(f)(4) (1971)] as follows:

"(4) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the chairman by a majority of those minority party members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon."

until the next day, the resolution (H. Res. 5) was adopted on Jan. 22, 1971,[5] and the rule was amended, accordingly.

Increasing Witnesses' Compensation

§ 14.2 In the 91st Congress, the rules of the House were amended to increase the fee of witnesses subpenaed by its committees from $9 to $20 per day, and their travel expenses from 7 cents per mile to 12 cents per mile.

On Aug. 12, 1969,[6] by direction of the Committee on Rules, Mr. Spark M. Matsunaga, of Hawaii, called up a resolution (H. Res. 495), and asked for its immediate consideration.

The Clerk then read the resolution, as follows:

> *Resolved,* That rule XXXV of the Rules of the House of Representatives is amended to read as follows:
>
> "RULE XXXV.
>
> "PAY OF WITNESSES.
>
> "The rule for paying witnesses subpenaed to appear before the House or any of its committees shall be as follows: For each day a witness shall attend, the sum of twenty dollars; and actual expenses of travel in coming to or going from the place of examination, not to exceed twelve cents per mile; but nothing shall be paid for travel when the witness has been summoned at the place of examination."

In the ensuing discussion, Mr. Richard H. Ichord, of Missouri, pointed out that the then-prevailing rule[7] was "woefully inadequate"[8] inasmuch as subpenaed witnesses were only allotted $9 per day for each day of attendance and 7 cents per mile for the distance they were obliged to travel. He noted additionally that:

> . . . A night's lodging in Washington in even modest accommodations cannot conceivably be secured for anything in the vicinity of $9; and this would leave the matter of meals, taxis, and so forth, still unaccounted for. The rate of 7 cents per mile is inadequate for the payment of air fare, except for travel from the Far West.

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5. 117 Cong. Rec. 144, 92d Cong. 1st Sess.

6. 115 Cong. Rec. 23354, 23355, 91st Cong. 1st Sess.

7. Rule XXXV had read [H. Jour. 1324 90th Cong. 2d Sess. (1968)] as follows:

"The rule for paying witnesses subpenaed to appear before the House or either of its committees shall be as follows: For each day a witness shall attend, the sum of nine dollars; for each mile he shall travel in coming to or going from the place of examination, the sum of seven cents each way; but nothing shall be paid for traveling when the witness has been summoned at the place of trial."

8. 115 Cong. Rec. 23355, 91st Cong. 1st Sess.

The resolution was agreed to shortly thereafter.[9]

§ 15. Adoption of Committee Rules

Committees have historically adopted rules under which they function.

The requirement that standing committees adopt written rules[10] was first incorporated into the rules on Jan. 22, 1971 (H. Res. 5, 92d Cong. 1st Sess.), having been included in the Legislative Reorganization Act of 1970 (84 Stat. 1140). Effective Jan. 3, 1975, committee rules were required to be adopted in an open meeting, to incorporate the provisions of the House rules on committee procedures, and to be published in the *Congressional Record*.[11]

Rules Consistent With House Rules

§ 15.1 In the 92d Congress, the rules were amended to make mandatory the requirement that committees adopt written rules not inconsistent with the rules of the House.

On Jan. 21, 1971,[12] Mr. William M. Colmer, of Mississippi, offered a resolution (H. Res. 5), and asked for its immediate consideration. The Clerk then read the resolution, as follows:

> *Resolved*, That the Rules of the House of Representatives of the Ninety-first Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended, and the Legislative Reorganization Act of 1970, be, and they are hereby adopted as the Rules of the House of Representatives of the Ninety-second Congress, with the following amendments as part thereof, to wit: . . .

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9. *Id.* at p. 23356.

In the 94th Congress, the House amended Rule XXXV by removing the $20 per diem and 12 cents per mile limits on pay for subpenaed House and committee witnesses and setting the amount at the same rate fixed by the Committee on House Administration for Members' and employees' travel, to be paid to all witnesses whether or not subpenaed. See *Deschler's Procedure*, Ch. 17 § 11.4 (95th Cong.).

10. Rule XI clause 2(a), *House Rules and Manual* § 704 (1979).

11. A federal court has interpreted that provision of the Legislative Reorganization Act requiring the printing of the Senate (but not House) committee rules in the *Congressional Record* to be mandatory, and held that a Senate committee meeting of one Senator was not a "competent" tribunal to support a perjury conviction, where the committee rule allowing one Senator to take testimony had not been printed in the Record. [*U.S.* v *Reinecke*, 524 F2d 435 (1975).]

12. 117 CONG. REC. 14, 92d Cong. 1st Sess.

In Rule XI, strike out paragraph (a) of clause 27[13] and insert in lieu thereof the following:

"(a) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees and subcommittees. Committees shall adopt written rules not inconsistent with the Rules of the House and those rules shall be binding on each subcommittee of that committee. Each subcommittee of a committee is a part of that committee and is subject to the authority and direction of that committee."

When the resolution, as amended, was agreed to,[14] the provision requiring committees to adopt written rules not inconsistent with those of the House became effective.

Insertion of Rules in the Record

§ 15.2 When the Committee on Rules adopts rules of procedure the chairman of the committee inserts them in the Record.

On Jan. 7, 1969,[15] Speaker John W. McCormack, of Massachusetts, recognized William M. Colmer, of Mississippi, Chairman of the Committee on Rules, who made the following statement:

Mr. Speaker, in conformity with and carrying out the provisions of Rule XI of the House,[16] the Committee on Rules, on January 7, 1969, unanimously adopted the following rules of procedure for the Committee on Rules:

RULES OF PROCEDURE FOR THE COMMITTEE ON RULES, ADOPTED JANUARY 7, 1969

RULE 1. MEETINGS

The Committee on Rules shall meet at 10:30 a.m. on Tuesday of each week while the Congress is in session. Meetings shall be called to order and presided over by the Chairman, or in the absence of the Chairman, by the ranking Majority Member of the Committee present, as Acting Chairman.

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13. In the previous Congress, Rule Xl clause 27(a) had [H. Jour. 1792, 91st Cong. 2d Sess. (1970)] read:

"27. (a) The Rules of the House are the rules of its committees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees. Committees may adopt additional rules not inconsistent therewith."

14. 117 CONG. REC. 144, 92d Cong. 1st Sess., Jan. 22 1971.

15. 115 CONG. REC. 290, 91st Cong. 1st Sess.

16. Rule XI did not at that time require Mr. Colmer to insert the rules adopted by his committee in the Record. Certain practices were prescribed as mandatory for all standing committees, however [H. Jour. 1436, 91st Cong. 1st Sess. (1969)] such as the fixing of regular meeting days [clause 26] and the prohibition against adopting rules inconsistent with those of the House [clause 27(a)] among others [clauses 26, 27(a)–(q)].

Meetings and hearings of the Committee shall be open to the public except when a majority of the Committee determine that testimony received may bear upon matters affecting national security. Executive sessions of the Committee shall be closed.

For the purpose of hearing testimony, a majority of the Committee shall constitute a quorum.

A printed transcript of any hearing or public meeting of the Committee may be had if the Chairman decides it is necessary, or if a majority of the Members request it.

A Tuesday meeting of the Committee may be dispensed with where, in the judgment of the Chairman, there is no need therefor, and additional meetings may be called by the Chairman or by written request of a majority of the Committee duly filed with the counsel of the Committee.

RULE 2. VOTING

No measure or recommendation shall be reported or tabled by the Committee unless a majority of the Committee is actually present.

A roll call vote of the Members of the Committee may be had upon the request of any Member.

RULE 3. REPORTING

Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee the Chairman or Acting Chairman shall report the same or designate some Member of the Committee to report the same to the House, as provided in the Rules of the House.

RULE 4. COMMITTEE STAFFING

The professional and clerical staffs of the Committee shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of the members of the staffs and delegate such authority as the Chairman deems appropriate, with the exception of the Minority staff, who shall be selected by and under the general supervision and direction of the Ranking Minority Member of the Committee.

RULE 5. MISCELLANEOUS

The Committee shall prepare, maintain, and publish for the Members of the Committee, so far as practicable, a calendar listing all matters formally before it. Information on the Calendar shall include the numbers of the bills or resolutions, a brief description of a bill's contents, including the legislative committee reporting it and the name of the principal sponsoring Member. For purposes of this rule, matters formally before the Committee include: bills or resolutions over which the Committee has original jurisdiction, and bills or resolutions from other committees concerning which the chairman or designated member of such committee has requested a hearing in writing and forwarded to the Committee on Rules a copy of such bill or resolution as reported, together with the final printed committee report.

Upon adoption of the rules and procedures of the Committee at the opening of each Congress, the Chairman may have these rules and procedures printed in an early issue of The Congressional Record.[17]

§ 15.3 The Committee on Internal Security having adopted

17. See the introduction to § 14, supra, for a detailed analysis of the requirements imposed upon committees by Rule XI.

For an earlier instance in which the Committee on Rules made public its rules of procedure, see 113 CONG. REC. 4774, 4775, 90th Cong.f 1st Sess., Feb. 28, 1967.

its committee rules covering such subjects as the conduct of investigative hearings, the protection of witnesses and their testimony, and the participation of counsel in committee hearings, the chairman of the committee inserted the rules in the Record.

On Feb. 24, 1969,[18] Richard H. Ichord, of Missouri, Chairman of the Committee on Internal Security, made the following statement:

> . . . For the information of the House, I . . . note that the new committee[1] has adopted rules of procedures which I believe are the most comprehensive and the fairest rules ever adopted by a committee of this Congress. I . . . append a copy of the new Rules of Procedure of the Committee on Internal Security. I think you will agree that the rules go as far as possible in protecting the rights of persons appearing before the committee, while still constituting a workable set of rules for the purposes of a legislative body.[2]

The rules of which Mr. Ichord spoke, were printed in the Record as follows:[3]

> COMMITTEE RULES OF PROCEDURE
>
> I—INITIATION OF INVESTIGATIONS
>
> No investigation shall be undertaken by the Committee unless authorized by a majority of the members thereof. Committee investigations shall be limited to those legislative purposes committed to it by the mandate of the House. The subjects of inquiry of any investigation shall be set forth in the Committee resolution authorizing such investigation.
>
> II—COMMITTEE AND SUBCOMMITTEE MEETINGS—QUORUM—APPOINTMENT OF SUBCOMMITTEES
>
> A—Committee or subcommittee meetings to make authorizations or decisions with respect to investigations shall be called only upon a minimum of 24 hours' written or verbal notice to the office of each member while the Congress is in session, and 3 days' written notice when not in session. Any objection to the sufficiency of notice of any meeting shall be deemed waived, unless written objection is filed with the Chairman of the Committee or subcommittee.
>
> B—The Chairman of the Committee is authorized and empowered from time to time to appoint subcommittees, and to reconstitute the membership thereof, composed of three or more members of the Committee, at least one of whom shall be of the minority political party, and a majority of whom

18. 115 CONG. REC. 4191, 91st Cong. 1st Sess.

1. The Committee on Internal Security replaced the Committee on Un-American Activities, see § 41, infra.

2. Mr. Ichord had asked and was granted permission to extend his remarks at this point in the Record and to include extraneous matter.

3. 115 CONG. REC. 4192, 4193, 91st Cong. 1st Sess.

shall constitute a quorum, for the purpose of conducting any investigation initiated by the Committee or performing any and all acts which the Committee as a whole is authorized to perform for the purpose of any such investigation. No subcommittee shall have the authority to release executive testimony, or to report any measure or recommendation to the House.

III—DELEGATION OF AUTHORITY TO SUBCOMMITTEES

In addition to the general authority delegated to subcommittees under the preceding section, each subcommittee is delegated authority:

A—Subject to the provisions of section X hereof, to determine by majority vote thereof whether the hearings conducted by it shall be open to the public or shall be in executive session; and

B—To admit to the hearing room whatever public information media it deems advisable or necessary, provided that the decision of the subcommittee shall not be in conflict with the rulings of the Speaker of the House of Representatives.

IV—SUBPENAING OF WITNESSES

A—Subpenas may be issued under the signature of the Chairman of the Committee or of any subcommittee, or by any member designated by such chairman, when authorized by a majority of the members of such Committee or subcommittee, and may be served by any person designated by any such Chairman or member.

B—Each subpoena shall contain a statement of the Committee resolution authorizing the particular investigation with respect to which the witness is summoned to testify or to produce papers, and shal1 contain a statement notifying the witness that if he desires a conference with a representative of the Committee prior to the date of the hearing, he may call or write to counsel of the Committee.

C—Witnesses shall be subpenaed at a reasonably sufficient time in advance of any hearing, said time to be determined by the Committee or subcommittee, in order to give the witness an opportunity to prepare for the hearing and to employ counsel, should he so desire.

V—PUBLICATION OF NAMES OF SUBPENAED WITNESSES

No member of the Committee or staff shall make public the name of any witness subpenaed before the Committee or subcommittee prior to the date and time set for his appearance.

VI—DISTRIBUTION OF RULES

All witnesses appearing before the Committee or subcommittee shall be furnished a printed copy of the Rules of Procedure of the Committee and clause 27 of Rule XI of the House of Representatives.

VII—WITNESS FEES AND TRAVEL ALLOWANCE

Each witness who has been subpenaed, upon the completion of his testimony before the Committee or subcommittee, may report to the office of counsel of the Committee, Cannon House Office Building, Washington, D.C., and there sign appropriate vouchers for travel allowances and attendance fees. If hearings are held in

cities other than Washington, D.C., the witness may contact the counsel of the Committee, or his representative, prior to leaving the hearing room.

VIII—SUBJECTS OF INVESTIGATION

The subjects of any investigation in connection with which witnesses are summoned or shall otherwise appear, shall be publicly announced in an opening statement before administration of oath or affirmation or receipt of testimony at any hearing and a copy thereof shall be made available to each witness. The information sought to be elicited at the hearings shall be germane to the subject as so stated.

IX—TESTIMONY UNDER OATH

A—All witnesses at public or executive investigative hearings who testify as to matters of fact shall give all testimony under oath or affirmation which shall be administered by the Chairman or a member of the Committee or subcommittee.

B—No witness shall be compelled to testify under oath or affirmation at any Committee or subcommittee hearing unless a quorum of the Committee or subcommittee is present to receive such testimony.

X—EXECUTIVE HEARINGS

A—The Committee or subcommittee shall receive evidence or testimony in executive session—

(1) When the Committee or subcommittee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person in proceedings pursuant to House Rule XI, 27(m);

(2) When the Committee or subcommittee determines that the interrogation of a witness in a public hearing might compromise classified information, or might endanger the national security; or

(3) When the Committee or subcommittee determines that the interrogation of a witness in a public hearing might tend adversely to affect the national interest.

B—Testimony or evidence given in executive session and the identity of witnesses called to testify in such session shall not be disclosed by any member or employee of the Committee without the Committee's approval.

C—No person shall be allowed to be present during a hearing of a Committee or subcommittee held in executive session, except members and employees of the Committee, the witness and his counsel, officials, stenographers, or interpreters of the Committee, and any other person whose presence the Committee or subcommittee deems indispensable for the conduct of the hearing.

XI—RELEASE OF TESTIMONY TAKEN IN EXECUTIVE SESSION

A—No testimony taken or material presented in an executive session, or any summary or excerpt thereof, shall be made public or presented at a public hearing, either in whole or in part, unless authorized by a majority of the Committee.

B—No evidence or testimony, or any summary or excerpt thereof, given in executive session which the Committee determines may tend to defame, degrade, or incriminate any person shall be released, or presented at a public hearing, unless such person shall have been afforded the opportunities pro-

vided by House Rule XI, 27(m), and any pertinent evidence or testimony given by such person, or on his behalf, is made a part of the transcript, summary, or excerpt to be released.

C—Persons afforded opportunities under House Rule XI, 27(m), shall be advised that testimony, or an extract or summary thereof, received pursuant to such rule may subsequently be publicly released or offered at a public hearing.

XII—TRANSCRIPTS OF TESTIMONY

A—A complete and accurate record shall be made of all testimony and proceedings at Committee and subcommittee hearings.

B—A witness examined under oath or affirmation in a hearing shall, upon request, be given a reasonable opportunity before any transcript is made public to inspect the transcript of his testimony to determine whether it was correctly transcribed and may, if he so desires, be accompanied by his counsel during such inspection.

C—A witness or his counsel may copy at the office of the Committee, or obtain for his own use at his own expense, a transcript of any testimony of the witness which has been given publicly or made public, and with the approval of a majority of the Committee may obtain for his own use and at his own expense a copy of the transcript of any executive testimony of the witness which has not been made public. The witness or his counsel shall be permitted to examine the transcript of his testimony taken in executive session.

D—Any corrections in the transcript of the testimony of the witness which the witness desires to make shall be submitted in writing to the counsel of the Committee within five (5) days of the taking of his testimony, and the request shall be acted upon by the Committee or subcommittee receiving such testimony.

XIII—COMMITTEE REPORTS OR PUBLICATIONS

A—No Committee report or document shall be made or released to the public without the approval of a majority of the Committee, and no statement of the contents of such report, or document, shall be released by any member of the Committee or its staff prior to its official issuance. Drafts of such reports or documents shall be submitted to the office of each Committee member at least 3 days in advance of the meeting at which it is to be considered for release.

B—Whenever a minority of the Committee dissents from a report or document approved by a majority thereof, the minority shall be given a reasonable time in which to prepare a minority report, which shall be filed at the same time as the majority report, and published in the same volume or document.

C—A report or document made public by the Committee concerning any investigation in which sworn testimony was taken shall include pertinent testimony received in rebuttal taken during such investigation, unless the same has been previously made public, or is made public concurrently with the report or publication.

XIV—ADDITIONAL RIGHTS OF PERSONS AFFECTED BY A HEARING OR COMMITTEE PUBLICATION

Any person who believes that his character or reputation has been ad-

versely affected by evidence or testimony adduced in a public hearing, or in the released testimony of an executive hearing, or in the published reports or documents of the Committee, within a reasonable time shall:

(1) Communicate with the counsel of the Committee; and/or

(2) Request in writing an opportunity to appear, at his own expense, in person before the Committee or any subcommittee thereof to testify as a witness in public or executive session.

The Committee or subcommittee shall make such determination with respect to such communication or request, and shall take such other action, as to reason and justice shall pertain, including an allowance of witness fees and travel.

XV—RIGHTS OF WITNESSES WHILE TESTIFYING [4]

A person testifying under oath or affirmation before the Committee or subcommittee shall have the following rights:

(a) To be accompanied by counsel of his own choosing. The Committee seeks factual testimony within the personal knowledge of the witness, and such testimony must be given by the witness himself.

(b) To make complete and concise answers to questions and, when necessary, to make concise explanations of such answers. The witness shall be limited to giving information relevant and germane to the subject under investigation.

(c) Rulings upon legal objections interposed by the witness or his counsel to procedures or to the admissibility of testimony and evidence shall be made by the presiding member of the Committee, or subcommittee, and such rulings shall be the rulings of the Committee or subcommittee, unless a disagreement thereon is expressed by a majority of the said Committee or subcommittee.

(d) Communications claimed to be privileged, as between husband and wife, attorney and client, physician and patient, clergyman or priest and penitent, and between a State or Federal law enforcement officer and informant, shall be respected, and one spouse shall not be questioned concerning the activities of the other, but the Committee or subcommittee shall not be bound to make its rulings with regard thereto or on the reception of evidence or the examination of witnesses except as required by the Rules of the House of Representatives.[5]

4. All witnesses are invited at any time to confer with Committee counsel prior to hearings. [Footnote from excerpt.]

5. The rules of legislative bodies and their committees differ from those of courts. The procedures of any body must be geared to its purpose. Courts have one purpose, congressional committees another. Courts conduct trials to determine guilt or innocence, or to adjudicate rights. Court proceedings are adversary in nature; committee proceedings are not. Committees hold hearings to develop information that will assist in the enactment of legislation. Courtroom procedures are not followed in congressional hearings or vice versa, because any attempt to apply the rules of one to the other would tend to frustrate the attainment of the

(e) Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy of such statement with the counsel of the Committee not less than 48 hours in advance of the hearing at which the statement is to be presented. All such statements or portions thereof so received which are relevant and germane to the subject of investigation may, at the conclusion of the testimony of the witness and with the approval of a majority of the Committee or subcommittee members, be inserted in the official transcript of the proceedings. In addition, the witness may make a statement, which shall be brief and relevant to the subject matter of his examination, at the conclusion of his testimony. However, statements which take the form of personal attacks by the witness upon the motives of the Committee or subcommittee, the personal characters of any Members of the Congress or of the Committee staff, and intemperate statements or statements clearly in the nature of accusation, are not deemed to be relevant or germane, shall not be made, and may be stricken from the record of the proceedings.

(f) If the witness so requests, he shall not be photographed while he is testifying nor shall his testimony be broadcast or recorded for broadcast by radio or television.

XVI—PARTICIPATION AND CONDUCT OF COUNSEL IN HEARING

A—The participation of counsel on behalf of his client during the course of any hearing, and while the witness is testifying shall be limited to advising his client as to his legal rights.

B—Prior to the administration of the oath or affirmation to his client, counsel shall be permitted to state his objections to the jurisdiction of the Committee or subcommittee, or to procedures claimed to violate his client's legal rights. Counsel shall state such objections briefly and temperately, and shall comply with the rulings and limitations thereon by the presiding member of the Committee or subcommittee.

C—At the conclusion of the interrogation of his client, counsel shall be permitted to make such reasonable and pertinent requests upon the Committee or subcommittee as he shall deem necessary to protect his client's rights. These requests shall all be ruled upon by the Committee or subcommittee conducting the hearing.

D—Counsel for witnesses shall conduct himself in a professional, ethical, and proper manner. His failure to do so shall, upon a finding to that effect by a majority of the Committee or subcommittee before which the witness is appearing, subject such counsel to disciplinary action which may include warning, censure, removal of counsel from the hearing room, or a recommendation of contempt proceedings. In case of such removal of counsel, the witness shall have a reasonable time to obtain other counsel, said time to be determined by the Committee or subcommittee. Should the witness deliberately or capriciously fail or refuse to obtain the services of other counsel within such reasonable time, the hearing shall continue and the testimony of such witness shall be heard without benefit of counsel.

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different purposes for which they were created. Court procedures governing the reception of evidence and the examination of witnesses are not binding on the committees of the Congress. [Footnote from excerpt.]

XVII—CONTEMPT OF CONGRESS

No recommendation that a witness be cited for contempt of Congress shall be forwarded to the House of Representatives unless and until the Committee has, upon notice to all its members, met and considered the alleged contempt and, by a majority of the Committee, voted that such recommendation be made.

Members' Access to Classified Information

§ 15.4 A member of the Committee on Armed Services inserted in the Record that committee's rules governing access of Members to classified information in committee files.

On Apr. 26, 1972,[6] in the course of discussing a resolution (H. Res. 918) of inquiry pertaining to the war in Vietnam, Mr. Charles S. Gubser, of California, made the following observations:

. . . I would like to read into the Record a portion of the House rules. Rule XI, section 27c,[7] says:

All committee hearings, records, data, charts and files shall be kept separate and distinct from the Congressional office records of the Member serving as Chairman of the Committee; and such records shall be the property of the House and all Members of the House shall have access to such records.

Rule XI, section (e)[8] provides that—

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

On June 28, 1971, the Committee on Armed Services by unanimous consent authorized its Chairman to prepare a set of rules applicable to all Members of the House who are desirous of reading all or any portions of any classified information in the committee files. These rules were subsequently drafted by the chairman and sent to every single Member of the House.

And at this point, Mr. Speaker, under leave to revise and extend my remarks, I shall include the full text of the rules I have referred to. . . .

TEXT OF RULES

Rules of the House Armed Services Committee to be followed by Members of Congress who wish to read all or any portion of certain classified information in the Committee files:

1. Such classified information will be kept in secure safes in the Committee rooms. Members will be admitted to the room in which the information is kept after inquiring in Room 2120.

2. Only Members of Congress may have access to such information.

3. Such information may not be removed from the room and a member of the Committee staff will be in the room at all times.

4. The staff member will keep a record of all Members who see such

6. 118 CONG. REC. 14431, 92d Cong. 2d Sess.

7. See Rule XI clause 27c, *House Rules and Manual* § 735(c) (1973).

8. Mr. Gubser was referring here to Rule XI clause 27(o). See *House Rules and Manual* § 735(o) (1973).

classified information or any portion thereof.

5. The staff member will maintain an access list showing the time of arrival and departure of all persons entering or leaving the reading room.

6. The reading room will be open from 8:30 a.m. until 5:30 p.m. each working day and from 9:00 a.m. until 12:00 noon on Saturday.

7. The staff member will make a complete document inventory at the close of each business day.

8. No notes, reproduction or recordings may be made of any portion of such classified information.

9. The contents of such classified information will not be divulged to any unauthorized person in any way, form, shape or manner.

10. Members of Congress before reading such classified information will be required to identify the document or information they desire to read, identify themselves to the staff member, sign the log and sign the Top Secret information sheet if such is attached to such document.

§ 15.5 The 94th Congress adopted the rules in existence at the close of the 93d Congress with certain amendments including an amendment to Rule XI requiring committees to adopt their rules in open session, but permitting a rollcall vote to close that meeting.

On Jan. 14, 1975,[9] Mr. Thomas P. O'Neill, of Massachusetts, the Majority Leader, offered House Resolution 5 and asked for its immediate consideration. The resolution provided for the adoption of the rules of the House that were in existence at the close of the 93d Congress as the rules for the 94th Congress with certain amendments. One of the amendments was to Rule XI clause 2(a)(1) providing for adoption of written rules by standing committees of the House. The amendment read as follows:

> (14) In Rule XI, clause 2(a)(1) is amended to read as follows:
>
> "(1) shall be adopted in a meeting which is open to the public unless the committee, in open session and with a quorum present, determines by rollcall vote that all or part of the meeting on that day is to be closed to the public."

The resolution was adopted[10] and, effective Jan. 14, 1975, Rule XI clause 2(a)(1) was amended to permit a rollcall vote to close the committee meeting at which committee rules are adopted only on the day of the meeting.[11]

§ 16. Sitting of Committees While the House Is in Session

From 1935 through and including 1946, the House rules pro-

9. 121 CONG. REC. 20–32, 94th Cong. 1st Sess.

10. *Id.* at p. 32.

11. See Rule XI clause 2(a), *House Rules and Manual* § 704 (1979).

vided that "No committee, except the Committee on Rules, shall sit during the sitting of the House without special leave."[12] The clause was removed from the rules in 1947, but remained effective as a part of the Legislative Reorganization Act of 1946, the applicable provisions of which were adopted as a part of the rules of the House.[13] In 1953, the provision was reinserted into the rules with the exception extended to include the Committees on Government Operations and Un-American Activities.[14] Fifteen years later, the Committee on Standards of Official Conduct was included within the excepted group;[15] and in 1969, the Committee on Internal Security supplanted the Committee on Un-American Activities. In 1971, the rule was radically altered[16] so as to state that no House committee other than the four heretofore identified and the Committee on Appropriations could sit, without special leave "*while the House is reading a measure for amendment under the five minute rule*" [emphasis supplied]. By 1977,[17] however, only four committees (the Committees on Appropriations, the Budget, Rules, and Standards of Official Conduct) were granted this privilege under the rules. The Committee on Ways and Means traditionally obtains permission at the beginning of each Congress to sit during the five-minute rule.[18]

Beginning with the 95th Congress, 10 objections were required to prevent the granting of a request of a committee to sit during the five-minute rule.[19]

Generally; While House Reads Measure for Amendment

§ 16.1 Under the former rule, with certain exceptions spec-

12. See Rule XI clause 46, H. Jour. 1278, 74th Cong. 1st Sess. (1935).
13. See Note, *House Rules and Manual* § 710 (1979).
14. See Rule XI clause 29, H. Jour. 781, 83d Cong. 1st Sess. (1953).
15. See Rule XI clause 31, H. Jour. 1319, 90th Cong. 2d Sess. (1968).
16. See Rule XI clause 31, *House Rules and Manual* § 739 (1973).
17. Rule XI clause 2(i), *House Rules and Manual* § 710 (1979).
18. See, for example, 121 CONG. REC. 1677, 94th Cong. 1st Sess., Jan. 29, 1975.
19. See Rule XI clause 2(i), *House Rules and Manual* § 710 (1979). This rule has been interpreted to permit a committee to sit if there are fewer than 10 objectors on days when the legislative program has been announced by the leadership. A single objection can still prevent a committee meeting during the five minute rule on a date so far in the future that the legislative program is undetermined.

ified in the House rules, no standing committee could sit without special leave during the sessions of the House.

On Apr. 2, 1962,[20] Speaker John W. McCormack, of Massachusetts, recognized Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, whereupon the following exchange took place:

> Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be privileged to sit tomorrow, Tuesday, during the sessions of the House.
>
> THE SPEAKER: Is there objection to the request of the gentleman from New York? . . .
>
> MR. [CHARLES A.] HALLECK [of Indiana]: Reserving the right to object, Mr. Speaker, did I correctly understand that the request is for the Committee on the Judiciary to sit during the sessions of the House?
>
> MR. CELLER: On tomorrow, during general debate.
>
> MR. HALLECK: That is the reason I have risen here. It has been the rule as I have understood it that committees could sit only by special permission during general debate. I subscribed to that rule. I think that committee people should be here when bills are actively under consideration.
>
> MR. CELLER: I amend the request.
>
> THE SPEAKER: By implication it was there, but the gentleman amended the request.
>
> MR. HALLECK: I withdraw my reservation of objection, Mr. Speaker.

Immediately thereafter, the Chair reiterated its inquiry as to whether there was any objection to the unanimous-consent request. No objection having been voiced, the Committee on the Judiciary was permitted to sit during general debate on the following day.[21]

§ 16.2 Since 1971, the rules have provided with certain specified exceptions, that no committee may sit without special leave while the House is reading a measure for amendment under the five-minute rule.

On Jan. 22, 1971,[22] the House adopted its rules for the 92d Congress by agreement to a resolution (H. Res. 5), adopting the rules of the 91st Congress and incorporating the applicable provisions of both the Legislative Reorganization Act of 1946, as amended,

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20. 108 CONG. REC. 5508, 87th Cong. 2d Sess.

21. At the time, the rules [Rule XI clause 30, *House Rules and Manual* (1962)] stated that "No committee of the House, except the Committees on Government Operations, Rules, and Un-American Activities, shall sit, without special leave, while the House is in session [H. Jour. 988, 87th Cong. 2d Sess. (1962)]."

22. 117 CONG. REC. 144, 92d Cong. 1st Sess.

and the Legislative Reorganization Act of 1970.

In addition to the other changes it effected, the Legislative Reorganization Act of 1970 provided for the amendment of House Rule XI clause 31. In 1970,[23] this provision had stated that "No committee of the House, except the Committees on Government Operations, Rules, Standards of Official Conduct, and Internal Security, shall sit, without special leave, while the House is in session."[24] As amended. clause 31 read, as follows:

> No committee of the House (except the Committee on Appropriations, the Committee on Government Operations, the Committee on Internal Security, the Committee on Rules, and the Committee on Standards of Official Conduct) may sit, without special leave while the House is reading a measure for amendment under the five-minute rule.[25]

As stated in the committee report,[1]

> . . . The effect of this revision is to permit the five House committees listed above to continue to sit and act, without special leave, while the House is in session and to permit all other House committees also to sit and act, without special leave, in any period in which the House is in session except that part of such period devoted to the reading of a legislative measure for amendment under the five-minute rule.

§ 16.3 The Speaker declined to entertain a unanimous-consent request which would have permitted a subcommittee to sit during a forthcoming session of the House in which a bill was to be read for amendment.

On July 1, 1947,[2] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Mr. Samuel K. McConnell, Jr., of Pennsylvania, and the following exchange took place:

> Mr. Speaker, I ask unanimous consent that a subcommittee of the Committee on Education and Labor holding hearings on minimum wages be allowed to sit tomorrow during the session of the House.
>
> THE SPEAKER: The Chair cannot recognize the gentleman for that purpose. Tomorrow the House will be reading the civil functions appropriation bill for amendment, and committees cannot sit during sessions of the House while

23. H. Jour. 1793, 91st Cong. 2d Sess. (1970).

24. In addition to the four specified committees, it should be noted, the Committee on Appropriations enjoyed the privilege of sitting while the House was in session by virtue of the provisions of Rule XI clause 2. See Rule XI clause 2(b), H. Jour. 1788, 91st Cong. 2d Sess. (1970) or Rule XI clause 2(b), *House Rules and Manual* § 679 (1973).

25. 84 Stat. 1140, Sec. 117(b).

1. H. Rept. No. 91–1215, p. 72.

2. 93 CONG. REC. 8054, 80th Cong. 1st Sess.

bills are being read for amendment; only during general debate.

MR. MCCONNELL: We have a full schedule that we want to get through.

THE SPEAKER: That is the policy that has been adopted. The minority leader has stated that he would object to any requests of that character.[3]

§ 16.4 The Speaker refused to entertain a unanimous-consent request that a select committee be permitted to sit during sessions of the House of a specified week after noting that such consent is not granted while bills are being read for amendment in the House.

On Dec. 4, 1944,[4] the following exchange took place between Speaker Sam Rayburn, of Texas, and Mr. Karl E. Mundt, of South Dakota, who chaired a select committee to investigate conditions of the American Indian:

Mr. Speaker, I ask unanimous consent that the Select Committee to Investigate the Indian Conditions of America be permitted to sit today during the session of the House, and any other times it may be required to do so during the week.

THE SPEAKER: The Chair cannot entertain that request. The policy has been adopted that that consent is not granted to committees while bills are being read for amendment in the House.[5]

§ 16.5 In the 80th Congress, no standing committee [other than the Committee on Rules] was permitted to sit while the House was in session without special leave from the House, and such leave could only be granted with respect to those sessions in which general debate [as opposed to the reading of bills for amendment] would be in progress.

On June 11, 1947,[6] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Edith Nourse Rogers, of Massachusetts, Chairwoman of the Committee on Veterans' Affairs, who requested unanimous consent that that committee be permitted to sit during sessions of the House involving general debate for the remainder of the week.

Immediately thereafter, the following exchange took place:

MR. [GEORGE A.] DONDERO [of Michigan]: Reserving the right to object, Mr.

3. Compare §§ 16.9, 16.10, infra, where in certain cases committees were authorized to meet during House sessions.

4. 90 CONG. REC. 8758, 78th Cong. 2d Sess.

5. See the introductory remarks at the beginning of this section for a brief account of the history of the rule provisions allowing committees to sit while the House is in session.

6. 93 CONG. REC. 6848, 80th Cong. 1st Sess.

Speaker, will there be general debate in the House the rest of the week?

THE SPEAKER: The Chair cannot definitely state that. There will be very little general debate tomorrow, the Chair thinks, and of course there will be none on Friday when the bill from the Committee on Foreign Affairs is being read for amendment.

MR. DONDERO: I understand it is a ruling of the Speaker that committees will not be permitted to sit unless the House is engaged in general debate upon legislation.

THE SPEAKER: The rules under which we have been conducting the House this year do not permit committees to hold hearings while the House is in session except when general debate is in progress.[7]

§ 16.6 The Speaker has declined to entertain unanimous-consent requests that committees be allowed to sit during general debate where the program contemplated for the day in question included suspensions on several bills and roll call votes.

On Feb. 2, 1960,[8] Speaker Sam Rayburn, of Texas, recognized Mr. Walter E. Rogers, of Texas, who initiated the following exchange:

Mr. Speaker, I ask unanimous consent that the Subcommittee on Transportation of the Committee on Interstate and Foreign Commerce may be permitted to sit during general debate in the House this afternoon.

THE SPEAKER: The Chair cannot entertain that request because we have seven suspensions and there will be two rollcalls. The Chair has already announced this to the Members.

Effect of Unauthorized Meeting on Committee Action

§ 16.7 The Speaker declared a committee meeting void and directed a bill stricken from the calendar where it was shown that the committee reporting it had sat and ordered it reported during the session of the House without permission.

On Apr. 20, 1934,[9] Speaker Henry T. Rainey, of Illinois, responded to a parliamentary inquiry posed by Mr. Henry B. Steagall, of Alabama, with reference to a bill (H.R. 7908) ordered to be reported by the Committee on Banking and Currency, as follows:

MR. STEAGALL: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. STEAGALL: What would the ruling of the Chair be on a point raised that the report on a bill was ordered to

7. See the introductory remarks at the beginning of this section for a brief account of the history of the rule provisions allowing committees to sit while the House is in session.

8. 106 CONG. REC. 1780, 86th Cong. 2d Sess.

9. 78 CONG. REC. 7057, 7058, 73d Cong. 2d Sess.

be made in the committee while the House was in session, the committee not having the permission of the House to sit during the sessions of the House?

THE SPEAKER: The Chair understands the rule to be that a committee can transact no business at all while the House is in session unless that committee has the permission of the House to sit during the sessions of the House. The Chair will read the rule.

> No committee of the House, except the Committee on Rules, shall sit during the sittings of the House without special leave.

MR. STEAGALL: I ask for information in connection with H.R. 7908, which was reported on the 12th of April.

THE SPEAKER: Does the Chair understand that it was reported out by the committee while the House was in session?

MR. STEAGALL: That is correct.

THE SPEAKER: In reply to the parliamentary inquiry the Chair will state that the action of the committee in so reporting the bill is absolutely void, and the Chair will direct that the report and the bill be stricken from the calendar. The purported report on the bill (H.R. 7908) made to the House on April 12, 1934, being invalid the Chair holds that the bill is still before the Committee on Banking and Currency for such action as that committee thinks fit and proper.[10]

§ 16.8 A point of order having been raised against a pending bill on the ground that the measure was reported at a committee meeting held while the House was in session without such committee having obtained permission to meet [and possessing no other authority to do so] the point of order was sustained, and the Speaker stated that the bill would remain in the committee until a valid report was filed.

On July 9, 1956,[11] John L. McMillan, of South Carolina, Chairman of the Committee on the District of Columbia, called up a bill (H.R. 4697), to amend the Alcoholic Beverage Control Act of the District of Columbia, 1954, as amended and requested unanimous consent that the bill be considered in the House as in Committee of the Whole.

Shortly thereafter, Speaker Sam Rayburn, of Texas, recognized Mr. Samuel N. Friedel, of Maryland, and the following exchange took place:[12]

> Mr. Speaker, I make the point of order that when this bill was reported by the Committee on the District of Columbia the House was in session and the committee did not have permission from the House to sit at that time.

10. See the introductory remarks at the beginning of this section for a brief account of the history of the rule provisions allowing committees to sit while the House is in session.

11. 102 CONG. REC. 12199, 84th Cong. 2d Sess.

12. *Id.* at p. 12200.

THE SPEAKER: The Chair will ask the chairman of the committee, Did the Committee on the District of Columbia have authority from the House to sit that day during the session of the House?

MR. MCMILLAN: No, Mr. Speaker, it did not. The statement made by the gentleman from Maryland is correct.

THE SPEAKER: Does the gentleman concede, then, that this bill was reported when the House was in session and the committee did not have the right to sit?

MR. MCMILLAN: That is correct, Mr. Speaker.

THE SPEAKER: The Chair must sustain the point of order. . . .

MR. [ALBERT P.] MORANO [of Connecticut]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MORANO: Mr. Speaker, does that mean the decision of the Chair prohibits the consideration of this bill at this time?

THE SPEAKER: That is correct. The committee must again take action in conformance with the procedure heretofore outlined by the Chair to properly report the bill to the House. As the bill now stands it is still in the Committee on the District of Columbia until a valid report is made.

Authorization to Sit During Sessions and Recesses

§ 16.9 By unanimous consent, the Committee on Ways and Means may be authorized to sit during sessions of the House during a Congress.

On Feb. 4, 1971,[13] Speaker Carl Albert, of Oklahoma, recognized Majority Leader Hale Boggs, of Louisiana, and the following events took place:

Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means be authorized to sit during sessions of the House in the 92d Congress.

THE SPEAKER: Is there objection to the request of the gentleman from Louisiana?

There was no objection.[1]

§ 16.10 The Committee on Appropriations and the subcommittees thereof are frequently authorized by the House to sit during sessions and recesses.

On Jan. 23, 1967,[2] Speaker John W. McCormack, of Massachusetts, recognized George H. Mahon, of Texas, Chairman of the Committee on Appropriations, who called up House Resolution 164 and asked unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

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13. 117 CONG. REC. 1719, 92d Cong. 1st Sess.

1. For similar instances, see 111 CONG. REC. 1177, 89th Cong. 1st Sess., Jan. 26, 1965; 105 CONG. REC. 939, 86th Cong. 1st Sess., Jan. 20, 1959; and 95 CONG. REC. 516, 81st Cong. 1st Sess., Jan. 24, 1949.

2. 113 CONG. REC. 1086, 90th Cong. 1st Sess.

Resolved, That the Committee on Appropriations and the subcommittees thereof be authorized to sit during sessions and recesses of the Ninetieth Congress.

It was agreed to immediately thereafter.[3]

§ 17. Role of the Chairman

Duty to Report Approved Measure

§ 17.1 Under the rules, the chairman of a committee has the duty and the responsibility to see that a measure approved by his committee is reported to the House and called up for consideration; and his obligations in these regards are not reduced by his personal opposition to the measure.

On June 14, 1967,[4] the House resolved itself into the Committee of the Whole for the consideration of a joint resolution (H.J. Res. 559), to provide for the settlement of a labor dispute involving certain railroad carriers. After the Committee agreed to dispense with the first reading of the joint resolution, Chairman Wilbur D. Mills, of Arkansas, recognized Harley O. Staggers, of West Virginia, Chairman of the Committee on Interstate and Foreign Commerce.

Mr. Staggers then made the following remarks:

> Mr. Chairman I am here today in a most unusual position. I was requested by the President to introduce the bill we have before us today, and because of my responsibilities as chairman of the committee, I introduced the bill. If the House was to be given an opportunity to work its will on this legislation, it was necessary that hearings begin promptly and continue as expeditiously as possible, and I think the record will bear me out, that the hearings before our committee have been prompt, they have not been delayed in any respect.
>
> In fact we interrupted consideration of a very important piece of health legislation in order to take up this bill. We have heard every witness who wanted to be heard on the legislation. I did this because I felt it to be my responsibility to the House as chairman of the committee.
>
> Following the conclusion of our hearings I promptly scheduled executive sessions for consideration of the bill and we met as promptly as possible both morning and afternoon and the committee reported the bill to the House.
>
> Yesterday I went before the Rules Committee as chairman of the com-

3. For similar instances, see 111 CONG. REC. 988, 89th Cong. 1st Sess., Jan. 21, 1965; 109 CONG. REC. 24, 88th Cong. 1st Sess., Jan. 9, 1963; and 107 CONG. REC. 1157, 87th Cong. 1st Sess., Jan. 23, 1961.

4. 113 CONG. REC. 15822, 90th Cong. 1st Sess.

mittee to present the facts to the Rules Committee and attempt to obtain a rule so that the bill would be considered by the House. I have done these things because I felt it is my responsibility to do so as chairman of the committee.

Unfortunately, Mr. Chairman, I was opposed to this bill when I introduced it, and having heard all the witnesses and all the testimony, I am still opposed to it. For that reason I have asked the gentleman from Maryland [Mr. Friedel] to handle the bill in Committee of the Whole, so that I would be free to express my opposition to it.

Mr. Staggers then outlined the nature of his opposition to the proposal[5] and briefly commented upon certain of the amendments which had been considered by the committee. Thereafter, he requested Mr. Samuel N. Friedel, of Maryland, the ranking majority member on the Interstate and Foreign Commerce Committee, to take charge of managing the bill on the floor.

Parliamentarian's Note: House Rule XI clause 26(d)[6] stated that:

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

5. *Id.* at pp. 15822, 15823.

6. H. Jour. 1487, 90th Cong. 1st Sess. (1967).

Impartiality

§ 17.2 The chairman of a special investigating committee tendered his resignation from the committee after taking the floor to defend himself against accusations that he had accepted fees for appearing before the government agency which was under investigation.

Parliamentarian's Note: In May 1943, Clifford Durr, a member of the Federal Communications Commission, filed certain papers with Speaker Sam Rayburn, of Texas, which alleged that Eugene E. (Cox, of Georgia, Chairman of the Select Committee to Investigate the Federal Communications Commission, was inspired by "bias and personal interest" in his conduct of the committee's inquiry. The Speaker referred these matters to the Committee on the Judiciary which concluded several months later that it had no power to intervene.

On Sept. 30, 1943,[7] Speaker Rayburn recognized Mr. Cox, and the following exchange took place:[8]

. . . Mr. Speaker, for more than a year, now, I have been the object of bitter and scurrilous attacks. . . .

7. 89 CONG. REC. 7936, 78th Cong. 1st Sess.

8. *Id.* at pp. 7936, 7937.

In my judicial career when a case arose in which my own personality was involved or my impartiality was questioned, it was my practice to eliminate myself from the trial of the case. While such a custom does not prevail in investigations by legislative bodies, I have, nevertheless, reached the conclusion that in the light of the circumstances and the nature of the controversy in this instance, I may well follow that course. . . .

. . . Mr. Speaker, the first duty of every Member of this House is to consider the welfare and the effectiveness of the House itself. Its interests are incomparably greater than the interests—even the right of justice—attaching to any individual Member. The next duty of a Member of this body is the welfare of the various instrumentalities it creates to carry out its will—whether those instrumentalities be independent agencies or standing or select committees. . . . Consequently, the action I take today is based solely upon my conscientious and deep desire to live up to the most sacred obligations of this body and to my oath as a Member of it.

Mr. Speaker, moved by these considerations, and fortified by the concurrence of friends in this House in whose friendship and judgment I have the utmost confidence, I tender you my resignation as chairman of the Select Committee to Investigate the Federal Communications Commission. . . .

THE SPEAKER: The resignation of the gentleman from Georgia is accepted.

Parliamentarian's Note: Had there been objection, the Speaker would have put the question of accepting the resignation to the House for a vote.

Shortly thereafter, Mr. John W. McCormack, of Massachusetts, observed:

. . . It is apparent to all of us that unselfishness and a high regard for the sensibilities of his colleagues in this House have been the only motives which prompted the gentleman from Georgia to follow the course that he has taken. The people of the district the gentleman from Georgia [Mr. Cox] so ably represents, I know are proud of his services. His unselfish act of today will make them feel prouder of him, and of his high and noble character, and of his courage.

Speaker pro tempore R. Ewing Thomason, of Texas, having taken the Chair, Mr. McCormack yielded to Mr. Rayburn, who stated:

Mr. Speaker, I join with my distinguished colleague in applauding the unselfishness of our colleague from Georgia [Mr. Cox]. He has the courage in a situation difficult to him personally to be big enough in mind and in heart to efface himself, and to leave a position because he thinks that the thing that is near to his heart may be jeopardized by his presence upon his special committee. And I say to this House, after 20 years of intimate association with the gentleman from Georgia, Gene Cox, during which he has had my friendship and my love and confidence, that today that love and that confidence in his honor and in his integrity is unshaken.

Appeal From Chairman's Decision

§ 17.3 Any member of a standing committee may appeal a

ruling of the chairman of that committee [the rules of the House being the rules of the standing committees so far as applicable].

On Feb. 15, 1949,[9] shortly after the House met, the Speaker recognized Mr. Earl Chudoff, of Pennsylvania, who initiated the following exchange:

> Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[10] The gentleman will state it.
>
> MR. CHUDOFF: Mr. Speaker, I should like to know whether the committees of this House operate under the same rules as the House.
>
> THE SPEAKER: The rules of the House so provide.
>
> MR. CHUDOFF: Mr. Speaker, I should dike to know further whether this House has a right to appeal from a ruling of the Chair.
>
> THE SPEAKER: Any Member has the right to appeal from the ruling of the Chair.
>
> Mr. CHUDOFF: I should like to know whether, under that ruling, members of the committee can appeal from the ruling of the chairman of the committee.
>
> THE SPEAKER: They can.
>
> MR. CHUDOFF: So that the chairman of a committee who had his ruling appealed from would have no right other than to allow that appeal to go before the entire committee; is that right, Mr. Speaker?
>
> THE SPEAKER: The rules of the House provide that the rules of the House are made the rules of its standing committees so far as applicable. The Members of the House have a right to appeal from a decision of the Chair. That would also apply in a committee.

Parliamentarian's Note: The rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees and subcommittees.[11] Accordingly, where a particular ruling of the Speaker is not subject to appeal, the same result holds with respect to a similar ruling by a committee chairman. In the instant case, for example, immediately after the Speaker answered Mr. Chudoff's parliamentary inquiry, Mr. John E. Rankin, of Mississippi, pointed out[12] by way of his own parliamentary inquiry that certain decisions of the Chair may not be appealed at all-to wit, the Chair's determination that one-fifth of those present were in favor of a roll call.

Chairman's Capacity to Act Independently

§ 17.4 The chairman of a committee to which a bill has

9. 95 CONG. REC. 1212, 81st Cong. 1st Sess.
10. Sam Rayburn (Tex.).
11. See Rule XI clause 1(a)(1), *House Rules and Manual* § 703(a) (1979).
12. 95 CONG. REC. 1213, 81st Cong. 1st Sess., Feb. 15, 1949.

been referred is not required to have the authorization of his committee to move to suspend the rules and pass a bill in the House, but may, at the Speaker's discretion, offer such a motion on his own responsibility just as any other Member.

On Aug. 5, 1948,[13] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Charles A. Eaton, of New Jersey, Chairman of the House Committee on Foreign Affairs, and the following exchange took place:

> Mr. Speaker, I move to suspend the rules and pass the bill (S.J. Res. 212) to authorize the President, following appropriation of the necessary funds by the Congress, to bring into effect on the part of the United States the loan agreement of the United States of America and the United Nations signed at Lake Success, N.Y., March 23, 1948.
>
> MR. [FREDERICK C.] SMITH of Ohio: Mr. Speaker, I make a point of order against the motion.
>
> THE SPEAKER: The gentleman will state his point of order.
>
> MR. SMITH of Ohio: Mr. Speaker, I am informed by members of the Committee on Foreign Affairs of the House that this motion has not been formally and specifically authorized by the committee.
>
> THE SPEAKER: The Chair may say, in order to clarify the situation, that it is possible for the chairman of a committee to offer the motion on his own responsibility and if he does the Chair will recognize him.

Authority To Be Exercised in Chairman's Absence

§ 17.5 Instance where by unanimous consent the House agreed to a resolution permitting the powers and duties conferred on the chairman of a standing committee to be exercised during the absence of the chairman by the next ranking majority member.

On Mar. 18, 1954,[14] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Mr. Charles A. Halleck, of Indiana, and the following events took place:

> Mr. Speaker, I ask unanimous consent for the immediate consideration of House Resolution 478.
>
> The Clerk read the resolution, as follows:
>
> > *Resolved,* That powers and duties conferred upon the chairman of the Committee on Merchant Marine and Fisheries by House Resolution 197 and House Resolution 198 of the 83d Congress may be exercised during the absence of the chairman of that committee by the next ranking majority member thereof until otherwise ordered by the House.

Immediately thereafter, the resolution was agreed to.

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13. 94 CONG. REC. 9890, 9891, 80th Cong. 2d Sess.

14. 100 CONG. REC. 3569, 83d Cong. 2d Sess.

Parliamentarian's Note: This resolution may have been necessary because the Chairman of the Committee on Merchant Marine and Fisheries, Alvain F. Weichel, of Ohio, was unable to perform the duties of signing subpenas, vouchers, and appointing subcommittees due to illness.

Rule X clause 6(b) [*House Rules and Manual* § 701(b) (1979)] provides that in the temporary absence of the chairman, the ranking majority member shall act as chairman. This has been part of the rules since 1911. Rule X clause 6(b) has been distinguished from the authority contained in Rule XI clause 2(d) [*House Rules and Manual* § 705 (1979)] for the ranking majority member to preside at committee meetings in the absence of the chairman. The clause 6(b) Rule X designation when submitted in writing by the Chairman has been deemed by the Committee on House Administration sufficient authority for the acting chairman to sign vouchers.

Calling Committee Meeting Without Action by Chairman

§ 17.6 Where the chairman of a committee refuses or fails to call a special meeting that a majority of committee members desire, that majority may compel the call of such a meeting under a procedure specified by the rules.

On May 27, 1946,[15] by previous order of the House, Mr. Clare E. Hoffman, of Michigan, was speaking about certain war-related labor legislation when he yielded to Mr. Howard W. Smith, of Virginia, for a parliamentary inquiry.

After explaining that it would not be possible to carry out a previously agreed upon schedule of the House unless the Committee on Rules was able to meet that very afternoon, Mr. Smith asked the following question:

> My parliamentary inquiry is whether when the chairman of the Committee on Rules absents himself from the floor of the House and from the office of the committee and declines to call a meeting of the committee to transact important business for the country it is within the province of a majority of the members of the committee to themselves call a meeting and report whatever legislation they desire to the floor of the House.

In response thereto, Speaker Sam Rayburn, of Texas, stated:

> The Chair will read clause 48 of rule XI:[16]
>
> A standing committee of the House shall meet to consider any bill or res-

15. 92 CONG. REC. 5863, 79th Cong. 2d Sess.

16. See Rule XI clauses 2(b), 2(c), *House Rules and Manual* § 705 (1979).

olution pending before it: (1) on all regular meeting days selected by the committee; (2) upon the call of the chairman of the committee; (3) if the chairman of the committee, after 3 days' consideration, refuses or fails, upon the request of at least three members of the committee, to call a special meeting of the committee within 7 calendar days from the date of said request, then, upon the filing with the clerk of the committee of the written and signed request of a majority of the committee for a called special meeting of the committee, the committee shall meet on the day and hour specified in said written request. It shall be the duty of the clerk of the committee to notify all members of the committee in the usual way of such called special meeting.

That is the answer of the Chair to the parliamentary inquiry of the gentleman from Virginia.

Mr. Smith then sought to ask an additional question and the following exchange took place:[17]

Mr. Speaker, may I submit a further inquiry?

Under those circumstances, is it possible for the chairman of the committee of his own volition to prevent the House from taking action on legislation vital to the Nation until the time set forth in the rule has elapsed?

The SPEAKER: Under the rules of the House, the chairman of a committee does not have to call a meeting of the committee. The answer to the question as to how the committee can get together if the chairman does not desire to call the committee together or refuses to call them together is contained in the rule just read.

Removal of Chairman by House Action

§ 17.7 A resolution was introduced and referred by the Speaker to the Committee on Rules, calling for the removal of the Chairman of the House Committee on Un-American Activities.

On Mar. 11, 1953,[18] a resolution (H. Res. 175), was introduced calling for the removal of Harold H. Velde, of Illinois, as Chairman of the House Committee on Un-American Activities, based on allegations that he exercised excessive zeal in the performance of his duties. This resolution provided:

Whereas the admittedly false, erroneous, and careless accusations of the chairman of the Committee on Un-American Activities against Mrs. Agnes Meyer, a respected and patriotic American, have reflected on the responsibility and integrity of the House of Representatives and consequently upon each of the Members thereof; and

Whereas the chairman of the Committee on Un-American Activities has publicly stated his intention to investigate the churches of our Nation which could lead to the control of the freedom of thought and expression of the reverend clergy of our religious institutions; and

17. 92 CONG. REC. 5863, 5864, 79th Cong. 2d Sess.

18. 99 CONG. REC. 1888, 83d Cong. 1st Sess.

Whereas any interference with the freedom of religion and the freedom of religious thought and expression or with the autonomy of any of our churches, synagogues, or other religious institutions would not only constitute a violation of one of the fundamental precepts of the Constitution of the United States, but would threaten to destroy the time honored guaranties of religious freedom which attracted our forebears to America's shores; and

Whereas the charges and statements heretofore referred to were made without prior consultation with or the approval of any of the other members of the Committee on Un-American Activities; and

Whereas the other members of the Committee on Un-American Activities, regardless of political affiliation, have found it necessary publicly to repudiate the unauthorized and reckless statements and charges of the chairman of the said committee: Therefore be it

Resolved, That Representative Harold H. Velde be, and hereby is, removed from the position of chairman of the Committee on Un-American Activities.

The resolution was referred to the Committee on Rules, but never reported.

§ 18. Members' Access to Committee Records and Files

Generally; Bringing Files to Well of House

§ 18.1 A House Member may examine committee records and files under the rules, but the Speaker declined to entertain a unanimous-consent request that a committee clerk bring them into the well of the House where the committee had not authorized such action.

On June 3, 1960,[19] shortly after the House met, Speaker Sam Rayburn, of Texas, recognized Mr. John J. Flynt, Jr., of Georgia, who initiated the following exchange:[20]

Mr. Speaker, I ask unanimous consent that the Chair direct the clerk of the Committee on House Administration to bring to the well of the House, following the legislative business of the day, that portion of the records and documents in the custody of that committee, which refer to and contain the entries on the records of the Royal Hawaiian Hotel in Honolulu, Hawaii, for the purpose of permitting me to refer specifically to any such items contained therein which are at complete variance with published reports in the Wednesday issue of the Washington Post and Times Herald, and in the issue of Life magazine dated June 6, 1960, which is next Monday, but which appeared on the newsstands in the city of Washington and other parts of the country on Wednesday, June 1.

THE SPEAKER: The Chair will say to the gentleman that it has never been the policy of the House to order any

19. 106 CONG. REC. 11820. 86th Cong. 2d Sess.

20. *Id.* at pp. 11820, 11821.

documents in the custody of a committee of the House to be brought into the House, unless the committee by its action has approved such a request. The gentleman certainly may examine those items between now and the time he makes his remarks on that subject. But the Chair has never known of a case where a clerk of any committee has been ordered to bring documents to the floor of the House without the prior approval of the committee in whose hands they are at that time.

Following some additional discussion pertaining to the nature of the materials and his motive in seeking them, Mr. Flynt withdrew his request for the production of the records.

Parliamentarian's Note: The rules[1] provide that "All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access to such records."

Testimony and Evidence Taken in Executive Sessions

§ 18.2 While all Members of the House have access to committee records under the rules, testimony or evidence taken in executive sessions of a committee are under the control of the committee and the rules provide that such testimony cannot be released without the consent of the committee.

On June 26, 1961,[2] Mr. Bruce R. Alger, of Texas, inserted certain documentation in the Record regarding the deferral of necessary authorization by the Committee on Public Works with respect to the construction of a federal office building in Dallas.

Immediately thereafter, he proceeded to initiate the following exchange:

Another exhibit I have is a transcript of the record of the Public Works Committee. I have been forewarned this is not to be used, that it would be violating the House rules, but I can paraphrase it. When the gentleman who was chairing that committee was asked about having some additional studies and subcommittee reports, he said—

MR. [EDMOND] EDMONDSON [of Oklahoma]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE:[3] The gentleman will state it.

MR. EDMONSON: Mr. Speaker, I make the point of order against the

1. See Rule XT clause 27(c), *House Rules and Manual* § 735(c) (1973). This provision is contained in Rule XI clause 2(e)(2) § 706(c) in the 1979 *House Rules and Manual.*

2. 107 CONG. REC. 11233, 87th Cong. 1st Sess.

3. Wilbur D. Mills (Ark.).

paraphrasing of a transcript of an executive session of a committee of the House unless it has been released by the committee. I was informed last week on a similar question it was out of order to make any reference to what takes place in executive sessions of the committee without the consent of the committee.

THE SPEAKER PRO TEMPORE: The Chair is ready to rule.

The gentleman from Texas will proceed in order and not refer to proceedings in executive session of a committee.

MR. ALGER: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. ALGER: Mr. Speaker, is it appropriate to announce to the Members they may see that transcript if they go to the Committee on Public Works?

THE SPEAKER PRO TEMPORE: That is within control of the committee.[4]

MR. ALGER: I am thinking of a certain section of House rules, although I cannot recall the section at this time, that committee executive meetings transcripts are available to any Member of the Congress who wants to see it.[5]

THE SPEAKER PRO TEMPORE: That is correct, but it is still within the control of the committee.

Classified Information in Files of the Committee on Armed Services

§ 18.3 Any Member of the House desiring to read all or any portion of the classified information in the files of the Committee on Armed Services may do so in accordance with the procedure set out by that committee.

On Apr. 26, 1972,[6] the House entertained consideration of a privileged resolution (H. Res. 918), directing the President and the Secretary of Defense within 10 days after its adoption, to furnish the House of Representatives with "full and complete information" concerning the specifics of various

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4. The Speaker pro tempore was referring here to the stipulation of Rule XI clause 26(o) [H. Jour. 1197, 87th Cong. 1st Sess. (1961)] which stated:

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

5. Mr. Alger was referring to the provisions of Rule XI clause 26(c) [H. Jour. 1197, 87th Cong. 1st Sess. (1961)] which stated:

"All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access to such records. Each committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee."

6. 118 CONG. REC. 14348–434, 92d Cong. 2d Sess.

military operations in Southeast Asia.

In the course of that consideration, Mr. Charles S. Gubser, of California, a member of the Committee on Armed Services (to which the resolution had been referred), stated that the House already possessed the information requested[7] by House Resolution 918. The information, he intimated, was available within the files of the Committee on Armed Services. He noted, moreover, that:

On June 28, 1971, the Committee on Armed Services by unanimous consent authorized its Chairman to prepare a set of rules applicable to all Members of the House who are desirous of reading all or any portions of any classified information in the committee files. These rules were subsequently drafted by the chairman and sent to every single Member of the House.

Having obtained leave to revise and extend his remarks, Mr. Gubser inserted the full text of the aforementioned rules, as follows:

TEXT OF RULES

Rules of the House Armed Services Committee to be followed by Members of Congress who wish to read all or any portion of certain classified information in the Committee files:

1. Such classified information will be kept in secure safes in the Committee rooms. Members will be admitted to the room in which the information is kept after inquiring in Room 2120.

2. Only Members of Congress may have access to such information.

3. Such information may not be removed from the room and a member of the Committee staff will be in the room at all times.

4. The staff member will keep a record of all Members who see such classified information or any portion thereof.

5. The staff member will maintain an access list showing the time of arrival and departure of all persons entering or leaving the reading room.

6. The reading room will be open from 8:30 a.m. until 5:30 p.m. each working day and from 9:00 a.m. until 12:00 noon on Saturday.

7. The staff member will make a complete document inventory at the close of each business day.

8. No notes, reproduction or recordings may be made of any portion of such classified information.

9. The contents of such classified information will not be divulged to any unauthorized person in any way, form, shape or manner.

10. Members of Congress before reading such classified information will be required to identify the document or information they desire to read, identify themselves to the staff member, sign the log and sign the Top Secret information sheet if such is attached to such document.

Photocopying Documents

§ 18.4 The refusal of a subcommittee chairman to per-

7. *Id.* at p. 14431.

mit a committee member to make photostatic copies of documents in possession of the subcommittee was upheld by the Speaker.

On Aug. 14, 1957,[8] Mr. Clare E. Hoffman, of Michigan, was recognized by Speaker Sam Rayburn, of Texas, to state a question involving, to his belief, both personal privilege and the privilege of the House. He commenced his remarks, by noting:

> Mr. Speaker, on the 3d day of January 1957, by House Resolution No. 5—Congressional Record, page 47—the House adopted, as the rules of the House of Representatives for the 85th Congress, the rules of the 84th Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended.
>
> Subsection 25(a) of rude XI[9] of the rules of the House expressly provides:
>
> > The rules of the House are the rules of its committees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees. Committees may adopt additional rules not inconsistent therewith.
>
> Subsection 25(c) of the same rule, XI,[10] provides:
>
> > All committee hearings, records, data, charts, and files shall be kept separate and distinct from the Congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access to such records. Each committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee.

Mr. Hoffman proceeded to explain that he was a member of the Committee on Government Operations as well as an ex-officio member of its Subcommittee on Public Works and Resources. Staff members of the full committee assigned to him, as ranking minority member, had been permitted to look at the files. However, he elaborated,

> . . . [W]hen they attempted to make copies through the use of a Thermo-Fax copying machine, of pertinent parts of those files, they were by the subcommittee staff denied the right and privilege of so doing.

Mr. Hoffman's statement proceeded at length, after which the following[11] exchange and resultant ruling took place:

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8. 103 CONG. REC. 14737, 14738, 85th Cong. 1st Sess.

9. By 1973, the language of this provision was slightly modified and contained within another clause; see Rule XI clause 27(a), *House Rules and Manual* § 735(a) (1973).

10. In 1973, the same language was contained within another clause; see Rule XI clause 27(c), *House Rules and Manual* § 735(c) (1973).

11. 103 CONG. REC. 14739, 85th Cong. 1st Sess.

Access to or use of particular information or documents is in some instances governed in strict detail under the rules. Rule XLVIII, adopt-

THE SPEAKER: . . . The matter the gentleman read from states that all committee hearings, records, data, charts, and files shall be kept separate and distinct from the Congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access to such records.

I think that is what the gentleman was talking about.

MR. HOFFMAN: That is just what I was talking about, and I want access. When access is given, with it goes the power to use it to not only look but make notes, take copies, understand what is at hand, what is to be determined. . . .

THE SPEAKER: The question of copying and the question of photostating is another matter. That is not provided in this section of the rule.

MR. HOFFMAN: So "access" means I can go and take a look but I cannot use modern means of copying. How do you like that?

How do you like that? Is that orderly, fair procedure?

THE SPEAKER: If a question like that came up in the House the Chair would certainly rule that the gentleman could not bring a machine in here and copy things around the desk.

The Chair does not believe the gentleman has stated a question that violates the rules of the House.

ed July 14, 1977 (H. Res. 658, 95th Cong. 1st Sess.), established the permanent Select Committee on Intelligence and carefully delineated the conditions governing access to information and documents within its purview.

§ 19. Disposition of Committee Documents, Evidence, and Files

After Adjournment

§ 19.1 All documents referred to a committee, together with evidence taken by the committee, must under House rules be delivered to the Clerk of the House within three days after the final adjournment of Congress.

Shortly before the adjournment of the 78th Congress on Dec. 16, 1944,[12] Mr. Joseph W. Martin, Jr., of Massachusetts, expressed concern over the disposition of the information accumulated by the so-called Dies committee; this committee, barring congressional action, was due to expire on Jan. 3, 1945. Formally known as the Special Committee on Un-American Activities, it had been created in the previous decade to investigate subversive activities and was continued annually by House resolution.

MR. MARTIN of Massachusetts: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[13] The gentleman will state it.

MR. MARTIN of Massachusetts: Mr. Speaker, on January 3, unless the

12. 90 CONG. REC. 9621, 78th Cong. 2d Sess.

13. Sam Rayburn (Tex.).

House takes some other action, the so-called Dies committee will expire. There is a growing concern all over the country that the papers and information that the committee has gathered during its years of investigation shall be adequately protected and that they shall be available for public use. My inquiry is, What is the procedure by which these papers will be disposed of if the life of this committee is not renewed?

THE SPEAKER: The Chair will read rule XXXVII:

> Clerks of the several committees of the House shall, within 3 days after the final adjournment of a Congress, deliver to the Clerk of the House all bills, joint resolutions, petitions, and other papers referred to the committee, together with all evidence taken by such committee under the order of the House; and in the event of the failure or neglect of any clerk of a committee to comply with this rule the Clerk of the House shall, within 3 days thereafter, take into his keeping all such papers and testimony.

The Chair would hold that under the rule just read the documents of the so-called Dies committee are in the control of that committee and the House until 3 days after the 3d day of January next.

MR. MARTIN of Massachusetts: That would permit the House, if it so desired, to make any arrangement that it might make when we return here on January 3?

THE SPEAKER: The gentleman is correct, and the Chair will assure the gentleman and the House that nothing but that will happen between now and the 3d of January.

MR. MARTIN of Massachusetts: I thank the Speaker.

Where Term of Special Committee Expires

§ 19.2 Unless otherwise provided by order of the House, when the term of a special investigating committee expires, its records are delivered to the Clerk of the House and not to a newly elected standing committee created for the same purpose as the special committee.

On Jan. 3, 1945,[14] the House having under consideration a resolution (H. Res. 5), providing that the rules of the 78th Congress be adopted as the rules of the 79th Congress, Mr. John E. Rankin, of Mississippi, offered an amendment to the resolution providing for the creation of a permanent standing committee, to be known as the Committee on Un-American Activities. As Mr. Rankin explained:

> Mr. Speaker, the object of this amendment is to extend the life of the Committee on Un-American Activities, usually referred to as the Dies committee, and to make it one of the standing committees of the House. . . .
>
> . . . I submit it is no time to destroy the records of that committee, it is no time to relax our vigilance. We should carry on in the regular way and keep

14. 91 CONG. REC. 10, 79th Cong. 1st Sess.

this committee intact, and above all things, save those records.

The term of the Dies committee, whose formal name was the Special Committee on Un-American Activities, did not extend into the 79th Congress. Much concern was voiced by several Members regarding the prospective treatment of that committee's records and files. After the previous question was ordered on the Rankin amendment,[15] Mr. Francis H. Case, of South Dakota, initiated the following exchange with the Chair in the course of a parliamentary inquiry:

. . . What is the status of the records of the Dies committee at the present time and what will be their status if this amendment should be adopted?

THE SPEAKER:[16] This amendment does not change the status of the papers of the Dies committee at all, unless further action of the House is taken. For the information of the House the Chair will read two rules.

First:

RULE XXXVII[17]

PAPERS

The clerks of the several committees of the House shall, within 3 days after the final adjournment of a Congress, deliver to the Clerk of the House all bills, joint resolutions, petitions, and other papers referred to the committee, together with all evidence taken by such committee under the order of the House during the said Congress and not reported to the House; and in the event of the failure or neglect of any clerk of a committee to comply with this rule the Clerk of the House shall, within 3 days thereafter, take into his keeping all such papers and testimony.

Also:

RULE XXXVIII[18]

WITHDRAWAL OF PAPERS

No memorial or other paper presented to the House shall be withdrawn from its files without its leave, and if withdrawn therefrom certified copies thereof shall be left in the office of the Clerk; but when an act may pass for the settlement of a claim, the Clerk is authorized to transmit to the officer in charge with the settlement thereof the papers on file in his office relating to such claim, or may loan temporarily to an officer or bureau of the executive departments any papers on file in his office relating to any matter pending before such office or bureau, taking proper receipt therefor.

Those are the rules of the House. The law provides in title II, United States Code, section 147,[19] as follows:

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15. 91 CONG. REC. 14, 79th Cong. 1st Sess.

16. Sam Rayburn (Tex.).

17. Though the language remains unchanged, this rule has been renumbered; see Rule XXXVI clause 1, *House Rules and Manual* § 932 (1979).

18. Though the language remains unchanged, this rule has been renumbered; see Rule XXXVII, *House Rules and Manual* § 933 (1979).

19. Section 147 of title II of the United States Code was repealed on Oct. 25, 1951. The present procedure, as gov-

The Clerk of the House of Representatives is authorized and directed to deliver to the Librarian of Congress all bound volumes of original papers, general petitions, printed matter, books, and manuscripts. . . .

The majority leader of the House, with the minority leader and myself, held a conference about these papers and it was decided that they would remain in the committee until today, and be transferred as the rules and law provide unless the House should take further action. So far as the preservation of the papers is concerned, they are in the custody of the Clerk of the House. The Clerk of the House is a sworn officer and he knows his duty.

Transfer of Records Between Select and Standing Committees

§ 19.3 The House adopted a resolution providing that the records and files of a select committee be held intact and turned over to a newly created standing committee with similar jurisdiction.

On Jan. 4, 1945,[20] Mr. John E. Rankin, of Mississippi, sought unanimous consent for the immediate consideration of the following resolution (H. Res. 46):

Resolved, That the records and files of the former Committee on Un-American Activities[1] be held intact in the rooms formerly occupied by the said Committee on Un-American Activities and turned over to the newly created Committee on Un-American Activities.

Reserving the right to object, Mr. John J. Cochran, of Missouri, was concerned with whether the proposed resolution might be violative of the duties imposed by statute[2] on the Clerk of the House. The following exchange ensued:

MR. COCHRAN: . . . [W]hile I have absolutely no objection, I want to ask the gentleman from Mississippi [Mr. Rankin] whether he has carefully read the statutes, not the Rules of the House, to see if this is in any way in conflict with the statute.

MR. RANKIN: It is not in conflict with the statute.

MR. COCHRAN: Is the gentleman sure of that?

erned by 44 USC §§ 2104, 2114, directs the Clerk to forward committee records to the General Services Administration for preservation, unless otherwise ordered by the House. See § 19.4. infra, for an instance in which the House authorized making available for use certain records at the National Archives.

20. 91 CONG. REC. 35, 79th Cong. 1st Sess.

1. This was the Special Committee on Un-American Activities, also known by the name of its chairman as the Dies committee.

2. Under the Printing and Binding Act (Act of Jan. 12, 1895, ch. 23, 28 Stat. 601) records and files of former committees were sent by the Clerk to the Library of Congress. Under 44 USC § 2114, the Clerk would now transfer such material to the General Services Administration in the absence of any other directive from the House.

MR. RANKIN: Well, I have not read all the statutes of the United States, but I have read the statute and the rules concerning this proposition. This is within the power of the Congress, and it is the duty of the Congress. As far as that is concerned, it is a privileged resolution.

MR. COCHRAN: The statute provides that the Clerk of the House shall place in the Library of Congress certain files.

MR. RANKIN: I understand; but that is in the absence of any action by the House of Representatives. If this action is taken it will amount to a mandate that will be carried out.

MR. COCHRAN: Mr. Speaker, I withdraw my reservation of objection.

There being no objection, the resolution was considered and agreed to, shortly thereafter.

Making Available Certain Records at the National Archives

§ 19.4 In the 83d Congress, the House agreed to a resolution authorizing the Clerk of the House to permit the Administrator of General Services to make available for use certain records of the House in the National Archives.

On June 16, 1953,[3] by direction of the Committee on Rules, Mr. Karl M. LeCompte, of Iowa, offered the following privileged resolution (H. Res. 288), and asked for its immediate consideration:

Resolved, That the Clerk of the House is authorized to permit the Administrator of General Services to make available for use—

(1) any records of the House of Representatives, transferred to the National Archives, which have been in existence for not less than 50 years, except when he determines that the use of such records would be detrimental to the public interest; and

(2) any records of the House of Representatives, transferred to the National Archives, which have previously been made public.

Sec. 2. Such permission may continue so long as it is consistent with the rights and privileges of the House of Representatives.

Immediately thereafter, the resolution was agreed to.

Parliamentarian's Note: This resolution, though never enacted into permanent law, has served as guidance to the Clerk in subsequent Congresses to permit access to noncurrent papers in the Archives. Papers not 50 years old can only be retrieved by action of committees for committee use or by order of the House.

Transfer of Evidence to Department of Justice

§ 19.5 The House agreed to a resolution authorizing and directing the Committee on

3. 99 CONG. REC. 6641, 83d Cong. 1st Sess.

Un-American Activities, upon the request of the Department of Justice, to transfer to the latter's custody certain strips of film and metal containers to be presented as evidence in a criminal proceeding. The material had been obtained by the committee in the course of an investigation.

On May 10, 1949,[4] Mr. John S. Wood, of Georgia, called up and asked unanimous consent for the immediate consideration of the following resolution (H. Res. 209):

> *Resolved,* That the Committee on Un-American Activities is authorized and directed, upon requisition of the Department of Justice, to transfer to its custody for presentation as evidence in the Government case, *United States* v. *Alger Hiss,* five strips of 35-millimeter film and three metal containers uncovered by said committee during the Eightieth Congress, such film commonly known as the "pumpkin film."

Shortly thereafter, the resolution was agreed to.

4. 95 Cong. Rec. 5978, 81st Cong. 1st Sess.

§ 20. Disclosure of Unreported Committee Proceedings

Disclosure in Debate

§ 20.1 It has been held not in order in debate to refer to the proceedings of a committee [or of its subcommittee(s)] unless the committee has formally reported its proceedings to the House.

On June 24, 1958,[5] under previous order of the House, Speaker Sam Rayburn, of Texas, recognized Mr. Thomas B. Curtis, of Missouri, for 60 minutes. Mr. Curtis discussed his reservations about certain hearings of the Subcommittee on Legislative Oversight of the Committee on Interstate and Foreign Commerce. The gravamen of his complaint was that the Subcommittee on Legislative Oversight, in public session, had raised the issues of (1) alleged preferential treatment to a named individual by two government agencies, and (2) alleged improper intervention by a named assistant to the President only to then take public testimony about the hospitality that was extended and accepted between the two individ-

5. 104 Cong. Rec. 12119–21, 85th Cong. 2d Sess.

uals without first establishing any evidence to prove the truthfulness of the allegations. Mr. Curtis believed that the action of the subcommittee was in violation of House rules.[6]

As the following exchange[7] indicates, Mr. Oren Harris, of Arkansas, Chairman of the parent committee, was of a contrary opinion and successfully challenged Mr. Curtis' right to discuss the as yet unreported subcommittee proceedings:

> MR. CURTIS of Missouri: . . . In these times of scandalmongering . . . I believe it is very important that persons in public life have a regard not only for the substance of things, but for appearances. . . .
>
> However, the issue I took the floor to discuss was the actions of this House subcommittee, which seems to me to be inexcusable. . . .
>
> . . . Not only is this subcommittee . . . not doing the job that needs to be done, it has brought the institution again . . . into disrepute by disregarding the rules of the House and permitting a committee of the House to be used as a forum in this fashion.
>
> MR. HARRIS: Mr. Speaker, I must object again and ask that those words be deleted.
>
> MR. CURTIS of Missouri: I would like to ask the gentleman before he does, just what language is he objecting to?
>
> MR. HARRIS: To the charge that this committee is violating the rules of the House.
>
> MR. CURTIS of Missouri: Well, I certainly do charge that and I think it is proper to charge such a thing if I have presented the evidence. How else are we going to present the case to the House?
>
> THE SPEAKER: There is a long line of decisions holding that attention cannot be called on the floor of the House to proceedings in committees without action by the committee. The Chair has just been reading a decision by Mr. Speaker Gillett and the decision is very positive on that point.[8]
>
> MR. CURTIS of Missouri: Mr. Speaker, in addressing myself to that, may I say I am unaware of such a rule and I would argue, if I may, in all propriety, that that rule, if it does exist, should be changed because how else will the House ever go into the functioning and actions of its committees?
>
> THE SPEAKER: That is not a question for the Chair to determine. That is a

6. Mr. Curtis was concerned with what were then clauses 25(m) and (o) of Rule XI which he had earlier quoted, in part [104 CONG. REC. 12120, 85th Cong. 2d Sess.], as follows: "If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—

"(m)(1) Receive such evidence or testimony in executive session; . . .

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

7. 104 CONG. REC. 12121, 12122, 85th Cong. 2d Sess.

8. See 8 Cannon's Precedents § 2491.

question for the House to change the rule.

MR. CURTIS of Missouri: Mr. Speaker, is it a rule or is it a ruling? If it is a ruling of the Chair, then it is appropriate for the Chair to consider it.

THE SPEAKER: The precedents of the House are what the Chair goes by in most instances. There are many precedents and this Chair finds that the precedents of the House usually make mighty good sense.

MR. CURTIS of Missouri: But the Chair can change a precedent. That is why I am trying to present this matter.

THE SPEAKER: If the Chair did not believe in the precedents of the House, then the Chair might be ready to do that, but this Chair is not disposed to overturn the precedents of the House which the Chair thinks are very clear.

MR. CURTIS of Missouri: Mr. Speaker, if the Speaker will allow me just one brief moment to point out the reason why I think this is a precedent which should be overruled in the light of a specific case that is before us, which I think very appropriately should be discussed on the floor of the House, and it is certainly better to discuss it on the floor of the House than in the newspapers.

THE SPEAKER: The Chair will ask the Clerk to read a part of the ruling by Mr. Speaker Gillett.[9]

The Clerk read as follows:

> The Speaker ruled: "The Chair has always supported that the main purpose of the rule forbidding the disclosure of what transpired in committees was to protect the membership of the committee so that discussions in the committee, where members were forming their opinions upon legislation, might be absolutely free and unembarrassed. Whereas, in this House men are making records, in a committee men ought to act with a consciousness that their attitude would not be published, so that they could consult and discuss with perfect freedom and the committee would have the first as well as the final judgment of all the members of the committee without fear of seeming inconsistent. The Chair has always supposed that was the real purpose, and it is extremely important that the members of the committee should in its proceedings be mutually confidential. But the Chair in inspecting the decision finds that they go much further than that, and they hold not that simply what was said in the committee was confidential but that the records of the committee could not be quoted without the previous authorization of the committee."

MR. CURTIS of Missouri: Mr. Speaker, I have been directing my attention only to what has transpired in public hearings of this committee. As a matter of fact, the gravamen of the charge that I am making lies in the other House rule, the one that I cited on this particular subject, and not what should have been considered in executive session. This was disclosed and it is common knowledge that this has been published throughout the country in the newspapers.

THE SPEAKER: Those hearings have not been published by the House.

MR. CURTIS of Missouri: They are public hearings.

THE SPEAKER: They have not been reported to the House.

MR. CURTIS of Missouri: They have been made available to the public, Mr.

9. Cannon's Precedents § 2491.

Speaker, and the press has quoted them. Surely a Member of the House should have an equal privilege of discussing these matters which are so important to the House.

THE SPEAKER: Anywhere except on the floor of the House.

MR. CURTIS of Missouri: I would think, with all due respect to the Speaker, that the floor of the House is the fairest place to discuss them, because then those who take exception have an opportunity of answering, whereas if it is through a press release they have no opportunity of answering. I will abide by the ruling, of course.

THE SPEAKER: The Chair has made his ruling, and the Chair thinks it is correct.

Parliamentarian's Note: While it has consistently been held that it is not in order in debate to refer to the proceedings of a committee except as have been formally reported to the House (5 Hinds' Precedents §§ 5080–83, 8 Cannon's Precedents §§ 2269, 2485–93), those precedents do not all distinguish between committee meetings or hearings that were open to the public and those that were executive sessions. Clearly, transactions in executive sessions of committees cannot be revealed to the House in debate (8 Cannon's Precedents § 2493; Feb. 1, 1940, 86 CONG. REC. 954, 76th Cong. 3d Sess.); and there are some decisions (as indicated by § 20.1, infra) which purport to extend this principle to open meetings and hearings, although the Speaker has declined to enforce this principle on his own initiative absent a point of order on the floor (see § 20.2, infra). On Apr. 18, 1924 (8 Cannon's precedents § 2491) where the chairman of a committee attempted to quote from a committee's executive session minutes merely to show that the heavy legislative agenda of his committee should convince Members to vote against a pending motion to discharge his committee from further consideration of a bill, Speaker Gillette sustained a point of order against such a reference but indicated misgivings about the trend of the decisions. He indicated that it is "important for the House to know what transpired in the committee in order that the House could Judge better whether or not action should be taken. . . . If it was a new question the Chair would be strongly inclined to hold that it is in order. But the decisions are very conclusive, from 1884, to the reflect that the records of the committee are not available to comment in the House, and therefore the Chair under the precedents feels constrained to sustain the point of order."

The rationale for these earlier decisions was to protect the integrity and independence of com-

mittee proceedings to permit flexibility and the opportunity to compromise in committee deliberations. However, current rules governing committee procedure have a different emphasis. Clause 2(e)(1) of Rule XI as added by the Legislative Reorganization Act of 1970 (84 Stat. 1140) now requires each committee to make available for public inspection all rollcall votes taken in any committee session and a description of the amendment, motion, order, or other proposition and Members' votes thereon. That rule, coupled with the presumption in the 1970 Act that all committee meetings and hearings are to be open to the public and press unless they are closed by rollcall vote and the fact that open committee meeting and hearing transcripts are made, as a matter of course, available to Members, the press, and the public, even prior to the reporting of that matter to the House, mitigates against a strict adherence to some of the earlier decisions insofar as they apply to open meetings and hearings. See also Chapter 29, "Consideration and Debate" section 55, infra, for further precedents on this subject.

Another consistent line of precedent prevents reference in debate to committee actions which impugn the motives of committee members, whether or not by name (Feb. 11, 1941, 87 CONG. REC. 894, 77th Cong. 1st Sess.).

§ 20.2 Prior to the adoption of the Legislative Reorganization Act of 1970, it has been held that a Member may not use transcripts of open committee meetings in debate where the matter has not been reported to the House.

On July 28, 1939,[10] shortly after the House met, Speaker William B. Bankhead, of Alabama, recognized Mr. Chester H. Gross, of Pennsylvania, who proceeded to obtain unanimous consent to address the House for one minute. Mr. Gross then made the following statement:

> Mr. Speaker, as a member of the Committee on Labor of this House, I want the House to know that when the chairman of the committee, the gentlewoman from New Jersey [Mrs. Norton], yesterday thanked John L. Lewis for his fine contribution to the committee after he had made his vicious and uncalled for assault on that courageous American, Jack Garner, she was not speaking the sentiment of the committee. And I as one of the committee resent the statement of Mr. Lewis.

Immediately thereafter, Mr. Matthew A. Dunn, of Pennsylvania, similarly obtained unani-

10. 84 CONG. REC. 10352, 76th Cong. 1st Sess.

mous consent to address the House whereupon the following sequence of events took place:

MR. DUNN: Mr. Speaker, before the Labor Committee went into session yesterday a motion was made and carried that none of the Members should have the right or the privilege to interrogate any person who appeared before the committee. Three of the members of the committee voted against that motion, and I was one of the three. The gentleman from Pennsylvania [Mr. Gross] was one of those who voted for that motion.

MR. [JOSEPH W. MARTIN [Jr.] of Massachusetts: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MARTIN of Massachusetts: The gentleman from Pennsylvania cannot divulge what happened in the committee.

THE SPEAKER: The gentleman from Pennsylvania will suspend. The gentleman from Massachusetts [Mr. Martin] makes the point of order that the gentleman from Pennsylvania is undertaking to disclose the proceedings before a committee of the House on a matter which has not been reported by the committee to the House. The rules and precedents sustain the point of order made by the gentleman from Massachusetts, and the gentleman from Pennsylvania, under the rules, is not privileged to discuss matters which occurred before the committee.

MR. DUNN: Very well, Mr. Speaker. May I proceed?

THE SPEAKER: The gentleman may proceed in order, but he cannot disclose or interpret matters that occurred before the committee on measures that have not been reported to the House.

MR. DUNN: Did not the gentleman from Pennsylvania [Mr. Gross] do the same thing?

THE SPEAKER: The gentleman from Pennsylvania [Mr. Gross] did divulge matters which occurred before the committee, but no point of order was made, and, therefore, the Chair could not act on his own motion.

Disclosure of Proceedings to Support Point of Order

§ 20.3 A Member may refer to the printed proceedings of a public subcommittee meeting to justify his point of order that a resolution providing for a select committee to inquire into subcommittee actions was not privileged.

On June 30, 1958,[11] Speaker Sam Rayburn, of Texas, recognized Mr. Thomas B. Curtis, of Missouri, who stated that he rose to a question of the privilege of the House and immediately offered a resolution (H. Res. 610), which provided for the appointment of a special committee to investigate the possible violation of House rules[12] by the Sub-

11. 104 CONG. REC. 12690, 85th Cong. 2d Sess.

12. The gravamen of the complaint was that the subcommittee had failed to

committee on Legislative Oversight of the Committee on Interstate and Foreign Commerce. The Clerk read the resolution as follows:

Whereas on February 5, 1957, the House passed House Resolution 99 empowering its Committee on Interstate and Foreign Commerce to make investigations and studies into matters within its jurisdiction; and

Whereas the Committee on Interstate and Foreign Commerce created a subcommittee entitled Subcommittee on Legislative Oversight to carry out this mandate; and

Whereas House Rule XI 25(m) adopted March 23, 1955, reads as follows:

"If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—

"(1) receive such evidence or testimony in executive session;

"(2) afford such person an opportunity voluntarily to appear as a witness; and

"(3) receive and dispose of requests from such person to subpoena additional witnesses"; and

Whereas on June 10, 25, 26, and 27, 1958, the aforesaid subcommittee having been created and embarked upon its work, held public hearings wherein it received testimony which may have tended to defame, degrade, and incriminate a person and which tendency to defame, degrade, and incriminate might have been obvious to the subcommittee.

Whereas it is common knowledge that the newspapers, radio, television, and other media of public communication would, and did, widely disseminate the testimony adduced at these public hearings; and

Whereas many responsible citizens publicly have directed criticism against the actions of the subcommittee alleging that these actions violated the letter and the spirit of the rules of the House XI 25(m). That some of these criticisms state that on the face of the published record of the hearings of the subcommittee the alleged violations are willful and intentional; and

Whereas these alleged actions of the subcommittee and the public criticism of it affects the rights of the House collectively, its safety, dignity, and integrity of its proceedings: Now, be it

Resolved, That a special committee of three members be appointed by the Speaker of the House to inquire into this matter and determine, if indeed the premises of this resolution and the public criticisms as set out herein are true in fact, particularly whether this subcommittee did violate the rules of the House and whether in any instance the violation if so found was willful, and whether any other actions of the subcommittee which pertain to the carrying out of the words and intent of

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comport with the dictates of what was then Rule XI clause 25(m) [see Rule XI clause 27(m), *House Rules and Manual* § 735(m) (1973)]. This rule provided, in part, that if a committee determined that evidence or testimony at an investigative hearing would tend to defame, degrade, or incriminate any person, it should receive such evidence or testimony in executive session.

House Rule XI 25(m) and the purposes of House Resolution 99 were in violation of the rules and purposes of the House. That the special committee report back these findings to the House within 10 days along with any recommendations it may make for correction and other actions, which might include recommendations of approval or censure of the subcommittee, its members or employees, recommendations for changing the rules of the House of Representatives, recommendations for instructions to the Committee on Interstate and Foreign Commerce as to future procedure, recommendations for enlarging the life and scope of investigation and subject matter of this special committee.

Immediately after the Clerk read the resolution, Mr. Oren Harris, of Arkansas, raised a point of order against the resolution on the ground that it was not a privileged resolution. In the course of so doing, he began to discuss the record of the subcommittee:

A member of the committee, the gentleman from California [Mr. Moss] made a motion in executive session at that time to the effect that it did not come within the rule [requiring an executive session] and that the testimony of the witness, as he had presented it to us in a written statement, be taken in public session as paragraph (g) of the rule provides. That motion was voted on. Nine of the 11 members of the subcommittee were present, and there was not a dissenting vote. The motion was agreed to, and thereupon the subcommittee ended its executive session and proceeded to hear the witness in public.

At this juncture, the following[13] exchange and resultant ruling occurred:

MR. [TIMOTHY P.] SHEEHAN [of Illinois]: A point of order, Mr. Speaker.

THE SPEAKER: Well, there is one point of order pending.

MR. SHEEHAN: I am making a point of order on what he is talking about now. According to the ruling the Speaker gave to the gentleman from Missouri [Mr. Curtis] last week a Member could not speak in the House about anything that happened during a committee session until such time as the committee report was tendered to the House. And, as a result, he is out of order.

THE SPEAKER: Well, here is a question of privilege of the House being raised by the gentleman from Missouri [Mr. Curtis], and in order for the gentleman from Arkansas [Mr. Harris] to justify his point of order, he has got to discuss these matters. And, they are in the printed record.[14]

§ 21. Executive Sessions

Generally; Voting to Close a Meeting or Hearing

§ 21.1 The House adopted a resolution reported from the

13. 104 CONG. REC. 12690, 12691, 85th Cong. 2d Sess.

14. For a comparable situation involving the same issue but with respect to subcommittee reports that had not yet been printed see § 20.1, supra.

Committee on Rules (1) amending the rules to require that business meetings of standing committees and subcommittees (except on internal budget and personnel matters) shall be open to the public except when the committee in open session determines by roll call vote that all or part of the remainder of that meeting be closed, and permitting committee staff and authorized congressional and executive department staff to be present at closed meetings; and (2) further amending the rules to impose similar requirements for open hearings on all committees and subcommittees unless the committee closes the remainder of that hearing because matters to be considered would endanger national security or violate a law or rule of the House.

On Mar. 7, 1973,[15] the House adopted a resolution (H. Res. 272) providing for consideration, under an open rule, of House Resolution 259. Accordingly, the House resolved itself into the Committee of the Whole for the consideration of the resolution (H. Res. 259), to amend the rules of the House to strengthen the requirement that committee proceedings be held in open session.[16]

The resolution, as originally considered, read as follows:

> *Resolved*, That clause 26 (f) of rule XI [17] of the Rules of the House of Representatives is amended to read as follows:
>
> (f) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public: *Provided, however,* That no person other than members of the committee and such congressional staff as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by paragraphs (f)(2) and (g)(3) of clause 27 of this rule; or to any meeting that

15. 119 CONG. REC. 6700, 93d Cong. 1st Sess.

16. *Id.* at pp. 6706–20.

17. In the previous Congress, Rule XI clause 26(f) had [H. Jour. 1602, 92d Cong. 2d Sess. (1972)] read: "(f) Meetings for the transaction of business of each standing committee shall be open to the public except when the committee, by majority vote, determines otherwise. This paragraph does not apply to open committee hearings which are provided for by paragraphs (f)(2) and (g)(3) of clause 27 of this Rule."

relates solely to internal budget or personnel matters."

Sec. 2. Clause 27(f)(2) of rule XI[18] of the Rules of the House of Representatives is amended to read as follows:

"(2) Each hearing conducted by each committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives."

Sec. 3. The first sentence of clause 27(g) (3) of rule XI[19] of the Rules of the House of Representatives is amended to read as follows: "Hearings pursuant to subparagraph (1) of this paragraph, or any part thereof,[1] shall be held in open session, except when the committee, in open session and with a quorum present, determines by rollcall vote that the testimony to be taken at that hearing may be related to a matter of national security."

Several issues arose in the ensuing debate. Some Members took exception to the proviso in proposed Rule XI clause 26(f) which precluded all persons "other than members of the committee and such congressional staff as they may authorize" from being present "at any business or mark-up session which has been closed to the public." Others expressed reservations as to the "workability" of the requirement that a committee's decision to close a public meeting [26(f)] or a public hearing [26(f)(2)] be determined daily.

Although the debate entailed other considerations, the afore-

18. In the previous Congress, Rule XI clause 27(f)(2) had [H. Jour. 1603, 92d Cong. 2d Sess. (1972)] read: "(2) Each hearing conducted by each committee shall be open to the public except when the committee, by majority vote, determines otherwise."

19. In the previous Congress, the first sentence of Rule XI clause 27(g)(3) had [H. Jour. 1603, 92d Cong. 2d Sess.(1972)] read: "(3) Hearings pursuant to subparagraph (1) of this paragraph shall be held in open session, except when the committee determines that the testimony to be taken at that hearing may relate to a matter of national security."

1. The subparagraph referred to, Rule XI clause 27(g)(1) remained unchanged from the previous Congress and read [H. Jour. 1603, 92d Cong. 2d Sess. (1972)] as follows: "(g)(1) The Committee on Appropriations shall, within thirty days after the transmittal of the Budget to the Congress each year, hold hearings on the Budget as a whole with particular reference to—(A) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and (B) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts."

mentioned issues were the most extensively discussed, and each was contained in a proposed amendment. Mr. Samuel S. Stratton, of New York, proposed that clause 26(f) be amended to allow "departmental representatives" to be present at closed meetings with the committee's authorization,[2] and Mr. Richard H. Ichord, of Missouri, proposed that the words, "on that day" be struck from both parts of the resolution where they appeared.[3] Both the Stratton[4] and Ichord[5] amendments were agreed to by the Committee of the Whole and by the House.

The resolution, as amended, was agreed to in the House by a vote of 371–27.[6]

Parliamentarian's Note: This rule (Rule XI clauses 2(g) (1) and (2) in the 1979 *House Rules and Manual*) was amended on Jan. 14, 1975, to limit to one day (in the case of a committee meeting) or to one day plus one subsequent day (in the case of a hearing) the period during which a committee may close its session. These clauses were again amended on Jan. 4, 1977, to require that a majority (rather than a quorum) be present when a committee or subcommittee votes to close a meeting or hearing and to provide that a noncommittee member cannot be excluded from a hearing except by a vote of the House. In the 96th Congress, paragraph 2 was amended further to permit a majority of those present under the rules of the committee for the purpose of taking testimony (not less than two members as provided in clause 2(h)(1) of Rule XI) to vote to close a hearing either to discuss whether the testimony would endanger national security or would violate clause 2(k)(5) of Rule XI, or to proceed to close the hearing as provided by clause 2(k)(5).

Reporting of Bill From Improperly Convened Executive Session

§ 21.2 The Committee on Interstate and Foreign Commerce having ordered a bill reported in closed session without having voted by roll-call in open session to close the meeting (in violation of the rules), the chairman of the committee disclosed that

2. 119 Cong. Rec. 6714, 93d Cong. 1st Sess.
3. *Id.* at p. 6715.
4. *Id.* at p. 6715.
5. *Id.* at p. 6718.
6. *Id.* at p. 6720.

See §21.2, infra, for an instance in which a committee ordered a bill reported in closed session without having voted by roll call in open session to close that meeting.

fact during consideration of the bill in the Committee of the Whole.

On May 22, 1973,[7] the House resolved itself into the Committee of the Whole for the consideration of a bill (H.R. 7200), to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Interstate Commerce Act, among other purposes. The Clerk proceeded to read the title of the bill, and, by unanimous consent, the first reading was dispensed with.

Shortly thereafter, Chairman William J. Green, of Pennsylvania, recognized r. Harley O. Staggers, of West Virginia, and the following exchange took place:

> Mr. Chairman, I will not take very long on the bill.
>
> MR. [DANTE B.] FASCELL [of Florida]: Mr. Chairman, will the gentleman yield?
>
> MR. STAGGERS: I yield to the gentleman from Florida.
>
> MR. FASCELL: Mr. Chairman, thank the gentleman for yielding.
>
> I take this time to ask if I am not correct in my information that at the time the full committee considered the bill in executive session, it was a closed session, but a recorded vote to close the session was not taken.[8]
>
> MR. STAGGERS: That is correct.
>
> MR. FASCELL: I thank the gentleman for saying that.
>
> Mr. Chairman, let me say that the present rule which makes this bill in order does not waive points of order, and an issue could have been raised with respect to the consideration of this bill, which I certainly did not want to raise, but it would have put the committee in the awkward position, had the point of order been raised on consideration of the bill, of either going back to the Rules Committee and getting a rule which waived points of order or of going back to the committee and having another vote on the bill which had been marked up.
>
> I thank the chairman for yielding me this time to raise this issue, because I think it is important that in consideration of our bills we do not inadvertently violate the rules of the House with respect to the recorded vote on closed meetings.

Parliamentarian's Note: Mr. Fascell was an author of House

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7. 119 CONG. REC. 16521, 93d Cong. 1st Sess.

8. Mr. Fascell was concerned, here, with what appeared to be an inadvertent failure to follow clause 26(f) of Rule XI which read [Rule XI clause 2(g)(1) *House Rules and Manual* § 708 (1979)] in pertinent part: "(f) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting shall be closed to the public . . . ."

See also Rule XI clause 2(g)(2), *House Rules and Manual* § 708 (1979).

Resolution 259[9] which incorporated Rule XI clause 26(f) into the rules of the House. He had indicated he would raise a point of order against consideration of the bill when the motion was male to go into the Committee of the Whole,[10] but declined to do so after agreeing to make legislative history on the issue during general debate.

Committee Response to Press Allegation of Unauthorized Attendance at Executive Session

§ 21.3 A committee has adopted a resolution refuting a newspaper account to the effect that an unauthorized person had attended an executive session.

On Aug. 3, 1967,[11] Thaddeus J. Dulski, of New York, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to extend his remarks in the Record. The opportunity was utilized to respond to certain statements in the press regarding an executive session of the Subcommittee on Postal Rates. Accordingly, Mr. Dulski inserted the following resolution which was agreed to, unanimously, by the Committee on Post Office and Civil Service:[12]

> Whereas in the Washington Post on Sunday, July 23, 1967, in the column headed "The Federal Diary" by Jerry Klutz, there appeared the statement in connection with an article about a certain legislative consultant that "he walked out of Wednesday's closed session with subcommittee members.";
>
> Whereas this same allegation has appeared in other subsequent newspaper articles;
>
> Whereas such allegation is false; Now, therefore, be it
>
> *Resolved*, That the subcommittee in executive session does hereby declare that to the personal knowledge of the individual Members of the subcommittee, including the chairman of the full committee and ranking minority member, both of whom were in attendance throughout the course of the executive session, and in the personal knowledge of the Staff Director and other staff present, and based upon the official records kept by the subcommittee, neither the legislative consultant in question nor any other person except members and authorized committee staff personnel was in the committee room or participated in the subcommittee executive session on the date specified or on any other date during which the subcommittee met in executive session.

9. 119 Cong. Rec. 6720, 93d Cong. 1st Sess., Mar. 7, 1973.
10. *Id.* at p. 16521.
11. 113 Cong. Rec. 21179, 90th Cong. 1st Sess.
12. *Id.* at p. 21180.

§ 22. —Use of Information Obtained in Executive Session

Insertion In Record of Executive Session Minutes

§ 22.1 Instance where a Member inserted in the Record a transcript from the minutes of an executive session of the Committee on House Administration, indicating the votes of members of that committee (including proxies) on amendments to a resolution providing funds for the Committee on Internal Security.

On Apr. 29, 1971,[13] by direction of the Committee on House Administration, Mr. Frank Thompson, of New Jersey, called up a funding resolution (H. Res. 274), for the Committee on Internal Security and asked for its immediate consideration. The resolution limited the committee's funding to $670,000 but was reported with a committee amendment[14] striking the latter figure and inserting the sum of "$450,000".

This amendment had been agreed to by the Committee on House Administration following the rejection of an amendment to the amendment which called for a figure of $570,000. The latter amount was rejected by a one-vote margin on a record vote in which five proxy votes were cast.

In the course of the House's consideration of House Resolution 274, Mr. James C. Cleveland, of New Hampshire, sought to draw attention to the use of proxy votes[15] in this instance by inserting in the Record an account of the committee proceedings with respect to the amendments. The following[16] exchange resulted:

> MR. CLEVELAND: . . . Am I correct in saying that this particular result that we have on the floor of the House, and for which the chairman has expressed some regret, would never have occurred if there had not been proxy

13. 117 CONG. REC. 12483, 92d Cong. 1st Sess.

14. *Id.* at p. 12484.

15. Proxy voting is expressly permissible under the rules which provide [see Rule XI clause 27(e), *House Rules and Manual* § 735(e) (1973)] in pertinent part: "No vote by any member of any committee with respect to any measure or matter may be cast by proxy unless such committee, by written rule adopted by the committee, permits voting by proxy and requires that the proxy authorization shall be in writing, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto."

16. 117 CONG. REC. 12488, 12489, 92d Cong. 1st Sess.

votes? It is an example of why I oppose proxy voting. Were they not decisive in the vote that resulted in the cut that has been characterized here as too drastic?

MR. [WILLIAM L.] DICKINSON [of Alabama]: As the gentleman knows, that was the deciding factor, the proxy vote, because most of us were there and voting.

MR. CLEVELAND: Thank you. For the information of the Members an account of the committee action and the deciding role of the proxies may be of interest, as follows:

COMMITTEE VOTE

After considerable discussion Mr. Podell offered a motion to strike out the entire amount requested. Mr. Devine then offered a motion to table Mr. Podell's amendment. Mr. Abbitt seconded the motion. On a voice vote the motion carried.

Mr. Podell then offered a motion to reduce the amount to $450,000.

Mr. Dickinson then offered a motion to amend the Podell proposal to read $570,000. Mr. Gray seconded the motion. This motion failed to carry on a record vote, 9 ayes to 10 nays.

The next vote was on Mr. Podell's motion to cut the amount to $450,000. On a roll call vote there were 11 ayes and 7 nays.

The Committee then agreed to the amended ($450,000) resolution by voice vote.

AMENDMENT BY MR. DICKINSON TO REDUCE AMOUNT TO $570,000

Hays: Aye (Proxy).
Thompson: Nay.
Abbitt: Aye.
Dent: Nay (Proxy).
Brademas: Nay (Proxy).
Gray: Aye.
Hawkins: Nay (Proxy).
Gettys: Aye.
Bingham: Nay (Proxy).
Podell: Nay.
Annunzio: Nay.
Mollohan: Nay.
(4 ayes, 8 nays.)
Devine: Aye.
Dickinson: Aye.
Cleveland: Aye.
Schwengel: Nay.
Harvey: Aye.
Veysey: Aye.
Frenz 1: Nay.
(5 ayes, 2 nays.)

AMENDMENT BY MR. PODELL TO REDUCE AMOUNT TO $450,000

Thompson: Aye.
Abbitt: Nay.
Dent: Aye (Proxy).
Brademas: Aye (Proxy).
Gray: Aye.
Hawkins: Aye (Proxy).
Gettys: Nay.
Bingham: Aye (Proxy).
Podell: Aye.
Annunzio: Aye.
Mollohan: Aye.
(9 ayes, 2 nays.)
Devine: Nay.
Dickinson: Nay.
Cleveland: Nay.
Schwengel: Aye.
Harvey: Nay.
Veysey: Nay.
Frenzel: Aye.
(2 ayes, 5 nays.)

Disclosure of Evidence Taken in Executive Session

§ 22.2 Evidence taken in an executive session of a committee may later be made public by vote of the committee.

On Apr. 26, 1972,[17] Speaker Carl Albert, of Oklahoma, recognized F. Edward Hebert, of Louisiana, Chairman of the Committee on Armed Services, who called up a privileged resolution (H. Res. 918), and asked for its immediate consideration. The resolution directed the President and the Secretary of Defense to furnish the House of Representatives, within 10 days after the adoption of the resolution "full and complete information" concerning the specifics of various military operations in Southeast Asia.

As Mr. Hébert explained,[18]

> Mr. Speaker, the Committee on Armed Services spent an entire day in acting on the subject matter of the resolution sponsored by the gentlewoman from New York.
>
> The committee began its hearings in open session at 10 a.m. on April 18 and finally, after a number of interruptions, including a break for lunch concluded its hearings in executive session at 5:17 p.m.

Mr. Hébert proceeded to discuss the committee's vote on the measure, among other matters, after which he yielded 10 minutes' time to Ms. Bella Abzug, of New York, sponsor of the resolution of inquiry. At the conclusion of her remarks and pursuant to the requisite committee approval,[19] Ms. Abzug inserted[1] the text of the hearings, including that of an executive session,[2] in the Record. As she explained in so doing,[3] however, certain deletions[4] were required to be made in the text of the executive session.[5]

§ 22.3 Evidence or testimony taken in executive session, because of a committee determination that it may tend to degrade, defame, or incriminate, does not, in every

17. 118 Cong. Rec. 14348, 92d Cong. 2d Sess.

18. *Id.* at p. 14349.

19. Since the text of the hearings on this resolution included an executive session, Ms. Abzug was obliged to obtain prior approval from the committee before inserting the text in the Record in accordance with the rules [see Rule XI clause 27(o), *House Rules and Manual* § 735(o) (1973)] which provide that: "No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee."

1. 118 Cong. Rec. 14352, 92d Cong. 2d Sess.

2. *Id.* at pp. 14372–77.

3. *Id.* at p. 14352.

4. All deletions were of classified material as the text of that session [*id.* at p. 14376] reveals. The record of the executive session had been routinely released by the committee after classified portions of the testimony had been deleted.

5. See also § 22.3, infra.

case, remain forever under the restrictions imposed by the "executive session" label; a committee has the right to make such information public at a later time and may, by vote of the committee, do so.

On Apr. 5, 1967,[6] the House entertained consideration of privileged resolution (H. Res. 221), authorizing the expenditure of certain funds for the expenses of the Committee on Un-American Activities.

In the course of the ensuing debate, Mr. Sidney R. Yates, of Illinois, addressed a series of parliamentary inquiries to Speaker John W. McCormack, of Massachusetts. One of those inquiries prompted the following exchange

MR. YATES: Mr. Speaker, Rule XI, 26 (m) of the Rules of the House of Representatives[7] states as follows:

> If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall—
>
> (1) receive such evidence or testimony in executive session;

Mr. Speaker, my question is this: If the committee determines that the evidence it is about to receive may tend to defame, degrade or incriminate a witness, is it not compulsory under the Rules of the House for the Committee to hold such hearings in executive session?

THE SPEAKER: The Chair will state that that is a matter which would be in the control of the committee for committee action.

MR. YATES: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. YATES: I must say that I do not understand the ruling. Is the Chair ruling that a committee can waive this rule? That it can refuse to recognize this rule?

THE SPEAKER: The Chair would not want to pass upon a general parliamentary inquiry, as distinguished from a particular one with facts, but the Chair is of the opinion that if the committee voted to make public the testimony taken in executive session, it is not in violation of the rule, and certainly that would be a committee matter.[8]

Reference to Executive Session Testimony Without Quotation

§ 22.4 While it is not in order in debate for a Member to make unauthorized reference to the proceedings of an executive session of a com-

6. 113 CONG. REC. 8420, 90th Cong. 1st Sess.

7. See Rule XI clause 27(m), *House Rules and Manual* § 735 (m) (1973) .

8. For an instance in which a committee [the Committee on Armed Services] elected to make public certain information which it had obtained in the course of an executive session, see § 22.2. supra.

mittee, the Chair has permitted a Member to discuss certain matters "on his own responsibility" where the Member has informed the Chair that he did not purport to quote from committee proceedings in executive session but was only referring to events or statements which occurred outside of or independently of such session.

On Feb. 1, 1940,[9] Speaker pro tempore R. Ewing Thomason, of Texas, recognized Mr. Frank E. Hook, of Michigan, who requested unanimous consent to withdraw certain remarks he had made on Jan. 23, 1940, with respect to a group of letters, known as the "Pelly letters." Under reservation of objection, the matter was briefly discussed and ultimately objected to by Mr. Frank B. Keefe, of Wisconsin.

A short while later, Mr. Keefe, having obtained unanimous consent to speak for 10 minutes, proceeded to discuss the authenticity of the letters, which he stated were written by another individual, named Mayne. In the course of these remarks[10] he stated:

> The Dies committee, despite the innuendoes to the contrary, have been pretty careful about this thing, so they have brought before the committee the typewriter of Mr. Mayne and had these letters examined by comparison with the typewriter of Mr. Mayne, which they subpenaed. This afternoon, before the Dies committee, Mr. Charles Appel, special agent in charge of laboratories of the Department of Justice——

At this juncture, the following exchange took place:

> MR. HOOK: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: Does the gentleman yield for a parliamentary inquiry?
>
> MR. KEEFE: I do not.
>
> MR. HOOK: A point of order, Mr. Speaker.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.
>
> MR. HOOK: The gentleman is quoting testimony taken before an executive meeting. The point of order is that this is out of order and the gentleman has no right to quote testimony taken in an executive meeting of a committee.
>
> THE SPEAKER PRO TEMPORE: If the gentleman from Wisconsin purports to discuss the executive proceedings of a committee it will not be in order.
>
> MR. KEEFE: I am not discussing the executive proceedings. . . .
>
> MR. HOOK: He has referred to the testimony.
>
> MR. KEEFE: I am quoting on my own responsibility.
>
> THE SPEAKER PRO TEMPORE: Does the gentleman purport to quote the proceedings of a committee in executive session?

9. 86 CONG. REC. 952, 76th Cong. 3d Sess.

10. *Id.* at p. 954.

MR. KEEFE: No.

THE SPEAKER PRO TEMPORE: If that is what the gentleman undertakes to do, the point of order will be sustained.

MR. HOOK: Mr. Speaker, a point of order. I will have to ask, then, that the remarks, if any, referring to the testimony taken in the executive meeting be stricken.

THE SPEAKER PRO TEMPORE: All the Chair knows is that the gentleman says he is not purporting to quote the proceedings of an executive session of a committee of this House. If that be true, the point of order is overruled.

Reference in Debate to Minutes of Executive Session

§ 22.5 It has been held not in order in debate in the House to refer to or quote from the minutes of an executive session of a committee, unless the committee has voted to make such proceedings public.

On Apr. 5, 1967,[11] debate ensued over a resolution (H. Res. 364), providing for payment from the contingent fund of certain expenses incurred by the Committee on Science and Astronautics pursuant to a previous resolution (H. Res. 312). In the course of that debate, differences of opinion were voiced as to the committee's need for two minority staff positions.

Referring to an earlier debate about staffing which had taken place among the members of that committee during one of its meetings, Mr. Joe D. Waggonner, Jr., of Louisiana, noted that:[12]

> We entered into a discussion regarding the question of minority staff, and during the course of the discussion the gentleman from Texas [Mr. Teague] was recognized by Chairman Miller. Mr. Teague posed this question:
>
> Mr. Chairman, I would like to ask whether anyone on the committee on either side, has asked the staff for something they did not get and get it in the form they wanted it.
>
> Mr. Wydler, minority member, replied—and I think this is the point he wanted to clarify in asking me to yield earlier—in this manner:
>
> MR. WYDLER: I would answer by saying they get it. That is not the purpose of a minority staff. The purpose of a minority staff is really that they are present, operating within the confines of the committee on a daily basis, to keep the minority membership informed what is coming up, what is happening, and what is going to happen in the future, to do advanced thinking on some of these problems, and give us on the minority some idea of those things the minority should be rightfully looking into.

At this point, Mr. John W. Wydler, of New York, immediately raised a point of order with Speaker John W. McCormack, of Massachusetts. The following exchange ensued:

> MR. WYDLER: Mr. Speaker, is it proper to read from the minutes of an

11. 113 CONG. REC. 8410, 90th Cong. 1st Sess.

12. *Id.* at pp. 8411, 8412.

executive committee meeting of a committee of the House of Representatives on the floor of the House?

THE SPEAKER: The Chair would like to inquire of either the gentleman from Louisiana or the gentleman from Texas whether the gentleman from Louisiana is reading from the executive session record?

MR. WAGGONNER: Mr. Speaker, are you addressing the inquiry to me or to the gentleman from Texas?

THE SPEAKER: Either one may answer. . . .

MR. [OLIN E.] TEAGUE of Texas: Mr. Speaker, it is my remembrance that what he is quoting was what took place at an executive session.

THE SPEAKER: The Chair would like to make the further inquiry as to whether or not the members in the executive session voted to make public what took place in the executive session?

MR. TEAGUE of Texas: It is my memory that we did not vote on that and it was not discussed.

THE SPEAKER: The Chair would suggest to the gentleman from Louisiana that he refrain from referring to what took place in the executive session.

§ 23. Reporting Measure From Committee Requires Quorum

Quorum Consists of Majority of Members of Committee Who Must Be Actually Present

§ 23.1 No measure is to be reported from any committee unless a majority of the committee was actually present when the measure was ordered reported.

On May 11, 1950,[13] a resolution was withdrawn when a point of order was raised that the measure had been reported out of committee in the absence of a quorum. Mr. John E. Rankin, of Mississippi, then initiated the following exchange with Speaker pro tempore John W. McCormack, of Massachusetts:

Mr. Speaker, under the rules of the House and the rules of every committee, legislation is passed every day without a quorum being present, and unless that question is raised they cannot go into the courts and contest the legislation. The same thing applies to the committee. A ruling to the contrary would simply demoralize legislative procedure as far as the committees of this House are concerned.

THE SPEAKER PRO TEMPORE: The Chair calls the attention of the gentleman from Mississippi to paragraph (d) of section 133 of the Legislative Reorganization Act [of 1946], which reads as follows:

> No measure or recommendation shall be reported from any such committee unless a majority of the committee was actually present.[14]

Formal Meeting Requirement

§ 23.2 A standing committee cannot validly report a meas-

13. 96 CONG. REC. 6920, 81st Cong. 2d Sess.

14. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

ure under the rules unless the report was authorized at a formal meeting of the committee with a quorum present.

On Sept. 30, 1966,[15] Omar T. Burleson, of Texas, Chairman of the Committee on House Administration, submitted a privileged report (H. Rept. No. 2158), to accompany a resolution (H. Res. 1028), providing funds for his committee and asked for its immediate consideration. At this juncture, Mr. Jonathan B. Bingham, of New York, rose to a point of order against the resolution on the ground that a quorum of the committee was not present when the resolution was reported.

In the course of the ensuing discussion, the following exchange took place between Speaker John W. McCormack, of Massachusetts, and Mr. Burleson:

THE SPEAKER: . . . The Chair wants to ask the gentleman from Texas, the chairman of the committee, was a committee meeting called for the purpose of acting on this resolution? And, if so, was a quorum present?

MR. BURLESON: Mr. Speaker, I have explained in some detail the procedure used in this instance.[16] There was an agreement by a majority of the committee that the resolution may be presented.

THE SPEAKER: Was there a meeting? Did the committee meet? Was there a quorum present and voting and acting on it?

MR. BURLESON: Mr. Speaker, on infrequent occasions when we have resorted to this procedure as a matter of convenience and of expediting legislation, it has always been accepted as establishing a quorum. As far as I know this procedure has not been challenged. In this case a majority of the committee agreed to the resolution and I insist that a quorum was established and that the report is proper and that the resolution is privileged.

THE SPEAKER: The Chair is prepared to rule.

The Chair does not inquire into the procedure of a committee, in reporting a bill, unless a point of order as to the matter is raised and thus called to the attention of the Chair. Unless a Member makes a point of order, the Chair does not go into the question of committee procedure.

However, since the point of order has been raised, the Chair will point out that the provisions of clause 26(e), rule XI,[17] make it clear that no measure

15. 112 CONG. REC. 24548, 89th Cong. 2d Sess.

16. Mr. Burleson was referring to a practice which the committee employed on occasion in which a telephone poll of members would be conducted to verify committee approval. For further details, see § 25.1, infra.

17. At the time, Rule XI clause 26(e) [H. Jour. 1483, 89th Cong. 2d Sess. (1966)] stated: "No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present." This provision is now part

can be reported from a committee unless a majority of the committee were actually present.

The chairman of the Committee on House Administration has stated that the resolution he now seeks to call up was not ordered reported at a formal meeting of the committee where a quorum was present.

Therefore, the Chair sustains the point of order made by the gentleman from New York [Mr. Bingham].

The report and resolution are recommitted to the Committee on House Administration.

Shortly thereafter, Mr. Burleson asked for the immediate consideration of House Resolution 1028 by unanimous consent. Mr. Bingham voicing objection, however, the bill continued as recommitted because of the invalid report.

Presumption of Quorum Upon Issuance of Report

§ 23.3 Unless a point of order is raised, the House assumes that reports from committees are authorized when a quorum of the committee was present.

On Sept. 30, 1966,[18] Omar T. Burleson, of Texas, Chairman of the Committee on House Administration, submitted a privileged report (H. Rept. No. 2158), to accompany a resolution (H. Res. 1028), providing funds for his committee and asked for its immediate consideration. Mr. Jonathan B. Bingham, of New York, then rose to make a point of order against the resolution on the ground that a committee quorum was not present when the resolution was reported. A discussion then ensued as to certain procedures undertaken by the committee with respect to measures of this kind.[19]

Prior to announcing his decision[20] with respect to the point of order, Speaker John W. McCormack, of Massachusetts, made the following observation:

The Chair does not inquire into the procedure of a committee, in reporting a bill, unless a point of order as to the matter is raised and thus called to the attention of the Chair. Unless a Member makes a point of order, the Chair does not go into the question of committee procedure.

Privileged Measure and Presence of Quorum

§ 23.4 Where the rules accord privileged status in the House to a measure reported from a particular committee,

of a different clause [Rule XI clause 2(l)(2)(A), House Rules and Manual § 713(C) (1979)].

18. 112 CONG. REC. 24548, 89th Cong. 2d Sess.

19. See § 25.1, infra, for details.

20. See §23.2, supra.

such status is retained only if the measure is reported when a quorum of such committee is present.

On May 11, 1950,[1] Speaker pro tempore John W. McCormack, of Massachusetts, recognized Mary T. Norton, of New Jersey, Chairwoman of the Committee on House Administration, who offered a privileged[2] resolution (H. Res. 495), providing for the payment of certain investigatory expenses from the contingent fund of the House. She asked for its immediate consideration. A point of order having been raised against consideration of the measure on the ground that a quorum was not present when the committee reported it out, Mrs. Norton withdrew the resolution.

Shortly thereafter, Mr. Thomas B. Stanley, of Virginia, asked the following series of parliamentary inquiries regarding the status of House Resolution 495:

> What is the status of the resolution now that has just been withdrawn?
>
> THE SPEAKER PRO TEMPORE: The gentlewoman from New Jersey has withdrawn the resolution. The matter is not before the House. Therefore, there is no question for the Chair to pass upon.
>
> MR. STANLEY: Could the resolution be properly presented to the House again without going back to the committee?
>
> THE SPEAKER PRO TEMPORE: Of course, it could be taken up by unanimous consent. In the event of its being presented again, a point of order could be raised; but the Chair would not express any opinion now on the point of order that might be raised at that time.
>
> MR. STANLEY: A further parliamentary inquiry, Mr. Speaker. Is this a privileged matter?
>
> THE SPEAKER PRO TEMPORE: If it is reported out of committee with a quorum present, it is a privileged matter.

Committee Reconsideration of Votes Taken in Absence of Quorum

§ 23.5 Where a committee votes to report several bills in the absence of a quorum and proceeds by omnibus motion to reconsider them en bloc with a quorum present, unless a point of order is raised in the committee at that time demanding the bills' separate consideration, such action is in accordance with the parliamentary procedures of the House.

1. 96 CONG. REC. 6920, 81st Cong. 2d Sess.
2. The Committee on House Administration has "leave to report at any time" on "all matters of expenditure of the contingent fund of the House;" see Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

On July 9, 1956,[3] Speaker Sam Rayburn, of Texas, recognized Mr. John L. McMillan, of South Carolina, who, by direction of the Committee on the District of Columbia (which he chaired), called up a bill (H.R. 4697), to amend the 1954 Alcoholic Beverage Control Act of the District of Columbia, and asked unanimous consent that the bill be considered in the House as in Committee of the Whole. Immediately thereafter, Mr. Albert P. Morano, of Connecticut, raised a point of order against consideration of the bill on the ground that a quorum was not present when the committee ordered the measure reported. This prompted some discussion and much confusion owing to the fact that Mr. McMillan, under the Chair's questioning, indicated that a quorum was not present when the bill was passed, while Mr. Howard W. Smith, of Virginia, who was also a member of the committee, recalled the presence of a quorum.

As the following exchange indicates, both gentlemen were correct:

> THE SPEAKER: . . . The gentleman from South Carolina said that when this bill was reported there was not a quorum present. Is the Chair quoting the gentleman from South Carolina correctly?
>
> MR. MCMILLAN: That is correct, Mr. Speaker.
>
> MR. SMITH of Virginia: . . . It is true, I believe, there was not a quorum present when any one of these bills was considered, but before the session adjourned a quorum did appear, and then a blanket motion was made to reconsider all of the bills that had previously been passed upon and to vote them out, which motion was carried. May I ask the chairman of the committee if that is a correct statement of what occurred?
>
> MR. MCMILLAN: That is correct.

These facts prompted Mr. Morano to initiate the ensuing exchange[4] with the Chair:

> MR. MORANO: There is obviously a contradiction here, Mr. Speaker. The chairman of the committee said there was not a quorum present when this bill was considered. The issue before the Speaker, as I understand it, is a ruling on this bill, not on other bills that were considered en bloc.
>
> THE SPEAKER: That is correct, but the gentleman from South Carolina said that on the last action on the bill in the committee a quorum was present.
>
> The Chair under the circumstances must overrule the point of order made by the gentleman from Connecticut.

Although a point of order based on other considerations[5] was subsequently sustained against

3. 102 CONG. REC. 12199, 84th Cong. 2d Sess.

4. *Id.* at pp. 12199, 12200.

5. The committee reported the bill while the House was in session without having received permission to sit.

Mr. McMillan's motion, the Chair's initial ruling provoked several parliamentary inquiries, including the following question raised by Mr. John Taber, of New York:

> Mr. Speaker, is it proper to consider by a single vote a reconsideration of the votes by which several bills have been reported, and then make a single omnibus motion by which all those bills that have been so reconsidered would be reported?
>
> THE SPEAKER: If, as seems to be true in this instance, no point of order was made, then the action of the committee is presumed to have been in accordance with parliamentary procedure of the House of Representatives.

Waiver of Committee Quorum Requirement

§ 23.6 The House rejected a resolution, reported from the Committee on Rules, providing for the consideration of a bill improperly voted on and reported by the Committee on Post Office and Civil Service.

On July 23, 1973,[6] by direction of the Committee on Rules, Mr. Claude D. Pepper, of Florida, called up House Resolution 495 and asked for its immediate consideration. The measure provided that upon the adoption of the resolution, it would be in order to move, "clause 27(e), Rule XI[7] to the contrary, notwithstanding," that the House resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 8929), affecting certain postal rates.

As the discussion proceeded, Mr. Pepper sought to explain the origin of the waiver provision, resulting in the following[8] exchange:

> MR. PEPPER: Mr. Speaker, House Resolution 495 provides for an open rule with 2 hours of general debate on H.R. 8929, a bill to provide relief from postal rate increases for certain mailers.
>
> House Resolution 495 provides that the provisions of clause 27(e), rule XI of the Rules of the House of Representatives are waived.
>
> I will state to my able friend from Iowa, whose inquiry I anticipate, if I may, that the occasion for this request for a waiver by the Committee on Rules is this: The committee [the Committee on Post Office and Civil Service] had before it H.R. 7554. The committee, on the 21st of June, I believe it was, voted, with a quorum present, by

6. 119 CONG. REC. 25476, 93d Cong. 1st Sess.

7. This clause provides [Rule XI clause 27(e), *House Rules and Manual* § 735(e) (1973)] that: "No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present."

8. 119 CONG. REC. 25477, 25478, 93d Cong. 1st Sess.

a record vote of 33 to 10, to report out the committee bill, H.R. 7554, with amendments. The bill and the amendments were voted favorably by the committee.

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Speaker, will the gentleman yield?

MR. PEPPER: I yield to the gentleman from Illinois.

MR. DERWINSKI: The gentleman said the vote was 33 to 10. It was 13 to 10.

MR. PEPPER: I am sorry. It was 13 to 10. I understand that there are 25 members of the committee, and 23 voted, and the vote to report out the bill was 13 to 10.

The committee [on Post Office and Civil Service] voted to report out a clean bill, which would embody H.R. 7554 and the amendments in a single clean bill.

On the day following that meeting of the committee there was introduced a clean bill, embodying exactly H.R. 7554 plus the amendments that had been voted upon favorably by the committee. There was not a subsequent meeting of the committee upon the clean bill. But the clean bill embodying what was voted upon exactly by the committee, as H.R. 8929, was reported out and presented to the Rules Committee. The situation was reported to the Rules Committee, and the Rules Committee voted to recommend consideration of the bill to the House, but recommended that there be a waiver of points of order so that any technicality which might arise out of that situation would be cured by the waiver of the rule, if the House adopted the waiver of the rule.

Following further discussion, the resolution was rejected[9] by a rollcall vote.

9. *Id.* at p. 25482.

§ 24. Point of Order Based on Lack of Committee Quorum—Timing

Effect of Failure to Raise in Committee

§ 24.1 Failure to raise a point of no quorum upon the taking of a committee vote to report a privileged resolution does not bar the subsequent raising of such a point of order when the measure is reported as privileged to the House.

On May 11, 1950,[10] Speaker pro tempore John W. McCormack, of Massachusetts, recognized Mary T. Norton, of New Jersey, Chairwoman of the Committee on House Administration, who, acting by direction of that committee, offered and asked for the immediate consideration of a privileged resolution (H. Res. 495), providing for the payment of certain investigatory expenses of the Committee on the District of Columbia. Immediately thereafter, Mr. Wayne L. Hays, of Ohio, made a point of order against the resolution on the ground that a quorum was not present when it was reported out of committee.

Before the Chair was able to conclusively determine whether or

10. 96 CONG. REC. 6920, 81st Cong. 2d Sess.

not a quorum had been present, Mr. John E. Rankin, of Mississippi, raised a point of order against the point of order, prompting the following exchange:

> MR. RANKIN: Mr. Speaker, a further point of order. This is a very serious proposition that really affects the orderly procedure of the House. I make the point of order that it is too late to raise a point of order that there was no quorum present in the committee unless that point of order was made in the committee.
>
> THE SPEAKER PRO TEMPORE: The Chair will state that the point of order can be made in the House when the report is made. A point of order that a quorum was not present when the resolution was reported out can be made when the resolution is reported to the House. For that reason the Chair rules that the gentleman from Ohio [Mr. Hays] is within his rights at this particular time in making the point of order that he has.

Against Resolution Providing for Consideration of Bill

§ 24.2 A point of order that a bill may not be reported from committee in the absence of a quorum is properly raised when the bill is called up for consideration—and such a point of order will not lie against a resolution providing for the consideration of the bill.

On Oct. 11, 1968,[11] by direction of the Committee on Rules, Mr. John A. Young, of Texas, called up House Resolution 1256 and asked for its immediate consideration. The resolution provided that upon its adoption, it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill (S. 2511), to maintain and improve the income of producers of crude pine gum, and for other purposes.

Immediately after the Clerk read the resolution, Speaker John W. McCormack, of Massachusetts, recognized Mr. Paul Findley, of Illinois, who raised the following point of order:

> Mr. Speaker, I make a point of order against the consideration of House Resolution 1256 on the grounds that the Committee on Agriculture acted without a quorum being present when it ordered S. 2511 reported to the House on July 2, 1968.
>
> Rule XI, clause 26(e), of the rules of the House[12] states as follows:
>
>> (e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.

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11. 114 CONG. REC. 30738, 90th Cong. 2d Sess.

12. Mr. Findley was referring to clause 27(e) [H. Jour. 1318, 90th Cong. 2d Sess. (1968)]; see Rule XI clause 2(1)(2)(A), *House Rules and Manual* § 713(c) (1979).

I have personally checked with the staff of the Committee on Agriculture and have been informed that on July 2, 1968, there were only 14 members of the committee present and that the vote to report S. 2511 to the House was 11 to 0 in favor of such action. Since the total membership of that committee is 35, there obviously was not a majority actually present as required by rule XI, clause 26(e).

Mr. Speaker, I raise the point of order at this time in order to have it presented to the Chair in a timely fashion. . . . [T]he Chair stated in a response to a parliamentary inquiry by the gentleman from Missouri [Mr. Hall] on Monday of this week—October 7, page 29764 that any point of order under rule XI, clause 26(e), would have to be made when the bill is called up.[13]

Since House Resolution 1256 is the rule which calls up S. 2511 for consideration in the Committee of the Whole House on the State of the Union, I therefore insist on my point of order at this time.

The Speaker replied, as follows:

The Chair states, in response to the inquiry of the gentleman from Illinois, that the point of order at this time would be premature.[14]

13. Note, however, that such a point of order would not lie where a bill was being considered under suspension of the rules; see § 24.8, infra.

14. Such a point of order will lie, however, pending a vote on a motion that the House resolve itself into the Committee of the Whole for the consideration of the bill; see § 24.4, infra.

Following Discharge of Committee of the Whole

§ 24.3 Following the discharge of the Committee of the Whole from further consideration of a bill, a Member was permitted, pending consideration of the bill, to make the point of order that the measure had been reported from committee in the absence of a quorum.

The following proceedings were reported in the House Journal of Oct. 11, 1968:[15]

On motion of Mr. [Thaddeus J.] Dulski [N.Y.], by unanimous consent, the Committee of the Whole House on the State of the Union was discharged from further consideration of the bill of the Senate (S. 1507) to include firefighters within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of Government employees engaged in certain hazardous occupations.

Pending consideration of said bill, Mr. [John M.] Ashbrook [Ohio], made a point of order against the bill and said:

"I make a point of order that report No. 1945 violates rule XI, clause 26, and that a quorum was not present when the bill was passed by the Post Office and Civil Service Committee."

The Speaker[16] sustained the point of order and said:

"The Chair sustains the point of order and the bill is recommitted to

15. H. Jour. 1292, 90th Cong. 2d Sess.

16. John W. McCormack (Mass.).

the Committee on Post Office and Civil Service."

The bill (S. 1507) was recommitted to the Committee on Post Office and Civil Service.

Pending Vote on Motion to Resolve Into Committee of the Whole

§ 24.4 A point of order that a bill was reported from committee in the absence of a quorum is in order pending a vote on the motion that the House resolve itself into the Committee of the Whole for the consideration of the bill.

On Oct. 11, 1968,[17] by direction of the Committee on Rules, Mr. John A. Young, of Texas, called up House Resolution 1256 and asked for its immediate consideration. The resolution provided that upon its adoption, it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill (S. 2511), to maintain and improve the income of producers of crude pine gum, and for other purposes.

Immediately after the Clerk read the resolution, Speaker John W. McCormack, of Massachusetts, recognized Mr. Paul Findley, of Illinois, who raised the point of order[18] that a quorum of the Committee on Agriculture was not present when that committee voted to report S. 2511 to the House.

The Speaker's reply was, as follows:

> The Chair states, in response to the inquiry of the gentleman from Illinois, that the point of order at this time would be premature.
>
> The Chair might state that the appropriate time to make the point of order would be at the time the motion is made to go in the Committee of the Whole.

After a brief discussion, House Resolution 1256 was agreed to,[19] whereupon William R. Poage, of Texas, Chairman of the Committee on Agriculture, moved that the House resolve itself into the Committee of the Whole for the consideration of S. 2511.

Immediately thereafter, the following exchange took place:

> MR. FINDLEY: Mr. Speaker, I make a point of order against the consideration of S. 2511 on the grounds that the Committee on Agriculture acted without a quorum being present when it ordered S. 2511 reported to the House on July 2, 1968.
>
> Rule XI, clause [27(e)], of the rules of the House[1] states as follows:

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17. 114 CONG. REC. 30738, 90th Cong. 2d Sess.

18. For more details, see § 24.2, supra.

19. 114 CONG. REC. 30739, 90th Cong. 2d Sess.

1. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

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

I have personally checked with the staff of the Committee on Agriculture and have been informed that on July 2, 1968, there were only 14 members of the committee present and that the vote to report S. 2511 to the House was 11 to 0 in favor of such action. Since the total membership of that committee is 35, there obviously was not a majority actually present as required by Rule XI clause [27(e)].

Mr. Findley having raised his point of order at the appropriate moment, the Speaker interrogated Mr. Poage and sustained the point of order.[2]

§ 24.5 A point of order against a bill on the ground that a quorum of the committee was not present when the bill was ordered reported should be made in the House and such points come too late after the House has resolved itself into the Committee of the Whole for consideration of the measure.

On June 14, 1946,[3] Speaker Sam Rayburn, of Texas, recognized Mr. Andrew J. May, of Kentucky, who immediately moved that the House resolve itself into the Committee of the Whole for the consideration of a bill (S. 524), to provide for one national cemetery in every state and for certain other national cemeteries. The motion was agreed to, and, after the first reading of the bill was dispensed with by unanimous consent, debate ensued in the Committee of the Whole.

The discussion had proceeded at some length when Chairman John W. Flannagan, Jr., of Virginia, recognized Mr. Forest A. Harness, of Indiana, for a parliamentary inquiry:[4]

Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HARNESS of Indiana: At what time would a point of order lie against the bill on the ground that the committee reporting it was without jurisdiction because at the time it reported the bill there was not a quorum present?

THE CHAIRMAN: Answering the gentleman's parliamentary inquiry the Chair will state that such a point of order would be too late now that the House is in the Committee of the Whole House on the State of the Union. Such a point of order should be made in the House before consideration of the bill.

After Debate on Measure Has Commenced

§ 24.6 The point of order that a bill was reported from a com-

2. For more details on the Chair's ruling, see § 25.2, infra.

3. 92 CONG. REC. 6955, 79th Cong. 2d Sess.

4. *Id.* at p. 6961.

mittee without a formal meeting and a quorum present is made too late if debate has started on the bill in the House.

On Feb. 24, 1947,[5] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Mr. Everett M. Dirksen, of Illinois, who, by direction of the Committee on the District of Columbia, called up a bill (H.R. 1700), to provide for daylight saving time in that city and asked for its immediate consideration. The Chair recognized Mr. Dirksen for one hour, and debate on the matter commenced.

After much discussion on the subject, the Chair recognized Mr. Daniel A. Reed, of New York,[6] for a point of order:

> I believe the Reorganization Act provides that no bill shall come to the floor unless it is reported out of committee when a quorum is present. As I understand the statement of the gentleman from Illinois, there was no meeting of the committee.
>
> THE SPEAKER: The point of order comes too late. It should have been made before debate started on the bill.

After Adoption of Measure

§ 24.7 After the adoption of a resolution by the House, it is too late to attack the validity of the action taken by the committee reporting the resolution on the ground that a quorum was not present when it was ordered reported.

On Feb. 28, 1968,[7] Mr. Samuel N. Friedel, of Maryland, by direction of the Committee on House Administration, submitted 12 privileged reports on assorted resolutions providing funds for investigations, studies, and various expenses of certain standing and select committees. Each of the accompanying resolutions was agreed to. Mr. Friedel then submitted and then called up[8] a privileged report (H. Rept. No. 1127), on a resolution (H. Res. 1042), authorizing the expenditure of funds for expenses of the Committee on Un-American Activities, but withdrew the resolution[9] after Mr. William F. Ryan, of New York, made the point of order that a quorum was not present when the Committee on House Administration considered the resolution.

Shortly thereafter, Speaker John W. McCormack, of Massachusetts, recognized Edwin E.

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5. 93 CONG. REC. 1368, 80th Cong. 1st Sess.

6. *Id.* at p. 1374.

7. 114 CONG. REC. 4445–49, 90th Cong. 2d Sess.

8. *Id.* at p. 4449.

9. See § 25.3, infra, for further discussion.

Willis, of Louisiana, Chairman of the Committee on Un-American Activities, who initiated the following exchange:

> Mr. Speaker, the last resolution sought to be called up was a resolution relative to the House Committee on Un-American Activities, and it was withdrawn.
>
> Now, however, the gentleman from Maryland states, no, it is not so, that there was no more a quorum present for all the other resolutions than there was a quorum present to consider our resolution.
>
> I, therefore, ask unanimous consent that all the other resolutions be withdrawn also.
>
> THE SPEAKER: The Chair will state that if a quorum was not present—and the Chair is not saying that there was not a quorum present—but if a quorum was not present then the point of order should have been made by any Member at the time a particular resolution was called up.

Mr. Willis then obtained unanimous consent to address the House for one minute, and proceeded to examine the issue further:

> . . . I have asked for permission to proceed and ask these two questions; that is all.
>
> MR. FRIEDEL: We considered your resolution in the committee.
>
> MR. WILLIS: Was there a quorum present?
>
> MR. FRIEDEL: No quorum was present.
>
> MR. WILLIS: Was there a quorum present for any other committee appropriation?
>
> MR. FRIEDEL: That point was never raised.
>
> MR. WILLIS: Well I just want to clarify the record and show that probably no quorum was present in the House Administration Committee for any of the resolutions approved today.

Bill Considered Under Suspension of the Rules

§ 24.8 Where a bill is being considered under suspension of the rules, a point of order will not lie against the bill on the ground that a quorum was not present when the bill was reported from committee.

On Oct. 7, 1968,[10] the program for the day entailed a number of bills scheduled to be considered under a suspension of the rules.[11]

Prior to the bills' consideration, Speaker John W. McCormack, of

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10. 114 CONG. REC. 29764, 90th Cong. 2d Sess.

11. The essential criteria to suspend the rules are set forth in the following clause [Rule XXVII clause 1, *House Rules and Manual* § 902 (1973)]: "No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month, and on the Tuesdays immediately following those days, and during the last six days of a session."

Massachusetts, recognized Mr. Durward G. Hall, of Missouri, who initiated the following exchange:

> Mr. Speaker . . . [t]here are four bills from the Committee on Post Office and Civil Service which, from evidence I have, were reported in violation of rule XI, clause [27(e)][12] which states:
>
> > (e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.
>
> The evidence I have is that H.R. 17954 and H.R. 7406 were ordered reported from the Committee on Post Office and Civil Service in executive session on August 2, 1968, without a quorum present.
>
> Additional evidence reveals that S. 1507 and S. 1190 were ordered reported from the Committee on Post Office and Civil Service in executive session on September 3, 1968, without a quorum present. I further cite from Jefferson's Manual, section 408:[13]
>
> > A bill improperly reported is not entitled to its place on the calendar; but the validity of a report may not be questioned after the House has voted to consider it, or after actual consideration has begun.
>
> Mr. Speaker, I submit that the bills S. 1507, S. 1190, H.R. 17954, and H.R. 7406 all were improperly reported. Mr. Speaker, my parliamentary inquiry is this: At what point in the proceedings would it be in order to raise the question against these bills as being in violation of rule XI, clause [27(e)] inasmuch as they are scheduled to be considered under suspension of the rules, which would obviously suspend the rule I have cited? . . .
>
> THE SPEAKER: The Chair will state that any point of order would have to be made when the bill is called up.
>
> The Chair might also advise or convey the suggestion to the gentleman from Missouri that the bills will be considered under suspension of the rules, and that means suspension of all rules.
>
> MR. HALL: Mr. Speaker, a further parliamentary inquiry. Would it not be in order, prior to the House going into the Consent Calendar or suspension of the rules, to lodge the point of order against the bills at this time?
>
> THE SPEAKER: The point of order could be directed against such consideration when the bills are called up under the general rules of the House. The rules we are operating under today as far as these bills are concerned concerns suspension of the rules, and that motion will suspend all rules.
>
> MR. HALL: Mr. Speaker, if I may inquire further, is it not true that, until such time as we go into that period of suspension of the rules, a point of order would logically lie against such bills which violate the prerogatives of the House and of the individual Members thereof, to say nothing of the committee rules? My belief that a point of order should be sustained is based on improper committee procedure and addresses itself to the fact that the bills are improperly scheduled, listed, or programed on the calendar, or rule of suspension, and so forth.

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12. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979).

13. *House Rules and Manual* § 408 (1973).

THE SPEAKER: The Chair will state, as to points of order, at the time the Chair answered the specific inquiry of the gentleman from Missouri, a point of order would not lie until the bill is reached and brought up for construction.

At this juncture, Mr. Hall requested that the Speaker protect his rights by enabling him to raise the point of order at the appropriate time. The Speaker responded that "The Chair will always protect the rights of any Member," but noted that a suspension of the rules procedure "suspends all rules."

The Chair then recognized Mr. Leslie C. Arends, of Illinois, who clarified the issue in the following manner:

Do I correctly understand the ruling of the Chair that suspending all the rules pertains to more than just the House; it pertains to the rules of committee action likewise?

THE SPEAKER: The gentleman from Illinois is correct.

Parliamentarian's Note: Two of the bills which were allegedly reported in the absence of a quorum, H.R. 17954 and H.R. 7406, were scheduled for consideration on both the Consent Calendar and under suspension of the rules. The Speaker did not foreclose the making of a point of order against a bill on the Consent Calendar. However, the two bills which might have been vulnerable when called on the Consent Calendar were passed over without prejudice by unanimous consent.[14]

§ 25. —Effect

Questioning of Committee Chairman

§ 25.1 Where a report from a committee is challenged on the ground that a quorum of the committee was not present when the report was authorized, the Speaker interrogates the chairman of the committee concerned as to the facts in question.

On Sept. 30, 1966,[15] Omar T. Burleson, of Texas, Chairman of the Committee on House Administration, submitted a privileged report (H. Rept. No. 2158), to accompany a resolution (H. Res. 1028), providing funds for his committee and asked for its immediate consideration. At this juncture, Mr. Jonathan B. Bingham, of New York, rose to a point of order against the resolution on the ground that a quorum of the

14. 114 CONG. REC. 29765, 90th Cong. 2d Sess.

15. 112 CONG. REC. 24548, 89th Cong. 2d Sess.

committee was not present when the resolution was reported. Speaker John McCormack, of Massachusetts, then inquired of Mr. Burleson as to whether he had any comment. Mr. Burleson replied in the affirmative and initiated the following exchange:

> . . . Mr. Speaker, I do not see that this is a matter involving rules but rather a matter of custom and practice. We were simply following what has been a practice for a great many years relating to noncontroversial matters. This method of obtaining committee approval has been for the convenience of committee members. I shall be glad to redate to the House in just a few words what transpired in this instance.
>
> Recently it has been difficult to get a quorum, and, for obvious reasons, it has been just about impossible for the last 10 days. Never before has the gentleman from New York objected to a telephone poll of members. In this instance, each of the 25 members of the committee, except those who were on the subcommittee examining contracts, the subcommittee headed by the gentleman from Ohio [Mr. Hays]—who had already agreed to the resolution, were called, and a majority of the members approved the resolution.
>
> This practice has been prevalent and has been permitted over the years, although it has been held to a minimum.
>
> Now Mr. Speaker, I shall be glad to yield to the gentleman from New York if he wants to tell us the real reason he is objecting to the consideration of this resolution. The gentleman never before has objected to this procedure and I ask why he objects now?
>
> MR. BINGHAM: Mr. Speaker, will the gentleman yield?
>
> MR. BURLESON: I yield to the gentleman from New York.
>
> MR. BINGHAM: Mr. Speaker, I shall be glad to explain. There has been apparently the establishment of a subcommittee of the Committee on House Administration.
>
> THE SPEAKER: The Chair does not want to go into all that. The Chair wants to ask the gentleman from Texas, the chairman of the committee, was a committee meeting called for the purpose of acting on this resolution? And, if so, was a quorum present?
>
> MR. BURESON: Mr. Speaker, I have explained in some detail the procedure used in this instance. There was an agreement by a majority of the committee that the resolution may be presented.
>
> THE SPEAKER: Was there a meeting? Did the committee meet? Was there a quorum present and voting and acting on it?
>
> MR. BURLESON: Mr. Speaker, on infrequent occasions when we have resorted to this procedure as a matter of convenience and of expediting legislation, it has always been accepted as establishing a quorum. As far as I know this procedure has not been challenged. In this case a majority of the committee agreed to the resolution and I insist that a quorum was established and that the report is proper and that the resolution is privileged.

Having elicited the essential facts from Chairman Burleson, the Speaker sustained the point of order.[16]

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16. For full discussion of the Chair's reasoning and ultimate conclusion, see § 23.2, supra.

Recommittal of Measure

§ 25.2 Where the chairman of a committee admits a bill was reported when a quorum was not present and a point of order is sustained against the bill on that ground, the bill is recommitted.

On Oct. 11, 1968,[17] by direction of the Committee on Rules, Mr. John A. Young, of Texas, called up House Resolution 1256 and asked for its immediate consideration. The resolution provided that upon its adoption, it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill (S. 2511), relating to producers of crude pine gum.

After brief discussion, House Resolution 1256 was agreed to,[1] whereupon William R. Poage, of Texas, Chairman of the Committee on Agriculture, moved that the House resolve itself into the Committee of the Whole for the consideration of S. 2511.

Immediately thereafter, Speaker John W. McCormack, of Massachusetts, recognized Mr. Paul Findley, of Illinois, for a point of order:

> Mr. Speaker, I make a point of order against consideration of S. 2511.
>
> THE SPEAKER: The gentleman will state his point of order.
>
> MR. FINDLEY: Mr. Speaker, I make a point of order against the consideration of S. 2511 on the grounds that the Committee on Agriculture acted without a quorum being present when it ordered S. 2511 reported to the House on July 2, 1968.
>
> Rule XI, clause [27(e)], of the rules of the House[2]) states as follows:
>
> > (e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.
>
> I have personally checked with the staff of the Committee on Agriculture and have been informed that on July 2, 1968, there were only 14 members of the committee present and that the vote to report S. 2511 to the House was 11 to 0 in favor of such action. Since the total membership of that committee is 35, there obviously was not a majority actually present as required by Rule XI clause [27(e)].

At this juncture, the Speaker interrogated Mr. Poage with respect to the committee's action on the measure:

> THE SPEAKER: The Chair would like to inquire of the chairman of the Committee on Agriculture if a quorum was present when the bill was reported.

For a similar instance in which the Speaker noted that such quorum issues are routinely decided "by the Chair on the statement of the chairman of the legislative committee concerned," see 102 CONG. REC. 12199, 84th Cong. 2d Sess., July 9, 1956.

17. 114 CONG. REC. 30738, 90th Cong. 2d Sess.

1. *Id.* at p. 30739.

2. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* 713(c)(1979).

MR. POAGE: Mr. Speaker, the chairman of the Committee on Agriculture was not present the day this bill was reported. The record indicates that there were only 14 members of the committee present at the time it was reported.

THE SPEAKER: Does the gentleman from Texas state that the record of his committee shows there were 14 members present when the bill was acted upon and reported out?

MR. POAGE: That is correct.

Having obtained the necessary information, the Speaker ruled as follows:

Clause 27 of rule XI clearly covers this situation. Paragraph (e) of clause 27 of rule XI states:

> No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.

Upon the statement of the chairman of the committee, a majority of the committee were not actually present. Therefore, the point of order is sustained; and the bill is recommitted to the Committee on Agriculture.[3]

Withdrawal of Measure

§ 25.3 Where a point of order was raised against consideration of a privileged resolution, reported and called up by the Committee on House Administration, on the ground that a quorum was not present when the resolution was ordered reported, the resolution was withdrawn.

On Feb. 28, 1968,[4] Speaker John W. McCormack, of Massachusetts, recognized Mr. Samuel N. Friedel, of Maryland, who, by direction of the Committee on House Administration, submitted a privileged report (H. Rept. No. 1127), on a resolution (H. Res. 1042), authorizing the expenditure of certain funds for the expenses of the Committee on Un-American Activities, and asked for immediate consideration of the resolution.

Immediately thereafter, Mr. William F. Ryan, of New York, raised a point of order against the consideration of the report on the ground that a quorum was not present when the matter was considered.[5]

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3. A similar point of order was raised the same day (114 CONG. REC. 30751, 90th Cong. 2d Sess.) with respect to a bill (S. 1507), entitling firefighters to certain retirement benefits. As the committee with jurisdiction [the Committee on Post Office and Civil Service] had less than a quorum present when the measure was reported out, the Speaker ordered the bill recommitted.

4. 114 CONG. REC. 4448, 90th Cong. 2d Sess.

5. The rules [see Rule XI clause 2(l)(2)(A), *House Rules and Manual* § 713(c) (1979)] provide that: "No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present."

Desiring to be heard on the point of order, Mr. Friedel stated:

> Mr. Speaker, it is true that we did not have a quorum present for the consideration of House Resolution 1042, but we had unanimous consent by the members that they would not raise a point of order.
>
> However, Mr. Speaker, under the circumstances, in view of the point of order being raised, I withdraw the resolution.

Parliamentarian's Note: After the point of order was sustained, the resolution was automatically recommitted and the Committee on House Administration met again with a quorum present and filed a new report on the resolution.

§ 26. Introduction

The Speaker's referral of private and public bills and resolutions, petitions, and memorials is authorized by Rule XXII clauses 1 and 4:[6]

> 1. Members having petitions or memorials or bills of a private nature to present may deliver them to the Clerk indorsing their names and reference or disposition to be made thereof; and said petitions and memorials and bills of a private nature, except such as, in the judgment of the Speaker, are of an obscene or insulting character, shall be entered on the Journal, with the names of the Members presenting them, and the Clerk shall furnish a transcript of such entry to the official reporters of debates for publication in the Record. . . .
>
> 4. All other bills, memorials, and resolutions may, in like manner, be delivered, indorsed with the names of Members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules shal1 be entered on the Journal and printed in the Record of the next day, and correction in case of error of reference may be made by the House, without debate, in accordance with Rule XI, on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred.

Messages from the President and communications are referred pursuant to Rule XXIV clause 2:[7]

6. *House Rules and Manual* §§ 849, 854 (1979). Clauses 2 and 3 of Rule XXII restrict the introduction of certain private bills and provide for the correction in errors of reference of private bills.

7. Senate bills are referred similarly to House bills except where a House committee has reported or is about to report a similar bill, in which case the Senate bill is customarily held at the Speaker's table. Although the Speaker has the authority under this rule to refer bills with amendments between the Houses to committee, he rarely does so.

2. Business on the Speaker's table shall be disposed of as follows:

Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner and with the same right of correction as public bills presented by Members; but House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee.

The rules of the House of Representatives as in effect in the 93d Congress listed, in Rule XI, the subject-matter jurisdiction of each standing committee of the House; the Committee Reform Amendments of 1974[8] transferred the list of committees and their respective jurisdictions, as modified by those amendments, to Rule X.

Prior to the adoption of the Committee Reform Amendments of 1974, the rules permitted neither the division of a bill for reference to more than one committee nor the simultaneous referral of a bill to more than one committee, except by way of a motion to refer or to recommit.[9] Thus the reference of bills and resolutions was based on the principle of primary jurisdiction over the subject matter. On occasion, the committee of reference operated under an informal agreement whereby the recommendations of another committee with jurisdiction over a portion of the legislation would be incorporated into the report of the reporting committee,[10] and the Committee on Rules has the authority to recommend in an order of business resolution that a committee other than the reporting committee be permitted to control some general debate in Committee of the Whole and offer its informal work product as an amendment in Committee of the Whole.

Some statutes prescribe the reference to a designated committee or committees of a particular kind

8. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

9. See 5 Hinds' Precedents § 5558; § 29, infra. A motion to recommit (or to commit or refer) may specify reference to any committee regardless of rules for jurisdiction, and may refer the bill to other than the reporting committee. 4 Hinds' Precedents § 4375; 8 Cannon's Precedents §§ 2696, 2736.

10. See, i.e., § 29.1, infra.

of communication from the executive branch.[11] And messages from the President which overlap the subject-matter jurisdiction of more than one committee may be referred to the Committee of the Whole House on the state of the Union rather than to a specific standing committee.

The Committee Reform Amendments delegated new powers to the Speaker in the referral of bills, resolutions, and other matters, allowing referrals to more than one committee by various methods:[12]

> 5. (a) Each bill, resolution, or other matter which relates to a subject listed under any standing committee named in clause 1 shall be referred by the Speaker in accordance with the provisions of this clause.
>
> (b) Every referral of any matter under paragraph (a) shall be made in such manner as to assure to the maximum extent feasible that each committee which has jurisdiction under clause 1 over the subject matter of any provision thereof will have responsibility for considering such provision and reporting to the House with respect thereto. Any precedents, rulings, and procedures in effect prior to the Ninety-Fourth Congress shall be applied with respect to referrals under this clause only to the extent that they will contribute to the achievement of the objectives of this clause.
>
> (c) In carrying out paragraph (a) and (b) with respect to any matter, the Speaker may refer the matter simultaneously to two or more committees for concurrent consideration or for consideration in sequence (subject to appropriate time limitations in the case of any committee), or divide the matter into two or more parts (reflecting different subjects and jurisdictions) and refer each such part to a different committee, or refer the matter to a special ad hoc committee appointed by the Speaker with the approval of the House (from the members of the committees having legislative jurisdiction) for the specific purpose of considering that matter and reporting to the House thereon, or make such other provision as may be considered appropriate.
>
> (d) After the introduction in the House of each bill or resolution the Congressional Research Service of the Library of Congress shall prepare a factual description of the subject involved therein not to exceed one hundred words; such description shall be published in the Congressional Record and the Digest of Public General Bills and Resolutions as soon as possible after introduction.
>
> (e) No bill or resolution introduced or received in the House shall be referred to the Joint Committee on Atomic Energy.

As indicated in the new clause 5(b), Rule X, precedents as to referral occurring prior to the effective date of the Committee Reform Amendments of 1974 were to remain controlling only to the ex-

11. See § 29.3, infra.

12. Rule X clause 5, *House Rules and Manual* § 700 (1979), as added by H. Res. 988, 93d Cong., effective Jan. 3, 1975.

tent necessary to carry out the purposes of the new clause, thereby modifying the previous principle that the erroneous reference of a public bill, if uncorrected, effectively granted jurisdiction to the committee receiving it.[13] Furthermore, the Speaker's new power to sequentially refer a bill once reported from the initial committee or committees to which referred indicates that the Speaker's initial referral under the new rule does not preclude other committees from obtaining subsequent consideration of the bill, and in some cases, in addition to the bill, of a committee amendment reported by the first committee or committees.

A bill may be rereferred in the House by unanimous consent, by a motion authorized by a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred.[14] But once a committee has reported a bill and it has been placed on the appropriate calendar, a motion for rereference or a point of order that the bill was improperly referred comes too late.[15]

Wherever possible, the discussion of the jurisdiction of the respective standing committees of the House in this division will include pertinent information and changes resulting from the adoption of the Committee Reform Amendments of 1974, but any precedents arising under those new rules of jurisdiction, and the scope of the Speaker's new powers of referral, will be preserved for later editions of this work.

Further insight into the jurisdiction of committees may be found in the legislative subject categories lists dealing with the various committees prepared by the staff of the Select Committee on Committees.[16]

Collateral References

Committee Reform Amendments of 1974, Explanation of H. Res. 998 as Adopted by the House of Representatives, Oct. 8, 1974, Staff Report of the Select Committee on Committees, House of Representatives, 93d Cong. 2d Sess. (1974).

Committee Organization in the House, Hearings and Panel Discussions before

13. See *House Rules and Manual* § 854 (note) (1979). Rule XXII clause 3 specifically states that an erroneous reference of a private bill shall not confer jurisdiction over the committee to consider or report the same.

14. Rule XXII clause 4, *House Rules and Manual* § 854 (1979).

15. Rule XXII clause 4, *House Rules and Manual* § 854 (note) (1979). See also § 27.7, infra.

16. "Monographs on the Committees of the House of Representatives", 93d Cong. 2d Sess., Dec. 13, 1974, committee print.

the Select Committee on Committees, House of Representatives, 93d Cong. 2d Sess., H. Doc. No. 94–187 (3 volumes).

§ 27. Referral of Measures to Committees; Procedure

Examination and Referral of Proposed Bills

§ 27.1 Referral of an executive communication or a bill drafted to implement a policy set forth in a Presidential message is not necessarily to the same committee to which the message was referred.

On Feb. 1, 1966,[17] Speaker John W. McCormack, of Massachusetts, laid before the House a message (H. Doc. No. 374), on the foreign aid program from the President which, after being read, was referred to the Committee on Foreign Affairs.

Shortly thereafter, Mr. Durward G. Hall, of Missouri, initiated the following exchange with the Speaker:[18]

Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. HALL: Referring to the first of the Presidential messages today, the one on foreign aid, in view of the last paragraph of article VIII . . . concerning the submission of two separate bills,[19] my parliamentary inquiry would involve two questions: First, would reference of the President's message to the Committee on Foreign Affairs of this House automatically involve reference of bills referred to therein to the same committee of this House?[20]

THE SPEAKER: It would depend upon the nature of the bill. The answer as to one does not necessarily follow as to the other. On the other hand, the provisions of the bill and the Rules of the House would govern.

Speaker Declines to Speculate About Referral

§ 27.2 Until a proposed bill has been examined, the Speaker declines to speculate as to what committee would have jurisdiction.

On Feb. 1, 1966,[21] shortly after a message (H. Doc. No. 374), from

17. 112 CONG. REC. 1711, 89th Cong. 2d Sess.

For more detailed information on the subject of referral, see Ch. 16 § 3, supra.

18. 112 CONG. REC. 1716, 89th Cong. 2d Sess.

19. The President's message pointed out [*id.* at p. 1713], that authorization requests for economic aid and military aid were being proposed in separate bills.

20. For Mr. Halls' second inquiry, see § 27.2, infra.

21. 112 CONG. REC. 1716, 89th Cong. 2d Sess.

the President on foreign aid was laid before the House, read, and referred to the Committee on Foreign Affairs, Mr. Durward G. Hall, of Missouri, posed a parliamentary inquiry to Speaker John W. McCormack, of Massachusetts, which resulted in the following exchange:

> The second portion of my parliamentary inquiry, Mr. Speaker, if I may continue, is this: In view of the fact that the military and economic authorization requests are to be contained, according to the President's message, in two separate bills—again, for the first time in some years—would the military authorization part thereof, when submitted, apparently by the administration, per this message, be referred to the Legislative Committee on Armed Services of this House, or would it go to the Committee on Foreign Affairs?
>
> THE SPEAKER: The Chair is not prepared to answer that inquiry at the present time, because the answer to the second inquiry would relate back to the first inquiry made by the gentleman from Missouri, and the response of the Chair to that inquiry.
>
> In the opinion of the Chair, the second question is related to the first question, that question being answered that it does not necessarily follow that specific legislation would be referred to the committee to which the message would be referred.
>
> MR. HALL: I thank the Speaker.
>
> THE SPEAKER: Therefore, the Chair does not feel able to pass upon the second inquiry until the Chair has had an opportunity to observe the provisions of the bill.

Indivisibility of Bill for Referral Purposes

§ 27.3 Under the previous rule, a bill could not be divided and referred to two or more committees.

On Jan. 13, 1941,[22] Mr. Andrew J. May, of Kentucky, obtained unanimous consent to have a resolution adopted by the Committee on Military Affairs [now the Committee on Armed Services] read to the House. The resolution directed the chairman of that committee "at the first opportunity available to him" to move to rerefer H.R. 1776, the so-called "LendLease" or "Aid to Britain" bill from the Committee on Foreign Affairs to the Committee on Military Affairs. It further provided that if such motion should be overruled by the Speaker, the chairman should appeal from such decision to the House.

The following exchange took place immediately after the Clerk read the resolution:

> MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[23] The gentleman will state it.

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22. 87 CONG. REC. 127, 77th Cong. 1st Sess.

23. Sam Rayburn (Tex.).

MR. MCCORMACK: Mr. Speaker, under the rules of the House, as I understand, and I inquire of the Chair if my understanding is correct, a bill cannot be divided and referred to two or more committees?

THE SPEAKER: The gentleman is correct.

Parliamentarian's Note: As of 1973, a bill could not be subdivided per se in the course of referral. However, where a measure contained two subjects which were related but which fell within the jurisdiction of different committees, the legislative initiative was sometimes assumed by the committee having the primary concern for the subject matter with the understanding that the other committee involved would have an opportunity to consider that portion of the legislation within its jurisdiction and to handle the relevant portions of the bill should it be brought to the floor of the House.

In the 94th Congress,[1] the House changed the rules regarding the divisibility and reference of measures and other matters to the committees. As a result, the indivisibility of bills for purposes of reference must be regarded as an historical matter and not as a principle which is currently observed.

Division and Referral of Presidential Message

§ 27.4 The House has agreed to divide a message from the President for referral to the Committee of the Whole House on the state of the Union and to the Committee on Appropriations.

On Jan. 21, 1946,[2] Speaker pro tempore John W. McCormack, of Massachusetts, laid before the House a message[3] from the President on the state of the Union and transmitting the budget. After the Clerk read the President's message, the following exchange took place:[4]

MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Speaker, I move that the President's message and the accompanying report from the Director of War Mobilization and Reconversion be referred to the Committee of the Whole House on the State of the Union and ordered to be printed, and so much of the President's message as relates to the budget be referred to the Committee on Appropriations and ordered to be printed.

1. See Rule X clause 5, *House Rules and Manual* § 700 (1979).

2. 92 Cong. Rec. 164, 79th Cong. 2d Sess.

3. The text of the message appears at 92 CONG. REC. 136–155, 79th Cong. 2d Sess.

4. 92 CONG. REC. 165, 79th Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Tennessee.

The motion was agreed to.

Parliamentarian's Note: Rule XXIV clause 2 (see *House Rules and Manual* § 882 [1979]) provides that "Messages from the President shall be referred to the appropriate committees without debate." While messages from the President (other than an annual message) are usually referred directly to a standing committee by direction of the Speaker, they may be referred by the House itself to one or more committees by dividing the message on motion by a Member (see 5 Hinds' Precedents § 6631; 8 Cannon's Precedents § 3348), and such motion is privileged.

Timing of Motion to Correct Referral

§ 27.5 The Chair has stated that he will not recognize any motion to correct referral of a bill to a committee prior to his own referral thereof.

On June 6, 1949,[5] Mr. Wright Patman, of Texas, addressed Speaker Sam Rayburn, of Texas, and inquired as to the status of a bill (S. 1008), to provide a two-year moratorium with respect to the application of certain antitrust laws. The Chair having responded that the measure was on the Speaker's table, the following exchange took place:

MR. PATMAN: Will it be referred to the Committee on the Judiciary?

THE SPEAKER: The Chair does not know about that.

MR. PATMAN: What action will be necessary in order to get it referred to the committee?

THE SPEAKER: It is the duty and the privilege of the Chair to refer bills to whatever committee he desires, after consultation with the Parliamentarian, of course. The Chair will not recognize any motion in that regard at this time.

Parliamentarian's Note: Under Rule XXIV clause 2, the Speaker is not required to immediately refer Senate bills to committee, and the right to correct the referral by motion of the committees concerned only becomes applicable after the Speaker has referred the bill.

Amending Motion to Refer

§ 27.6 Where a motion to refer a Presidential message to a particular committee is sought to be challenged by the chairman of another committee claiming jurisdiction thereof, the appropriate procedure is to offer an

5. 95 CONG. REC. 7255, 81st Cong. 1st Sess.

amendment to the motion to refer; but such an amendment is not in order unless the original movant yields for that purpose or unless the previous question on the motion to refer is voted down.

On June 3, 1937,[6] Speaker William B. Bankhead, of Alabama, laid before the House a message (H. Doc. No. 261), from the President pertaining to creation of regional authorities or agencies to study regional conservation and development of national water resources. Immediately thereafter,[7] Mr. William M. Whittington, of Mississippi, moved that the message be referred to the Committee on Flood Control[8] and ordered to be printed. Joseph J. Mansfield, of Texas, Chairman of the Committee on Rivers and Harbors, then rose to propound a parliamentary inquiry, to which the Speaker responded as follows:[9]

The gentleman from Texas propounds a parliamentary inquiry to the Chair as to whether the gentleman would be entitled to offer as a substitute for the motion made by the gentleman from Mississippi a motion to refer the President's message to the Committee on Rivers and Harbors.

The Chair, anticipating that this question might arise, has looked rather fully into the precedents in reference thereto and finds that on April 4, 1933, when Mr. Rainey was Speaker of the House, this identical proposition was presented.

At that time it will be recalled that a bill was pending with reference to the refinancing of farm-mortgage indebtedness. Two committees claimed jurisdiction of the subject matter of that bill, the Committee on Banking and Currency and the Committee on Agriculture.

When the President's message was read the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. Jones], moved that the President's message be referred to the Committee on Agriculture. Thereupon the specific inquiry now propounded by the gentleman from Texas [Mr. Mansfield] was made.

The Chair reads the query and the answer of the Speaker:

> MR. STEAGALL. Mr. Speaker, I desire at the proper time to submit a substitute motion that the message be referred to the Committee on Banking and Currency.

Mr. Jones said:

> Mr. Speaker, I do not yield for that purpose.

The Speaker stated:

> The gentleman from Texas does not yield. It is necessary to vote

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6. 81 CONG. REC. 5296, 75th Cong. 1st Sess.

7. *Id.* at p. 5297.

8. The Committee on Flood Control and the Committee on Rivers and Harbors were eventually merged into the Committee on Public Works; see Rule X clause l(p), *House Rules and Manual* § 685 (1979).

9. 81 CONG. REC. 5298, 75th Cong. 1st Sess.

down the previous question before that motion will be in order.

The gentleman from Mississippi [Mr. Whittington] is entitled to 1 hour, and the Chair understands he has perfected an arrangement with the gentleman from Texas [Mr. Mansfield] by which he will yield to the gentleman from Texas one-half of that time. At the conclusion of the debate of 1 hour the Chair assumes the gentleman from Mississippi will move the previous question on the motion referring the message to the Committee on Flood Control. If the previous question should be voted down, then the gentleman from Texas [Mr. Mansfield] would have the right and privilege of offering an amendment to the motion to refer the message.

Debate ensued, and upon the expiration of time, Mr. Whittington moved the previous question on the motion. After the previous question was rejected, the following exchange took place: (10)

MR. MANSFIELD: Mr. Speaker, I now move that the message of the President be referred to the Committee on Rivers and Harbors, and on that motion I move the previous question.

MR. WHITTINGTON: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. WHITTINGTON: Mr. Speaker, there is now pending the motion I made that the message of the President be referred to the Committee on Flood Control. It occurs to me the motion made by the gentleman from Texas [Mr. Mansfield] is improper, and that the proper motion would be to amend my motion, if the gentleman desires that the message be referred to his committee. My point is there is a motion pending and an independent motion would not be in order.

THE SPEAKER: The Chair, upon reconsideration, is of the opinion the proper procedure would be for the gentleman from Texas to offer an amendment to the pending motion, to the effect that the message of the President be referred to the Committee on Rivers and Harbors.

MR. MANSFIELD: Mr. Speaker, I make that motion at this time.

THE SPEAKER: The gentleman from Texas offers an amendment to the motion, which the Clerk will report.

The Clerk read as follows:

Mr. Mansfield moves, as an amendment to the motion made by the gentleman from Mississippi [Mr. Whittington], to refer the President's message to the Committee on Rivers and Harbors.

Parliamentarian's Note: Immediately thereafter, Mr. Whittington stated that "in view of the action of the House," he desired to withdraw his motion by unanimous consent in order that Mr. Mansfield might present his own motion. Unanimous consent was granted, whereupon Mr. Mansfield sought the referral of the Presidential message to the Committee on Rivers and Harbors as an independent motion. The

10. *Id.* at p. 5306.

previous question was ordered, and the motion was agreed to.[11]

Point of Order Against Consideration Based on Erroneous Referral

§ 27.7 While the rules provide that the erroneous reference of a public bill may be corrected on any day after the reading of the Journal, it is not in order to raise a question of committee jurisdiction after a public bill has been reported.

On Jan. 26, 1938,[12] Speaker William B. Bankhead, of Alabama, recognized Andrew J. May, of Kentucky, Chairman of the Committee on Military Affairs (now the Committee on Armed Services), who, by direction of that committee called up a bill (H.R. 8176), providing for continuing retirement pay, under specified conditions, of certain officers and former officers of the Army, Navy, and Marine Corps. After several unanimous-consent requests pertaining to other matters, the Clerk read the title of the bill.

At this juncture, Mr. Wright Patman, of Texas, rose to advance the following point of order:

> Mr. Speaker, I make the point of order against the consideration of the bill (H.R. 8176) that the bill was not referred to the proper committee, the proper committee being the Committee on World War Veterans' Legislation [now the Committee on Veterans' Affairs]. Instead, the bill was referred to the Committee on Military Affairs, and a report has been made by that committee.
>
> In support of the point of order it is necessary I give just a little of the history of this legislation. In March 1928 the Committee on World War Veterans' Legislation by a vote of 8 to 7 voted in favor of the retired emergency officers' bill. This bill passed the House on May 24, 1928, I believe, and was enacted into law before the first of June. This law provides for the retirement of emergency officers according to their rank and all amendments to this law should be referred back to the committee which passed on the original bill.
>
> I invite the attention of the Chair to the fact that even an amendment to the Clayton Act, which involves interstate commerce alone, is invariably referred to the Committee on the Judiciary, although one would think it would go to the Committee on Interstate and Foreign Commerce, for the reason the House Committee on the Judiciary is the committee which originally considered the Clayton Act. This same principle is involved here.

Mr. Patman continued to discuss the matter—stating that those who drafted the measure may have been motivated by the belief that they could not obtain a

11. *Id.* at p. 5307.

12. 83 CONG. REC. 1142, 75th Cong. 3d Sess.

favorable report from the Committee on World War Veterans' Legislation; that the chairman of the latter committee was unavoidably absent because of illness; and that his committee was planning to hold hearings on the outright repeal of the law which H.R. 8176 would amend.

The Chair then recognized Mr. May who responded to Mr. Patman's point of order, as follows: (13)

> Mr. Speaker, I should like to give to the distinguished chairman of the Committee on World War Veterans' Legislation any consideration to which he would be entitled under the ordinary procedure of the House, but I make the point of order at this time against the point of order of the gentleman from Texas that it comes too late, because the committee to which the bill was referred has already had hearings on the bill and made its report.

Mr. Patman replied by contending that this was the first time he had had an opportunity to raise a point of order against the bill's consideration. The Speaker then announced his ruling:

> The gentleman from Texas [Mr. Patman] raises the point of order against consideration of the bill, that it was not referred under the rules of the House to the Committee on World War Veterans' Legislation, to which, according to his contention, it should have originally been referred.
>
> Pending that question the gentleman from Kentucky [Mr. May], the chairman of the Committee on Military Affairs, raises the point of order that the point of order made by the gentleman from Texas comes too late.
>
> In view of that issue being raised the Chair feels it is his duty primarily to dispose of that question, because a disposition of that question, possibly, might settle the original point of order raised by the gentleman from Texas.
>
> This is not a matter of first impression, the Chair will state, as there have been a number of decisions and precedents upon this particular question. The Chair refers especially to a decision made by Mr. Speaker Longworth, as reported in volume 7 of Cannon's Precedents of the House of Representatives, section 2113:
>
> After a public bill has been reported—
>
> Which, of course, means after it has been reported by a committee of the House—
>
> it is not in order to raise a question of committee jurisdiction.
>
> The Speaker said:
>
> "The Chair recalls when this bill was before him for reference that he examined into the matter and it was quite clear that the reference was correct, in view of the fact this is an amendment of the Federal Reserve Act, and under the rules the Committee on Banking and Currency has jurisdiction of questions arising under the Federal Reserve Act; but whether that be true or not, the point of order is evidently made too late. The precedents are uniform that after a public bill has been reported, it is too late to raise the

13. *Id.* at p. 1143.

point of order as to the jurisdiction of the committee.". . .

The Chair thinks it proper, however, in reply to the suggestion made by the gentleman from Texas that this is the first opportunity he has had to raise this point of order, to state that under the rules the chairman of a committee seeking jurisdiction, or any other Member of the House, has the privilege, after bills are introduced and referred, to raise the question of jurisdiction by proceeding under clause 3 of rule XXII.[14]

For the reasons stated and in view of the precedents which to the Chair seem to be well reasoned, the Chair sustains the point of order made by the gentleman from Kentucky that the point of order made by the gentleman from Texas comes too late.[15]

14. The equivalent of that clause is contained within Rule XXII clause 4, *House Rules and Manual* § 854 (1979), the pertinent portion of which provides that "all bills, resolutions, and documents referred under the rules shall be entered on the Journal and printed in the Record of the next day, and correction in case of error of reference may be made by the House, without debate, in accordance with Rule X [which delineates committees' jurisdiction] *on any day immediately after the reading of the Journal,* by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred [emphasis supplied]."

15. For more information on the introduction and reference of bills and resolutions, see Ch. 16, supra.

§ 27.8 Where a bill has been reported to the House and placed on the appropriate calendar, a point of order that the measure was improperly referred may not be entertained when it is called up for, consideration under suspension of the rules.

On June 21, 1943,[16] the House suspended the rules and entertained consideration of a bill (H.R. 2703), relating to veterans' laws pertaining to compensation, pensions, and retirement pay payable by the Veterans' Administration.

Shortly after the Clerk read the bill, Speaker pro tempore Jere Cooper, of Tennessee, recognized Mr. John Lesinski, of Michigan, who stated:

Mr. Speaker, I make the point of order that the bill is improperly brought in by the Committee on World War Veterans' Legislation [subsequently incorporated into the Committee on Veterans' Affairs] and that it belongs to the Committee on Invalid Pensions [also incorporated into the Committee on Veterans' Affairs].

THE SPEAKER PRO TEMPORE: The point of order comes too late. The committee has reported the bill, and it is now under consideration under a suspension of the rules.

MR. LESINSKI: I know; but Mr. Speaker, the bill was brought in to the

16. 89 CONG. REC. 6209, 78th Cong. 1st Sess.

Committee on World War Veterans' Legislation in typewritten form on one day, passed the same day, and filed the same day. There was no time for the chairman of any other committee to make an objection at the time.

MR. [JOHN E.] RANKIN [of Mississippi]: The gentleman from Michigan does not know it, but a motion to suspend the rules suspends all rules.

THE SPEAKER PRO TEMPORE: The purpose of a motion to suspend the rules, of course, is to suspend all rules of the House.

§ 27.9 A point of order against specific language of a paragraph in a bill, on grounds that its subject matter is within the jurisdiction of another committee, does not lie once the bill has been reported; and a point of order against such language based on the germaneness rule does not lie, since that rule requires germaneness of amendments, rather than specific provisions of the bill itself.

On July 27, 1955,[17] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 7474), to amend and supplement the Federal Aid Road Act to authorize appropriations for continuing the construction of highways.

In the course of that consideration, Chairman Eugene J. Keogh, of New York, recognized Mr. H.R. Gross, of Iowa, who raised the following point of order:[18]

Mr. Chairman, I make a point of order against the language in section 14(a), page 30, lines 20 to 25, and page 31, lines 1 to 3; reading as follows:

Sec. 14. (a) The Secretary of Commerce, to the extent he deems it necessary and appropriate in order to carry out the provisions of this act, is authorized to place 2 positions in the Bureau of Public Roads in grade 18 and a total of 20 positions in grades 16 and 17 of the General Schedule established by the Classification Act of 1949, as amended. Such positions shall be in lieu of any positions in the Bureau of Public Roads previously allocated under section 505 of such act.

I make the point of order that this language is a violation of the Classification Act of 1949, that it is an invasion of the prerogatives of the Post Office and Civil Service Committee, and is not germane to the bill.

The Chair responded, as follows:

The Chair will state to the gentleman from Iowa that since the provisions to which his point of order is directed are provisions in the bill that has been reported from the standing committee [the Committee on Public Works] the point of order is not well taken at this time.

The Chair overrules the point of order.

The Chair's ruling immediately prompted Mr. Gross to seek some

17. 101 CONG. REC. 11689, 84th Cong. 1st Sess.

18. *Id.* at p. 11710.

clarification with a parliamentary inquiry:

> At what time would the point of order be well taken?
>
> THE CHAIRMAN: The Chair would say to the gentleman from Iowa that in the opinion of the Chair the point of order would not be well taken at any time, inasmuch as the provisions to which the point of order is directed are contained in the bill as introduced and reported.

Parliamentarian's Note: It should be noted that once the committee had reported out the bill, any point of order based on an allegedly erroneous referral had been rendered untimely. The point of order based on germaneness did not lie since the language in question was contained in the bill and not in an amendment.

Referral of Senate Bills on Table

§ 27.10 The Speaker has responded to a parliamentary inquiry to indicate to which committee he might refer a Senate bill on the Speaker's table—under his discretionary authority to refer Senate bills contained in Rule XXIV clause 2.

On Mar. 14, 1935,[19] Speaker Joseph W. Byrns, of Tennessee, recognized Mr. Sam Rayburn, of Texas, a member of the Committee on Interstate and Foreign Commerce, who asked unanimous consent that the House immediately consider Senate Concurrent Resolution No. 12, which read as follows:

> *Resolved by the Senate (the House of Representatives concurring),* That the Federal Trade Commission be, and it is hereby, directed to make an investigation and report its conclusions to the Congress as to the propaganda which is now going on over the Nation regarding Federal legislation on the subject of holding companies, and to inform the Congress the origin, magnitude, purpose, methods, and expense of said propaganda.

Reserving the right to object, Mr. Bertrand H. Snell, of New York, initiated the following exchange:

> . . . [H]as the gentleman [Mr. Rayburn] taken up this resolution with the members of his committee?
>
> MR. RAYBURN: The resolution would not have gone to the Committee on Interstate and Foreign Commerce in my opinion. I think it would have gone to the Rules Committee.
>
> MR. SNELL: Has it been taken up with the Rules Committee?
>
> MR. RAYBURN: No.
>
> MR. SNELL: It seems to me a matter as important as this ought to be taken up with some committee and should have some little consideration. I do not know that I shall object, but I really think if it is a matter that should go to

19. 79 CONG. REC. 3623, 74th Cong. 1st Sess.

the Interstate and Foreign Commerce Committee that the ranking minority member of that committee should have an opportunity to be here, or at least been notified before it was brought out on the floor.

MR. RAYBURN: It is my impression it would not go to that committee.

MR. SNELL: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SNELL: What committee would this resolution naturally go to?

THE SPEAKER: The Committee on Interstate and Foreign Commerce.

Mr. Rayburn's unanimous-consent request was objected to.[20]

And, on the following day,[21] the Speaker referred the measure to the Committee on Interstate and Foreign Commerce.

§ 28. Motions to Rerefer

Debate on Motion

§ 28.1 A motion to rerefer a bill is not debatable except by unanimous consent.

On Jan. 13, 1941,[22] Speaker Sam Rayburn, of Texas, recognized Andrew J. May, of Kentucky, Chairman of the Committee on Military Affairs [now the Committee on Armed Services], who requested unanimous consent to address the House for 10 minutes. The Members were aware that Mr. May intended to offer a motion to rerefer H.R. 1776, the so-called "LendLease" or "Aid to Britain" bill from the Committee on Foreign Affairs to the Committee on Military Affairs. There were several reservations of objection, and a brief colloquy which included the following exchange:

MR. [R. EWING] THOMASON [of Texas]: Mr. Speaker, it is very apparent that this is all a debate on the question of the jurisdiction of this bill. I make the parliamentary inquiry as to whether or not this question is debatable? I am opposed to my chairman in his effort to re-refer the bill and so voted in the Committee on Military Affairs, as did several others. The action of the committee was not unanimous. I think the Speaker should be sustained in the exercise of his sound discretion.

THE SPEAKER: It can only be debated by unanimous consent.

MR. MAY: Mr. Speaker, I admit that the motion to re-refer the bill which I expect to make is not subject to debate. The only purpose I had in propounding the unanimous-consent request was to say something to the House about it.

§ 28.2 While a motion to rerefer may not be debated under the rules, where a Member obtained unanimous

20. *Id.* at p. 3626.
21. 79 CONG. REC. 3776, 74th Cong. 1st Sess., Mar. 15, 1935.
22. 87 CONG. REC. 126, 127, 77th Cong. 1st sess.

consent to address the House for one minute and proceeded to discuss reasons for a bill's rereferral, the Chair held, in response to a point of order, that such action would not bar the subsequent submission of the motion to rerefer.

On Apr. 21, 1942,[1] Speaker Sam Rayburn, of Texas, recognized Samuel Dickstein, of New York, Chairman of the Committee on Immigration and Naturalization (since incorporated into the Committee on the Judiciary), who obtained unanimous consent to address the House for one minute. Mr. Dickstein then outlined several reasons why a bill (H.R. 6915), previously referred to the Committee on the Judiciary, should be referred to the committee he chaired. Immediately thereafter, by direction of the Committee on Immigration and Naturalization, he so moved.

At this juncture, three points of order were raised—one of which prompted the following exchange:

MR. [SAM] HOBBS [of Alabama]: Mr. Speaker, I make the point of order against the motion that it is made in violation of the rule[2] under which it is supposed to be presented, in that there was debate by the distinguished gentleman from New York for 1 minute immediately preceding the submission of the motion, whereas the opposition is denied that right by the rule.

THE SPEAKER: The Chair did not know what the gentleman from New York was going to talk about. The Chair cannot look into the mind of a Member when he asks unanimous consent to address the House for 1 minute and see what he intends to talk about.

The other points of order having also been overruled, the motion to rerefer was considered by the House.

Speaker's Explanation of Referral

§ 28.3 The House having under consideration a [nondebatable] motion to rerefer a bill from one standing committee to another, the Speaker declined to respond to a parliamentary inquiry requesting an explanation of his re-

1. 88 CONG. REC. 3570, 3571, 77th Cong. 2d Sess.

2. See Rule XXII clause 4, *House Rules and Manual* § 854 (1979) which states, in pertinent part, that "correction in case of error of reference may be made by the House, *without debate*, in accordance with Rule X [which sets out committee jurisdiction], on any day after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred [emphasis supplied]

ferral where objection was heard and unanimous consent to respond unconditionally was not forthcoming.

On Jan. 13, 1941,[3] Speaker Sam Rayburn, of Texas, recognized Andrew J. May, of Kentucky, Chairman of the Committee on Military Affairs [now the Committee on Armed Services], who subsequently[4] moved that the Chair rerefer H.R. 1776, the so-called "LendLease" or "Aid to Britain" bill from the Committee on Foreign Affairs to the Committee on Military Affairs. Immediately thereafter, Mr. May obtained unanimous consent to have the Clerk read a resolution passed by his committee with respect to his motion.

Mr. John W. McCormack, of Massachusetts, then raised a parliamentary inquiry to which the Chair responded, leading to the following discussion:

MR. MCCORMACK: Pursuing my parliamentary inquiry further, may I ask the Chair if the Chair will state to the House the compelling reasons which prompted him to refer this bill to the Committee on Foreign Affairs?

THE SPEAKER: The Chair will be very glad to make a statement as to why this bill was referred as it was.

MR. [ALBERT J.] ENGEL [of Michigan]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman from Massachusetts has propounded a parliamentary inquiry.

MR. ENGEL: The point of order, Mr. Speaker, is that what the gentleman has propounded is not a parliamentary inquiry. If we are going to debate[5] one side of this question, I want both sides debated. I do not know what I am going to do on this bill.

THE SPEAKER: The Chair holds that that relates to the proceedings of the House. The Chair thought that a unanimous-consent request might be granted or a parliamentary inquiry made of him, so the Chair has prepared a statement he will make with reference to this matter.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, will the Chair permit an inquiry?

THE SPEAKER: Yes.

MR. MICHENER: If the Speaker pursues that course, then in effect he has opened this matter up to debate and the Speaker himself has made a speech against the motion. That can be done by unanimous consent, but it does seem to me we should do these things according to the rules. If we are going to have debate, let us have debate; if we are not, let us not have one side only.

THE SPEAKER: Does the gentleman maintain that it is not the business of the Chair to answer a parliamentary inquiry?

MR. MICHENER: My point is that it was not a proper parliamentary inquiry. It was a unanimous-consent re-

3. 87 CONG. REC. 126, 77th Cong. 1st Sess.

4. *Id.* at pp. 127, 128.

5. Motions to rerefer are not debatable except by unanimous consent; see § 28.1, supra.

quest that the Speaker be permitted to state his reasons for doing a certain thing.

THE SPEAKER: Under the rules of the House; yes.

MR. [EDWARD E.] Cox [of Georgia]: Mr. Speaker, I think unquestionably the Chair has the right to state reasons for action taken; but in order to avoid even the suspicion of undertaking to influence the judgment of the Members on the subject, I hope the Chair will forego the exercise of this right which he clearly has.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I concur with the gentleman from Georgia. Although I am in sympathy with the viewpoint of the Speaker—and he is well within his rights in saying anything he wants to the House—I hope he will forego those rights in the interest of harmony and justice at the present time.

MR. MAY: Mr. Speaker, may I make the additional statement that I have no complaint against the Speaker for anything he has done about this matter? I am just trying to pursue what I regard as the proper course. This motion not being subject to debate, it is a question in my mind whether or not in ruling on it the Speaker is confined to the mere position of saying that it is overruled and not sustained; but, in order to be perfectly fair about it, I ask unanimous consent that the Speaker may be permitted to make his statement.

MR. [JOHN D.] DINGELL [of Michigan]: I object to that, Mr. Speaker. Either the Speaker has the right or he has not. I contend that he has the right. I object.

MR. MAY: It will not hurt to have unanimous consent.

THE SPEAKER: The Chair believes that the questions raised here are very fundamental and certainly go to the rights and the prerogatives of the Speaker of the House of Representatives. Therefore, the Chair had hoped that a time would come in these proceedings when he might be able to say to the House what the compelling reasons were for referring this bill to the Committee on Foreign Affairs. However, the Chair is not going to do that unless by unanimous consent. The Chair will make a statement if unanimous consent is granted. Is there objection?

MR. ENGEL: Reserving the right to object, Mr. Speaker, I ask that unanimous consent he granted to discuss the matter 20 minutes.

THE SPEAKER: The Chair will accept no time from the House on any conditions; therefore, as the Chair interprets it, objection is heard.

Authorization for Motion to Rerefer

§ 28.4 The motion for rereference of a bill by direction of a committee claiming jurisdiction is a privileged matter, in order after approval of the Journal, and the Chair may inquire if the appropriate committee has authorized the motion. A motion to rerefer a bill is not in order if the committee of original reference has reported, and the Chair may examine the Journal to de-

termine if the bill has been reported.

On May 4, 1939,[6] following the reading of the Journal and several unanimous-consent requests, Speaker William B. Bankhead, of Alabama, recognized Mr. William T. Schulte, of Indiana, who, by direction of the Committee on Immigration and Naturalization (since incorporated into the Committee on the Judiciary), submitted a motion to the House that a bill (H.R. 5138), to make unlawful attempts to overthrow the Government of the United States; to require licensing of civilian military organizations, to make unlawful attempts to interfere with the discipline of the Army and Navy, to require registration and fingerprinting of aliens, to enlarge the jurisdiction of the U.S. Circuit Court of Appeals in certain cases, and for other purposes, be re-referred from the Committee on the Judiciary to the Committee on Immigration and Naturalization.

Shortly thereafter, the Speaker put the question on the motion whereupon Mr. Howard W. Smith, of Virginia, rose to a point of order, stating, in part:

> Mr. Speaker, under the rules of the House a motion of this kind must have been authorized by formal action of the committee from which the motion comes. As I understand this motion, it is a motion of the Immigration Committee to take from the Judiciary Committee a bill which has previously been referred to the Judiciary Committee by the Speaker. It does not appear from the motion that there was any formal action taken by the Committee on Immigration. . . .
>
> I make the further point of order, Mr. Speaker, that nothing appears in this motion to show what is the present status of that bill as far as the Committee on the Judiciary is concerned. Under the precedents of the House—and the Chair had occasion to rule on this point just a couple of days ago—when a bill has been reported from a committee it is too late to make that point. For aught that appears to the Speaker or to the House this morning, the Committee on the Judiciary may have already acted upon the bill, in which event this motion would come too late. . . . At this late hour the gentleman without any reason being assigned for a reference of this bill makes this motion to refer the matter to another committee which has never had and which it does not appear from the motion could possibly have any jurisdiction of the subject matter.

Mr. Schulte, in response, noted:

> . . . [W]e are within our rights and we are within our bounds when we protest the reference of the bill now in question in view of the fact that this bill has not been reported to the House. The so-called Smith bill is strictly an immigration bill and is so interpreted by every one who has read it. Titles I and II pertain to citizens and aliens alike. Titles III, IV, and V

6. 84 CONG. REC. 5119, 76th Cong. 1st Sess.

of the bill are immigration matters absolutely 100 percent.

Shortly thereafter, the Chair announced he was ready to rule, and the following exchange took place:[7]

THE SPEAKER: . . . In reference to the first point of order, made by the gentleman from Virginia [Mr. Smith], challenging the fact that the motion made by the gentleman from Indiana [Mr. Schulte] was made by authority of the Committee on Immigration and Naturalization, the Chair asks the gentleman from Indiana if such was the case?

MR. SCHULTE: It was, Mr. Speaker. I was instructed by the Committee on Immigration and Naturalization to move that this bill be rereferred.

THE SPEAKER: By a vote of the committee?

MR. SCHULTE: By a unanimous vote of the Committee on Immigration and Naturalization.

THE SPEAKER: The Chair accepts that statement and overrules the first point of order made by the gentleman from Virginia.

On the second point of order the Chair thinks it might be proper to have read into the Record the rule governing propositions of this character. Clause 3 of rule XXII[8] provides as follows:

> All other bills, memorials, and resolutions may, in like manner, be delivered, endorsed with the names of Members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules shall be entered on the Journal and printed in the Record of the next day, and correction in case of error of reference may be made by the House, without debate, in accordance with rule XI, on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred.

Under any fair construction of that rule, the Chair is compelled to hold that the gentleman from Indiana is clearly within his rights and the rights of the committee for which he is acting in making this motion to rerefer this bill from the Committee on the Judiciary to the Committee on Immigration and Naturalization.

In reference to the suggestion made by the gentleman from Virginia that for aught appearing the committee had made a report on this bill, of course, the Journal of the House itself shows that no such report has been made to the House by the Committee on the Judiciary.

The Chair, therefore overrules the points of order made by the gentleman from Virginia.

Tabling Motion to Rerefer

§ 28.5 A motion to rerefer a bill to a committee claiming jurisdiction may be laid on the table (and does not carry the bill to the table).

7. *Id.* at pp. 5119, 5120.
8. See Rule XXII clause 4, *House Rules and Manual* § 854 (1979).

On Apr. 21, 1942,[9] Speaker Sam Rayburn, of Texas, recognized Samuel Dickstein, of New York, Chairman of the Committee on Immigration and Naturalization (since incorporated into the Committee on the Judiciary), who, by direction of that committee, moved that a bill (H.R. 6915), pertaining to the detention of certain aliens be rereferred from the Committee on the Judiciary to the Committee on Immigration and Naturalization.

The Chair then dealt with several points of order[10] after which the following exchange took place:

> MR. [JOHN E.] RANKIN of Mississippi: Then, Mr. Speaker, I move to lay on the table the motion of the gentleman from New York.
>
> THE SPEAKER: The question is on the motion offered by the gentleman from Mississippi.
>
> The question was taken; and on a division (demanded by Mr. Dickstein) there were—ayes 79, noes 25.
>
> MR. DICKSTEIN: Mr. Speaker, I object to the vote on the ground that a quorum is not present.
>
> THE SPEAKER: Evidently a quorum is not present.
>
> The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.
>
> The question was taken; and there were—yeas 238, nays 83, answered "present" 2, not voting 108. . . .

So the motion to table the motion to rerefer was agreed to.[11]

§ 29. Overlapping Jurisdiction; Proposals Involving More Than One Subject

Note: This section pertains to some of the general methods by which problems of overlapping jurisdiction were dealt with prior to the 94th Congress when the Committee Reform Amendments permitting joint, split, and sequential referral became effective.

Informal Committee Agreements

§ 29.1 Where a legislative proposal contains two subjects which are intricately related but which fall within the jurisdiction of different committees, the legislative initiative is sometimes assumed by

9. 88 CONG. REC. 3571, 3572, 77th Cong. 2d Sess.

10. See § 28.2, supra

11. For a comparable instance, see 84 CONG. REC. 5120, 76th Cong. 1st Sess., May 4, 1939, where the House, by division vote, rejected a motion to rerefer a bill (H.R. 5138), from the Committee on the Judiciary to the Committee on Immigration and Naturalization. As in the instant case, the Committee on Immigration and Naturalization sought the rereference.

the committee having the primary concern for the subject matter with the understanding that the other committee involved will have an opportunity to consider that portion of the legislation within its cognizance and handle the relevant portions of the measure if and when it is brought to the floor of the House.

On June 17, 1969,[12] a letter from the Secretary of Transportation [Exec. Comm. No. 863], transmitting a draft of proposed legislation to provide for the expansion and improvement of the Nation's airport and airway system, for the imposition of airport and airway user charges, and for other purposes was taken from the Speaker's table and referred to the Committee on Ways and Means.

The next day, June 18, 1969,[13] Speaker John W. McCormack, of Massachusetts, recognized Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, who made the following request:

> Mr. Speaker, I ask unanimous consent that Executive Communication No. 863, received from the Secretary of Transportation on June 17, relating to the future of air transportation, and referred to the Committee on Ways and Means, be referred to the Committee on Interstate and Foreign Commerce because the chairman of the Committee on Interstate and Foreign Commerce [Harley 0. Staggers, of West Virginia] and the chairman of the Committee on Ways and Means understand that the tax provisions contained in that message will be handled by the Committee on Ways and Means.

There was no objection to the request.

Parliamentarian's Note: Following the rereference of Executive Communication No. 863, Mr. Staggers introduced H.R. 12374, embodying the proposals contained in the draft bill submitted with that communication; and the bill was immediately referred[14] to the Committee on Interstate and Foreign Commerce. The precedent for the agreement between the two committees had been established earlier over the Federal Aid Highway Act of 1956, where Title II (the Highway Revenue Act of 1956) was considered by the Committee on Ways and Means although the overall jurisdiction of the program lay within the Committee on Public Works.[15]

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12. 115 CONG. REC. 16211, 91st Cong. 1st Sess.

13. 115 CONG. REC. 16301, 91st Cong. 1st Sess.

14. 115 CONG. REC. 17138, 91st Cong. 1st Sess., June 24, 1969.

15. See § 29.4, infra.

Presidential Messages

§ 29.2 A message from the President relating to subject matters within the jurisdiction of several committees may be referred to the Committee of the Whole House on the state of the Union.

On Jan. 31, 1935,[16] Speaker Joseph W. Byrns, of Tennessee, laid before the House a message from President Franklin D. Roosevelt, which was read and referred to the Committee of the Whole House on the state of the Union.[17] The Record discloses that prior to the reference, the following exchange took place:

> MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Speaker, before the message is referred, I wish to make a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. BLAND: The message relates to aviation matters that come within the jurisdiction of the Committee on Merchant Marine, Radio, and Fisheries [now the Committee on Merchant Marine and Fisheries]. It also relates to matters that come before the Interstate Commerce Commission. It seems to me that it is highly objectionable that a message of this kind should be referred to one committee.
>
> THE SPEAKER: The Chair has the idea of referring the message to the Committee of the Whole House on the state of the Union, and later when the bills are introduced they will be referred to the proper committees. The message, with the accompanying papers, will be referred to the Committee of the Whole House on the state of the Union and ordered to be printed.

Executive Communications; Statutory Requirements

§ 29.3 Pursuant to statutory obligation, the Speaker has referred an executive communication to three committees of the House, simultaneously.

On May 18, 1960,[18] Executive Communication No. 2166, a letter from the Acting Secretary of State, transmitting the report of the President on determinations under the Mutual Defense Assistance Control Act of 1951 for the quarter ending Mar. 31, 1960, was taken from the Speaker's table and referred to the Committees on Foreign Affairs, Armed Services, and Appropriations pursuant to section 103(b) of the act providing for transmittal of such information to the chairmen of the aforementioned committees.

Parliamentarian's Note: Classified reports submitted to the Con-

16. 79 CONG. REC. 1327, 1328, 74th Cong. 1st Sess.

17. The Committee of the Whole House on the state of the Union is treated in Ch. 19, infra.

18. 106 CONG. REC. 10625, 86th Cong. 2d Sess.

gress under section 103(b) of the Mutual Defense Assistance Control Act of 1951 are normally transmitted directly from the Speaker's office to the appropriate committees of the House. This particular report was referred by the Speaker because it was submitted in a form which indicated a departure from the normal practice, i.e., the letter addressed to the Speaker had attached thereto one copy of the classified enclosure in addition to the three copies normally furnished for the use of the respective committees.

Proposals Relating to Internal Revenue Code and the Highway Trust Fund

§ 29.4 A bill relating to the interstate highway program and containing a title amending the Internal Revenue Code to provide for a temporary increase in the gas tax and a transfer of certain tax receipts to the Highway Trust Fund was referred to the Committee on Public Works with the understanding that it was not to constitute a precedent with respect to surrender of jurisdiction over the fund by the Committee on Ways and Means.

On Aug. 14, 1959,[19] Speaker Sam Rayburn, of Texas, recognized Mr. George H. Fallon, of Maryland, of the Committee on Public Works, who announced his introduction, that day, of certain emergency legislation (H.R. 8678), "to keep the interstate and defense highway program on schedule." As Mr. Fallon elaborated, H.R. 8678 was a bill in the nature of a substitute to H.R. 5950, a measure introduced earlier[1] in the session which the Committee on Public Works had agreed to report to the House, "contingent on favorable action by the Committee on Ways and Means in providing the necessary financing provisions." He then noted that that committee had completed such action, and its work product was incorporated in title II of the bill [i.e., of H.R. 8678]. That title, he stated,

> . . . [P]rovides a temporary increase in the Federal tax on motor fuels of 1 cent per gallon—from 3 to 4 cents—effective September 1, 1959 through June 30, 1961; a transfer to the Highway Trust Fund of the receipts from 5 percentage points of the excise tax on passenger cars and the receipts from 5 percentage points of the excise tax on parts and accessories, effective July 1, 1961, until June 30, 1964.

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19. 105 CONG. REC. 15895, 86th Cong. 1st Sess.

1. 105 CONG. REC. 4999, 86th Cong. 1st Sess., Mar. 23, 1959.

Shortly thereafter, Mr. Fallon yielded to Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, who initiated the following exchange:[2]

> Will my friend, the gentleman from Maryland, advise us whether or not the bill he has introduced today contains a title II dealing with the financing of the road program for the 2-year period involved?
>
> MR. FALLON: Yes; it does.
>
> MR. MILLS: The language of title II in your bill is the language which was prepared by the Committee on Ways and Means with regard to the financing?
>
> MR. FALLON: It is the exact language.
>
> MR. MILLS: Mr. Speaker, this is a matter which should, in my opinion, be handled in one bill. However, it should be understood that this is not in any way to indicate the establishment so far as our committee is concerned of a precedent with respect to jurisdiction of the Highway Trust Fund.

As the Record discloses, H.R. 8678 was referred to the Committee on Public Works.[3]

Differing Jurisdiction Over Senate Bill and House Substitute

§ 29.5 The House agreed to a resolution providing for the consideration of a bill reported from the Committee on Merchant Marine and Fisheries, making it in order, after passage, to take from the Speaker's table a similar Senate bill which, under the precedents, would have fallen within the jurisdiction of the Committee on Interior and Insular Affairs had it been referred to committee, and to insert the House language as an amendment.

On Sept. 23, 1969,[4] by direction of the Committee on Rules, Mr. Spark M. Matsunaga, of Hawaii, called up House Resolution 544 and asked for its immediate consideration. House Resolution 544 provided that upon its adoption, it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 12549), to amend the Fish and Wildlife Coordination Act to provide for the establishment of a Council on Environmental Quality, and for other purposes. The resolution additionally provided that debate on the bill would be controlled by the chairman and the ranking minority member of the Committee on Merchant Marine and Fisheries.

The final provision of House Resolution 544 was devised to pre-

2. 105 CONG. REC. 15896, 86th Cong. 1st Sess., Aug. 14, 1959.
3. *Id.* at P. 15916.
4. 115 CONG. REC. 26569, 91st Cong. 1st Sess.

vent a jurisdictional problem and read, as follows:

> . . . After the passage of H.R. 12549, it shall be in order in the House to take from the Speaker's table the bill S. 1075 and to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof of provisions contained in H.R. 12549 as passed by the House.

The Senate bill referred to, S. 1075, was generally similar to the House bill (H.R. 12549), but did not amend the Fish and Wildlife Coordination Act. This feature was critical[5] to the determination that H.R. 12549 lay within the jurisdiction of the Committee on Merchant Marine and Fisheries. The Senate bill had been passed[6] after being considered and reported out by that body's Committee on Interior and Insular Affairs.

The matter of jurisdictional overlap was briefly discussed in the ensuing debate by Mr. Delbert L. Latta, of Ohio, who made the following observation:[7]

> I want to point out that the Rules Committee has had this resolution under consideration since July for the reason that there was a jurisdictional question which arose concerning a matter between the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs. It is our understanding now that the difficulties have been resolved and that, by an agreement between the two committees, when this matter goes to conference two members of the Committee on Interior and Insular Affairs will be on the conference committee.

House Resolution 544 was agreed to shortly thereafter.[8]

Parliamentarian's Note: In light of its environmental subject matter and in the absence of any provision affecting the Fish and Wildlife Coordination Act, S. 1075 would have been referred to the House's Committee on Interior and Insular Affairs.[9] However, Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, agreed that he would not oppose the rule embodied by House Resolution 544 provided that certain amendments which he proposed to offer on the floor, would be accepted by the Committee on Merchant Marine and Fisheries,[10] and if,

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5. The rules [see Rule X clause 1(n)(4), *House Rules and Manual* § 683, (1979)] provide that the jurisdiction of the Committee on Merchant Marine and Fisheries includes: "fisheries and wildlife, including research, restoration, refuges, and conservation."

6. 115 CONG. REC. 19013, 91st Cong. 1st Sess., July 10, 1969.

7. 115 CONG. REC. 26569, 91st Cong. 1st Sess., Sept. 23, 1969.

8. *Id.* at p. 26571.

9. See Rule X clause 1(k), *House Rules and Manual* § 608 (1979).

10. Mr. Aspinall's amendments were readily accepted by that committee.

when conferees were named on the bill, members of his committee would be included.[11]

Measures Relating to National Forests

§ 29.6 A Senate bill extending the boundaries of a national forest, created from public domain and thus within jurisdiction of the House Committee on Interior and Insular Affairs, was referred to the Committee on Agriculture, with the consent of the Chairman, Committee on Interior and Insular Affairs, and with the understanding that the reference would not effect a change of jurisdiction.

On Apr. 22, 1963,[12] Executive Communication No. 709, a letter from the Secretary of Agriculture, transmitting a draft of a proposed bill to add certain lands to the Cache National Forest, Utah, was taken from the Speaker's table and referred to the Committee on Interior and Insular Affairs. This communication explained that the Cache National Forest had been carved from the public domain and that the proposed additions were lands within reclamation projects.[13]

On June 24, 1963,[14] a bill (H.R. 7218), to accomplish the same end was introduced by Mr. Laurence J. Burton, of Utah. That bill, however, did not indicate that the forest had been "public domain," and accordingly[15] was referred to the Committee on Agriculture.

When the Senate passed a similar bill (S. 1388),[16] the measure was held at the desk until the Chairman of the Committee on Interior and Insular Affairs, Wayne

See 115 CONG. REC. 26587, 91st Cong. 1st Sess.

11. Conferees, when appointed, represented both committees. *Id.* at p. 26591.

12. 109 CONG. REC. 6655, 88th Cong. 1st Sess.

13. The rules provide [see Rule X clause 1(k), *House Rules and Manual* § 680 (1979)] that the Committee on Interior and Insular Affairs has jurisdiction over "forest reserves and national parks created from the public domain [clause 1(k)(1)]," "reclamation [clause 1(k)(5)]," and "public lands generally [clause 1(k)(15)]."

14. 109 CONG. REC. 11443, 88th Cong. 1st Sess.

15. The rules provide [see Rule X clause 1(a), *House Rules and Manual* § 670 (1979)] that the Committee on Agriculture has subject matter jurisdiction over "forestry in general, and forest reserves other than those created from the public domain [clause 1(a)(13)]."

16. 109 CONG. REC. 11552, 11553, 88th Cong. 1st Sess., June 25, 1963.

N. Aspinall, of Colorado, disclosed that he had no objection to the reference of the Senate bill to the Committee on Agriculture in light of the circumstances, and with the understanding that such approval did not constitute a precedent with respect to the jurisdiction of the Committee on Interior and Insular Affairs.

Several days later, on July 15, 1963,[17] the Record indicates that S. 1388, an "act to add certain lands to the Cache National Forest, Utah," was referred to the Committee on Agriculture.[18]

Select Committee to Investigate Domestic Energy Resources

§ 29.7 The House rejected a resolution, reported from the Committee on Rules, establishing a select committee to investigate all aspects of energy resources in in the United States.

On May 26, 1971,[19] by direction of the Committee on Rules, Mr. William R. Anderson, of Tennessee, called up House Resolution 155 and asked for its immediate consideration. The resolution read as follows:

> *Resolved*, That there is hereby created a select committee to be composed of seven Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.
>
> The committee is authorized and directed to conduct a full and complete investigation of all aspects of the energy resources in the United States, including (1) the availability of oil, gas, coal, and nuclear energy reserves; (2) the identification of the ownership of such reserves; (3) the reasons and possible solutions for the delay in new starts of fossil fueled powerplants; (4) the effect of pricing practices by the owners of energy reserves; (5) the effect of the import of low sulfur fuels; (6) measures to increase the availability of pipelines, railways, barges, and ships needed to transport fuel materials; (7) measures to close the gap between the supply and demand for electric energy; and (8) the identification of the environmental effects of the electricity industry. . . .
>
> The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

Shortly thereafter, Mr. Anderson summarized the nature of the resolution:[20]

17. 109 CONG. REC. 12525, 88th Cong. 1st Sess.

18. S. 1388 was reported by the Committee on Agriculture on July 29, 1963 (H. Rept. No. 597).

19. 117 CONG. REC. 16984, 92d Cong. 1st Sess.

20. *Id.* at p. 16985.

> . . . [T]he resolution before us, House Resolution 155, is to create a select committee to be composed of seven Members to be appointed by the Speaker.
>
> The responsibility of the committee shall be to investigate all aspects of the energy resources in the United States, including the availability of oil, gas, coal, and nuclear energy reserves; the identification of the ownership of such reserves; the reasons and possible solutions for the delay in new starts of fossilfueled powerplants; the effect of pricing practices by the owners of energy reserves; the effect of the import of low sulfur fuels; measures to increase the availability of pipelines, railways, barges, and ships needed to transport fuel materials; measures to close the gap between the supply and demand for electric energy; and the identification of the environmental effects of the electricity industry.

Mr. H. R. Gross, of Iowa, raised the following issues with respect to the resolution:

> What about the invasion of the jurisdiction of the standing committees that are already in existence with staffs sufficient to go into the matters included in the resolution? It seems to me in reading this list that the proposed new commission would be invading the jurisdiction of a half dozen regularly established committees in the House of Representatives.

Mr. Anderson responded by stating that fragmentation in the regular committee structure with respect to energy matters was a problem in itself. He noted, however, that he visualized the proposed committee "as being an aid to the other House committees in terms of a full-time study of a very, very vital national problem and being of assistance to the other committees rather than an infringement on their character and the rules that they operate under."

Other Members voiced concern about the proposed jurisdiction of the select committee. Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, observed that: (1)

> . . . [U]nder the language of the bill for the establishment of this special group there is listed "the effect of pricing practices by the owners of energy reserves." We have now pending in the Judiciary Committee a number of bills with reference to pricing practices concerning those who manufacture energy. Am I going to run a race with you to conduct the hearings in my committee while you conduct hearings in your committee on pricing practices, predatory practices, reciprocal relations between various companies, all of which are embodied in the provisions in the pending resolution?

Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, stated: (2)

> In my opinion House Resolution 155 will raise serious jurisdictional ques-

1. *Id.* at p. 16986.

2. *Id.* at pp. 16997, 16998.

tions with existing House committees. For example, item (1) of House Resolution 155, the availability of oil, gas, coal, and nuclear energy reserves, is clearly within the jurisdiction of the Interior and Insular Affairs Committee. The House rules assign to the Committee on Interior and Insular Affairs of the House—and I cite only pertinent sections of those rules[3]—responsibility for mineral reserves on the public lands; mining interest generally; and petroleum conservation on the public lands and conservation of the radium supply in the United States.

The conflicts with item (2), the identification of the ownership of reserves, is less clear but where those minerals occur on the public lands of this Nation which incidentally make up about one-third of our total land area, I am convinced that again the responsibility lies with the House Committee on Interior and Insular Affairs.

I will not make a detailed comparison of the remaining five items in House Resolution 155 with the present jurisdictional responsibility of the Committee on Interior and Insular Affairs. I am convinced, however, that there are substantial areas of conflict or duplication that would raise serious jurisdictional questions.

For these reasons I must oppose House Resolution 155.

Mr. John E. Moss, of California, a member of the Committee on Interstate and Foreign Commerce, contended that:

. . . [I]t is not only the jurisdiction of the Interstate and Foreign Commerce Committee which the proposed select committee would infringe upon.[4] The same is true of the jurisdiction of the Public Works Committee,[5] the Ways and Means Committee,[6] the Merchant Marine and Fisheries Committee,[7] and the Joint

3. See Rule XI clause 10, *House Rules and Manual* § 702 (1973).

4. The rules [see Rule XI clause 12, *House Rules and Manual* § 704 (1973)] provide that the Committee on Interstate and Foreign Commerce possesses jurisdiction over interstate and foreign commerce generally [clause 12(a)], interstate oil compacts and petroleum and natural gas, except on the public lands [clause 12(d)], regulation of interstate and foreign transportation, except transportation by water not subject to the jurisdiction of the Interstate Commerce Commission [clause 12(h)], and regulation of interstate transmission of power, except the installation of connections between government water-power projects [clause 12(i)], among other subjects.

5. The jurisdiction of the Committee on Public Works [see Rule XI clause 16, *House Rules and Manual* § 714 (1973)] includes oil and other pollution of navigable waters [clause 16(f)], and water power [clause 16(j)], among other subjects.

6. The jurisdiction of the Committee on Ways and Means [see Rule XI clause 21, *House Rules and Manual* § 724 (1973)] extends to such subjects as ports of entry and delivery [clause 21(a)], reciprocal trade agreements [clause 21(c)], revenue measures generally [clause 21(d)], and transportation of dutiable goods [clause 21(h)], among others.

7. The jurisdiction of the Committee on Merchant Marine and Fisheries in-

Committee on Atomic Energy.[8] All of these committees have legislative jurisdiction with regard to particular aspects of energy resources and environmental protection, and the establishment of a new select committee would tend to hinder rather than further the legislative output of these committees.

The proponents of House Resolution 155 did not choose to deny the existence of jurisdictional changes but responded, instead, by arguing that a comprehensive analysis by the select committee would be preferable to the present approach. Mr. Dante B. Fascell, of Florida, a cosponsor of the resolution, argued that the Nation's energy problems could not be addressed on an "ad hoc basis."[9] Mr. Thaddeus J. Dulski, of New York, asserted that "overlapping responsibilities"[10] were partly to blame for "what amounts to a desperate national energy crisis." Contending that there was a "definite interrelationship between fuels"[11] the understanding of which was essential to formulation of policy, Mr. Don Fuqua, of Florida, stated that "this resolution (H. Res. 155) will provide the most logical vehicle to define this interrelationship and provide us with a workable energy policy."

On a subsequent roll call vote, the resolution was rejected.[12]

§ 30. Committee on Agriculture

The Committee on Agriculture became a standing committee of the House on May 3, 1820,[13] with jurisdiction over "subjects relating to agriculture."[14] Under the rules revisions of 1880, this jurisdiction was extended to include forestry, and the committee was granted the authority to receive the estimates and report ap-

cludes [see Rule XI clause 14, *House Rules and Manual* § 709 (1973)] merchant marine generally [clause 14(a)], measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) [clause 14(e)], navigation and the laws relating thereto, including pilotage [clause 14(g)], and the registering and licensing of vessels and small boats [clause 14(i)], among other subjects.

8. The jurisdiction of the Joint Committee on Atomic Energy extended to the making of continuing studies of problems relating to the development, use, and control of atomic energy. See § 7, supra.

9. 117 Cong. Rec. 17000, 92d Cong. 1st Sess., May 26, 1971.

10. *Id.* at p. 17001.

11. *Id.* at p. 17002.

12. *Id.* at p. 17003.

13. 4 Hinds' Precedents § 4149.

14. Terrence T. Finn, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974) committee print, p. 6.

propriations bills for the Department of Agriculture. This latter authority was transferred to the Committee on Appropriations in 1920.[15]

The jurisdiction of the committee under the 1973 rules,[16] which derived from the revisions effected by the Legislative Reorganization Act of 1946, read as follows:

(a) Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves;

(b) Agriculture generally;

(c) Agricultural and industrial chemistry;

(d) Agricultural colleges and experiment stations;

(e) Agricultural economics and research;

(f) Agricultural education extension services;

(g) Agricultural production and marketing and stabilization of prices of agricultural products;

(h) Animal industry and diseases of animals;

(i) Crop insurance and soil conservation;

(j) Dairy Industry;

(k) Entomology and plant quarantine;

(l) Extension of farm credit and farm security;

(m) Forestry in general, and forest reserves other than those created from the public domain;

(n) Human nutrition and home economics;

(o) Inspection of livestock and meat products;

(p) Plant industry, soils, and agricultural engineering;

(q) Rural electrification.

Upon the adoption of the Committee Reform Amendments of 1974, paragraph 7 [paragraph (g) in the 1973 rules] was altered and paragraphs 18 and 19 were added as follows:[17]

(7) Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States). . . .

(18) Commodities exchanges.

(19) Rural development.

The effect of these changes was to give the committee jurisdiction over agricultural commodities (including the Commodity Credit Corporation) but to transfer jurisdiction over foreign distribution and nondomestic production of commodities (except sugar) to the Committee on International Relations.[18]

In addition to these areas, the committee has reported on mat-

15. 7 Cannon's Precedents § 1870.

16. Rule XI clause 1, *House Rules and Manual* § 677 (1973). See Rule X clause 1(a), *House Rules and Manual* § 670 (1979).

17. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975. See Rule X clause 1(a)(7), (18), (19), *House Rules and Manual* § 670 (1975).

18. See Rule X clause 1(k), *House Rules and Manual* § 680 (1975) for the new jurisdiction of the Committee on International Relations.

ters not clearly indicated in the rules. Among these[19] are the following:

1. Animal welfare;
2. Flood control;
3. Food stamps;
4. Foreign assistance;
5. International health;
6. International trade;
7. Pesticides;
8. Rural development, including:

(a) Loans for rural firehouses, community centers, and businesses;
(b) Nonfarm rural housing loans;
(c) Rural telephone banks;
(d) Rural water supply;
(e) Water pollution control programs;

9. Wild areas (in forests).

Further elaboration on the extent of the committee's jurisdiction is provided by a partial list set forth by the Chairman[20] of the Committee on Agriculture in the course of a statement[21] he made before the Committee on Rules on Mar. 2, 1971. Among the subject areas he listed were the following:

(1) The restoration, expansion, and development of foreign markets for American agricultural products and of international trade in agriculture products; the use of agricultural commodities pursuant to Public Law 480, Eighty-third Congress, as amended and the use of the foreign currencies accruing therefrom; and the effect of the European Common Market and other regional economic agreements and commodity marketing and pricing systems upon United States agriculture.

(2) All matters relating to the establishment and development of an effective Foreign Agricultural Service pursuant to title VI of the Agricultural Act of 1954.

(3) All matters relating to the development, use, and administration of the national forests, including but not limited to development of a sound program for general public use of the national forests consistent with watershed protection and sustained-yield timber management, and study of the forest fire prevention and control policies and activities of the Forest Service and their relation to coordinated activities of other Federal, State, and private agencies.

(4) Price spreads between producers and consumers.

(5) The formulation and development of improved programs for agricultural commodities; matters relating to the inspection, grading, and marketing of such commodities; and the effect of trading in futures contracts for such commodities.

(6) The administration and operation of agricultural programs through State and county agricultural stabilization and conservation committees and the administrative policies and procedures

19. "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print.

20. William R. Poage (Tex.).

21. Terrence T. Finn, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 2.

relating to the selection, election, and operation of such committees.

(7) The development of upstream watershed projects authorized by Public Law 156, Eighty-third Congress, and the administration and development of watershed programs pursuant to Public Law 566, Eighty-third Congress, as amended; the development of land use programs pursuant to the Food and Agriculture Act of 1962 and the Agricultural Act of 1970.

(8) All programs of food assistance or distribution supported in whole or in part by funds authorized to be used by the Department of Agriculture, including but not limited to the food stamp program, the commodity distribution program, the school milk program, and programs established pursuant to the Child Nutrition Act of 1966.

(9) The implementation and administration of the Wholesome Meat Act of 1967, the Wholesome Poultry Products Act of 1968, and the Egg Products Inspection Act of 1970, including the establishment and development of inspection services as required by the Acts.

(10) All matters relating to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and the Federal Environmental Pesticide Control Act of 1972, as well as all agricultural chemicals registered and regulated under such Act.

In addition to the subject areas already identified, as the precedents reveal, the Committee on Agriculture also has jurisdiction over measures regulating the transportation, sale, and handling of dogs and cats to be used for research,[22] commodities owned by the Commodity Credit Corporation,[23] measures granting congressional consent to an interstate forest fire protection compact,[24] and certain watershed work plans.[25]

In 1973, the Committee on Agriculture maintained six commodity subcommittees and four operational subcommittees, as follows:

COMMODITY SUBCOMMITTEES

1. Subcommittee on Cotton;
2. Subcommittee on Dairy and Poultry;
3. Subcommittee on Forests;
4. Subcommittee on Livestock and Grains;
5. Subcommittee on Oilseeds and Rice; and
6. Subcommittee on Tobacco.

OPERATIONAL SUBCOMMITTEES

1. Subcommittee on Conservation and Credit;
2. Subcommittee on Department Operations;
3. Subcommittee on Domestic Marketing and Consumer Relations; and
4. Subcommittee on Family Farms and Rural Development.

The oversight responsibilities of the committee extend to the Department of Agriculture, the Farm Credit Administration, and, in

22. § 30.2 infra.
23. § 30.1, infra.
24. § 30.5, infra.
25. § 30.7, infra.

part, the Corps of Engineers and the Environmental Protection Agency. These duties are undertaken by the Subcommittee on Department Operations.

Commodities Owned by the Commodity Credit Corporation

§ 30.1 The Committee on Agriculture has jurisdiction of a measure which authorizes the sale, exchange, barter or donation of commodities owned by the Commodity Credit Corporation.

On June 9, 1954,[26] the Committee on Agriculture reported out a bill (S. 2475), to authorize the President to use agricultural commodities to improve the foreign relations of the United States, and for other purposes.

The measure ultimately became the Agricultural Trade Development and Assistance Act of 1954.[27] This legislation authorized the President to negotiate with foreign governments for the purpose of selling or otherwise disposing of agricultural stocks owned by the Commodity Credit Corporation. The Corporation was authorized, in addition, to barter such commodities, to donate them to state, federal, or private agencies for use school lunch programs, hospitals, and charitable institutions. The act directed the Secretary of Agriculture to utilize the authority given him by the Commodity Credit Corporation Charter Act[28] to make barters or exchanges of agricultural commodities for strategic materials.

Parliamentarian's Note: The Commodity Credit Corporation Charter Act was reported from the Committee on Banking and Currency in 1948,[1] and by agreement between that committee and the Committee on Agriculture, all measures amending the Charter Act were, until 1974, referred to the Committee on Banking and Currency. As in the instant case, however, the Committee on Agriculture has jurisdiction of many bills which deal with the sale, exchange, barter or donation of agricultural commodities owned by the Corporation.[2] After the Com-

26. 100 CONG. REC. 7981, 83d Cong. 2d Sess.

27. 68 Stat. 454, 7 USC § 1691.

28. 62 Stat. 1070, 15 USC § 714.

1. See the *Parliamentarian's Note* to § 33.2, infra, for additional information.

2. Other examples of the Committee on Agriculture's jurisdiction in this regard would include: Pub. L. No. 84–50 [70 Stat. 188] by which the Corporation was authorized under regulations to be issued by the Secretary

mittee Reform Amendments of 1974, the Committee on Banking and Currency relinquished jurisdiction over the Commodity Credit Corporation to the Committee on Agriculture.

Domestic Animals

§ 30.2 In the 89th Congress, by a rereference, the House confirmed the jurisdiction of the Committee on Agriculture (as distinguished from the Committee on Interstate and Foreign Commerce) of bills authorizing the Secretary of Agriculture to regulate the transportation, sale, and handling of dogs and cats intended for use in research or experimentation.

On July 29, 1965,[3] Oren Harris, of Arkansas, Chairman of the Committee on Interstate and Foreign Commerce, obtained unanimous consent that his committee be discharged from the consideration of three bills (H.R. 9750, H.R. 9869, and H.R. 9875) mentioned above, and that they be rereferred to the Committee on Agriculture. In so doing, Mr. Harris pointed out that an identical bill (H.R. 9743), had previously been rereferred earlier in the session.[4]

§ 30.3 The Committee on Agriculture and not the Committee on Merchant Marine and Fisheries has jurisdiction over a bill relating to the domestic raising of fur-bearing animals.

On Feb. 14, 1945,[5] Speaker Sam Rayburn, of Texas, recognized Schuyler Otis Bland, of Virginia, Chairman of the Committee on Merchant Marine and Fisheries, who obtained unanimous consent that his committee be discharged from further consideration of a bill (H.R. 2115) relating to domestic raising of fur-bearing animals, and that it be rereferred to the Committee on Agriculture.[6]

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of Agriculture to donate food commodities acquired through price support operations to federal penal and correctional institutions; Pub. L. No. 86–756 [74 Stat. 899] authorizing the Corporation to donate dairy products and other agricultural commodities for use in home economics courses; and Pub. L. No. 87–179 [75 Stat. 411] permitting the use of donated foods under certain circumstances for training college students.

3. 111 CONG. REC. 18691, 89th Cong. 1st Sess.

4. 111 CONG. REC. 17981, 89th Cong. 1st Sess., July 22, 1965.

5. 91 CONG. REC. 1085, 79th Cong. 1st Sess.

6. H.R. 2115 was reported by the Committee on Agriculture on Dec. 10, 1945 (H. Rept. No. 1346).

§ 30.4 The Committee on Agriculture and not the Committee on Merchant Marine and Fisheries has jurisdiction of a bill transferring government activities in connection with domestic rabbits to the Department of Agriculture.

On Jan. 22, 1945,[7] Speaker Sam Rayburn, of Texas, recognized Schuyler Otis Bland, of Virginia, Chairman of the Committee on Merchant Marine and Fisheries, who sought unanimous consent that a bill (H.R. 95) to transfer government activities in connection with domestic rabbits to the Department of Agriculture be rereferred from his committee to the Committee on Agriculture.

No objection being voiced, the rereferral was effected.[8]

Forest Fire Protection

§ 30.5 The Committee on Agriculture and not the Committee on the Judiciary has jurisdiction of a bill granting the consent and approval of Congress to an interstate forest fire protection compact.

On May 26, 1954,[9] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Chauncey W. Reed, of Illinois, Chairman of the Committee on the Judiciary, who obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 6393), and to have it rereferred to the Committee on Agriculture.[10]

Water Conservation

§ 30.6 The Committee on Agriculture and not the Committee on Interior and Insular Affairs has jurisdiction of a bill to amend section 7 of the act of Aug. 11, 1939, as amended, authorizing construction of water conservation and utilization projects in the Great Plains and arid and semiarid areas of the United States—a law which provided water supply for farmers.

On Mar. 17, 1953,[11] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Arthur L. Miller, of Nebraska, Chairman of

7. 91 Cong. Rec. 424, 79th Cong. 1st Sess.
8. For a similar rereferral, see 90 Cong. Rec. 2794, 78th Cong. 2d Sess., Mar. 20, 1944.
9. 100 Cong. Rec. 7138, 83d Cong. 2d Sess.
10. H.R. 6393 was reported by the Committee on Agriculture on July 12, 1954 (H. Rept. No. 2179).
11. 99 Cong. Rec. 2004; 83d Cong. 1st Sess.

the Committee on Interior and Insular Affairs, who made the following request:

> Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of H.R. 2229, a bill to increase the maximum amount of Federal funds which may be expended for any one water facilities project in the arid and semiarid areas of the United States, and that it be referred to the Committee on Agriculture.
>
> It is the sense of the Committee on Interior and Insular Affairs that this bill properly comes within the scope and jurisdiction of the Committee on Agriculture.

The Chair then inquired as to whether there was any objection, and none being stated, the measure was rereferred.

Watershed Work Plans

§ 30.7 Two of four communications received from the Director of the Bureau of the Budget relating to watershed work plans were referred to the Committee on Agriculture pursuant to the requirements of 16 USC § 1002.

On Aug. 13, 1957,[12] two of four[13] communications (Exec. Comm. Nos. 1122–1125), from the Director of the Bureau of the Budget transmitting watershed work plans were taken from the Speaker's table and referred to the Committee on Agriculture.

The referrals in question were identified, as follows:

> 1122. A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a watershed work plan for the Caney Creek watershed, Arkansas, pursuant to section 5 of the Watershed Protection and Flood Prevention Act (68 Stat. 667), as amended by the act of August 7, 1956 (70 Stat. 1088), and Executive Order No. 10654 of January 20, 1956; to the Committee on Agriculture. . . .
>
> 1124. A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a watershed work plan for the Lacamas Creek tributaries watershed, Washington, pursuant to section 5 of the Watershed Protection and Flood Prevention Act (68 Stat. 667; Public Law 566, 83d Cong.) and Executive Order No. 10654 of January 20, 1956; to the Committee on Agriculture.

Parliamentarian's Note: Pursuant to the requirements of 16 USC § 1002, the Committee on Agriculture has jurisdiction of executive communications relating to watershed work plans involving no single structure providing more than 4,000 acre-feet of total capacity, and the Committee on Public Works has jurisdiction of such plans involving any single struc-

12. 103 CONG. REC. 14628, 85th Cong. 1st Sess.

13. The other two (Exec. Comm. Nos. 1123, 1125) were referred to the Committee on Public Works.

ture of more than 4,000 acre-feet of total capacity.

§ 31. Committee on Appropriations

Created in 1865 out of jurisdiction formerly accorded the Committee on Ways and Means,[14] the Committee on Appropriations has been concerned traditionally with the "appropriation of the revenue for the support of the Government."[1] Today, the committee has plenary jurisdiction over all appropriation bills for the various departments and agencies of government. Historically, the committee's jurisdiction has undergone periodic transformation as various committees had at certain times jurisdiction over particular appropriation bills.[2]

The largest standing committee in the House, with 55 members in 1973, the Committee on Appropriations possesses 13 subcommittees. The latter vary in size from eight to 12 members and consist of:

1. The Subcommittee on Agriculture-Environmental and Consumer Protection;
2. The Subcommittee on Defense;
3. The Subcommittee on the District of Columbia;
4. The Subcommittee on Foreign Operations;
5. The Subcommittee on Housing and Urban Development-Space-Science- Veterans [Matters];
6. The Subcommittee on the Interior;
7. The Subcommittee on Labor-Health, Education and Welfare;
8. The Subcommittee on Legislative [Matters];
9. The Subcommittee on Military Construction;
10. The Subcommittee on Public Works-Atomic Energy Commission;
11. The Subcommittee on State, Justice, Commerce and the Judiciary;
12. The Subcommittee on Transportation;
13. The Subcommittee on Treasury-Postal Service-General Government.

In addition to its jurisdiction over "appropriation of the revenue for the support of the Government,"[3] the committee under the 1973 rules,[4] was expressly authorized whether "acting as a whole or by any subcommittee . . . to conduct studies and examinations of the organization and operation of any executive department or other executive agency." Each subcommittee was assigned jurisdiction over specific agencies,

14. 4 Hinds' Precedents § 4032.

1. This language was used in the 1865 rule as well as the 1880 revision. In 1865, however, more detail followed the general description. See 4 Hinds' Precedents § 4032.

2. *Id.* at § 4032.

3. Rule XI clause 2(a), *House Rules and Manual* § 679 (1973).

4. Rule XI clause 2(b), *House Rules and Manual* § 679 (1973).

commissions, councils, and departments by the main committee. The list which follows[5] groups the specific agencies or departments which fell under the jurisdiction of each subcommittee in 1973 [enumeration added]:

AGRICULTURE-ENVIRONMENTAL AND CONSUMER PROTECTION SUBCOMMITTEE

(1) Department of Agriculture (*except* Forest Service).

(2) Consumer Information Center (GSA).

(3) Consumer Product Safety Commission.

(4) Council on Environmental Quality and Office of Environmental Quality.

(5) Environmental Financing Authority (Treasury).

(6) Environmental Protection Agency.

(7) Farm Credit Administration.

(8) Federal Trade Commission.

(9) Food and Drug Administration (HEW).

(10) Grants for Basic Water@Sewer Facilities (HUD).

(11) National Commission on Materials Policy.

(12) National Industrial Pollution Control Council (Commerce).

(13) National Study Commission on Water Quality Management.

DEFENSE SUBCOMMITTEE

(1) Department of Defense—Military:

—Department of Army.
—Department of Navy (including Marine Corps).
—Department of Air Force.
—Office of Secretary of Defense.

Except: Military Construction, Military Assistance, and Civil Defense.

DISTRICT OF COLUMBIA SUBCOMMITTEE

(1) District of Columbia.

FOREIGN OPERATIONS SUBCOMMITTEE

(1) Agency for International Development.

(2) Action (international programs Peace Corps).

(3) Asian Development Bank.

(4) Cuban Refugee Program (HEW).

(5) Export-Import Bank.

(6) Foreign Military Credit Sales.

(7) Inter-American Development Bank.

(8) Inter-American Foundation;

(9) International Bank for Reconstruction and Development (World Bank).

(10) International Development Association.

(11) International Monetary Fund.

(12) Migration and Refugee Assistance (State).

(13) Military Assistance Program.

(14) Overseas Private Investment Corporation.

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5. This list, reproduced in its entirety, was compiled by Robert C. Ketcham for the Select Committee on Committees. See "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, pp. 21–24.

Many of these agencies or departments have been transferred to other subcommittees since 1973 (see later editions of this work).

HUD-SPACE-SCIENCE-VETERANS SUBCOMMITTEE

(1) Department of Housing and Urban Development (except grants for basic water and sewer facilities).

(2) Federal Communications Commission.

(3) Federal Home Loan Bank Board.

(4) National Aeronautics and Space Administration.

(5) National Aeronautics and Space Council.

(6) National Science Foundation.

(7) Office of Science and Technology.

(8) Renegotiation Board.

(9) Securities and Exchange Commission.

(10) Selective Service System.

(11) Veterans' Administration.

INTERIOR SUBCOMMITTEE

(1) Department of the Interior.

Except: Alaska Power Administration, Bonneville Power Administration, Bureau of Reclamation, Southeastern Power Administration, Southwestern Power Administration, and Underground Electric Power Transmission Research.

Related Agencies:

—American Revolution Bicentennial Commission.
—Commission of Fine Arts.
—Federal Metal and Nonmetallic Mine Safety Board of Review.
—Forest Service (USDA).
—Franklin Delano Roosevelt Memorial Commission.
—Indian Claims Commission.
—Indian Education Activities (HEW).
—Indian Health Activities (HEW).
—Joint Federal-State Land Use Planning Commission for Alaska.
—National Capital Planning Commission.
—National Council on Indian Opportunity.
—National Foundation on the Arts and the Humanities.
—Pennsylvania Avenue Development Corporation.
—Smithsonian Institution.
—National Gallery of Art.
—Woodrow Wilson International Center for Scholars.
—Youth Conservation Corps (Forest Service).

LABOR-HEALTH, EDUCATION, AND WELFARE SUBCOMMITTEE

(1) Department of Health, Education, and Welfare.

Except: Cuban refugee program, Emergency health activities, Food and Drug Administration, Indian educational activities, Indian health and construction activities, and Office of Consumer Affairs.

(2) Department of Labor.

Related Agencies:

—Action (domestic programs).
—Cabinet Committee on Opportunities for Spanish-Speaking People.
—Commission on Railroad Retirement.
—Corporation for Public Broadcasting.
—Federal Mediation and Conciliation Service.
—National Commission on Libraries and Information Science.
—National Commission on Marijuana and Drug Abuse.
—National Commission on the Financing of Postsecondary Education.
—National Labor Relations Board.
—National Mediation Board.
—Occupational Safety and Health Review Commission.
—Office of Economic Opportunity.

—Railroad Retirement Board.
—United States Soldiers' and Airmen's Home.

LEGISLATIVE SUBCOMMITTEE

(1) House of Representatives.
(2) Joint Items.
(3) Architect of the Capitol (except Senate items).
(4) Botanic Garden.
(5) Cost-Accounting Standards Board.
(6) General Accounting Office.
(7) Government Printing Office.
(8) Library of Congress.

MILITARY CONSTRUCTION SUBCOMMITTEE

(1) Military Construction in the Army.
(2) Military Construction in the Navy (including Marine Corps).
(3) Military Construction in the Air Force.
(4) Military Construction in Defense Agencies.
(5) Military Construction for Reserve Forces.
(6) Homeowners Assistance Fund.
(7) Military Family Housing.

PUBLIC WORKS-AEC SUBCOMMITTEE

(1) Atomic Energy Commission.
(2) Department of Defense—Civil.

Department of the Army: Cemeterial Expenses, Corps of Engineers—Civil.

(3) Department of the Interior:

—Alaska Power Administration.
—Bonneville Power Administration.
—Bureau of Reclamation.
—Office of the Secretary: Underground Electric Power Transmission Research.
—Southeastern Power Administration.
—Southwestern Power Administration.

Related Agencies:

—Appalachian Regional Commission.
—Appalachian Regional Development Programs.
—Delaware River Basin Commission.
—Federal Power Commission.
—Interstate Commission on the Potomac River Basin.
—National Water Commission.
—Susquehanna River Basin Commission.
—Tennessee Valley Authority.
—Water Resources Council.

STATE, JUSTICE, COMMERCE, AND JUDICIARY SUBCOMMITTEE

(1) Department of Commerce (*except* NIPCC).
(2) Department of Justice.
(3) Department of State (*except* Migration & Refugee Assistance).
(4) The Judiciary.

Related Agencies:

—American Battle Monuments Commission.
—Arms Control and Disarmament Agency.
—Commission on American Shipbuilding.
—Commission on Civil Rights.
—Commission on the Organization of the Government for the Conduct of Foreign Policy.
—Equal Employment Opportunity Commission.
—Federal Maritime Commission.
—Foreign Claims Settlement Commission.
—International Radio Broadcasting.
—Marine Mammal Commissions.
—National Commission for the Review of Federal and State Laws

Relating to Wiretapping and Electronic Surveillance.
—Small Business Administration.
—Special Representative for Trade Negotiations.
—Subversive Activities Control Board.
—Tariff Commission.
—U.S. Information Agency.

TRANSPORTATION SUBCOMMITTEE

(1) Department of Transportation.

Related Agencies:

—Aviation Advisory Commission.
—Civil Aeronautics Board.
—Commission on Highway Beautification.
—Interstate Commerce Commission.
—National Transportation Safety Board.
—Panama Canal.
—Washington Metropolitan Area Transit Authority.

TREASURY-POSTAL SERVICE-GENERAL GOVERNMENT SUBCOMMITTEE

(1) Treasury Department.

(2) United States Postal Service.

(3) Executive Office of the President:

—Compensation of the President.
—Council of Economic Advisers.
—Council on International Economic Policy.
—Domestic Council.
—Executive Residence.
—National Commission on Productivity.

Rule X clause 1(b) [*House Rules and Manual* § 671(a) (1979)] sets forth the jurisdiction of the Committee on Appropriations as follows:

(1) Appropriation of the revenue for the support of the government.

(2) Rescissions of appropriations contained in appropriation acts.

(3) Transfers of unexpended balances.

(4) The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills and resolutions (reported by other committees) which provide new spending authority and are referred to the committee under clause 4(a).

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

Following a period during which certain appropriation bills were distributed to other committees, the Committee on Appropriations was again given jurisdiction over all appropriations by an amendment to the rules adopted June 1, 1920.[6] Effective July 12, 1974, special Presidential messages on rescissions and deferrals of budget authority submitted pursuant to sections 1012 and 1013 of the Impoundment Control Act of 1974 (88 Stat. 332 et seq.), as well as rescission bills and impoundment resolutions defined in section 1011 and required in section 1017 to be referred to the appropriate committee, are referred to the Committee on Appropriations if the

6. See 7 Cannon's Precedents § 1741.

proposed rescissions or deferrals involve funds already appropriated or obligated. Also effective July 12, 1974, in the Congressional Budget Act of 1974 [88 Stat. 320, § 404(a)] as perfected by House Resolution 988, 93d Congress, the committee was given jurisdiction over rescissions of appropriations (paragraph 2), transfers of unexpended balances (paragraph 3), and the amount of new spending authority to be effective for a fiscal year (paragraph 4) including measures reported by other committees which exceed the appropriate allocation of new budget authority contained in the most recently agreed to concurrent resolution on the budget for such fiscal year as provided in clause 4(a)(2) of Rule X (H. Res. 988, 93d Congress). The authority to conduct studies and examinations of the organization and operation of executive departments and agencies was made part of the standing rules on Jan. 3, 1953, and is now listed as a general oversight responsibility of the committee in clause 2(b)(3) of Rule X. The committee is also authorized and directed to hold hearings on the budget as a whole in open session within 30 days of its submission [clause 4(a)(1)(A) of Rule X], and to study on a continuing basis provisions of law providing spending authority or permanent budget authority and to report to the House recommendations for terminating or modifying such provisions [Rule X clause 4(a)(3)]. In addition, clause 2(l)(1)(C) of Rule XI requires the committee to submit a summary report comparing its recommendations in all regular appropriation bills with the appropriate levels of budget outlays and authority contained in the most recently agreed to concurrent resolution on the budget for that year. The requirement of section 139 of the Legislative Reorganization Act of 1946 (60 Stat. 812) that the Committees on Appropriations of the House and Senate develop a standard appropriation classification schedule has been superseded by section 202(a) of the Legislative Reorganization Act of 1970 (84 Stat. 1167) which now imposes that responsibility upon the Secretary of the Treasury and the Office of Management and Budget. The further requirement of section 139 that the Appropriations Committees study existing permanent appropriations and recommend which, if any, should be discontinued has been made the responsibility of all standing committees of the House by clause 4(f)(1), (2), Rule X, section 253 of the Legislative Reorganization Act of 1970 (84 Stat. 1175).

The House rules in 1973 contained a specific conferral of sub-

pena authority [see Rule XI clause 2, *House Rules and Manual* § 679 (1973)]. This conferral of authority was superseded by the Committee Reform Amendments of 1974. Rule XI clause 2(m) [*House Rules and Manual* § 718 (1979)] contains a general conferral of subpena authority on all committees.

The principal task of the Committee on Appropriations is its comprehensive review of the federal budget[7]—a process oriented toward funding requirements and spending levels as opposed to explicit statements of any policy implications or legislative concepts. The latter are matters within the purview of the standing committees which authorize the particular appropriations. Accordingly, the rules prohibit any legislation on general appropriation bills as well as the making of any unauthorized appropriations in general bills.

In 1973, this joint prohibition was contained within Rule XXI, which read,[8] as follows:

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided*, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

While the reporting in general appropriation bills of appropriations unauthorized by law is expressly forbidden, exceptions are granted "in continuation of appropriations for such public works and objects as are already in progress." Interpretation of this language by precedent has clarified the committee's jurisdictional authority.[9] Thus, a public work which is continued "must not be so conditioned in relation to place as to become a new work."[10] An

7. See Ch. 13 (Powers and Prerogatives of the House) § 21 (Congressional Budget Act), supra.

8. Rule XXI clause 2, House Rules and Manual § 834 (1973).

9. For more details see Ch. 26, Unauthorized Appropriations; Legislation on Appropriation Bills, infra.

10. *House Rules and Manual* § 839 (1979).

appropriation for site selection of a public building is not the equivalent of a public work in progress."[11] A general system of roads on which some work has been done cannot be admitted as a work in progress.[12] Conversely, the continuation of such works as a topographical survey, a geological map, the marking of a boundary line, and the recoinage of coins in the Treasury[13] are deemed, by precedent, to constitute the continuation of works in progress.

The prohibition against any provision in "[an appropriation] bill or amendment thereto changing existing law" is construed to mean the enactment of law where none exists[14] or a proposition for the repeal of existing law.[15] The committee may not report a bill with a provision construing existing law since such a proposition, itself, constitutes legislation.[16] Propositions establishing affirmative directions for executive officers are also outside the committee's jurisdiction as is the making or changing of cost limitations involving public works. Limitations on the use of funds, however, are not forbidden—the theory being that since the House may decline to appropriate for a purpose authorized by law, so it may prohibit the use of the money for part of the purpose while appropriating for the remainder of it.[1]

In addition to works in progress, the other exception to Rule XXI, clause 2 prohibitions affecting appropriations measures in the "Holman rule." The latter consists of the language commencing with the second sentence of clause 2 (i.e., Rule XXI clause 2, *House Rules and Manual* § 834 [1979]) and pertains to the permissibility of germane amendments notwithstanding their legislative effect so long as the amendments "shall retrench [i.e., reduce]" expenditures from the U.S. Treasury.[2] It should be noted, however, that any appropriations

11. *House Rules and Manual* § 839 (1979).

12. *House Rules and Manual* § 839 (1979).

13. *House Rules and Manual* § 840 (1979).

14. *House Rules and Manual* § 842 (1979).

15. *House Rules and Manual* § 842 (1979).

16. *House Rules and Manual* § 842 (1979).

1. *House Rules and Manual* § 843 (1979).

2. The Holman rule also permits the offering of further germane amendments retrenching expenditures when offered by a committee or commission (authorized by law or by the House) to have jurisdiction over the subject matter of such amendment.

measure or amendment thereto which is purported to fall within the Holman rule must reduce expenditures on its face;[3] the mere probability of a reduction in expenditures is insufficient to meet this obligatory criterion.[4]

The jurisdiction of the Committee on Appropriations is further affected by another restriction contained within the House rules[5] pertaining to general appropriation measures. To wit:

> No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced.

The foregoing rule notwithstanding, where the reappropriation language is identical to the language of a legislative authorization enacted subsequent to the adoption of the rule,[6] the latter yields to the more recently expressed will of the House evinced by the law.[7]

As the precedents reveal, the Committee on Appropriations has reported measures containing legislation which did not fall within the exceptions specified in the rules. Such instances occur where the measure is not a general appropriation bill[8] or where an express waiver is granted by the House.[9]

The investigative jurisdiction of the Committee on Appropriations overlaps with the jurisdiction of the Committee on Government Operations and with the jurisdiction of the Committee on Ways and Means. The rules[10] charge the Committee on Government Operations with the duty of "studying the operation of Government activities at all levels with a view to determining its economy and efficiency." Although this would seem to conflict with the oversight responsibilities of the Committee on Appropriations, no

3. *House Rules and Manual* § 844 (1979).

4. Thus, even a provision reducing the number and salary of certain officers of the United States does not necessarily comport with the Holman rule; see 7 Cannon's Precedents § 1500.

5. Rule XXI clause 6, *House Rules and Manual* § 847 (1979).

6. The reader should bear in mind that the rules of one Congress do not automatically govern the next. Each Congress adopts its own rules.

7. 107 CONG. REC. 18133, 87th Cong. 1st Sess., Sept. 5, 1961.

8. See § 31.8, infra.

9. See §§ 31.1, 31.3, infra.

10. Rule XI clause 8, *House Rules and Manual* § 691 (1973). See also Rule X clause 1(i), *House Rules and Manual* § 678 (1979).

significant jurisdictional conflict has resulted. The jurisdiction of the Committee on Ways and Means, however, extends to major entitlement spending authorities resulting in significant impacts on the budget.

This impact on the budget is derived from certain permanent spending authorities which fall within the jurisdiction of the Committee on Ways and Means such as social security, medicare, interest on the national debt, general revenue sharing (after 1974, within jurisdiction of Committee on Government Operations), public assistance grants, and other social services and benefits.(11) It has been estimated that in light of such permanent spending authorities, in 1973, the Committee on Appropriations "has effective control over only about 44 percent of net budget authority."(12) The Committee on Appropriations must, however, recommend appropriations of funds to finance entitlement spending programs within the jurisdiction of other committees.

As a final note, it should be borne in mind that the committee's jurisdictional control over appropriations sometimes had been eroded by the historical growth of so-called "back door" appropriations. Programs of such magnitude as revenue sharing, highway trust funds, public works projects, and mass transit have come "through the 'back door.'"(13) Four types of "back door" funding mechanisms have been defined, as follows:

> (1) Borrowing authority—the authority to obligate and spend from funds obtained by borrowing from the general public by either the Secretary of the Treasury or by a federal agency or corporation.
>
> (2) Contract authority—the requirement of subsequent action in appropriations bills to liquidate a contractual obligation that the Executive Department has made under its authority to enter into contracts.
>
> (3) Permanent appropriations—those which provide for specific amounts of time in a definite or indefinite amount (i.e., interest on the public debt, revenue sharing).
>
> (4) Mandatory entitlements—instances in which the Federal Government is obligated to pay benefits established by law.

Parliamentarian's Note: The common element in each of these funding mechanisms was the inability of the Committee on Appropriations to limit in advance of the obligation being incurred the amount of the obligation.(14)

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11. Robert C. Ketcham, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 12.

12. *Id.*

13. *Id.* at p. 14.

14. *Note:* Under the Congressional Budget Act of 1974 [88 Stat. 297, 31 USC

Effective on July 12, 1974, the Congressional Budget Act of 1974 granted to the Committee on Appropriations jurisdiction over rescissions of appropriations contained in appropriations acts, over the amount of new spending (contract and indebtedness) authority to be effective for a fiscal year, and over bills and resolutions reported from other committees, providing new spending (entitlement) authority in excess of that allocated to the reporting committee in connection with the most recently agreed—to concurrent resolution on the budget for the fiscal year in question.[15]

Effective Jan. 3, 1975, the Committee Reform Amendments of 1974 included within the jurisdiction of the Committee on Appropriations transfers of unexpended balances,[16] and included within Rule X clause 4(a)(2), the requirement under the Budget Act that certain bills and resolutions reported from other committees be referred to the Committee on Appropriations for not to exceed 15 legislative days.[17] Thus in the 94th Congress, the jurisdiction of the committee read as follows:

> (b) Committee on Appropriations.
>
> (1) Appropriation of the revenue for the support of the Government.
>
> (2) Rescissions of appropriations contained in appropriation Acts.
>
> (3) Transfers of unexpended balances.
>
> (4) The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills and resolutions (reported by other committees) which provide new spending authority and are referred to the committee under clause 4(a).
>
> The committee shall include separate headings for "Rescissions" and "Transfers of Unexpended Balances" in any bill or resolution as reported from the committee under its jurisdiction specified in subparagraph (2) or (3), with all proposed rescissions and proposed transfers listed therein; and shall include a separate section with respect to such rescissions or transfers in the accompanying committee report.

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§§ 1302–1353], certain types of borrowing (§401(a)), contract (§ 401(a)), and entitlement authority (§ 401(b)) may not be included in legislation, unless limited by amounts in advance in appropriations acts, and points of order may be raised against the bills pursuant to the Budget Act provisions. Thus, an enforcement mechanism against backdoor spending has emerged. See *House Rules and Manual* § 1008 (1979).

15. Pub. L. No. 93–344, §404(a). See §401(b)(2) of Pub. L. No. 93–344 for the requirement that certain entitlement bills be referred to the Committee on Appropriations, and for the authority of the committee over such measures.

16. H. Res. 988, § 301, 120 CONG. REC. 34447–70, Oct. 8, 1974.

17. H. Res. 988, § 101.

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

Parliamentarian's Note: The language "transfers of unexpended balances" refers to transfers of appropriations within the confines of the same bill, which are normally considered in order on a general appropriation bill. These should be distinguished from reappropriations of unexpended, or lapsed, balances, which are prohibited by Rule XXI clause 6, *House Rules and Manual* § 847 (1979). Under the latter rule, a provision in an appropriation bill permitting an appropriation previously made (in another act) to be used for a new purpose is not in order.

Express House Authorization to Incorporate Specific Legislation in Any General or Special Appropriation Measure

§ 31.1 The Committee on Appropriations has been authorized by resolution to investigate allegations that certain federal employees were unfit to continue in that employment by reason of association with subversive groups and to incorporate legislation approved by the committee emanating from the same resolution in any general or special appropriation measure or to be offered as a committee amendment to such measure notwithstanding the rules.

On Feb. 9, 1943,[18] Mr. Adolph J. Sabath, of Illinois, submitted a privileged resolution (H. Res. 105), reported from the Committee on Rules, which he sent to the desk and called up for immediate consideration.

The Clerk read the resolution as follows:

> *Resolved,* That the Committee on Appropriations, acting through a special subcommittee thereof appointed by the chairman of such committee for the purposes of this resolution, is authorized and directed to examine into any and all allegations or charges that certain persons in the employ of the several executive departments and other executive agencies are unfit to continue in such employment by reason of their present association or membership or past association or membership in or with organizations whose aims or purposes are or have been subversive to the Government of the United States. Such examination shall be pursued with the view of obtaining all available evidence bearing upon each particular case and reporting to the House the conclusions of the committee

18. 89 CONG. REC. 734, 78th Cong. 1st Sess.

with respect to each such case in the light of the factual evidence obtained. The committee, for the purposes of this resolution, shall have the right to report at any time by bill, amendment, or otherwise, its findings and determination. Any legislation approved by the committee as a result of this resolution may be incorporated in any general or special appropriation measure emanating from such committee or may be offered as a committee amendment to any such measure notwithstanding the provisions of clause 2 of rule XXI.

For the purposes of this resolution, such committee or any subcommittee thereof is hereby authorized to sit and act during the present Congress at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses, and the production of such books or papers or documents or vouchers by subpena or otherwise, and to take such testimony and records as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or subcommittee, or by any person designated by him, and shall be served by such person or persons as the chairman of the committee or subcommittee may designate. The chairman of the committee or subcommittee, or any member thereof, may administer oaths to witnesses.

With the following committee amendment:

Page 2, line 4, after the period, strike out all of the language following up to the period in line 6.

Immediately thereafter, Speaker Sam Rayburn, of Texas, put the question on whether the House would consider the resolution, since the resolution had been called up the same day as reported from the Committee on Rules. Two-thirds of the House having voted in favor thereof in the Chair's estimation, the matter was entertained, and debate ensued. At the conclusion of the debate, none of it touching upon the aforementioned exception to Rule XXI, the resolution, with the committee amendment, was agreed to.[19]

General Appropriation Bills With Senate Amendments

§ 31.2 General appropriation bills with Senate amendments thereto may be referred to the Committee on Appropriations.

On July 2, 1945,[1] Speaker Sam Rayburn, of Texas, announced that he had referred H.R. 3368, the "war agencies bill" with Senate amendments thereto, to the Committee on Appropriations pursuant to his discretionary authority under Rule XXIV clause 2, seldom exercised, to refer Senate amendments to any House-passed bill to the appropriate committee.[2]

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19. *Id.* at p. 742.

1. CONG. REC. 7142, 79th Cong. 1st Sess.

2. H.R. 3368 was reported by the Committee on Appropriations on July 11, 1945 (H. Rept. No. 880).

Legislation in Appropriation Bills

§ 31.3 The Chairman of the Committee on Appropriations has addressed himself to the use of resolutions reported by the Committee on Rules and adopted by the House, waiving points of order against noncontroversial legislation in appropriation bills.

On Mar. 23, 1945,[3] the House entertained consideration of a resolution (H. Res. 194), reported from the Committee on Rules which called for the waiver of points of order against legislative provisions in an agricultural appropriations bill (H.R. 2689).[4]

In the course of that consideration, Speaker Sam Rayburn, of Texas, recognized[5] Clarence Cannon, of Missouri, Chairman of the Committee on Appropriations, who elaborated, in part, on the practice of his committee with respect to requesting such resolutions.

> Said Mr. Cannon:[6] May I again allude to the long-established policy of the committee, which the members of the committee have so frequently emphasized from the well of this House, under which the Committee on Appropriations does not include new or controversial legislation in its bills. Our bills are uniformly clean of any new legislation, any major legislation. We include only those provisions which have been carried in the bills for many years by both parties, or of an emergency nature, on which there is general agreement. In this instance, the great Committee on Agriculture, which has jurisdiction, approved the bill and the Committee on Rules approved it; otherwise we would not have reported it to the House.

§ 31.4 The Chairman of the Committee on Appropriations gave notice to the executive departments and the legislative committees that in the next session of Congress nothing would be included in any appropriation bill which was not specifically authorized by law regardless of custom or urgency.

On Mar. 23, 1945,[7] as the House considered a resolution (H. Res. 194), waiving points of order against legislative provisions in an upcoming appropriations bill (H.R. 2689),[8] Speaker Sam Ray-

3. 91 Cong. Rec. 2668, 79th Cong. 1st Sess.
4. For discussion of this subject in general, see Ch. 26, Legislation in Appropriation Bills, infra.
5. 91 Cong. Rec. 2671, 79th Cong. 1st Sess.
6. *Id.* at p. 2672.
7. 91 Cong. Rec. 2671, 79th Cong. 1st Sess.
8. For further discussion of this subject, see Ch. 26, Legislation in Appropriation Bills, infra.

burn, of Texas, recognized Clarence Cannon, of Missouri, Chairman of the Committee on Appropriations, who made the following remarks, among others:[9]

> . . . I would like to take advantage of the opportunity to add as an individual member of the committee that in view of the fact that points of order have been so persistently raised on this bill that the Committee on Appropriations should in the future, notwithstanding the needs of the departments in the transaction of their routine business, be like Caesar's wife: innocent of even the implication of any infringement upon any rule or practice of the House. I should like to give notice to the departments, to the legislative committees of the House and to all concerned that in the next session nothing will be included in any appropriation bill, however customary or however urgent, that is not specifically authorized by law. I trust this notice is in ample time to permit any department to make application to legislative committees having jurisdiction, and in time for such committees to report such authorization, if they so desire.

Monthly Budget Summary

§ 31.5 The Committee on Appropriations has been authorized to insert in the Congressional Record a summary of national budget receipts and expenditures each month of a session.

On Mar. 11, 1963,[10] Mr. Clarence Cannon, of Missouri, initiated the following exchange with the Speaker:

> Mr. Speaker, the Committee on Appropriations each month makes a concise summary of current budget results in relation to the previous year and the current budget estimates.
>
> For the information of Members and others who may find it of interest, I ask unanimous consent to include in the Record a synoptic tabulation of the trend of net budget receipts and expenditures in the current fiscal year 1963 with comparisons to the official budget estimates for the fiscal year 1963 and to corresponding actual data for the previous fiscal year 1962.
>
> THE SPEAKER:[11] Without objection, it is so ordered.
>
> There was no objection.

Following the insertion of the above-mentioned summary, Mr. Cannon made this request:

> Mr. Speaker, I ask unanimous consent that we may have leave to insert a similar type of statement each month of the session.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Missouri?
>
> There was no objection.

Previously Appropriated Revenues

§ 31.6 The Committee on Appropriations, under the

9. 91 CONG. REC. 2672, 79th Cong. 1st Sess.

10. 109 CONG. REC. 3943, 3944, 88th Cong. 1st Sess.

11. John W. McCormack (Mass.).

rules, does not have jurisdiction over a proposition amending section 305 of the Higher Education Facilities Act of 1963 to make the revolving loan fund therein, which consists of funds already appropriated for one purpose, available for a new purpose.

On Oct. 27, 1971,[12] pursuant to a special rule (H. Res. 661), the House resolved itself into the Committee of the Whole for the consideration of a bill (H.R. 7248), to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education.[13]

House Resolution 661 provided, among other things, that an amendment in the nature of a substitute recommended by the Committee on Education and Labor would be treated as an original bill, and all points of order against the amendment for failure to comply with the provisions of Rule XVI clause 7,[14] and Rule XXI clause 4,[15] would be waived. The resolution further provided that:

> . . . [A]ll titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248.

After considerable discussion the Committee rose,[16] and Chairman James C. Wright, Jr., of Texas, reported to Speaker Carl Albert, of Oklahoma, that the Committee had come to no resolution on the bill. The next day, however, on Oct. 28, 1971,[17] the

12. 117 CONG. REC. 37769, 92d Cong. 1st Sess.

13. *Id.* at p. 37765.

14. This clause read [see Rule XVI clause 7, *House Rules and Manual* §§ 793 794 (1973)] as follows: "A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert; and no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

15. This clause [see Rule XXI clause 4, *House Rules and Manual* § 846 (1973)] provided: "No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time."

16. 117 CONG. REC. 37812, 92d Cong. 1st Sess.

17. 117 CONG. REC. 38036, 92d Cong. 1st Sess.

Committee reconvened, and H.R. 7248 was considered again.

In the course of that further consideration, a point of order was raised[18] with respect to section 712 of the amendment in the nature of a substitute. Section 712 amended existing law so as to enable a revolving loan fund to be utilized to provide loan insurance. As the following exchange reveals, this was thought by Mr. Frank T. Bow, of Ohio, to infringe upon the jurisdiction of the Committee on Appropriations:

> MR. BOW: Mr. Chairman, I make a point of order against lines 5 through 19 on page 173 on the ground that it constitutes an appropriation of the revenue of the support of the Government which falls within the jurisdiction of the Committee on Appropriations under the provisions of rule 11, clause 2.[19]
>
> Now, under the rude, if adopted, there is a waiver of appropriations under clause 4 of rule 21 and clause 7 of rule 16. However, under the rule to which I refer, which gives the Committee on Appropriations the jurisdiction to appropriate revenue for the support of the Government, it is not waived and the rule under which we are now working provides that "all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248."
>
> This is not a transfer of funds. This is the incorporation of a revolving fund into an insurance fund. This is properly within the jurisdiction of the Appropriations Committee.
>
> Under the rule under which we are operating, although they have waived some of the rules on appropriations, there was no waiver of rule XI, clause 2.
>
> Therefore, Mr. Chairman, I insist upon my point of order providing for the jurisdiction of the Appropriations Committee.
>
> THE CHAIRMAN: Does any other Member desire to be heard on the point of order?
>
> If not, the Chair is prepared to rule.
>
> It is quite true as the gentleman from Ohio points out that the rule under which this bill is being considered expressly makes in order any point of order against any title, part, or section of the committee substitute which falls properly within the jurisdiction of any other standing committee of the House of Representatives.
>
> The Chair has referred to rule XI(2)(a) to which the gentleman from Ohio makes reference and in which jurisdiction over certain matters is given to the Committee on Appropriations.
>
> Subparagraph (a) the Chair observes that the Committee on Appropriations is to be given jurisdiction over the appropriation of the revenues for the sup-

18. *Id.* at p. 38077.

19. The jurisdiction of the Committee on Appropriations [see Rule XI clause 2, *House Rules and Manual* § 679 (1973)] extends to all matters relating to the appropriation of revenue for the support of the government.

port of the Government. It appears to the Chair that the language in the section under dispute, section 712, refers not to an appropriation of revenues, but to a use of revenues which already have been appropriated and that the reappropriation of these revenues would not fall within the exclusive jurisdiction of the Committee on Appropriations. For those reasons, the Chair is constrained to overrule the point of order.

The point of order is overruled.

Public Buildings Act Project; Prospectus Approval

§ 31.7 A communication from the Chairman of the Committee on Public Works, advising of the approval of a prospectus for a project under the Public Buildings Act of 1959, is laid before the House and referred to the Committee on Appropriations.

On Apr. 19, 1961,[20] Speaker Sam Rayburn, of Texas, laid before the House the following communication from Charles A. Buckley, of New York, Chairman of the Committee on Public Works:

MY DEAR MR. SPEAKER: Pursuant to the provisions of section 7(a) of the Public Buildings Act of 1959, the Committee on Public Works of the House of Representatives approved on April 18, 1961, a prospectus for the following public building project which was transmitted to this committee from the General Services Administration: Macon, Ga., Post Office and Federal Office Building.

This message was then referred to the Committee on Appropriations.[21]

Special Appropriation Bills Containing Legislative Provisions

§ 31.8 The Committee on Appropriations has jurisdiction over a bill providing "special" appropriations even if it contains legislative provisions, and no point of order lies against such legislative provisions under Rule XXI clause 2, as the restrictions contained therein apply only to general appropriation bills.

On June 16, 1939,[1] the House resolved itself into the Committee of the Whole for the further consideration of a joint resolution (H.J. Res. 326), making appropriations for work relief, relief, and to

20. 107 CONG. REC. 6284, 87th Cong. 1st Sess.

21. Communications under the Public Buildings Act are customarily referred in this manner, pursuant to the law. For a similar instance, see 106 CONG. REC. 4223, 86th Cong. 2d Sess., Mar. 2, 1960.

1. 84 CONG. REC. 7282, 76th Cong. 1st Sess.

increase employment by providing loans and grants for public works projects for the fiscal year ending June 30, 1940. The measure had been reported to the House by the Committee on Appropriations[2] and had been made in order by unanimous consent.[3]

Among the many sections of the measure, in addition to the specific language appropriating funds from the Treasury, were the following:[4]

Sec. 29. (a) It shall be unlawful for any person knowingly to solicit, or knowingly be in any manner concerned in soliciting, any assessment, subscription, or contribution for the campaign expenses of any individual or political party from any person entitled to or receiving compensation or employment provided for by this title.

(b) Any person who knowingly violates any provision of this section shall be guilty of a felony and, upon conviction, shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both. The provisions of this section shall be in addition to, not in substitution for, any other section of existing law, or of this title.

Sec. 30. (a) It shall be unlawful for any person, directly or indirectly, to promise any employment, position, work, compensation, or other benefit, provided for or made possible by this title, or any other act of the Congress, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in any election.

(b) Except as may be required by the provisions of subsection (b) of section 31 hereof, it shall be unlawful for any person to deprive, attempt to deprive, or threaten to deprive, by any means, any person of any employment, position, work, compensation, or other benefit, provided for or made possible by this title, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election.

(c) Any person who knowingly violates any provision of this section shall be guilty of a felony and, upon conviction, shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both. The provisions of this section shall be in addition to, not in substitution for, any other sections of existing law, or of this title.

Sec. 31. (a) It shall be unlawful for any person employed in any administrative or supervisory capacity by any agency of the Federal Government, whose compensation or any part thereof is paid from funds authorized or appropriated by this title, to use his official authority or influence for the purpose of interfering with an election or affecting the results thereof. While such persons shall retain the right to vote as they please and to express privately their opinions on all political subjects, they shall take no active part, directly or indirectly, in political management or in political campaigns or in political conventions.

2. 84 CONG. REC. 7198, 76th Cong. 1st Sess., June 14, 1939.

3. 84 CONG. REC. 7018, 76th Cong. 1st Sess., June 12, 1939.

4. 84 CONG. REC. 7345, 76th Cong. 1st Sess., June 16, 1939.

(b) Any person violating the provisions of this section shall be immediately removed from the position or office held by him, and thereafter no part of the funds appropriated by this title shall be used to pay the compensation of such person. The provisions of this section shall be in addition to, not in substitution for, any other sections of existing law, or of this title.

In the course of the bill's consideration, Chairman of the Committee of the Whole, John W. McCormack, of Massachusetts, recognized Mr. Claude V. Parsons, of Illinois, who initiated the following exchange with respect to the aforementioned sections:[5]

Mr. Chairman, I rise to make the point of order against sections 29, 30, and 31, on page 27, on the ground that this is an appropriation bill, and the sections mentioned are legislation on an appropriation bill. Also, I make the point of order that in addition to its being legislation on an appropriation bill contrary to existing law, the language seeks to enact penalties involving far-reaching consequences to practically everyone outside of the W. P. A. appropriation bill. This point was brought up 1 year ago when something like the same language was used in this bill, and the language was ruled out on a point of order.[6]

THE CHAIRMAN: The Chair is prepared to rule. On May 21, 1937, in connection with the W. P. A. relief bill, which was under consideration at the time, the Chairman, Mr. O'Connor, ruled on the identical question which the gentleman from Illinois has raised and on that occasion the Chairman said:

The bill in question is not a general appropriation bill and, therefore, clause 2 of rule XXI does not apply.

Following that precedent, the Chair overrules the point of order.

MR. PARSONS: But, Mr. Chairman, the Chair does not take into consideration the point I raised that the language seeks to impose penalties involving every person outside of the W. P. A.

THE CHAIRMAN: The ruling which the Chair has just quoted applies also to the point of order raised by the gentleman on the matter of penalties.

Shortly after this exchange, another point of order was raised by Mr. Jack Nichols, of Oklahoma, who stated:[7]

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5. 84 CONG. REC. 7365, 76th Cong. 1st Sess.

6. Rule XXI clause 2, provided then, as in 1973, that "No appropriations shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures. . . ." [H. Jour. 1122, 76th Cong. 1st Sess. (1939); Rule XXI clause 2, *House Rules and Manual* § 834 (1973)].

7. 84 CONG. REC. 7366, 76th Cong. 1st Sess.

I make a point of order, Mr. Chairman, against section 30 of the bill and direct the attention of the Chair to that language in section 30 of the bill, in line 23, which reads, "or any other act of the Congress"; for the reason that it is legislation on an appropriation bill and it goes far beyond the purview of the instant bill under consideration and is not germane to this bill.

As Mr. Nichols elaborated under the Chair's questioning:

Of course, I thoroughly understood the ruling of the Chair on the point of order raised by the gentleman from Illinois. I want to read, for the benefit of the Chair . . . section 30:

> It shall be unlawful for any person, directly or indirectly, to promise any employment, position, work, compensation, or other benefit provided for or made possible by this title—

Up to that point I quite agree with the ruling of the Chair—

or any other act of the Congress—

Which is the part of the section to which I direct my point of order.

Now, this bill is brought to the floor of the House by the Committee on Appropriations. While I have been a Member of this body only a limited number of years and while I have no disposition to argue with the ruling of the Chair, if my feeble conception of the rules of the House has taught me anything it has taught me that legislation in an appropriation bill can only place a limitation on the appropriation.

At this juncture, Mr. Clifton A. Woodrum, of Virginia, contended that:

The gentleman has an improper premise. This is not an appropriation bill. It is a general legislative bill.

Mr. Nichols took exception to that position after which Mr. Herman P. Eberharter, of Pennsylvania, obtained the floor and stated:

I just want to call the attention of the Chair to the title of the bill, which reads:

> Joint resolution making appropriations for work relief, relief, and to increase employment by providing loans and grants for public-works projects, for the fiscal year ending June 30, 1940.

The title of the bill says nothing whatever about regulation or legislation in any respect whatsoever, and is nothing except an appropriation bill under its title.

The Chair then announced he was ready to rule and rendered the following decision:

The Chair will state that the title of a bill is merely for the purpose of identification. The position taken by the gentleman from Oklahoma, as well as that taken by the gentleman from Illinois, would have been correct, in the opinion of the Chair, if applied to a general appropriation bill; but in the opinion of the Chair there is a clear distinction between a general appropriation bill and the joint resolution pending before the Committee today, which is a combination of appropriation and legislation.

When this bill was introduced on June 13 it was referred by the Speaker to the Committee on Appropriations and reported by the Committee on Appropriations and is being considered now as the result of a unanimous-consent agreement.

This bill not being a general appropriation bill, but being legislative in character, the Chair is constrained to rule that the point of order of the gentleman from Oklahoma is not well taken.

For the reasons stated the point of order is overruled.[8]

Watershed Protection and Flood Prevention Act Plans

§ 31.9 A communication from the Chairman of the Committee on Agriculture, advising of the approval of plans under the Watershed Protection and Flood Prevention Act, was laid before the House and referred to the Committee on Appropriations.

On May 21, 1959,[9] Speaker Sam Rayburn, of Texas, placed before the House the following communication from Harold D. Cooley, of North Carolina, Chairman of the Committee on Agriculture:

DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Agriculture has today considered the work plans transmitted to you by Executive Communication 921 and referred to this committee and unanimously approved each of such plans. The work plans involved are:

STATE AND WATERSHED

Alabama: Little Paint Creek.
Iowa: Big Park.
Tennessee: Jennings Creek.
Utah: American Fork-Dry Creek.

The message was then referred to the Committee on Appropriations.[10]

Parliamentarian's Note: The Speaker refers to the Committee on Appropriations communications from the Chairmen of the Committees on Agriculture and Public Works, respectively, advising the Speaker of approval of plans under the provisions of the Watershed Protection and Flood Prevention Act [16 USC § 1002] which prohibit appropriations from being made prior to such approval.

§ 31.10 A communication from the Chairman of the Committee on Public Works, advising of the approval of plans under the Watershed Protection and Flood Prevention Act, was laid before the House by the Speaker and referred to the Committee on Appropriations.

8. General and special appropriation bills are distinguished in Chs. 25 and 26, infra.

9. 105 CONG. REC. 8808, 86th Cong. 1st Sess.

10. For a similar instance, see 105 CONG. REC. 3042, 3043, 86th Cong. 1st Sess., Feb. 26, 1959.

On June 8, 1959,[11] Speaker Sam Rayburn, of Texas, laid before the House the following communication from Charles A. Buckley, of New York, Chairman of the Committee on Public Works:

> DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Public Works has approved the work plans transmitted to you which were referred to this committee. [The work plans were here set forth.]

This information, in its entirety, was then referred to the Committee on Appropriations.[12]

§ 32. Committee on Armed Services

Established Jan. 2, 1947, as a result of the Legislative Reorganization Act of 1946,[13] the Committee on Armed Services combined the Committees on Military Affairs and on Naval Affairs. The latter committees had been created in 1822[14] and between 1885 and 1920 these committees had jurisdiction of military and naval appropriations. In 1953, the clause specifying the committee's responsibilities was changed in order to reflect the committee's jurisdiction over the then newly created Department of Defense which had been established by the National Security Act.[15]

The jurisdiction of the Committee on Armed Services pursuant to the 1973 rules[16] read as follows:

> (a) Common defense generally.
>
> (b) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.
>
> (c) Ammunition depots; forts; arsenals; Army, Navy, and Air Force reservations and establishments.
>
> (d) Conservation, development, and use of naval petroleum and oil shale reserves.
>
> (e) Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.
>
> (f) Scientific research and development in support of the armed services.
>
> (g) Selective service.
>
> (b) Size and composition of the Army, Navy, and Air Force.
>
> (i) Soldiers' and sailors' homes.
>
> (j) Strategic and critical materials necessary for the common defense.

As the precedents reveal, the jurisdiction of the committee and its

11. 105 CONG. REC. 10164, 86th Cong. 1st Sess.

12. For a similar instance, see 105 CONG. REC. 3784, 86th Cong. 1st Sess., Mar. 10, 1959.

13. 60 Stat. 812.

14. 4 Hinds' Precedents §§ 4179, 4189.

15. 61 Stat. 495.

16. Rule XI clause 3, *House Rules and Manual* § 681 (1973). See also Rule X clause 1 § (c), *House Rules and Manual* § 672 (1979).

predecessors over public bills has extended to permitting civil actions against the United States for damage to the reputation of servicemen;[17] authorizing the President to bestow military medals;[18] authorizing review of the armed services' retirement, disability, and discharge determinations;[1] dealing with certain military retirement[2] and other benefits;[3] authorizing construction of certain facilities at the Walter Reed Medical Center;[4] providing for payment of death gratuities by the military departments;[5] granting honorable discharges to World War I veterans;[6] recognizing the war time services of civilian groups;[7] amending the National Security Act to achieve military economies through reorganization;[8] furnishing headstones and memorials for military decedents and missing servicemen;[9] investigating artifacts of the Ryukyuan people;[10] amending the Legislative Reorganization Act of 1946 to authorize payment of claims arising from the correction of military records;[11] authorizing appropriations for the acquisition of military housing;[12] and authorizing payment from military appropriations of moneys due on military housing contracts.[13]

In terms of private bills, the precedents indicate the committee's jurisdiction embraces such matters as conveying military property to a private corporation;[14] crediting certain military service for purposes of promotion;[15] and the making of determinations affecting individuals' retirement remuneration.[1]

As formalized by the Committee Reform Amendments of 1974, the committee's oversight jurisdiction includes not only those laws and agencies within its legislative jurisdiction (including titles 10 and 32 of the United States Code) but also special oversight jurisdiction over international arms control and military dependents' education.[2]

17. § 32.1, infra.
18. §§ 32.2, 32.3, infra.
1. §§ 32.4–32.8, infra.
2. §§ 32.19, 32.22, 32.23, infra.
3. §§ 32.20, 32.21, 32.29, infra.
4. § 32.9, infra.
5. § 32.10, infra.
6. § 32.11. infra.
7. § 32.28, infra.
8. § 32.12, infra.
9. §§ 32.13–32.15, infra.
10. § 32.16, infra.
11. § 32.29, infra.
12. § 32.18, infra.
13. § 32.18, infra.
14. § 32.24, infra.
15. § 32.25, infra.
1. §§ 32.26, 32.27, infra.
2. Rule X clause 3(a), *House Rules and Manual* § 693 (1979), as amended by

The subcommittee structure of the Committee on Armed Services, in 1973, consisted of five legislative subcommittees, two special subcommittees, and one oversight subcommittee, as follows:

LEGISLATIVE SUBCOMMITTEES

1. Subcommittee on Research and Development;
2. Subcommittee on Military Personnel;
3. Subcommittee on Seapower;
4. Subcommittee on Military Compensation;
5. Subcommittee on Military Installations and Facilities.

SPECIAL SUBCOMMITTEES

1. Special Subcommittee on Human Relations;
2. Special Subcommittee on Intelligence.

OVERSIGHT SUBCOMMITTEE

1. Armed Services Investigating Subcommittee.

In the 95th Congress, the committee obtained jurisdiction over military applications of nuclear energy, when the legislative jurisdiction of the Joint Committee on Atomic Energy was abolished.[3]

H. Res. 988, 120 CONG. REC. 34447–70, Oct. 8, 1974.

3. H. Res. 5, 123 CONG. REC. 53–70, 95th Cong. 1st Sess., Jan. 4, 1977.

Civil Actions for Damages Brought Against the United States by Servicemen

§ 32.1 In the 91st Congress, the Committee on Armed Services, and not the Committee on the Judiciary, had jurisdiction over a bill adding a new chapter to title 10, United States Code, to permit civil actions in federal courts against the United States for damage to the reputation of members of the armed forces charged with committing certain crimes against civilians in combat zones if such members are acquitted of such charges.

On July 15, 1970,[4] Mr. Jack T. Brinkley, of Georgia, obtained unanimous consent to have H.R. 18365 discharged from further consideration by the Committee on the Judiciary and rereferred to the Committee on Armed Services.

Authorizing President to Bestow Military Medals

§ 32.2 The Committee on Armed Services has jurisdiction of a bill authorizing the President to bestow the

4. 116 CONG. REC. 24451, 91st Cong. 2d Sess.

decoration of the Purple Heart upon an individual.

On Jan. 8, 1947,[5] H.R. 714 was referred to the Committee on Armed Services.

§ 32.3 The Committee on Armed Services has jurisdiction of a bill authorizing and directing the President to award posthumously a Congressional Medal of Honor.

On Jan. 9, 1947,[6] H.R. 743 was referred to the Committee on Armed Services.

Armed Services' Review Over Discharge and Disability Matters

§ 32.4 The Committee on Armed Services and not the Committee on Veterans' Affairs has jurisdiction of a bill to amend section 302 of the Servicemen's Readjustment Act of 1944, authorizing the armed services' secretaries and the Secretary of the Treasury to establish boards of review to examine the previous findings of retirement boards regarding the physical condition of any officer or former officer at the individual's request.

On Mar. 1, 1950,[7] John E. Rankin, of Mississippi, Chairman of the Committee on Veterans' Affairs, obtained unanimous consent to have his committee discharged from further consideration of H.R. 5604 and to have it rereferred to the Committee on Armed Services.

§ 32.5 The Committee on Armed Services and not the Committee on Veterans' Affairs has jurisdiction of a bill to amend the Servicemen's Readjustment Act of 1944, to insure proper review of disability status of officers discharged from the armed services.

On Jan. 19, 1951,[8] John E. Rankin, of Mississippi, Chairman of the Committee on Veterans' Affairs, obtained unanimous consent to have his committee discharged from further consideration of H.R. 1085 and to have it rereferred to the Committee on Armed Services.

§ 32.6 The Committee on Armed Services and not the

5. 93 CONG. REC. 193, 80th Cong. 1st Sess.
6. 93 CONG. REC. 209, 80th Cong. 1st Sess.
7. 96 CONG. REC. 2591, 81st Cong. 2d Sess.
8. 97 CONG. REC. 453, 82d Cong. 1st Sess.
For a similar instance, see also 99 CONG. REC. 1441, 83d Cong. 1st Sess., Feb. 26, 1953.

Committee on Veterans' Affairs has jurisdiction of a bill to amend the Servicemen's Readjustment Act of 1944 to: (1) insure proper review of disability status of persons discharged from the armed services, (2) provide for a copy of the disability record, and (3) provide for a presumption of service-connected injury or disease.

On Feb. 26, 1953,[9] Edith Nourse Rogers, of Massachusetts, Chairman of the Committee on Veterans' Affairs, obtained unanimous consent to have her committee discharged from further consideration of H.R. 1534 and to have it rereferred to the Committee on Armed Services. In so doing, Mrs. Rogers noted that a similar bill had been referred to that committee the previous year.

§ 32.7 The Committee on Armed Services and not the Committee on Veterans' Affairs has jurisdiction of a bill to authorize the review of the findings of naval retiring boards and physical evaluation boards in certain cases.

On Apr. 16, 1951,[10] John E. Rankin, of Mississippi, Chairman of the Committee on Veterans' Affairs, obtained unanimous consent to have his committee discharged from further consideration of H.R. 3648 and to have it rereferred to the Committee on Armed Services.

§ 32.8 The Committee on Armed Services and not the Committee on Veterans' Affairs has jurisdiction of proposals to amend section 301 of the Servicemen's Readjustment Act of 1944 with respect to the jurisdiction of boards of review established under that section to reconsider military discharges.

On Feb. 20, 1952,[11] the Speaker[12] recognized John E. Rankin, of Mississippi, Chairman of the Committee on Veterans' Affairs, who noted that a communication (Exec. Comm. No. 1171) from the Assistant Secretary of Defense recommending an amendment to the Servicemen's Readjustment Act of 1944 as described above, was referred to his committee.

Mr. Rankin added:

> While it is true that the Committee on Veterans' Affairs has jurisdiction over this law, the Boards of Review are administered entirely by the Secretary

9. 99 Cong. Rec. 1442, 83d Cong. 1st Sess.

10. 97 Cong. Rec. 3919, 82d Cong. 1st Sess.

11. 98 CONG. REC. 1200, 82d Cong. 2d Sess.

12. Sam Rayburn (Tex.).

of Defense and relate entirely to matters coming within the jurisdiction of the Secretary. I therefore believe that it will be more appropriate to have this matter considered by the Committee on Armed Services and ask unanimous consent that the Executive communication No. 1171 may be referred to the Committee on Armed Services.

Immediately thereafter, the House granted Mr. Rankin's request.[13]

Construction of Military Facilities

§ 32.9 In the 89th Congress, the Committee on Armed Services, and not the Committee on Public Works, had jurisdiction of a measure authorizing the Secretary of the Army to construct facilities at Walter Reed Medical Center for the Armed Forces Institute of Pathology.

On Oct. 3, 1966,[14] Mr. Kenneth J. Gray, of Illinois, obtained unanimous consent to have the Committee on Public Works discharged from further consideration of H.R. 18019 and to have it rereferred to the Committee on Armed Services.[15]

Payment of Death Gratuities by Military Departments

§ 32.10 The Committee on Armed Services and not the Committee on Veterans' Affairs has jurisdiction of a bill to amend section 301 of the Servicemen's and Veterans' Survivor Benefits Act to provide for expeditious payment of the death gratuity by military departments.

On Mar. 12, 1957,[16] Mr. Porter Hardy, Jr., of Virginia, obtained unanimous consent to have the Committee on Veterans' Affairs discharged from further consideration of H.R. 5382 and to have it rereferred to the Committee on Armed Services. In so doing, Mr. Hardy noted that he had discussed the matter with the chairmen of both committees, and they

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13. 98 CONG. REC. 1201, 82d Cong. 2d Sess.

Two days later, a bill (H.R. 6769), to amend § 301 of the act so as to limit the jurisdiction of the boards of review was referred directly to the Committee on Armed Services. See 98 CONG. REC. 1283, 82d Cong. 2d Sess., Feb. 22, 1952.

14. 112 CONG. REC. 24859, 89th Cong. 2d Sess.

15. H.R. 18019 was reported by the Committee on Armed Services on Oct. 5, 1966 (H. Rept. No. 2190).

16. 103 CONG. REC. 3529, 85th Cong. 1st Sess.

For a similar instance, see 103 CONG. REC. 14569, 85th Cong. 1st Sess., Aug. 13, 1957.

were "in agreement that this should be done."

Honorable Discharges

§ 32.11 The Committee on Armed Services and not the Committee on Veterans' Affairs has jurisdiction of a bill to provide for the granting of honorable discharges to certain persons who served in the Army during World War I.

On Jan. 19, 1951,[17] John E. Rankin, of Mississippi, Chairman of the Committee on Veterans' Affairs, obtained unanimous consent to have his committee discharged from further consideration of H.R. 1080 and to have it referred to the Committee on Armed Services.

Military Economies Through Reorganization

§ 32.12 The Committee on Armed Services and not the Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) had jurisdiction over a bill to amend the National Security Act of 1947 to promote economy and efficiency through certain reorganizations and the integration of supply and service activities within and among the military departments.

On June 18, 1952,[18] Carl Vinson, of Georgia, Chairman of the Committee on Armed Services requested unanimous consent to have H.R. 8130 rereferred from the Committee on Expenditures in the Executive Departments (now the Committee on Government Operations), to the Committee on Armed Services. Although several Members, under reservation of objection, expressed concern about the shift of jurisdiction, each subsequently withdrew his objection and unanimous consent was granted.[19]

Burial Headstones and Memorials for the Military

§ 32.13 The Committee on Armed Services and not the Committee on Veterans' Affairs has jurisdiction of a bill authorizing the Secretary of the Army to furnish headstones to mark the actual or honorary burial places of deceased members or former members of the military and naval forces.

17. 97 CONG. REC. 453, 82d Cong. 1st Sess.

18. 98 CONG. REC. 7532, 82d Cong. 2d Sess.

19. *Id.* at p. 7544.

On Feb. 24, 1949,[1] Speaker pro tempore John W. McCormack, of Massachusetts, recognized John E. Rankin, of Mississippi, Chairman of the Committee on Veterans' Affairs, who requested unanimous consent to have his committee discharged from further consideration of H.R. 920 and to have it rereferred to the Committee on Armed Services. In advancing his request, Mr. Rankin noted:

> I may say, Mr. Speaker, that the Committee on Armed Services has jurisdiction over this type of bill, and has a number of such bills before it.

Immediately thereafter, the following exchange took place:

> THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Mississippi?
>
> MR. [FRANCIS H.] CASE of South Dakota: Reserving the right to object, Mr. Speaker, is this re-reference agreeable to the Committee on Armed Services or the chairman thereof?
>
> MR. RANKIN: I suppose so. I am sure it is. I can see no reason why it should not be.
>
> THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Mississippi?
>
> There was no objection.

Parliamentarian's Note: Notwithstanding the transfer of jurisdiction to the Committee on Veterans' Affairs in 1967 of veterans' cemetary legislation, bills to provide headstones or markers for former members of the armed forces have continued to be referred to the Committee on Armed Services. Such bills normally amend title 24 USC § 279a, which law is within the jurisdiction of the Committee on Armed Services.

§ 32.14 The Committee on Armed Services and not the Committee on Veterans' Affairs has jurisdiction of a bill to provide for the erection of appropriate memorial stones in memory of certain members of the armed forces in World War II who were missing, missing in action, or buried at sea.

On Apr. 20, 1950,[2] John E. Rankin, of Mississippi, Chairman of the Committee on Veterans' Affairs, obtained unanimous consent to have his committee discharged from further consideration of H.R. 8082 and to have if rereferred to the Committee on Armed Services.

§ 32.15 The Committee on Armed Services and not the Committee on Foreign Af-

1. 95 CONG. REC. 1498, 81st Cong. 1st Sess.

2. 96 CONG. REC. 5462, 81st Cong. 2d Sess.

fairs has jurisdiction of a bill authorizing an appropriation to the Corregidor-Bataan Memorial Commission of an amount equal to amounts, not in excess of $7,500,000, to be received by the Secretary of the Navy from the sale of vessels stricken from the Naval Vessel Register.

On July 10, 1958,[3] Mr. Thomas E. Morgan, of Pennsylvania, a member of the Committee on Foreign Affairs, obtained unanimous consent to have that committee discharged from further consideration of H.R. 13265 and to have it rereferred to the Committee on Armed Services.[4]

Investigating Ryukyuan Artifacts

§ 32.16 In the 87th Congress, the Committee on Armed Services, and not the Committee on Interior and Insular Affairs, had jurisdiction of a bill to authorize an investigation of cultural and historical artifacts of the Ryukyuan people.

On Aug. 7, 1961,[5] Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, obtained unanimous consent to have his committee discharged from further consideration of H.R. 8461 and to have it rereferred to the Committee on Armed Services.

Armed Services Housing Contracts

§ 32.17 In the 87th Congress, the Committee on Armed Services, and not the Committee on Banking and Currency, had jurisdiction of a bill conferring jurisdiction in certain cases on the secretaries of the military departments to authorize payment from appropriated funds of the military departments of amounts determined to be owing to contractors under armed services housing contracts entered into under authority of the National Housing Act.[6]

On Feb. 21, 1962,[7] Brent Spence, of Kentucky, Chairman of the Committee on Banking and

3. 104 Cong. Rec. 13417, 85th Cong. 2d Sess.
4. H.R. 13265 was reported by the Committee on Armed Services on July 17, 1958 (H. Rept. No. 2213).
5. 107 Cong. Rec. 14786, 14787, 87th Cong. 1st Sess.
6. 12 USC §§ 1748 et seq.
7. 108 Cong. Rec. 2684, 87th Cong. 2d Sess.

Currency, obtained unanimous consent to have his committee discharged from further consideration of H.R. 10251 and to have it rereferred to the Committee on Armed Services.

Parliamentarian's Note: The armed services' contracts referred to consisted of housing contracts entered into under the authority of the National Housing Act.

Acquisition of Military Housing

§ 32.18 In the 90th Congress, the Committee on Armed Services, and not the Committee on Banking and Currency, had jurisdiction of a bill authorizing appropriations for use by the Secretary of Defense for acquisition of housing on or near military bases which have been ordered closed, even though the authorization for such program was contained in an omnibus housing act [reported from the Committee on Banking and Currency].

On Apr. 18, 1967,[8] Wright Patman, of Texas, Chairman of the Committee on Banking and Currency, obtained unanimous consent to have S. 1216 rereferred from his committee to the Committee on Armed Services.

Parliamentarian's Note: The Demonstration Cities and Metropolitan Development Act of 1966 [42 USC § 3347] contains a section authorizing the Secretary of Defense to acquire housing on or near a military base which is ordered closed; the section specifies that no funds may be appropriated for such acquisitions unless authorized in a military construction authorization act. Requests for such authorizations are thus referred to the Committee on Armed Services.[9]

Military Discharge and Retirement

§ 32.19 The Committee on Military Affairs (now the Committee on Armed Services) and not the Committee on World War Veterans' Legislation (now the Committee on Veterans' Affairs) had jurisdiction of a bill to extend indefinitely the time before which valid applications could be filed for disabled emergency officers' retirement benefits.

8. 113 CONG. REC. 9981, 90th Cong. 1st Sess.

9. S. 1216 was reported by the Committee on Armed Services on Apr. 26, 1967 (H. Rept. No. 215).

On Jan. 29, 1941,[10] John E. Rankin, of Mississippi, Chairman of the Committee on World War Veterans' Legislation obtained unanimous consent to have his committee discharged from further consideration of H.R. 2260 and to have it rereferred to the Committee on Military Affairs.

Veterans' Benefits

§ 32.20 The Committee on Military Affairs (now the Committee on Armed Services) and not the Committee on World War Veterans' Legislation (now the Committee on Veterans' Affairs) had jurisdiction over a bill relating to the type of discharge to be awarded to veterans who served honorably during World War I and were later discharged.

On June 19, 1939,[11] John E. Rankin, of Mississippi, Chairman of the Committee on World War Veterans' Legislation, obtained unanimous consent to have his committee discharged from further consideration of H.R. 5027 and to have it rereferred to the Committee on Military Affairs.

§ 32.21 The Committee on Armed Services and not the Committee on Veterans' Affairs has jurisdiction of a bill to amend section 102 of the Servicemen's and Veterans' Survivor Benefits Act to specify a method of determining basic pay for the purpose of that act in the case of members and former members of the Philippine Scouts.

On Mar. 12, 1957,[12] Mr. Porter Hardy, Jr., of Virginia, obtained unanimous consent to have the Committee on Veterans' Affairs discharged from further consideration of H.R. 5701 and to have it rereferred to the Committee on Armed Services. In so doing Mr. Hardy noted that he had discussed the matter with the chairmen of both committees, and they were "in agreement that this should be done."

§ 32.22 The Committee on Military Affairs (now the Committee on Armed Services) and not the Committee on World War Veterans' Legislation (now the Committee on Veterans' Affairs) had jurisdiction of a bill to provide retirement benefits for certain emergency officers of the First World War.

10. 87 Cong. Rec. 348, 77th Cong. 1st Sess.
11. 84 Cong. Rec. 7462, 76th Cong. 1st Sess.
12. 103 Cong. Rec. 3529, 85th Cong. 1st Sess.

On May 27, 1941,[13] John E. Rankin, of Mississippi, Chairman of the Committee on World War Veterans' Legislation, obtained unanimous consent to have his committee discharged from further consideration of H.R. 3208 and to have it rereferred to the Committee on Military Affairs.

§ 32.23 The Committee on Military Affairs (now the Committee on Armed Services) and not the Committee on World War Veterans' Legislation (now the Committee on Veterans' Affairs) had jurisdiction of a bill to remove certain limitations on the amount of retired pay of regular or emergency officers who were veterans of the War with Spain, the Philippine Insurrection, the China Relief Expedition or World War I.

On Feb. 24, 1941,[14] Mr. John E. Rankin, of Mississippi, Chairman of the Committee on World War Veterans' Legislation was granted unanimous consent that his committee be discharged from further consideration of H.R. 319 and that the bill be rereferred to the Committee on Military Affairs.

Conveyance of Military Property

§ 32.24 In the 87th Congress, the Committee on Armed Services, and not the Committee on Public Works, had jurisdiction of a private bill authorizing the Secretary of the Navy to convey to a private corporation certain lands which were part of a naval ordnance facility.

On Apr, 10, 1961,[15] Carl Vinson, of Georgia, Chairman of the Committee on Armed Services, obtained unanimous consent to have H.R. 6026 which had been referred to the Committee on Public Works, rereferred to the Committee on Armed Services.

Private Bill Crediting Service for Air Force Promotion

§ 32.25 The Committee on Armed Services, and not the Committee on the Judiciary, has jurisdiction of a private bill to credit service performed as a Judge Advocate General in the Air Force as "regular service" for purposes of promotion.

13. 87 CONG. REC. 4447, 77th Cong. 1st Sess.

14. 87 CONG. REC. 1328, 77th Cong. 1st Sess.

15. 107 CONG. REC. 5526, 87th Cong. 1st Sess.

On May 22, 1961,[16] Mr. John W. McCormack, of Massachusetts, obtained unanimous consent to have H.R. 6277 referred from the Committee on the Judiciary to the Committee on Armed Services.

Private Bill for Military Retirement Benefits

§ 32.26 The Committee on Armed Services, and not the Committee on the Judiciary has jurisdiction of a private bill establishing the basis for computation of retired pay of a member of the military services.

On June 12, 1961,[17] Mr. John W. McCormack, of Massachusetts, obtained unanimous consent that H.R. 6738 be rereferred from the Committee on the Judiciary to the Committee on Armed Services.

§ 32.27 The Committee on Armed Services and not the Committee on the Judiciary has jurisdiction of a private bill authorizing and directing the Secretary of the Navy to pay a fixed monthly sum for life to a former associate professor of the U.S. Naval Academy.

On Jan. 24, 1950,[18] Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, requested unanimous consent that H.R. 2932 which had been referred to that committee, be rereferred to the Committee on Armed Services. The bill provided for the payment of $100 per month for life to the individual described above beginning with the month in which the measure was approved and with costs to be charged to such appropriations as would be made for the payment of retirement annuities to civilian members of the teaching staff of the academy and its postgraduate schools.

There was no objection to the request.

Recognition of Civilian Volunteers

§ 32.28 The Committee on Military Affairs (now the Committee on Armed Services) and not the Committee on Coinage, Weights, and Measures (now the Committee on Banking, Finance and Urban Affairs) had jurisdiction of a bill to provide for suitable recognition of the voluntary services of civilian nurses

16. 107 Cong Rec. 8556, 87th Cong. 1st Sess.

17. 107 Cong. Rec. 10096, 87th Cong. 1st Sess.

18. 96 Cong. Rec. 845, 846, 81st Cong. 2d Sess.

with the Army during the influenza epidemic.

On Feb. 28, 1940,[1] Mr. Andrew L. Somers, of New York, requested unanimous consent to have the Committee on Coinage, Weights, and Measures discharged from consideration of H.R. 8394, and upon noting it was the "practice of the Congress to consider these measures through the Committee on Military Affairs," he additionally requested the bill be rereferred to that committee.

Immediately thereafter, the House granted unanimous consent.

Claims of Servicemen Arising From Correction of Military Records

§ 32.29 The Committee on Armed Services and not the Committee on the Judiciary had jurisdiction of a bill to amend section 207 of the Legislative Reorganization Act of 1946 so as to authorize payment of claims arising from correction of military or naval records.

On Apr. 4, 1950,[2] Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, requested unanimous consent to have his committee discharged from further consideration of H.R. 2058 and to have it rereferred to the Committee on Armed Services. In so doing, he noted that "Past practice indicated the procedure that these bills were always considered by the Committee on Armed Services."

Immediately thereafter, the House granted unanimous consent.

§ 33. Committee on Banking and Currency

Although originally created in 1865,[3] the Committee on Banking and Currency largely derives its current jurisdiction from the 1947 revisions prompted by the Legislative Reorganization Act of 1946. At that time, the committee was granted most of the jurisdiction of the former Committee on Coinage, Weights, and Measures. In 1971,[4] it was additionally given jurisdiction over the "impact on the economy of tax-exempt foundations and charitable trusts."

The jurisdiction of the Committee on Banking and Currency

1. 86 Cong. Rec. 2117, 76th Cong. 3d Sess.
2. 96 Cong. Rec. 4666, 81st Cong. 2d Sess.
3. 4 Hinds' Precedents § 4082.
4. 117 Cong. Rec. 12081, 92d Cong. 1st Sess., Apr. 27, 1971 [H. Res. 320].

pursuant to the 1973 rules[5] read as follows:

(a) Banking and currency generally.

(b) Control of price of commodities, rents, or services.

(c) Deposit insurance.

(d) Federal Reserve System.

(e) Financial aid to commerce and industry, other than matters relating to such aid which are specifically assigned to other committees under this rule.

(f) Gold and silver, including the coinage thereof.

(g) Impact on the economy of tax-exempt foundations and charitable trusts.

(h) Issuance of notes and redemption thereof.

(i) Public and private housing.

(j) Valuation and revaluation of the dollar.

Within the jurisdictional realm of the committee, though not expressly stated in the rules[6] are matters such as: (1) strengthening of public credit; (2) taxation of notes; (3) propositions to maintain the parity of U.S. money; (4) national banks and current deposits of public money; (5) incorporation of an international bank; (6) the Freedmen's Bank; (7) the Farm Loan Act; (8) home loan bills; (9) stabilization of the dollar; (10) the War Finance Corporation; and (11) Federal Reserve Bank buildings.

The committee also has had legislative jurisdiction over small business matters. In 1971, when tax-exempt foundations and charitable trusts were added to its jurisdiction, the committee obtained all of the files and papers of the Subcommittee on Foundations of the Select Committee on Small Business. While the Select Committee on Small Business was made a permanent committee of the House in 1971,[7] that select committee was not granted legislative jurisdiction.

Effective Jan. 3, 1975, however, the standing Committee on Small Business was created and the Committee on Banking and Currency lost jurisdiction over that subject.[8]

The Committee on Banking and Currency also has had jurisdiction over the Commodity Credit Corporation, since it reported the legislation establishing it as an agency and instrumentality of the United States in 1948, with the passage of the Commodity Credit Corporation Charter Act.[9] This

5. Rule XI clause 4, *House Rules and Manual* § 683 (1973). See Rule X clause l(d), in the 1979 *House Rules and Manual.*

6. Rule X clause 1(d), *House Rules and Manual* § 673 (1979).

7. H. Res. 5, 117 CONG. REC. 143, 92d Cong. 1st Sess., Jan. 22. 1971.

8. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974.

9. 60 Stat. 1070; 15 USC § 714.

act granted the Corporation the power to (1) support prices of agricultural commodities; (2) procure commodities for sale to government agencies, foreign governments, relief agencies, etc.; and (3) remove and dispose of surplus agricultural commodities.

Having reported the legislation which established the Corporation, the Committee on Banking and Currency had, until the Committee Reform Amendments of 1974, reported legislative proposals dealing with amendments to the Charter Act. For example, bills raising the limitation on the dollar amount which the Corporation can borrow had traditionally been handled by the committee, as had measures which, while not specifically amending the charter, do relate to the capital structure of the Corporation and indirectly with its borrowing authority.

Effective Jan. 3, 1975, jurisdiction over the Commodity Credit Corporation was transferred to the Committee on Agriculture.[10]

Additional indicia of the jurisdictional realm of the Committee on Banking and Currency may be gleaned from the following lists,[11] the first consisting of new legislation or amendments to legislation enacted between the 90th and 93d Congresses, the second consisting of executive departments over which the committee has, in the past, exercised some legislative responsibility.

LEGISLATIVE ENACTMENTS

(1) Bank Holding Company Act.
(2) Defense Production Act.
(3) Economic Stabilization Act.
(4) Emergency Home Finance Act.
(6) Export Control Act.
(7) Export and Import Bank Act.
(8) Federal Reserve Act.
(9) FHA and Rural Housing Program Insurance Authority.
(10) Housing and Urban Development Act.
(11) Interest Rates and Insurance on Mortgages.
(12) International Financial Institutions.
(13) Separate Federal Credit Union Agency and Insurance of Accounts.
(14) Small Business Act.
(15) Small Business Investment Act.
(16) State Taxation of National Banks.
(17) Urban Mass Transportation Assistance.

EXECUTIVE DEPARTMENTS

(1) Commerce Department.
(2) Comptroller of the Currency.
(3) Cost of Living Council.
(4) Export-Import Bank.

10. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974.

11. These lists were compiled by Dennis J. Taylor, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, pp. 35, 36.

(5) Federal Deposit Insurance Corporation.

(6) Federal Home Loan Bank Board.

(7) Federal Home Loan Mortgage Corporation.

(8) Federal National Mortgage Association.

(9) Federal Reserve System.

(10) Federal Savings and Loan Insurance Corporation.

(11) Housing and Urban Development, Department of.

(12) National Credit Union Administration.

(13) Office of Emergency Planning.

(14) Small Business Administration.

(15) Transportation Department.

(16) Treasury Department.

As the precedents reveal, the legislative jurisdiction of the committee and its predecessors has also extended to such matters as enabling the Commodity Credit Corporation to aid farmers in marketing;[12] relieving purchasers of goods converted by warehousemen from claims of the Commodity Credit Corporation;[13] promoting balanced urban development through coordination of urban development grants;[14] and acquiring land in the District of Columbia as a building site for the International Monetary Fund.[15] The committee has also reported sense of the Congress resolutions pertaining to the advisability of cash bonuses for veterans,[16] and the need for the continued existence of a particular tin smelter.[17]

Handling the broad spectrum of legislative responsibilities of the Committee on Banking and Currency, in 1973, were eight subcommittees. Alphabetically, they are categorized, as follows:

1. Subcommittee on Bank Supervision and Insurance;

2. Subcommittee on Consumer Affairs;

3. Subcommittee on Domestic Finance;

4. Subcommittee on Housing;

5. Subcommittee on International Finance;

6. Subcommittee on International Trade;

7. Subcommittee on Small Business; and

8. Subcommittee on Urban Mass Transit.

Effective Jan. 3, 1975, the Committee Reform Amendments of 1974 redesignated the committee as the Committee on Banking, Currency and Housing; added specific jurisdiction to the committee over federal monetary policy, money and credit, urban development, economic stabilization, defense production and renegotiation, international finance, and

12. § 33.1, infra.

13. § 33.2, infra.

14. § 33.3, infra.

15. § 33.8, infra.

16. § 33.9, infra.

17. § 33.10, infra.

international financial and monetary organizations; and transferred from the committee jurisdiction over the Commodity Credit Corporation (to the Committee on Agriculture), over export controls (to the Committee on Foreign Affairs), over international economic policy (to the Committee on Foreign Affairs), over construction of nursing home facilities (to the Committee on Interstate and Foreign Commerce), and over urban mass transportation (to the Committee on Public Works and Transportation).[18]

Parliamentarian's Note: In the 95th Congress, the committee was redesignated as the Committee on Banking, Finance and Urban Affairs.

Commodity Credit Corporation

§ 33.1 The Committee on Banking and Currency and not the Committee on Agriculture formerly had jurisdiction of a bill to enable the Commodity Credit Corporation to better serve farmers in marketing and to provide credit and facilities for carrying surpluses from season to season.

On Feb. 26, 1936,[19] Mr. T. Alan Goldsborough, of Maryland, requested unanimous consent that the Committee on Agriculture be discharged from further consideration of H.R. 11104, and that it be rereferred to the Committee on Banking and Currency. In so doing, he noted that "I have consulted with the chairman of the Committee on Agriculture this morning, and that is satisfactory to him."

Immediately thereafter, the House granted unanimous consent.[20]

§ 33.2 The Committee on Banking and Currency and not the Committee on Agriculture formerly had jurisdiction of bills to amend the Commodity Credit Corporation Charter Act in order to relieve innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

On May 3, 1955,[21] Harold D. Cooley, of North Carolina, Chairman of the Committee on Agri-

18. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974.

19. 80 CONG. REC. 2848, 74th Cong. 2d Sess.

20. For additional information, see the *Parliamentarian's Note* to § 33.2, infra.

21. 101 CONG. REC. 5501, 84th Cong. 1st Sess.

culture, obtained unanimous consent to have his committee discharged from further consideration of five identical bills (H.R. 2137, H.R. 2872, H.R. 2007, H.R. 694, and H.R. 646), and to have them referred to the Committee on Banking and Currency.

Parliamentarian's Note: The Commodity Credit Corporation was established as an agency and instrumentality of the United States in 1948, with the passage of the Commodity Credit Corporation Charter Act [62 Stat. 1070; 15 USC § 714 (S. 1322, 80th Cong.; H.R. 6263, reported from the Committee on Banking and Currency, Apr. 22, 1948)]. This enabling act provided that the Corporation has the power to (1) support prices of agricultural commodities; (2) procure commodities for sale to government agencies, foreign governments, relief agencies, etc.; and (3) remove and dispose of surplus agricultural commodities.

By legislation enacted in 1949, the Commodity Credit Corporation Charter Act was amended to make the Secretary of Agriculture the Chairman of the Board, and the Secretary was in effect given general supervision and direction of the Corporation [63 Stat. 154; 15 USC § 714 (S. 900, 81st Cong.; H.R. 2682, reported from the Committee on Banking and Currency, Apr. 9, 1949)].

From the establishment of the Corporation, the Committee on Banking and Currency, until the Committee Reform Amendments of 1974, consistently reported legislative proposals dealing with amendments to the Charter Act. For example, bills raising the limitation on the dollar amount which the Corporation could borrow had been handled by the Committee on Banking and Currency, as had measures which, while not specifically amending the charter, did relate to the capital structure of the Corporation and indirectly with its borrowing authority.

Coordination of Urban Development Grants

§ 33.3 Under the rules in effect in the 91st Congress, the Committee on Banking and Currency, and not the Committee on Government Operations, had jurisdiction of a bill designed to promote "balanced urban development and growth" by providing coordination in different categories of urban development grants and amending various laws within the jurisdiction of the Committees on Banking and

Currency, Public Works, Interstate and Foreign Commerce, and others.

On Mar. 18, 1970,[22] Wright Patman, of Texas, Chairman of the Committee on Banking and Currency, sought unanimous consent to have H.R. 13217 re-referred from the Committee on Government Operations to the Committee on Banking and Currency.

Immediately after Mr. Patman voiced his request, the following exchange took place:

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, reserving the right to object, I would like to ask the distinguished chairman of the Committee on Banking and Currency if a representative, the chairman, or some other member, from the Committee on Government Operations is in accord with the request.

MR. PATMAN: I have a letter from the gentleman from Illinois (Mr. Dawson), the chairman, that he is in agreement with it. The gentleman from California (Mr. Holifield [of the Committee on Government Operations]) is present, as is also the gentleman from North Carolina (Mr. Fountain) who is chairman of the Intergovernmental Relations Committee. He is in agreement with it, and also the author of the bill.

MR. [CHET] HOLIFIELD: Mr. Speaker, will the gentleman yield?

MR. GERALD R. FORD: I yield to the gentleman from California.

MR. HOLIFIELD: I would like to affirm what the chairman has said. We feel that this re-referral is proper. We feel that it is a substantive matter which ought to be considered by the Committee on Banking and Currency.

MR. GERALD R. FORD: Will the chairman of the Committee on Banking and Currency read the title of the bill again, please.

MR. PATMAN: Yes. The title of the bill is "to provide for the balanced urban development and growth of the United States."

MR. GERALD R. FORD: Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER [John W. McCormack of Massachusetts]: Is there objection to the request of the gentleman from Texas?

There was no objection.

Parliamentarian's Note: The bill was originally referred to the Committee on Government Operations since it was similar to other measures providing for consolidation of grant-in-aid programs. Since the bill had as its specific purpose the consolidation of grants for urban development, the Committee on Government Operations had no objection to its rereferral to the Committee on Banking and Currency. The Committee Reform Amendments of 1974 specifically conferred jurisdiction over urban development upon the committee.

Farm Housing; Lanham War Housing Act

§ 33.4 The Committee on Banking and Currency and not

22. 116 CONG. REC. 7887, 91st Cong. 2d Sess.

the Committee on Agriculture formerly had jurisdiction of a bill to provide assistance to farmers in securing farm housing and other farm buildings.

On Feb. 17, 1949,[23] Brent Spence, of Kentucky, Chairman of the Committee on Banking and Currency, stated that H.R. 1376 was referred to the Committee on Agriculture by inadvertence. After noting that he had conferred with the Chairman of the Committee on Agriculture, Mr. Spence requested unanimous consent that that committee be discharged from further consideration of the measure, and that the bill be referred to the Committee on Banking and Currency.

Immediately thereafter, the House granted unanimous consent.

§ 33.5 The Committee on Banking and Currency and not the Committee on Public Works has jurisdiction of a bill to permit a first preference for former owners of certain dwellings being sold under the Lanham War Housing Act [act of Oct. 14, 1940].

On July 10, 1953,[24] George A. Dondero, of Michigan, Chairman of the Committee on Public Works, obtained unanimous consent to have his committee discharged from further consideration of H.R. 6130[1] and to have it rereferred to the Committee on Banking and Currency.[2]

Impact on Economy of Tax Exempt Foundation and Charitable Trusts

§ 33.6 The House adopted a privileged resolution, reported from the Committee on Rules, amending the rules to vest jurisdiction over the impact on the economy of tax-exempt foundations and charitable trusts in the Committee on Banking and Currency. Oversight of this matter had formerly been exercised by the Select Committee on Small Business.

On Apr. 27, 1971,[3] by direction of the Committee on Rules, Mr. Richard Bolling, of Missouri, a member of that committee, called

23. 95 Cong. Rec. 1367, 81st Cong. 1st Sess.

24. 99 Cong. Rec. 8533, 8534, 83d Cong. 1st Sess.

1. 54 Stat. 862, 42 USC §§ 1521 et seq.

2. H.R. 6130 was reported by the Committee on Banking and Currency on July 27, 1953 (H. Rept. No. 973).

3. 117 Cong. Rec. 12080, 92d Cong. 1st Sess.

up a privileged resolution (H. Res. 320), and asked for its immediate consideration. The Clerk proceeded to read the resolution, as follows:

> *Resolved*, That clause 4, rule XI, of the rules of the House[4] is hereby amended by—
>
> (1) renumbering paragraphs (g), (h), and (i) as paragraphs (h), (i), and (j), and
>
> (2) inserting a new paragraph (g) as follows
>
> "(g) Impact on the economy of tax-exempt foundations and charitable trusts."
>
> Sec. 2. All files, records, documents, and papers in possession of the Subcommittee on Foundations of the Select Committee on Small Business are hereby preserved intact and transferred to the Committee on Banking and Currency.

4. This clause (clause 4) prescribed the jurisdiction of the Committee on Banking and Currency at the time [Rule XI clause 4, *House Rules and Manual* § 683 (1971)], as follows: "(a) banking and currency generally; (b) control of price of commodities, rents, or services; (c) deposit insurance; (d) Federal Reserve System; (e) financial aid to commerce and industry, other than matters relating to such aid which are specifically assigned to other committees under this rule; (f) gold and silver, including the coinage thereof; (g) issuance of notes and redemption thereof; (h) public and private housing; and (i) valuation and revaluation of the dollar."

In the course of the brief discussion which ensued, Wright Patman, of Texas, Chairman of the Committee on Banking and Currency and Chairman of the Select Committee on Small Business' Subcommittee on Foundations, stated:

> There is no objection that I know of to this resolution from any of the committee chairmen involved or any other members. The resolution is cosponsored by myself, Mr. Evins, Mr. Widnall, and Mr. Conte, the chairmen and ranking minority members of the two committees involved.

Moreover, he pointed out that:

> . . . With the recent changes in the law in this area, we now feel it is appropriate that a broader look be taken at the impact of foundations and other tax-exempt organizations on the national economy. We believe the Committee on Banking and Currency is an appropriate committee for such a study.

Shortly thereafter, the resolution was agreed to.[5]

International Financial Organizations

§ 33.7 Under the rules in effect in the 86th Congress, the Committee on Banking and Currency, and not the Committee on Foreign Affairs,

5. 117 Cong. Rec. 12081, 92d Cong. 1st Sess.

had jurisdiction over proposed legislation to provide for the participation of the United States in the International Development Association, an international financial organization to operate under the provisions of the Bretton Woods Agreement Act and to be financed partly from special notes issued by the Secretary of the Treasury under the Second Liberty Bond Act.

On Feb. 18, 1960,[6] Speaker Sam Rayburn, of Texas, laid before the House a message (H. Doc. No. 345), from President Dwight D. Eisenhower, submitting to the House the articles of agreement for the establishment of the International Development Association and recommending legislation authorizing U.S. membership in the association. The message was referred to the Committee on Foreign Affairs.

On Mar. 9, 1960,[7] however, Thomas E. Morgan, of Pennsylvania, Chairman of the Committee on Foreign Affairs, obtained unanimous consent to have the President's message rereferred to the Committee on Banking and Currency. The same day,[8] moreover, the proposed legislation (H.R. 11001), was similarly referred.[9]

Parliamentarian's Note: Pursuant to the Committee Reform Amendments of 1974, jurisdiction over international financial and monetary organizations was specifically conferred upon the committee.

§ 33.8 Under the rules in effect in the 87th Congress, the Committee on Banking and Currency, and not the Committee on Public Works, had jurisdiction of a proposal to authorize the Administrator of General Services to acquire land in the District of Columbia for transfer to the International Monetary Fund as a site for a new office building for the fund.

On May 1, 1962,[10] Speaker John W. McCormack, of Massachusetts, recognized Majority Leader Carl Albert, of Oklahoma, who proceeded to initiate the following exchange:

> Mr. Speaker, after consultation between the Speaker and the gentleman

6. 106 Cong. Rec. 2952, 86th Cong. 2d Sess.
7. 106 Cong. Rec. 5046, 86th Cong. 2d Sess.
8. *Id.* at p. 5072.
9. H.R. 11001 was reported by the Committee on Banking and Currency on June 8, 1960 (H. Rept. No. 1766).
10. 108 Cong. Rec. 7428, 87th Cong. 2d Sess.

from Maryland [Mr. Fallon],[11] I ask unanimous consent that Executive Communication No. 1994, which was referred to the Committee on Public Works, be referred to the Committee on Banking and Currency.

THE SPEAKER: IS there objection to the request of the gentleman from Oklahoma?

There was no objection.

Parliamentarian's Note: Executive Communication No. 1994 authorized the Administrator of General Services to acquire the land, subject to reimbursement by the fund.

Cash Bonuses for Veterans

§ 33.9 In the 82d Congress, the Committee on Banking and Currency and not the Committee on Veterans' Affairs had jurisdiction of a concurrent resolution expressing the sense of the Congress that the payment of cash bonuses to veterans is noninflationary, is an appropriate recognition of their services and sacrifices, and that federal agencies should encourage the purchase of state bonds issued to provide for the payment of such bonuses.

On Oct. 2, 1951,[12] John E. Rankin, of Mississippi Chairman of the Committee on Veterans' Affairs, obtained unanimous consent to have his committee discharged from further consideration of House Concurrent Resolution 150 and to have it rereferred to the Committee on Banking and Currency.

Tin Smelting and Production

§ 33.10 The Committee on Banking and Currency and not the Committee on Armed Services has jurisdiction of a concurrent resolution to express the sense of the Congress on continuing the operation of a tin smelter at Texas City, Texas, and to investigate the need of a permanent domestic tin-smelting industry and the adequacy of our strategic stockpile of tin.

On June 7, 1954,[13] Dewey Short, of Missouri, Chairman of the Committee on Armed Services, obtained unanimous consent

11. The Chairman of the Committee on Public Works, Charles A. Buckley (N.Y.) was presumably unavailable for the consultation referred to by Mr. Albert. Mr. George H. Fallon (Md.) was the next ranking member of the majority party on the committee.

12. 97 CONG. REC. 12494, 82d Cong. 1st Sess.

13. 100 CONG. REC. 7766, 83d Cong. 2d Sess.

to have his committee discharged from further consideration of House Concurrent Resolution 237 and to have it rereferred to the Committee on Banking and Currency.

§ 34. Committee on the Budget

The Committee on the Budget was established effective July 12, 1974, by the Congressional Budget Act of 1974 (11 H.R. 7130),[14] and its jurisdiction and composition provided as follows:

(e)(1) Committee on the Budget, to consist of twenty-five Members as follows:

(A) five Members who are members of the Committee on Appropriations;

(B) five Members who are members of the Committee on Ways and Means;

(C) thirteen Members who are members of other standing committees;

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

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

No member other than the representative from the leadership of the majority party and the representative from the leadership of the minority party, shall serve as a member of the Committee on the Budget during more than three Congresses in any period of five successive Congresses beginning after 1974 (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress) except that an incumbent chairman having served on the committee for three Congresses and having served as chairman of the committee for not more than one Congress shall be eligible for reelection to the committee as chairman for one additional Congress. All selections of Members to serve on the committee shall be made without regard to seniority.

(2) All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and other matters required to be referred to the committee under titles III and IV of that Act.

(3) The committee shall have the duty—

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

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

(C) to request and evaluate continuing studies of tax expenditures, to

14. H.R. 7130 was reported from the Committee on Rules on Nov. 20, 1973, H. Rept. No. 93–658. Pub. L. No. 93–344, § 101. Effective Jan. 14, 1975, 121 CONG. REC. 20–32, 94th Cong. 1st Sess. [H. Res. 5], the membership of the committee was increased from 23 to 25, with 13 rather than 11 members to be elected pursuant to Rule X clause 1(e)(1)(C). The language cited from Rule X clause 1(e) also reflects amendments contained in H. Res. 5, 96th Congress, Jan. 15, 1979.

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

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

Also effective on that date, Rule X clause 3(b) was added relative to the special oversight functions of the committee and as later perfected by the Committee Reform Amendments of 1974,[15] reads as follows:

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

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

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

Rule X clause 4(b), as added by the Congressional Budget Act of 1974 and as later perfected by the Committee Reform Amendments of of 1974,[16] reads as follows:

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

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

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

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

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

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

15. Pub. L. No. 93–344, § 101(c), incorporated into the rules as Rule X clause 3(b), *House Rules and Manual* § 693 (1975), by H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974.

16. Pub. L. No. 93–344, § 101(c), incorporated into the rules as Rule X clause 4(b)(1), *House Rules and Manual* § 695 (1975), by H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974. Paragraph (2), contained in § 301 (d) of the Congressional Budget Act of 1974, paragraph (3), paragraph (4), contained in § 606 of that act, and paragraph (5), contained in § 703 of that act, all were made part of the rules effective Jan. 3, 1975, by H. Res. 988.

study together with its recommendations.

Pursuant to section 906 of the Congressional Budget Act, the House Committee on the Budget reported to the House its recommendations for implementation of the budget procedures for fisca] year 1976;[17] the House and Senate completed final action on the first concurrent resolution on the budget considered under the Act by adopting a conference report thereon on May 14, 1975.[18] On May 13, 1976, the House and Senate completed final action on the first concurrent resolution on the budget for fiscal year 1976, the first year of full implementation of the Budget Act procedures.[19]

§ 35. Committee on the District of Columbia

The Committee on the District of Columbia was created in 1808,[20] at which time it was "the duty of this committee to take into consideration all petitions and memorials relating to the affairs of the District of Columbia, and to report from time to time, by bill or otherwise."[1] In 1880, this language was revised so that all subjects "relating to the District of Columbia, other than appropriations therefor" were referred to the committee.[2] Under the 1973 rules[3] the committee's jurisdiction read as follows:

> (a) All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations therefor, including—
> (b) Adulteration of foods and drugs;
> (c) Incorporation and organization of societies;
> (d) Insurance, executors, administrators, wills, and divorce;
> (e) Municipal code and amendments to the criminal and corporation laws;
> (f) Municipal and juvenile courts;
> (g) Public health and safety, sanitation, and quarantine regulations;
> (h) Regulation of sale of intoxicating liquors;
> (i) Taxes and tax sales.

Among the general municipal affairs of the District have been subjects relating to[4] [enumeration added]:

17. H. Rept. No. 94–25, 94th Cong. 1st Sess., Mar. 3, 1975.
18. H. Con. Res. 218, H. Jour. 739–743, 94th Cong. 1st Sess.
19. S. Con. Res. 109, H. Jour. 768, 769, 94th Cong. 2d Sess.
20. 4 Hinds' Precedents § 4276.

1. Gerald J. Grady, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 38.
2. 4 Hinds' Precedents § 4276.
3. Rule XI clause 5, *House Rules and Manual* § 685 (1973). See Rule X clause 1(f), *House Rules and Manual* § 675 (1979).
4. *House Rules and Manual* § 675 (1979).

1. Health, sanitary, and quarantine regulations;
2. Holidays;
3. Protection of fish and game;
4. Regulation of sale of intoxicating liquors;
5. Adulteration of food, drugs, etc.;
6. Taxes and tax sales;
7. Insurance;
8. Bills for preserving public order at times of inaugurations;
9. Harbor regulations and the bridge over the Eastern Branch;
10. Executor, administrators, wills, and divorce;
11. Police and juvenile courts and justices of the peace;
12. Incorporation and organization of societies;
13. Municipal code and amendments to the criminal and corporation laws; and
14. Exceptional as opposed to general jurisdiction affecting the higher courts of the District.

Another indication of the committee's jurisdiction may be obtained from an examination of one of its calendars. The committee's final calendar for the 92d Congress included bills pertaining to the following subjects [enumeration added]:

1. Bus companies, authorization for the acquisition of four;
2. Chanceries, location of;
3. Consumer credit legislation;
4. Criminal penalties for assaults on firemen;
5. Dentistry;
6. Employee conditions of work, pay, and fringe benefits;
7. Incorporation of various organizations;
8. Motor vehicle interstate agreements;
9. Nelson Commission, extension of;
10. Podiatry;
11. Public conveyance of persons;
12. Revenue legislation, including authorizing of federal payment;
13. School fare subsidy;
14. Tax exemptions (i.e., the Daughters of the American Revolution, the Reserve Officers Association, etc.);
15. Unemployment compensation coverage; and
16. Uniform Commercial Code, amendments to.

As the precedents reveal, the jurisdiction of the committee has also extended to such subjects as coordinating the development of the District with other areas in the metropolitan region;[5] using federal land for government parking facilities[6] exchanging park lands for land suitable to parkway construction;[7] authorizing the construction of bridges which would cross over into Virginia;[8] authorizing the Surgeon General to make grants ultimately aiding George Washington University Hospital;[9] and affecting changes in the jurisdiction of courts-martial of the D.C. militia.[10]

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5. § 35.4, infra.
6. § 35.7, infra.
7. § 35.1, infra.
8. § 35.3, infra.
9. § 35.6, infra.
10. § 35.9, infra.

In terms of oversight duties, the committee's main concern is with the government of the District of Columbia. Inasmuch as the executive branch routinely interacts with that government, through appointments and budgeting, the committee's oversight jurisdiction extends to the Departments of Health, Education, and Welfare, Interior, and Transportation as well as the General Services Administration and the Office of Management and Budget.

The 1973 subcommittees of the Committee on the District of Columbia consisted of:

1. The Subcommittee on Business, Commerce and Taxation;
2. The Subcommittee on Education;
3. The Subcommittee on Government Operations;
4. The Subcommittee on the Judiciary;
5. The Subcommittee on Labor, Social Services and the International Community; and
6. The Subcommittee on Revenue and Financial Affairs.

Considering the matter from a long-range perspective, the jurisdiction of the Committee on the District of Columbia is affected by three other major factors. First, since the city of Washington, D.C., has obtained home rule, the committee's jurisdiction has changed.[1] Second, the committee is obliged to constantly examine general legislation which applies to the states to ascertain whether or not the particular legislation embraces the District of Columbia or if it should. Third, the ultimate source of congressional oversight over the District is the U.S. Constitution, itself, which provides[2] that the Congress shall have power "To exercise exclusive Legislation in all Cases whatsoever, over such District . . . as may . . . become the Seat of Government of the United States. . . ."

Land Use in the District

§ 35.1 In the 76th Congress, the Committee on the District of Columbia and not the Committee on the Public Lands (now the Committee on Interior and Insular Affairs) had jurisdiction of a bill providing for the exchange of certain park lands at the

1. See Pub. L. No. 93–198, the District of Columbia Self-Government and Governmental Reorganization Act, which provides procedures for congressional disapproval of laws which the act authorized the government of the District to enact; matters submitted to Congress under that act, and resolutions approving or disapproving actions of the District government, fall within the jurisdiction of the Committee on the District of Columbia.

2. U.S. Const. art I, § 8, clause 17.

northern boundary of Piney Branch Parkway, near Argyle Terrace, for other lands more suitable for the use and development of Piney Branch Parkway.

On July 1, 1939,[3] Mr. Rene L. DeRouen, of Louisiana, obtained unanimous consent to have H.R. 6938 rereferred from the Committee on Public Lands [now the Committee on Interior and Insular Affairs], to the Committee on the District of Columbia.[4]

§ 35.2 The Committee on the District of Columbia, and not the Committee on House Administration, has exercised jurisdiction over a resolution relating to the National Capitol Planning Commission's providing a suitable site for erection of a statue by the State of Maine.

On Sept. 14, 1962,[5] Omar T. Burleson, of Texas, Chairman of the Committee on House Administration, obtained unanimous consent to rerefer House Resolution 799 from his committee to the Committee on the District of Columbia.[6]

§ 35.3 The Committee on the District of Columbia and not the Committee on Interstate and Foreign Commerce has jurisdiction of a proposal to amend the act entitled "an act authorizing and directing the Commissioners of the District of Columbia to construct two four-lane bridges to replace the existing 14th Street or Highway Bridge across the Potomac River, and for other purposes."

On May 21, 1956,[7] J. Percy Priest, of Tennessee, Chairman of the Committee on Interstate and Foreign Commerce, obtained unanimous consent to have his committee discharged from further consideration of a letter from the president of the District of Columbia's Board of Commissioners (Exec. Comm. No. 1602), containing a draft of the proposed legislation described above and to have the letter rereferred to the

3. 84 Cong. Rec. 8521, 76th Cong. 1st Sess.

4. S. 2666, which was identical to H.R. 6938, was reported by the Committee on the District of Columbia on June 30, 1939 (S. Rept. No. 711).

5. 108 Cong. Rec. 19454, 87th Cong. 2d Sess.

6. H. Res. 799 was reported by the Committee on the District of Columbia on Sept. 20, 1962 (H. Rept. No. 2445).

7. 102 Cong. Rec. 8582, 84th Cong. 2d Sess.

Committee on the District of Columbia.

D.C. Metropolitan Development

§ 35.4 Under the rules in effect in the 86th Congress, the Committee on the District of Columbia, and not the Committee on Interstate and Foreign Commerce, had jurisdiction of regulations to establish an objective for coordinating the development of the District of Columbia with that of other areas in the Washington metropolitan region.

On Jan. 14, 1960,[8] Oren Harris, of Arkansas, Chairman of the Committee on Interstate and Foreign Commerce, obtained unanimous consent to have Senate Joint Resolution 42 discharged from the consideration of his committee and rereferred to the Committee on the District of Columbia.

Parliamentarian's Note: The primary emphasis of Senate Joint Resolution 42 was on coordinating actions in the fields of health, traffic, and other areas.[9]

8. 106 CONG. REC. 560, 86th Cong. 2d Sess.

9. S.J. Res. 42 was reported by the Committee on the District of Columbia on June 7, 1960 (H. Rept. No. 1759).

Consolidation of Corporations

§ 35.5 In the 88th Congress, the Committee on the District of Columbia, and not the Committee on the Judiciary, had jurisdiction of a bill authorizing a corporation chartered under the laws of the District of Columbia to consolidate with a corporation chartered under the laws of a state [the resultant corporation to be subject to the laws of the District].

On May 6, 1963,[10] by direction of the Committee on the Judiciary, Mr. Charles McC. Mathias, Jr., of Maryland, obtained unanimous consent to have H.R. 5342 rereferred from that committee to the Committee on the District of Columbia.

Parliamentarian's Note: The primary emphasis of H.R. 5342 was to authorize the consolidation of the Association of Universalist Women with the Alliance of Unitarian Women.

George Washington University Hospital Facilities; Grants to Construct

§ 35.6 In the 87th Congress, the Committee on the District of

10. 109 CONG REC. 7812, 88th Cong. 1st Sess.

Columbia, and not the Committee on Interstate and Foreign Commerce, had jurisdiction of a bill authorizing the Surgeon General to make grants to George Washington University to aid in planning and constructing new facilities in the District at the George Washington University Hospital.

On Sept. 5, 1961,[11] Oren Harris, of Arkansas, Chairman of the Committee on Interstate and Foreign Commerce obtained unanimous consent to have H.R. 8916 rereferred from his committee to the Committee on the District of Columbia.[12]

Parking Facilities on Federal Land

§ 35.7 In the 91st Congress, the Committee on the District of Columbia, and not the Committee on Public Works, had jurisdiction of a bill which (1) authorized the Commissioners of the District of Columbia to construct, maintain, and operate parking facilities for government employees and visitors, in the District and in surrounding fringe areas on federal land, and (2) provided that the proceeds from parking fees were to be applied to the District of Columbia public schools.

On Jan. 29, 1969,[13] George H. Fallon, of Maryland, Chairman of the Committee on Public Works, obtained unanimous consent to have his committee discharged from further consideration of H.R. 2194 and to have it rereferred to the Committee on the District of Columbia.

Parliamentarian's Note: H.R. 2194 was originally referred to the Committee on Public Works because of the provision which permitted the commissioners to construct "fringe area parking lots," outside of the District of Columbia. However, the Committee on Public Works expressed its willingness to have the bill rereferred.

Public Employment Service

§ 35.8 The Committee on the District of Columbia and not the Committee on Education and Labor has jurisdiction of a bill and an executive communication relating thereto, "to transfer to the govern-

11. 107 CONG. REC. 18132, 87th Cong. 1st Sess.

12. H.R. 8916 was reported by the Committee on the District of Columbia on Mar. 9, 1962 (H. Rept. No. 1413).

13. 115 CONG. REC. 2101, 91st Cong. 1st Sess.

ment of the District of Columbia the Public Employment Service for the District of Columbia."

On Mar. 28, 1957,[14] Graham A. Barden, of North Carolina, Chairman of the Committee on Education and Labor, obtained unanimous consent to have H.R. 5021 and accompanying Executive Communication No. 431 from the Assistant Secretary of Labor, rereferred from his committee to the Committee on the District of Columbia.

District of Columbia Militia

§ 35.9 The Committee on the District of Columbia, and not the Committee on Armed Services, has jurisdiction of a bill amending the District of Columbia Code to provide that the jurisdiction of courts-martial of the District of Columbia militia shall extend to militia members not in active federal service.

On May 4, 1972,[15] by direction of Chairman F. Edward Hébert, of Louisiana, of the Committee on Armed Services, Mr. G. V. (Sonny) Montgomery, of Mississippi, obtained unanimous consent to have H.R. 9807 rereferred from that committee to the Committee on the District of Columbia.

§ 36. Committee on Education and Labor

The first Committee on Education and Labor was created in 1867,[16] divided into separate committees in 1883,[17] and recombined into its present form in 1947, on the effective date [Jan. 2, 1947], of the Legislative Reorganization Act of 1946.

The jurisdiction of the Committee on Education and Labor pursuant to the 1973 rules[18] read as follows:

(a) Measures relating to education or labor generally.

(b) Child labor.

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

(d) Convict labor and the entry of goods made by convicts into interstate commerce.

(e) Labor standards.

(f) Labor statistics.

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14. 103 Cong. Rec. 4664, 85th Cong. 1st Sess.

15. 118 Cong. Rec. 15778, 92d Cong. 2d Sess.

16. 4 Hinds' Precedents § 4242.

17. 4 Hinds' Precedents §§ 4242, 4244.

18. Rule XI clause 6, *House Rules and Manual* § 687 (1973). See Rule X clause 1(g), *House Rules and Manual* § 676 (1979).

(g) Mediation and arbitration of labor disputes.

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

(i) School-lunch program.

(j) United States Employees' Compensation Commission.

(k) Vocational rehabilitation.

(l) Wages and hours of labor.

(m) Welfare of miners.

The committee maintained eight subcommittees in 1973:

(1) The General Subcommittee on Education;

(2) The Select Subcommittee on Education;

(3) The Special Subcommittee on Education;

(4) The Subcommittee on Equal Opportunities;

(5) The Subcommittee on Agricultural Labor;

(6) The General Subcommittee on Labor;

(7) The Select Subcommittee on Labor; and

(8) The Special Subcommittee on Labor.

As the precedents reveal, the jurisdiction of the committee and of its predecessors has extended to such subjects as benefits and rights under the Federal Employees' Compensation Act;[19] amendments to that statute;[20] disability and/or death benefits for Civilian Conservation Corps enrollees;[21] Forest Service employees;[22] and employees of U.S. contractors;[23] matters pertaining to the Longshoremen's and Harbor Workers' Compensation Act;[24] loan and grant making for the expansion of state public school facilities;[25] establishing mineral resource conservation institutes;[26] and assisting states and localities in programs dealing with human services;[27] juvenile delinquency;[1] and runaway youth.[2]

Under the Committee Reform Amendments of 1974, effective Jan. 3, 1975,[3] the Committee on Education and Labor gained jurisdiction over food programs for children in schools (although the committee already had de facto jurisdiction over that subject), work incentive programs, and Indian education, and the committee lost jurisdiction over international education matters, a subject transferred to the jurisdiction of the Committee on Foreign Affairs.

19. See §§ 36.3–36.9, infra.

20. See §§ 36.3–36.9, infra

21. § 36.4, infra.

22. § 36.6, infra.

23. § 36.5, infra.

24. § 36.15, infra.

25. § 36.1, infra.

26. § 36.16, infra.

27. § 36.11, infra.

1. § 36.12, infra.

2. § 36.13, infra.

3. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974.

The Committee Reform Amendments also granted the Committee on Education and Labor special oversight jurisdiction over certain programs [see Rule X clause 3(c), *House Rules and Manual* § 693 (1979)]:

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

Educational Assistance Programs

§ 36.1 The Committee on Education and Labor and not the Committee on Banking and Currency has jurisdiction of a bill to authorize the making of grants and loans to the states to assist in providing adequate public elementary and secondary school facilities.

On Jan. 25, 1949,[4] Brent Spence, of Kentucky, Chairman of the Committee on Banking and Currency, obtained unanimous consent to have his committee discharged from further consideration of H.R. 1551, and to have it rereferred to the Committee on Education and Labor. In so doing, Mr. Spence had noted that two similar bills, one in the previous session and the other in the current session, had been referred to the latter committee.

§ 36.2 A message received from the President was rereferred from the Committee on Interstate and Foreign Commerce to the Committee on Education and Labor, after examination by the Speaker, where the first portion of the message called for increased appropriations with respect to ongoing programs of the National Science Foundation, and the second portion called for legislation authorizing new educational programs.

On Jan. 27, 1958,[5] Speaker Sam Rayburn, of Texas, laid before the House a message (H. Doc. No. 318), from President Dwight D. Eisenhower, which was read, referred to the Committee on Interstate and Foreign Commerce and ordered to be printed. The message consisted of two parts. The first segment called for a

4. 95 Cong. Rec. 533, 81st Cong. 1st Sess.

5. 104 Cong. Rec. 1073, 85th Cong. 2d Sess.

"fivefold increase in appropriations"[6] for scientific education activities of the National Science Foundation including, among other things, the expansion of four ongoing programs of the Foundation. The second segment called for legislation authorizing new programs[7] in the Department of Health, Education, and Welfare to reduce the waste of talent, strengthen the teaching of science and mathematics, increase the supply of college teachers, improve foreign language teaching, and strengthen the Office of Education.

Later in the day the Speaker made the following announcement:[8]

> After further examination of the President's message and the recommendations made therein, the Chair believes that the proper committee to which to refer the President's message is the Committee on Education and Labor instead of the Committee on Interstate and Foreign Commerce, because on the Science Foundation no new law is suggested, simply more appropriations. The other part of the President's message deals with education. Therefore the Chair is going to change the reference of the President's message and whatever bills are introduced on that subject, to the Committee on Education and Labor.

6. *Id.* at p. 1073.
7. *Id.* at p. 1074.
8. *Id.* at p. 1112.

Federal Employee Disability or Death Benefits; Matters Relating to Federal Employees Compensation Act

§ 36.3 The Committee on Education and Labor, and not the Committee on the Judiciary has jurisdiction of bills to amend the U.S. Employees' Compensation Act of Sept. 7, 1916.

On Jan. 19, 1948,[9] Earl C. Michener, of Michigan, Chairman of the Committee on the Judiciary, stated that a bill (H.R. 3239), to amend section 4 of the United States Employees' Compensation Act, approved Sept. 7, 1916,[10] had been "inadvertently referred to the Committee on the Judiciary." After noting that he had conferred with the Chairman of the Committee on Education and Labor, Fred A. Hartley, of New Jersey, the Member who introduced the measure, Mr. Kenneth B. Keating, of New York, and other interested parties, Mr. Michener sought and obtained

9. 94 CONG. REC. 304, 80th Cong. 2d Sess.
10. The Committee on Education and Labor has jurisdiction generally over compensation for work injuries to federal employees. The primary legislation governing this area, the Federal Employees' Compensation Act, appears at 5 USC §§ 8101 et seq.

unanimous consent to have his committee discharged from further consideration of the bill and to have it rereferred to the Committee on Education and Labor.

The next day, Jan. 20, 1948,[11] Mr. Michener similarly requested unanimous consent that the Committee on the Judiciary be discharged from further consideration of certain bills (H.R. 790, H.R. 970, H.R. 1872, H.R. 2047, H.R. 2048, H.R. 3480, H.R. 3673, and H.R. 3927) amending or otherwise affecting the United States Employees' Compensation Act of Sept. 7, 1916, and that the bills be rereferred to the Committee on Education and Labor. In so doing, he noted:

> I may state that I have consulted with the Parliamentarian and am advised that these bills have been wrongly referred because the jurisdiction of the committees has been changed under the Reorganization Act. I have conferred with the author of each of the bills and also with the chairman of the Committee on Education and Labor, and there is no objection.

The bills in question, were described, as follows:

> H.R. 790, a bill to amend the act of September 7, 1916, by providing for a hearing of claims of employees of the United States before the United States Employees' Compensation Commission.
>
> H.R. 970, a bill to increase the compensation for total disability granted employees of the United States under the United States Employees' Compensation Act of September 7, 1916.
>
> H.R. 1872, a bill to amend the act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," approved September 7, 1916, as amended.
>
> H.R. 2047, a bill to amend the act of September 7, 1916, providing compensation for injuries to employees of the United States.
>
> H.R. 2048, a bill to amend the act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended.
>
> H.R. 3480, a bill to amend the United States Employees' Compensation Act of September 7, 1916, so as to increase the maximum and minimum monthly compensation. . . .
>
> H.R. 3673, a bill to extend the benefits of the United States Employees' Compensation Act of September 7, 1916, to active-duty members of the Civil Air Patrol, and for other purposes.
>
> H.R. 3927, a bill to amend the act of September 7, 1916, to authorize certain expenditures from the employees' compensation fund, and for other purposes.

The rereferrals were then effected by unanimous consent.[12]

11. 94 CONG. REC. 369, 80th Cong. 2d Sess.

12. For a similar rereferral in a later Congress, see 95 CONG. REC. 1043, 81st Cong. 1st Sess., Feb. 9, 1949.

§ 36.4 The Committee on Education and Labor and not the Committee on the Judiciary has jurisdiction of a bill providing that the monthly compensation of totally disabled former Civilian Conservation Corps enrollees shall continue so long as they remain totally disabled.

On Mar. 15, 1948,[13] Earl C. Michener, of Michigan, Chairman of the Committee on the Judiciary, obtained unanimous consent to have that committee discharged from further consideration of several measures including H.R. 1431 and to have them rereferred to the Committee on Education and Labor In so doing, he had noted:

> . . . Under the Reorganization Act the Committee on Education and Labor is specifically given jurisdiction over these bills.
>
> I have conferred with the chairman of the Committee on Education and Labor, all the authors of the bill have been contacted, and there is no objection.

§ 36.5 The Committee on Education and Labor, and not the Committee on the Judiciary has jurisdiction of a bill to amend the act of Dec. 2, 1942, entitled "An act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States and for other purposes," to clarify the eligibility for benefits of certain employees detained by the enemy in the Philippines Islands.

On Jan. 20, 1948,[14] Mr. Earl C. Michener, of Michigan, obtained unanimous consent to have the Committee on the Judiciary discharged from further consideration of H.R. 3596 among others, and to have it rereferred to the Committee on Education and Labor. In so doing, he had noted:

> I may state that I have consulted with the Parliamentarian and am advised that these bills have been wrongly referred because the jurisdiction of the committees has been changed under the Reorganization Act. I have conferred with the author of each of the bills and also with the chairman of the Committee on Education and Labor, and there is no objection.

§ 36.6 The Committee on Education and Labor, and not the Committee on Post Office and Civil Service has jurisdiction of a bill to provide a lump sum death payment to beneficiaries of Forest Service employees killed while combating forest fires.

13. 94 CONG. REC. 2846, 80th Cong. 2d Sess.

14. 94 CONG. REC. 369, 80th Cong. 2d Sess.

On May 5, 1950,[15] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of H.R. 8162 and to have it rereferred to the Committee on Education and Labor.

§ 36.7 The Committee on Education and Labor, and not the Committee on Post Office and Civil Service, has jurisdiction of proposals to amend the Federal Employees' Compensation Act Amendments of 1960.

On Aug. 18, 1961,[16] Thomas J Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent that an executive communication (Exec. Comm. No. 1214), the subject of which is specified above, be rereferred from his committee to the Committee on Education and Labor.

§ 36.8 The Committee on Education and Labor and not the Committee on Post Office and Civil Service has jurisdiction of a bill to permit employees of the Canal Zone Government and the Panama Canal Company to appeal decisions under the Federal Employees' Compensation Act to the Employees' Compensation Appeals Board.

On Sept. 24, 1951,[17] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of S. 1271 and to have it rereferred to the Committee on Education and Labor.[18]

§ 36.9 The Committee on Education and Labor and not the Committee on Post Office and Civil Service has jurisdiction of a bill to amend the Federal Employees' Compensation Act with respect to the computation of disability payments in the case of certain seamen and other persons.

On May 19, 1952,[19] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unani-

15. 96 CONG. REC. 6548, 81st Cong. 2d Sess.

16. 107 CONG. REC. 16271, 87th Cong. 1st Sess.

17. 97 CONG. REC. 11991, 82d Cong. 1st Sess.

18. S. 1271 was reported by the Committee on Education and Labor on July 1, 1952 (H. Rept. No. 2425).

19. 98 CONG. REC. 5443, 82d Cong. 2d Sess.

mous consent to have his committee discharged from further consideration of H.R. 7621 and to have it rereferred to the Committee on Education and Labor.

Fair Employment Practices

§ 36.10 Bills providing for a Fair Employment Practices Commission through amendment of the Civil Rights Act of 1964, which, itself, was referred to and reported from the Committee on the Judiciary, were referred to the Committee on Education and Labor.

On June 10, 1965,[20] Mr. James Roosevelt, of California, and Mr. Ogden R. Reid, of New York, each introduced a bill (H.R. 8998, H.R. 8999, respectively), the subject matter of which is specified above. Both bills were referred to the Committee on Education and Labor.

Human Services Programs

§ 36.11 Under the rules in effect in the 92d Congress, the Committee on Education and Labor, and not the Committee on Ways and Means, had jurisdiction of proposals to assist states and localities to coordinate human services programs administered by the Department of Health, Education, and Welfare.

On June 21, 1972,[21] Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, obtained unanimous consent to have House Document No. 92–296, and Executive Communication No. 2006, rereferred from his committee to the Committee on Education and Labor where both communications contained the type of proposals specified above.

Parliamentarian's Note: Programs for human services administered by the Department of Health, Education, and Welfare came within the jurisdictions of several committees of the House, including Ways and Means, Education and Labor, and Interstate and Foreign Commerce. The proposals had originally been referred to the Committee on Ways and Means because several of the services involved social security benefits.

Juvenile Delinquents and Runaways

§ 36.12 The Committee on Education and Labor, and not

20. 111 CONG. REC. 13296, 89th Cong. 1st Sess.

21. 118 CONG. REC. 21733, 92d Cong. 2d Sess.

the Committee on the Judiciary, has jurisdiction of a bill to assist state and local government programs for the control of juvenile delinquency.

On Jan. 22, 1959,[1] Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, obtained unanimous consent to have his committee discharged from further consideration of H.R. 772 and to have it rereferred to the Committee on Education and Labor.

§ 36.13 The Committee on Education and Labor, and not the Committee on the Judiciary, has jurisdiction of bills to strengthen interstate reporting and interstate services for parents of runaway children, to conduct research on the size of the runaway youth population, and for temporary housing and counseling services for transient youth.

On July 12, 1973,[2] Peter W. Rodino, Jr., of New Jersey, Chairman of the Committee on the Judiciary, obtained unanimous consent to have S. 645 rereferred from his committee to the Committee on Education and Labor.

On Sept. 10, 1973,[3] Mr. Rodino again obtained unanimous consent to have similar bills (H.R. 1807, H.R. 2316, H.R. 3274), also rereferred to the Committee on Education and Labor.

Parliamentarian's Note: In the latter instance, the three bills had been originally referred to the Committee on the Judiciary due to the inclusion of title I authorizing Law Enforcement Assistance Administration grants to law enforcement agencies to fund reporting services.

Labor Disputes in Defense Industries

§ 36.14 The House granted unanimous consent that a bill to diminish the cause of labor disputes in defense industries be referred from the Committee on the Judiciary to the Committee on Education and Labor.

On Nov. 19, 1941,[4] Speaker pro tempore Harry R. Sheppard, of California, recognized Mr. Howard W. Smith, of Virginia, who proceeded to make the following remarks:

> Mr. Speaker, I desire to submit a unanimous-consent request.

1. 105 Cong. Rec. 1027, 86th Cong. 1st Sess.
2. 119 Cong. Rec. 23633, 93d Cong. 1st Sess.
3. 119 Cong. Rec. 28970, 93d Cong. 1st Sess.
4. 87 Cong. Rec. 9017, 77th Cong. 1st Sess.

I would like the attention of the gentleman from Texas [Mr. Sumners], chairman of the Committee on the Judiciary, and the gentleman from Michigan [Mr. Michener]. On yesterday I introduced H.R. 6066, having for its title to diminish the cause of labor disputes in defense industries. That bill was referred to the Committee on the Judiciary. After consultation with the chairman of the Committee on Labor, I find that it is the purpose of that committee to give consideration to that type of legislation during the next week. The committee feels that it cannot give consideration to that bill because the bill is not before the Labor Committee.

I therefore ask unanimous consent, Mr. Speaker, that the Committee on the Judiciary be discharged from further consideration of the bill H.R. 6066, and that it be rereferred to the Committee on Labor.

At this juncture, Mr. Earl C. Michener, of Michigan, reserving the right to object, noted that "the Judiciary Committee does not want to waive any of its parliamentary rights." He added, however, that in light of the presence of the chairman of that committee, and "inasmuch as this bill is as stated by its author, a labor bill entirely," he would not object.

Immediately thereafter, the Chair recognized Hatton W. Sumners, of Texas, Chairman of the Committee on the Judiciary, and the following exchange ensued:

Mr. Speaker, reserving the right to object, I am not familiar with the provisions of the bill, but I have no objection, with the understanding that the waiver does not create any precedent.

Mr. SMITH of Virginia: I understand it does not waive any rights. It is done under these special circumstances, because that committee is going to consider that sort of legislation very intensively.

Shortly thereafter, the House granted unanimous consent to the rereferral.

Longshoremen's and Harbor Workers' Compensation Act

§ 36.15 The Committee on Education and Labor and not the Committee on the Judiciary has jurisdiction of bills to increase certain benefits payable under the Longshoremen's and Harbor Workers' Compensation Act or otherwise amending that act.

On Mar. 15, 1948,[5] Earl C. Michener, of Michigan, Chairman of the Committee on the Judiciary, obtained unanimous consent to have that committee discharged from consideration of several measures including those described above (H.R. 5653, H.R. 5739, H.R. 1871, and H.R. 2719), and to have them rereferred to the Committee on Education and Labor. In so doing, he had noted:

. . . Under the Reorganization Act the Committee on Education and

5. 94 CONG. REC. 2846, 80th Cong. 2d Sess.

Labor is specifically given jurisdiction over these bills.

I have conferred with the chairman of the Committee on Education and Labor, all the authors of the bills have been contacted, and there is no objection.

Mineral Resources Conservation Institutes

§ 36.16 The Committee on Education and Labor, whose legislative domain under the rules includes "education generally" and the "welfare of miners," has jurisdiction of a proposal to amend the Higher Education Act of 1965 to establish mineral resources conservation institutes, although the Committee on Interior and Insular Affairs under the rules has jurisdiction of "mining schools" and "mining interests generally."

On Nov. 4, 1971,[6] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 7248), to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education. In the course of the bill's consideration, the Committee on Education and Labor offered an amendment in the nature of a substitute[7] which eventually prompted a jurisdictional point of order pursuant to a special rule permitting jurisdictional points of order against portions of that substitute.

The controversy arose over title XI, pertaining to the improvement of mineral conservation education. Of particular pertinence were the following provisions in that title:[8]

TITLE XI—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

Sec. 1101. The Higher Education Act of 1965 adding after title XII the following new title:

"TITLE XIII—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

"Sec. 1301. The Congress, in recognition of the profound impact of mineral exploration and development on the health and safety of persons working in the mineral industries and . . . in recognition of the fact that the prosperity and future welfare of the Nation is dependent, in large measure, on the sound exploration, extraction, processing, and development of its unrenewable mineral resources, declares that it is the purpose of this title to assist in assuring the Nation, at all times, of an adequate supply of mineral engineers and scientists (a) for the mineral industries engaged in research, investigations, experiments, demonstrations, exploration, extrac-

6. 117 CONG. REC. 39248, 92d Cong. 1st Sess.

7. *Id.* at p. 39263.

8. *Id.* at pp. 39263, 39264.

tion, processing, developing, and production of such resources in a matter consistent with the need to protect and enhance the quality of the total environment, and (b) for the public agencies concerned with such mineral activities, with the health and safety of persons employed in such industries, and with the protection and enhancement of the total environment.

"Sec. 1302. (a) The Commissioner is authorized to make, in accordance with the provisions of this title, grants each fiscal year, for establishing and carrying out the work of a competent and qualified mineral resources conservation institute, center, or equivalent agency (hereinafter referred to as an 'institute'), to such institutions of higher education as he may select, not to exceed ten in the Nation, and selected so as to serve the needs of a region, which shall be an institution of higher education established in accordance with sections 1 through 5, 7, and 8, of the act of July 2, 1862, as amended (7 U.S.C. 30–305, 307, and 308), or some other institution of higher education designated by the Governor of the State with which the institution is located. Institutions of higher education selected under this subsection are encouraged to cooperate with other such institutions in participating in the work of the institute. . . .

"Sec. 1303. (a) There are authorized to be appropriated to the Commissioner for fiscal year 1972 and for each of the succeeding fiscal years ending prior to July 1, 1976, not to exceed $5,000,000 annually. Such sums shall remain available until expended for grants to institutes designated under this title where there is an application approved under this title to match, on a dollar-for-dollar basis, funds made available to such institutes by State or other non-Federal sources to pay the costs of conducting specific mineral research and demonstration projects of industry-wide application relating (1) to the conservation, exploration, extraction, processing, development, or production of mineral resources, including but not limited to, the recycling and reuse of such resources and the products and wastes thereof, and (2) to the protection or enhancement of health and safety of persons employed in the minerals industries and of the environment in connection with mineral operations. The Commissioner shall provide for an equitable distribution of the sums appropriated among institutes for which an application is approved under section 1302 of this title. . . .

"Sec. 1304. There are authorized to be appropriated to the Commissioner $10,000,000 for the fiscal year 1972, and increasing $2,000,000, annually for four years, from which he may, in consultation with the Secretary of the Interior make grants or contracts with any educational institution to undertake mineral research and demonstration projects consistent with the purposes and applicable provisions of this table."

In the ensuing debate, Chairman pro tempore Edward P. Boland, of Massachusetts, recognized Mr. Edmond Edmondson, of Oklahoma, a member of the Committee on Interior and Insular Affairs, who raised the following point of order:

Mr. Chairman, pursuant to House Resolution 661,[9] I make a point of

9. H. Res. 661, agreed to on Oct. 27, 1971 [117 CONG. REC. 37769, 92d

order against title XI of H.R. 7248 on the ground that the subject matter of title XI is within the jurisdiction of the Committee on Interior and Insular Affairs.

Under rule XI, clause 10, of the Rules of the House of Representatives,[10] the Committee on Interior and Insular Affairs has jurisdiction over mining interests generally and over mining schools and experimental stations specifically.

Title XI of the bill authorizes grants to establish 10 mineral resources conservation institutes. The purpose of these institutes is to train mineral engineers and scientists, and to conduct research and experiments of either a basic or practical nature. These institutes clearly are mining schools and mining experimental stations within the meaning of the rules of the House.

Title XI of the bill also authorizes matching grants to these 10 new institutes for the purpose of conducting specific mineral research and demonstration projects of industrywide application. These are activities historically carried on by mining school and experiment stations. These activities also relate to mining interests generally. Both subjects are assigned to the Committee on Interior and Insular Affairs.

Title XI of the bill further authorizes grants to any educational institution to undertake mineral research and demonstration projects. Such projects can reasonably be expected to be carried out through the mining school or the mining department of the grantee. Moreover, the purpose of the research and demonstration projects is to promote the interests of the mining community generally.

Finally, a separate bill, S. 635, which also authorizes grants to establish mineral resources institutes, has been referred to the Committee on Interior and Insular Affairs, and is now pending before our committee. S. 635 and title XI of H.R. 7248 deal with the same subject matter. Both provide for mining schools, or institutes, which will engage in mining and mineral research, demonstrations, and experiments. Both will train engineers, scientists, and technicians in the minerals field. S. 635 was properly referred to the Committee on Interior and Insular Affairs. Title XI of H.R. 7248 deals with exactly the same subject, and it also is within the jurisdiction of the Interior Committee. I make a point of order against the retention of title XI in the bill.

Responding to the point of order, Mr. John H. Dent, of Pennsylvania, noted:

Cong. 1st Sess.], prescribed the special rule by which H.R. 7248 was to be considered, and provided, among other things [*Id.* at p. 37765], that "all titles, parts, or sections of the [amendment in the nature of a] substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248."

10. Under this clause [See Rule XI clause 10, *House Rules and Manual* § 702 (1973)] the Committee on Interior and Insular Affairs was accorded jurisdiction over "mining interests generally [clause 10(k)]" and "mining schools and experimental stations [clause 10(l)]," among other subjects.

Mr. Chairman, at the outset I might say this particular section in the act embodies the contents of H.R. 3942, a bill introduced by myself and the gentlewoman from Oregon (Mrs. Green) as the initial and original proposal to create these mineral research schools. . . . It was introduced on February 3, 1971, and it was sent to the Committee on Education and Labor—and properly so, we thought, and so think at this moment.

Mr. Chairman, the gentleman from Colorado (Mr. Aspinall) and the gentleman from Oklahoma (Mr. Edmondson) contend that title XI of the bill is subject matter not properly within the jurisdiction of the Committee on Education and Labor, but rather within that of the Committee on Interior and Insular Affairs. This is not the case.

The subject matter of title XI is higher education, as is the subject matter of all of H.R. 7248. The subject matter of other referred—to legislation under consideration by the Committee on Interior and Insular Affairs is mineral research.

The thrust and purpose of title XI, as stated in section 1301 of the bill, is to assure the Nation an adequate supply of mineral engineers and scientists. The section also contains a congressional declaration to that effect.

The essence of all of title XI is to support the education of such personnel, and the colleges and universities that train them. It is not, in any way, an intrusion into the clear prerogative of the Committee on Interior and Insular Affairs in matters of "mining interests generally," as prescribed by rule XI—Powers and Duties of Committees—of the rules of the House. Rather—and rule XI is not silent on this point—it falls within the jurisdiction of the Committee on Education and Labor pursuant to its responsibility for "measures relating to education—generally."

Mr. Dent further elaborated on his position by differentiating title XI from a "minerals research" bill (H.R. 10950),which he knew to be of interest to the Committee on Interior and Insular Affairs:[11]

Title XI is in most respects complementary to, rather than in conflict with, the bill on which the chairman of the Interior and Insular Affairs Committee intends to hold hearings—H.R. 10950. Whereas the emphasis of the Interior Committee bill is on research, investigation, advancement of knowledge, and establishment of development programs, the stated purpose of title XI is "to assist in assuring the Nation, at all times, of an adequate supply of mineral engineers and scientists." To achieve this purpose the title gives a high priority, for example, to the development and support of appropriate 4-year undergraduate curriculums by encouraging the employment of "adequate and competent faculty personnel," by recommending funds for equipment to be "used primarily for the education and training of individuals," and by making provision for scholarship funds. In support of more advanced education it provides for fellowships and postdoctoral fellowships. Title XI also provides sums for

11. 117 CONG. REC. 39264, 39265, 92d Cong. 1st Sess.

the conduct of specific mineral research and demonstration projects of industrywide application.

. . . [O]ur Nation's position in the mineral resources area is deteriorating dangerously. It is not so much the result of exhaustion of the country's mineral resources as it is of our not developing the needed technology for efficient processing and utilization of the resources we have. Of paramount importance at the present time is a strong governmental program directed at developing the human resources involved—that is, personnel trained in the fields of mineral sciences and technology—and a simultaneous program to develop the knowledge needed for the useful development of our solid, liquid, and gaseous mineral resources.

Title XI will provide an important beginning in support of the tremendous need for appropriate education in this critical area. In this respect it will effectively complement the Interior Committee bill which appropriately places emphasis on research and development.

Referring again to the original source of title XI, Mr. Dent continued:

H.R. 4392 proposed a new title XIII—Improvement of Mineral Conservation Education—to the Higher Education Act of 1965. It was referred to the Committee on Education and Labor; and it was included as title XI in the bill now before us, with none other than a few minor technical changes. At that time, the decision was made that the bill was properly within the jurisdiction of the Committee on Education and Labor. Since the question before the Chair does not involve language other than that contained in my original bill, I do not see on what basis the point of order can be sustained.

Completing his rebuttal with a brief discussion of jurisdictional conflicts, in general, he noted:

Moreover, it is apparent that the jurisdiction of some broad subject matters—such as mining—is often divided among committees. With respect to mining, it is obvious that "mining interests generally" are within the province of the Committee on Interior and Insular Affairs. Yet, insofar as health and safety legislation for miners generally, that is within the jurisdiction of the Committee on Education and Labor.

The bill before us contains a similar example. Title X—Improvement of Graduate Programs—provides grants, for instance, to medical schools. There is no challenge that this provision invades the jurisdiction of any other committee. Yet, the subject matter is medicine. With regard to the broad field of medicine: the Committee on Interstate and Foreign Commerce is responsible for the Public Health Service Act—including the Hill-Burton Act—and the Federal Food, Drug, and Cosmetic Act; the Committee on Ways and Means is responsible for medicare, which certainly relates to medicine; the House recently approved the Veterans' Medical Care Act of 1971, reported by the Committee on Veterans' Affairs; the Committee on Armed Services is considering legislation to provide medical schools for the armed services and the Committee on Foreign Affairs is

considering legislation to create an international health agency. I could go on and on, but I expect I have made my point.

In the face of this, I respectfully suggest that the point of order is not valid; that title XI of H.R. 7248 is quite properly within the jurisdiction of the Committee on Education and Labor; and that the point of order should not be sustained.

At this juncture, the Chair announced that he was prepared to rule and stated his decision, as follows:

The gentleman from Oklahoma (Mr. Edmondson) has raised a point of order against title XI, beginning on page 202, line 9 through page 210, line 15, on the grounds that the subject matter of this title is within the jurisdiction of the Committee on Interior and Insular Affairs and not the Committee on Education and Labor.

The Chair has listened to the arguments presented and has examined the provisions of title XI, as well as the provisions of the rule, House Resolution 661, which made consideration of this bill in order. The rule provides that any title, part, or section of the committee amendment in the nature of a substitute shall be subject to a point of order if the subject matter thereof is properly within the jurisdiction of another committee.

Title XI would provide that the Commissioner of Education may make grants for the establishment of not to exceed 10 "mineral resources conservation institutes" within existing institutions of higher education which he selects. Appropriations are authorized to enable such institutes to conduct educational training programs, not only in the areas of mineral resources exploration, extraction, processing, development, and conservation, but also in the areas of protection and enhancement of health and safety of persons employed in the minerals industries.

To be sure, the Committee on Interior and Insular Affairs has jurisdiction, under clauses 10 (k) and (l) of rule XI, over measures relating to "mining schools" and "mining interests." It should also be noted, however, that the Committee on Education and Labor,[12] under clauses 6(a) and 6(m) of rule XI, has jurisdiction over measures relating to "education generally"—thus including institutions of higher education—and over "welfare of miners," which would include the health and safety of miners.

Where, as here, the jurisdiction of committees of the House is essentially and basically involved, the Chair must refer for guidance to the introduction and reference by the Speaker under rule XI of bills touching on similar subject matter. The Chair notes that on February 3, 1971, the Speaker referred H.R. 3492 to the Committee on Education and Labor. That bill, as does title XI of the committee substitute, proposes an amendment to the Higher Education Act of 1965 and seeks to establish precisely the type of mineral resources conservation institutes within existing institutions of higher education sought to be established by title XI.

The Chair holds that title XI in the form in which proposed by the Com-

12. See Rule XI clause 6, *House Rules and Manual* § 687 (1973).

mittee on Education and Labor is properly within the jurisdiction of that committee, and, therefore, overrules the point of order.

Safety Standards for Federal Recreational Campsites

§ 36.17 A proposition authorizing the establishment of safety standards for federal recreational campsites on federal property in national parks, reclamation projects, national forests, and Corps of Engineers sites was held to be outside the jurisdiction of the Committee on Education and Labor.

On Nov. 4, 1971,[13] the House resolved itself into the Committee of the Whole for the consideration of a bill (H.R. 7248), to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education. In the course of the bill's consideration pursuant to a special rule permitting jurisdictional points of order, a jurisdictional question arose over part of a proposed committee amendment to title XIX of the bill.

The relevant provisions pertained to the establishment of safety standards for federal recreational campsites. Of particular pertinence was the following section:[14]

FEDERAL RECREATIONAL CAMPS

Sec. 1914. (a) The Secretary [of Health, Education, and Welfare] shall develop safety standards to govern the operation of Federal recreational camps. The Secretary shall cooperate with Federal officers and agencies operating Federal recreational camps to assure that such camps are operated in compliance with the Secretary's standards. The Secretary may make the services of personnel of the Department of Health, Education, and Welfare available, without reimbursement, to other Federal agencies to assist them in carrying out this section.

(b) For purposes of this section, a Federal recreational camp is a camp or campground which is located on Federal property and is operated by, or under contract with, a Federal agency to provide opportunities for recreational camping to the public.

With respect to this section, Mr. John P. Saylor, of Pennsylvania, raised the following point of order:

Mr. Chairman,[15] pursuant to House Resolution 661,[16] I make a point of

13. 117 CONG. REC. 39248, 92d Cong. 1st Sess.

14. 117 CONG. REC. 39292, 92d Cong. 1st Sess.

15. Edward P. Boland (Mass.).

16. H. Res. 661, agreed to on Oct. 27, 1971 [117 CONG. REC. 37769, 92d Cong. 1st Sess.], prescribed the special rule by which H.R. 7248 was to be considered, and provided, among other things [*id.* at p. 37765], that "all titles, parts, or sections of the [amendment in the nature of a] sub-

order against section 1914 of H.R. 7248 on the ground that the subject matter of the section is within the jurisdiction of the Committee on Interior and Insular Affairs.

Section 1914 permits the Secretary of Health, Education, and Welfare to develop safety standards that will govern the operation of Federal recreational camps, which are defined as camps on Federal property that provide recreational camping for the public. This definition includes campgrounds open to the public in: First, national parks; second, forest reserves created from the public domain; third, irrigation and reclamation projects; and fourth, public lands generally, which are usually called public domain. More Federal recreational camps are located on the foregoing categories of land than on any other Federal land.

Jurisdiction over legislation governing the use of the foregoing categories of Federal land is specifically assigned to the Committee on Interior and Insular Affairs by rule XI, clause 10, of the rules of the House.[17]

Shortly thereafter, Mr. Edmond Edmondson, of Oklahoma, added:

Mr. Chairman, on behalf of the majority, and the chairman of the House Committee on Interior and Insular Affairs, I want to support the point of order made by the gentleman from Pennsylvania (Mr. Saylor). It is a point of order that the entire committee supports.

Mr. Dominick V. Daniels, of New Jersey, rose in opposition to the point of order, noting that:[18]

The essential question is whether section 1914 is, in the words of the rule. and I quote:

> Properly within the jurisdiction of any other standing Committee of the House of Representatives.

The Education and Labor Committee clearly has jurisdiction over the general question of setting safety standards in youth camps. This is plain from the regular practice of referring bills dealing only with this subject matter to that committee, such as H.R. 17131 and H.R. 17307 in the 90th Congress; H.R. 763 in the 91st Congress; and H.R. 1264 and H.R. 11227 in the 92d Congress.

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stitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248."

17. This clause, in pertinent part [see rule XI clause 10, *House Rules and Manual* § 702 (1973)] listed the following subjects as being within the jurisdiction of the Committee on Interior and Insular Affairs: "(a) Forest reserves and national parks created from the public domain. . . . (e) Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects. . . . (o) Public lands generally, including entry, easements, and grazing thereon."

18. 117 CONG. REC. 39292, 39293, 92d Cong. 1st Sess.

It is, of course, true that the Committee on Interior and Insular Affairs has jurisdiction over public lands, and the question raised by the point of order is how to reconcile the geographical jurisdiction of the Interior Committee over national parks with the functional jurisdiction of the Education and Labor Committee over child safety conditions.

It seems clear to me that the two jurisdictions are not mutually exclusive and that certain matters may be appropriately considered one way or the other.

The Education and Labor Committee had before it a bill dealing with the subject of youth camp safety in general whose provisions should also be applicable to youth camps in Federal parks. Under those circumstances, the subject matter was properly before the Education and Labor Committee without in any way infringing on the Interior Committee's jurisdiction over national parks.

Also speaking in opposition to the point of order, Mr. Peter A. Peyser, of New York, stated:

Mr. Chairman, without having the parliamentary procedure or the background on how the Chair is going to reach its final decision, I believe that one thing that should be considered here is that the area of the Federal lands that are involved in the national parks and other areas that are used by camping associations and travel camps are specific areas that should be included in this particular act, and under this program. We gave instances that we can speak of, and will show of fatalities that have occurred on Federal lands where improper or no safety regulations that should have been enforced were enforced. Where we are to position now, or certainly are on our lands that are controlled by this Government, to incorporate this in one bill and leave this most important section as part of our Camp Safety Act.

Announcing that he was ready to rule, the Chair explained his decision to sustain the point of order as follows:

The gentleman from Pennsylvania (Mr. Saylor) has raised a point of order against section 1914 of the pending measure on the ground that it is not properly within the jurisdiction of the Committee on Education and Labor.

The section in question authorizes the Secretary of Health, Education, and Welfare to develop safety standards to govern the operation of Federal recreational camps.

As the Chair understands the section, it pertains to camps and campgrounds on Federal property—in national park reclamation projects, national forests, at facilities operated by the Corps of Engineers in connection with public works.

The Chair does not feel that his reading of rule XI discloses any clause which would place legislation with respect to safety standards at such campsites within the jurisdiction of the Committee on Education and Labor.

The Chair feels that if a bill embodying the provisions of section 1914 were introduced as a separate piece of legislation, it would be referred to a committee other than the Committee on Education and Labor.

The Chair. therefore, sustains the point of order and the language is

stricken from the committee amendment.

§ 37. Committee on Foreign Affairs

The Committee on Foreign Affairs has been a standing committee of the House since 1822.[19] Its jurisdiction pursuant to the 1973 rules[1] read as follows:

(a) Relations of the United States with foreign nations generally.

(b) Acquisition of land and buildings for embassies and legations in foreign countries.

(c) Establishment of boundary lines between the United States and foreign nations.

(d) Foreign loans.

(e) International conferences and congresses.

(f) Intervention abroad and declarations of war.

(g) Measures relating to the diplomatic service.

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

(i) Neutrality.

(j) Protection of American citizens abroad and expatriation.

(k) The American National Red Cross.

(l) United Nations Organization and international financial and monetary organizations.

The rules[2] also provide:

No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following committees, namely: To the Committee on Foreign Affairs or to the Committee on the Judiciary.

The 1973 subcommittee structure for the Committee on Foreign Affairs consisted of four subject matter subcommittees, five regional subcommittees, and one special subcommittee, as follows:

SUBJECT MATTER SUBCOMMITTEES

(1) Foreign Economic Policy;

(2) International Organizations and Movements;

(3) National Security Policy and Scientific Development; and

(4) State Department Organization and Foreign Operations.

REGIONAL SUBCOMMITTEES

(1) Africa;

(2) Asian and Pacific Affairs;

19. 4 Hinds' Precedents § 4162. The name of the committee was changed to the Committee on International Relations in the 94th Congress [H. Res. 163, 121 CONG. REC. 7343, 7344, 94th Cong. 1st Sess., Mar. 19, 1975], but was changed back to the Committee on Foreign Affairs in the 96th Congress [H. Res. 89, 125 CONG. REC. —, 96th Cong. 1st Sess., Feb. 5, 1979].

1. Rule XI clause 7, *House Rules and Manual* § 689 (1973). See Rule X clause 1(h), *House Rules and Manual* § 677 (1979).

2. Rule XXI clause 4, *House Rules and Manual* § 845 (1979).

(3) Europe;
(4) Inter-American Affairs; and
(5) Near East and South Asia.

SPECIAL SUBCOMMITTEE

Special Subcommittee for Review of Foreign Aid Programs.

The following list,[3] consisting of the major activities of nine of the subcommittees during the 92d Congress, offers an insight into their jurisdictional scope:

SUBCOMMITTEE ON FOREIGN ECONOMIC POLICY

(1) Coordinating U.S. foreign economic policy (hearings in full Committee);
(2) British entry into Common Market (hearings);
(3) Economic policy toward Japan (hearings);
(4) Foreign policy implications of energy crisis (hearings);
(5) Italian war claims (hearing);
(6) New economic policy (hearings);
(7) Trade adjustment assistance (hearings);
(8) United States-Canadian economic relations (hearings); and
(9) U.S. foreign economic policy (hearings).

SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS AND MOVEMENTS

(1) Atlantic Union delegation (hearings; markup);
(2) International health problems (hearings);
(3) International organizations authorizations (hearings; markups);
(4) Law of international organizations;
(5) Micronesian claims (hearing; markup);
(6) Moratoriums on killing wildlife (hearings; markups);
(7) Northwest Atlantic fisheries (hearing; markup);
(8) Spokane International Exhibition on the Environment (markup);
(9) Study missions;
(10) U.N. activities (hearings);
(11) U.N. Development Program (study tour);
(12) U.N. sanctions against Rhodesia (hearings); and
(13) World environment problems (hearings).

SUBCOMMITTEE ON NATIONAL SECURITY POLICY AND SCIENTIFIC DEVELOPMENTS

(1) Indian Ocean (hearings);
(2) Military assistance training (study);
(3) National security policy and changing power alignment (hearings-symposiums);
(4) Prisoners of war (hearings);
(5) Science, technology, and diplomacy (documents);
(6) Strategic Arms Limitations Talks (briefings);
(7) Transmittal of executive agreements to Congress (hearing; markup); and
(8) War powers (hearings; markup).

SUBCOMMITTEE ON STATE DEPARTMENT ORGANIZATION AND FOREIGN OPERATIONS

(1) Diplomatic privileges (markup);

3. This list was compiled by Roger H. Davidson for the use of the Select Committee on Committees. See "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, pp. 52–54 [enumeration added].

(2) Passport legislation (hearing; markup);

(3) Simas Kudirka case (hearings);

(4) State Department authorizations (hearings; markups);

(5) State Department grievance procedures (hearings);

(6) USIA activities, authorizations (hearings);

(7) USIA authorization (hearings; markups);

(8) USIA coverage of Greece (hearing); and

(9) USIA impact survey (study).

SUBCOMMITTEE ON AFRICA

(1) North Africa (hearing with Near East Subcommittee);

(2) Study missions to Africa (study tours);

(3) U.N. and Africa (hearing with International Organizations and Movements Subcommittee);

(4) U.S. business involvement in Southern Africa (hearings); and

(5) U.S. investments in Southern Africa (study).

SUBCOMMITTEE ON ASIAN AND PACIFIC AFFAIRS

(1) American-Korean relations (hearings);

(2) China question (hearings; briefing);

(3) East Pakistan crisis (hearings; study tour);

(4) New China policy (hearings); and

(5) Vietnam war legislation (hearing).

SUBCOMMITTEE ON EUROPE

(1) Cold war (hearings);

(2) Conference on European security (hearings);

(3) European community and American interests (study tours with International Organizations and Movements);

(4) European developments (briefings);

(5) European parliamentarians (study tour);

(6) Greece, Spain, and NATO (hearings; study tour);

(7) Homeporting in Greece (hearing);

(8) International narcotics traffic (hearings);

(9) Northern Ireland (hearings);

(10) Soviet Jewry (hearings; markup); and

(11) Soviet role in Middle East (hearings with Near East Subcommittee).

SUBCOMMITTEE ON INTER-AMERICAN AFFAIRS

(1) Fishing rights (hearing);

(2) Inter-American Development Bank (hearings);

(3) Inter-American Foundation (hearing);

(4) International Boundary and Water Commission (hearing; markup);

(5) Latin American development (hearings);

(6) Latin American events (hearings; briefings);

(7) Latin American Parliament (tours);

(8) Mexican-American Boundary Treaty of 1972 (hearing; markup);

(9) Mexican trade (hearing);

(10) Panama Canal (hearings);

(11) Soviet activities in Cuba (document); and

(12) Tijuana River flood control (hearing).

SUBCOMMITTEE ON NEAR EAST

(1) American schools and hospitals abroad (hearing);

(2) Future of Jerusalem (hearing);

(3) Homeporting in Greece (hearings with Europe Subcommittee);

(4) Middle East issues (briefings);

(5) Middle East policy (report and recommendations);

(6) North Africa (hearings with Africa Subcommittee);

(7) Peace in the Middle East (hearings);

(8) Sino-Soviet conflict: impact in Middle East (hearing);

(9) Soviet involvement in Middle East (hearings with Europe Subcommittee);

(10) U.N. Relief and Works Agency (hearing); and

(11) U.S. policy toward Persian Gulf (hearings).

Over the years, the committee's jurisdiction has included bills[4] to regulate bridges and dams on international waters, to maintain treaty rights of American fishermen, to provide for extradition agreements with foreign nations, to arrange for international arbitration, and to incorporate the American National Red Cross and protect its insignia. The committee has dealt with legislation pertaining to extradition with foreign nations, international arbitration, violations of neutrality, affairs of the consular service, creation of U.S. courts in foreign countries, treaty regulations protecting fur seals, subjects of commercial treaties and reciprocal arrangements,[5] and some claims of an international nature.[6]

As the precedents reveal, the committee's jurisdiction has also extended to such subjects as celebrating Pan American Day in the House,[7] giving effect to an international convention on the regulation of whaling,[8] establishing a District of Columbia corporation to aid international communications by domestic groups,[9] extending the time within which to build a bridge across the Rio Grande River,[10] receiving the Secretary of State's response to a resolution of inquiry on troop commitments abroad,[11] waiving Neu-

4. *House Rules and Manual* § 690 (1973). See also Rule X clause 1(h), *House Rules and Manual* § 677 (note) (1979).

5. In the later practice, the Committee on Ways and Means has considered such matters. *House Rules and Manual* § 677 (1979).

6. In the past, for example, the committee has reported bills indemnifying governments for certain claims of their citizens; see 7 Cannon's Precedents § 1882. It should be borne in mind that prior to 1947, there existed a Committee on Claims, the jurisdiction of which was then transferred to the Committee on the Judiciary.

7. § 37.9, infra.

8. § 37.6, infra.

9. § 37.4, infra.

10. § 37.10, infra.

11. § 37.11, infra.

trality Act restrictions on the President in the "Lend-Lease" bill,[12] receiving memorials of sympathy from foreign legislative bodies,[13] and entertaining private claims arising out of the Foreign Service.[14]

The Committee Reform Amendments of 1974 vested jurisdiction in the Committee on Foreign Affairs over international economic policy, export controls, international commodity agreements other than sugar, international education, and trading with the enemy, and transferred jurisdiction from the committee over international financial and monetary organizations (to the Committee on Banking and Currency) over international fishing agreements (to the Committee on Merchant Marine and Fisheries). The Committee Reform Amendments also granted the committee special oversight jurisdiction (see Rule X clause 3(d), *House Rules and Manual* § 693 [1979]):[15]

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

In the 95th Congress, the Committee on Foreign Affairs was given jurisdiction over nonproliferation of nuclear technology and hardware and over international agreements on nuclear exports, upon the abolition of the legislative jurisdiction of the Joint Committee on Atomic Energy.[16]

Appointments to U.S. Court for China

§ 37.1 The Committee on Foreign Affairs and not the Committee on the Judiciary maintained jurisdiction of a bill authorizing the appointment of a commissioner for the United States Court for China and defining his duties.

On Apr. 2, 1935,[17] Speaker Joseph W. Byrns, of Tennessee, recognized Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, who by direction

12. § 37.7, infra.
13. § 37.8, infra.
14. § 37.5, infra; see also Rule XXI, clause 4, *House Rules and Manual* § 845 (1979).
15. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974.
16. H. Res. 5, 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4 1977.
17. 79 CONG. REC. 4878, 4879, 74th Cong. 1st Sess.

of that committee requested unanimous consent that the bill (H.R. 6547), be rereferred from the Committee on Foreign Affairs to the Committee on the Judiciary.

As Mr. Celler explained:

> Mr. Speaker, I have spoken to the chairman of the Committee on Foreign Affairs, and he stated he wanted some time to confer with the Parliamentarian. I may say, however, that bills of this character were heretofore referred to the Committee on Foreign Affairs because of an Executive order issued by the late President Theodore Roosevelt back in 1906 which conferred jurisdiction over that court to the State Department, but recently, on June 10, 1933, by Executive order of Franklin D. Roosevelt, jurisdiction over the United States Court for China, as well as insular courts, was transferred to the Department of Justice. The Department of Justice now exercises jurisdiction which the Department of State heretofore exercised. The Judiciary Committee feels that the reference of these bills, conferring, taking away, or enlarging jurisdiction over these courts, and setting up purely judicial functions, should be to the Judiciary Committee and not to the Committee on Foreign Affairs.

Shortly thereafter, objection having been voiced to the unanimous-consent request, Mr. Celler moved that H.R. 6547 be rereferred to the Committee on the Judiciary. The Chair explained that the motion was not debatable, and when the question was taken on a division vote (demanded by Mr. Celler) there were ayes 37, noes 84. So the motion was rejected.

Citizens' International Claims

§ 37.2 The Committee on Foreign Affairs and not the Committee on Interstate and Foreign Commerce has jurisdiction of an executive communication proposing a bill to amend the International Claims Settlement Act of 1949.

On Mar. 28, 1958,[18] Oren Harris, of Arkansas, Chairman of the Committee on Interstate and Foreign Commerce, obtained unanimous consent to have a letter (Exec. Comm. No. 1736), from the Chairman of the Foreign Claims Settlement Commission of the United States, transmitting a draft of the proposed legislation described above rereferred from his committee to the Committee on Foreign Affairs.

§ 37.3 The Committee on Foreign Affairs and not the Committee on Claims (now the Committee on the Judiciary) had jurisdiction of a bill for the payment of awards and appraisals heretofore made

18. 104 Cong. Rec. 5693, 85th Cong. 2d Sess.

in favor of citizens of the United States on claims presented under the General Claims Convention of Sept. 8, 1923, between the United States and Mexico.

On May 23, 1938,[19] Sam D. McReynolds, of Tennessee, Chairman of the Committee on Foreign Affairs, obtained unanimous consent to have the Committee on Claims (now the Committee on the Judiciary), discharged from further consideration of the bill (S. 3104), and to have it rereferred to the Committee on Foreign Affairs. In so doing, Mr. McReynolds noted that there was no objection on the part of the Committee on Claims.[20]

D.C. Corporation to Aid International Communications

§ 37.4 The Committee on Foreign Affairs, and not the Committee on the District of Columbia, considered a measure providing for the establishment of a District of Columbia corporation intended to provide support for the activities of private American organizations engaged in the field of communications with foreign peoples.

On June 21, 1971,[21] John L. McMillan, of South Carolina, Chairman of the Committee on the District of Columbia, obtained unanimous consent to have his committee discharged from further consideration of an executive communication (Exec. Comm. No. 740), and to have it rereferred to the Committee on Foreign Affairs.

Foreign or Diplomatic Service

§ 37.5 The Committee on Foreign Affairs has jurisdiction over private claims arising out of the Foreign Service.

On May 29, 1936,[22] Speaker Joseph W. Byrns, of Tennessee, recognized John J. O'Connor, of New York, Chairman of the Committee on Rules, who requested unanimous consent for the immediate consideration of the following resolution reported from that committee:

HOUSE RESOLUTION 498

Resolved, That Rule XXI, clause 3, be, and is hereby, amended to read as follows:

"3. No bill for the payment or adjudication of any private claim against

19. 83 CONG. REC. 7273, 75th Cong. 3d Sess.

20. S. 3104 was reported by the Committee on Foreign Affairs on May 26, 1938 (H. Rept. No. 2496).

21. 117 CONG. REC. 21062, 92d Cong. 1st Sess.

22. 80 CONG. REC. 8352, 74th Cong. 2d Sess.

the Government shall be referred, except by unanimous consent; to any other than the following-named committees, namely: To the Committee on Foreign Affairs, to the Committee on Invalid Pensions, to the Committee on Pensions, to the Committee on Claims, to the Committee on War Claims, to the Committee on the Public Lands, and to the Committee on Accounts."

Reserving the right to object, Mr. Joseph W. Martin, Jr., of Massachusetts, requested an explanation of the measure from Mr. O'Connor.

Mr. O'Connor replied, as follows:

Mr. Speaker, this is an amendment of the rules[23] with reference to the referring of private claims bills. For many years the Committee on Foreign Affairs has been handling private claims relating to the Consular Service. Some time ago a suggestion was made that a point of order might lie against such claims. There are some on the Consent Calendar, and to obviate the possibility of a point of order being made against a long-established custom, an amendment to this rule seems necessary, and the Committee on Rules reported it out and it was thought that this would be the most expeditious way of disposing of it.

Shortly thereafter, the House granted unanimous consent to consider the resolution, and it was agreed to.[24]

International Agreements

§ 37.6 The Committee on Foreign Affairs and not the Committee on the Judiciary has jurisdiction of a bill to give effect to the convention between the United States and certain other countries for the regulation of whaling, concluded at Geneva, Sept. 24, 1931, and signed on the part of the United States, Mar. 31, 1932.

On Feb. 3, 1936,[25] Sam D. McReynolds, of Tennessee, Chairman of the Committee on Foreign Affairs requested unanimous consent that the bill (S. 3413), be rereferred to the Committee on Foreign Affairs. Noting that the bill had been originally referred to the Committee on the Judiciary, Mr. McReynolds stated that he had "discussed it with the chairman of that committee, and it is satisfac-

23. This clause (clause 3) did not then include the Committee on Foreign Affairs [see H. Jour. 1280, 74th Cong. 1st Sess. (1935)] and thus a point of order against referral of a bill to the Committee on Foreign Affairs containing such private claims or against a report of that committee placed on the Consent Calendar, might have been sustained.

24. For a more recent version of the rule in question, see Rule XXI clause 4, *House Rules and Manual* § 845 (1979).

25. 80 Cong. Rec. 1381, 74th Cong. 2d Sess.

tory to him that it be rereferred to the Committee on Foreign Affairs."

Immediately thereafter, the House granted unanimous consent.[26]

"Lend-Lease" or "Aid to Britain" Bills

§ 37.7 The House determined that the Committee on Foreign Affairs and not the Committee on Military Affairs (now the Committee on Armed Services) had jurisdiction of the so-called "Lend-Lease" or "Aid to Britain" bill, the major purpose of which was to waive certain restrictions placed upon the President under the Neutrality Act and to substitute therefor an affirmative grant of power, enabling the President to negotiate with foreign governments regarding the possible exchange of weaponry, vessels, "defense articles," and "defense information."

On Jan. 10, 1941,[27] after noting that a bill (H.R. 1776) had just been introduced to promote the defense of the United States and for other purposes, Andrew J. May, of Kentucky, Chairman of the Committee on Military Affairs, addressed a series of parliamentary inquiries to Speaker Sam Rayburn, of Texas, regarding the reference of the bill and the procedure necessary to effect a rereferral. The discussion, in which Mr. Earl C. Michener, of Michigan, subsequently joined, encompassed several procedural matters, among them: the principle that a motion to rerefer is not in order until a bill has been initially referred to a committee and until the committee seeking jurisdiction has authorized its chairman to make such a motion; that the motion to rerefer is in order any time the House is in session, after approval of the Journal, until the bill is finally reported by the committee to which referred; that such a motion, when authorized by the committee seeking jurisdiction, is privileged and not debatable; and that the particular bill in question, H.R. 1776, had already been referred to the Committee on Foreign Affairs.

Following these preliminary inquiries, the measure itself was printed in the Record by unanimous consent and read as follows:[1]

26. S. 3413 was reported by the Committee on Foreign Affairs on Mar. 12, 1936 (H. REPT. No. 2154).

27. 87 CONG. REC. 100, 77th Cong. 1st Sess.

1. *Id.* at p. 103.

Be it enacted, etc., That this act may be cited as "An act to promote the defense of the United States."

Sec. 2. As used in this act—

(a) The term "defense article" means—

(1) Any weapon, munition, aircraft, vessel, or boat;

(2) Any machinery, facility, tool, material, or supply necessary for the manufacture, production, processing, repair, servicing, or operation of any article described in this subsection;

(3) Any component material or part of or equipment for any article described in this subsection;

(4) Any other commodity or article for defense.

Such term "defense article" includes any article described in this subsection: Manufactured or procured pursuant to section 3, or to which the United States or any foreign government has or hereafter acquires title, possession, or control.

(b) The term "defense information" means any plan, specification, design, prototype, or information pertaining to any defense article.

Sec. 3. (a) Notwithstanding the provisions of any other law, the President may, from time to time, when he deems it in the interest of national defense, authorize the Secretary of War, the Secretary of the Navy, or the head of any other department or agency of the Government—

(1) To manufacture in arsenals, factories, and shipyards under their jurisdiction, or otherwise procure, any defense article for the government of any country whose defense the President deems vital to the defense of the United States.

(2) To sell, transfer, exchange, lease, lend, or otherwise dispose of, to any such government any defense article.

(3) To test, inspect, prove, repair, outfit, recondition, or otherwise to place in good working order any defense article for any such government.

(4) To communicate to any such government any defense information, pertaining to any defense article furnished to such government under paragraph (2) of this subsection.

(5) To release for export any defense article to any such government.

(b) The terms and conditions upon which any such foreign government receives any aid authorized under subsection (a) shall be those which the President deems satisfactory, and the benefit to the United States may be payment or repayment in kind or property, or any other direct or indirect benefit which the President deems satisfactory.

Sec. 4. All contracts or agreements made for the disposition of any defense article or defense information pursuant to section 3 shall contain a clause by which the foreign government undertakes that it will not, without the consent of the President, transfer title to or possession of such defense article or defense information by gift, sale, or otherwise, or permit its use by anyone not an officer, employee, or agent of such foreign government.

Sec. 5. The Secretary of War, the Secretary of the Navy, or the head of any other department or agency of the Government involved shall, when any such defense article or defense information is exported, immediately inform the department or agency designated by the President to administer

section 6 of the act of July 2, 1940 (54 Stat. 714), of the quantities, character, value, terms of disposition, and destination of the article and information so exported.

Sec. 6. (a) There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this act.

(b) All money and all property which is converted into money received under section 3 from any government shall, with the approval of the Director of the Budget, revert to the respective appropriation or appropriations out of which funds were expended with respect to the defense article or defense information for which such consideration is received, and shall be available for expenditure for the purpose for which such expended funds were appropriated by law, during the fiscal year in which such funds are received and the ensuing fiscal year.

Sec. 7. The Secretary of War, the Secretary of the Navy, and the head of the department or agency shall in all contracts or agreements for the disposition of any defense article or defense information fully protect the rights of all citizens of the United States who have patent rights in and to any such article or information which is hereby authorized to be disposed of and the payments collected for royalties on such patents shall be paid to the owners and holders of such patents.

Sec. 8. The Secretaries of War and of the Navy are hereby authorized to purchase or otherwise acquire arms, ammunition, and implements of war produced within the jurisdiction of any country to which section 3 is applicable, whenever the President deems such purchase or acquisition to be necessary in the interests of the defense of the United States.

Sec. 9. The President may, from time to time, promulgate such rules and regulations as may be necessary and proper to carry out any of the provisions of this act; and he may exercise any power or authority conferred on him by this act through such department, agency, or officer as he shall direct.

On Jan. 13, 1941,[2] Mr. May requested unanimous consent to address the House for 10 minutes. In the course of a brief exchange with Mr. Edward E. Cox, of Georgia, following the latter's reservation of objection, Mr. May stated that he had been directed by his committee [the Committee on Military Affairs] to move that H.R. 1776 be rereferred to it.

Shortly thereafter, Speaker Rayburn recognized Mr. John W. McCormack, of Massachusetts, and the following exchange took place:

MR. MCCORMACK: Mr. Speaker, reserving the right to object, does the gentleman from Kentucky take the position that the Speaker made an incorrect reference of this bill to a committee?

2. 87 CONG. REC. 126, 77th Cong. 1st Sess.

MR. MAY: It is my candid judgment, based upon a careful consideration of all the precedents, a study of Cannon's Precedents and the rules as discussed by him in his book, that this bill which provides—and I quote the title—"Further to promote the defense of the United States, and for other purposes," relates to matters of national defense.

MR. MCCORMACK: That, of course, has nothing to do with the reference of the bill.

MR. MAY: Just a moment. The title is followed by expressions in many sections of the bill which relate to national defense. It clearly authorizes the sale, leasing, or giving of both Army and Navy equipment. Under no conditions do I question either the motives or good faith of our most distinguished Speaker, and I am merely acting in accord with the resolution of my committee.

Following an intervening point of order, Mr. McCormack continued the exchange[3] while still reserving objection, and inquired of Mr. May whether he would acknowledge the Committee on Naval Affairs and the Committee on Ways and Means as possessing jurisdictional rights over the bill.

Mr. May's response, in part, was, as follows:

I will admit very frankly that there are provisions in this bill that would, under certain circumstances justify the reference of the bill to any one of two or three committees, but the general rule is that when the major question involved is one relating to national defense, it should be referred to the committee having jurisdiction of the major issue.

So far as we are concerned here, this can be carried on through the War and Navy Department and not through the State Department, which deals only with diplomatic matters. In the instant case the major issue is the disposition of war materials. For this reason, and for the additional reason that the bill abolishes without consideration statute after statute enacted by this Congress, ignoring them completely and putting them out of effect in order to carry out the provisions of the bill—and they all relate to national defense—I believe the bill should be referred to the Committee on Military Affairs.

Shortly thereafter, the regular order was demanded, after which Mr. May offered the privileged motion to rerefer H.R. 1776 from the Committee on Foreign Affairs to the Committee on Military Affairs.

Following a parliamentary inquiry relative to procedures for referral,[4] the Speaker put the question on the preferential [and nondebatable] motion to rerefer offered by Mr. May, and the motion was rejected.

Memorials of Sympathy From Foreign Legislative Bodies

§ 37.8 Memorials of foreign legislative bodies, paying trib-

3. *Id.* at p. 127.

4. *Id.* at pp. 127, 128. See also § 28.3, supra, for discussion of procedural questions involving motion to rerefer.

ute to the memory of the late President John F. Kennedy, were referred by the Speaker to the Committee on Foreign Affairs.

On Dec. 19, 1963,[5] Speaker John W. McCormack, of Massachusetts, referred the memorials described above, which emanated from more than 20 foreign legislative bodies, to the Committee on Foreign Affairs.

Pan American Day

§ 37.9 A resolution designating a day for the celebration in the House of Pan American Day was referred to the Committee on Foreign Affairs.

On Mar. 3, 1966,[6] Mr. Armistead I. Selden, Jr., of Alabama, introduced the resolution (H. Res. 754), and it was referred to the Committee on Foreign Affairs.

Parliamentarian's Note: Resolutions setting a date for the celebration of Pan American Day were normally submitted and called up by unanimous consent, without reference to a committee. In this case, the resolution was called up by unanimous consent, thus discharging the committee. The resolution has usually been submitted and called up by the Chairman, Subcommittee on Inter-American Affairs, Committee on Foreign Affairs. The House considered such resolutions annually from 1945 until 1973.

Rio Grande River Bridge Construction

§ 37.10 The Committee on Foreign Affairs and not the Committee on Interstate and Foreign Commerce has jurisdiction of a bill to extend the times for commencing and completing the construction of a free bridge across the Rio Grande River at or near Del Rio, Texas.

On Apr. 2, 1951,[7] Mr. Dwight L. Rogers, of Florida, obtained unanimous consent to have the Committee on Interstate and Foreign Commerce discharged from further consideration of the bill (H.R. 3299), and to have it re-referred to the Committee on Foreign Affairs.[8]

Troop Commitments Abroad

§ 37.11 The House having adopted a resolution of in-

5. 109 CONG. REC. 25251, 88th Cong. 1st Sess.
6. 112 CONG. REC. 4887, 89th Cong. 2d Sess.
7. 97 CONG. REC. 3126, 82d Cong. 1st Sess.
8. H.R. 3299 was reported by the Committee on Foreign Affairs on Aug. 14, 1951 (H. Rept. No. 867).

quiry directing the Secretary of State to provide information on any Presidential commitments requiring the sending of additional American troops beyond U.S. continental limits, the Secretary's reply was laid before the House, read, and referred to the Committee on Foreign Affairs which reported out the original resolution.

On Feb. 20, 1952,[9] James P. Richards, of South Carolina, Chairman of the Committee on Foreign Affairs, called up a privileged resolution of inquiry (H. Res. 514) which the House adopted, as follows:[10]

> *Resolved,* That the Secretary of State, is directed to transmit to the House of Representatives, at the earliest practicable date, full and complete information with respect to any agreements, commitments, or understandings which may have been entered into by the President of the United States and the Prime Minister of Great Britain in the course of their conversations during January 1952, and which might require the shipment of additional members of the Armed Forces of the United States beyond the continental limits of the United States or involve United States forces in armed conflict on foreign soil.

On Mar. 5, 1952,[11] Speaker Sam Rayburn, of Texas, laid before the House the following communication (H. Doc. No. 378) from the Secretary of State, which was read, referred to the Committee on Foreign Affairs, and ordered to be printed:

> DEPARTMENT OF STATE,
> *Washington, D.C., March 4, 1952.*
> The Honorable SAM RAYBURN,
> *Speaker of the House of Representatives.*
>
> MY DEAR MR. SPEAKER: I have been directed by the President to acknowledge receipt of House Resolution 514 and to call attention to his statement of February 20, when, at his press conference, he responded to the question, "Have any commitments been made to Great Britain on sending troops anywhere?" by a categorical "No."
>
> Sincerely yours,
> DEAN ACHESON.

§ 38. Committee on Government Operations

The Committee on Government Operations came into being on July 3, 1952,[12] when the Committee on Expenditures in the Executive Departments was renamed. The latter had become a standing committee, itself, in 1927,[13] at which time it assumed

9. 98 CONG. REC. 1205, 82d Cong. 2d Sess.

10. *Id.* at p. 1216.

11. 98 CONG. REC. 1892, 82d Cong. 2d Sess.

12. 98 CONG. REC. 9217, 82d Cong. 2d Sess.

13. 69 CONG. REC. 11, 70th Cong. 1st Sess., Dec. 5, 1927.

the jurisdiction of the Committee on Public Buildings as well as the jurisdiction of nine separate committees[14] on expenditures in the Departments of Agriculture, Commerce and Labor, Interior, Justice, Navy, Post Office, State, Treasury, and War.

In 1973, the committee maintained seven subcommittees. In alphabetical order, these were the Subcommittees on Conservation and Natural Resources, Foreign Operations and Government Information, Government Activities, Intergovernmental Relations, Legal and Monetary Affairs, Legislation and Military Operations, and Special Studies.

The jurisdiction of the Committee on Government Operations pursuant to the 1973 rules[15] read as follows:

> (a) Budget and accounting measures, other than appropriations.
>
> (b) Reorganizations in the executive branch of the Government.
>
> (c) Such committee shall have the duty of—
>
> (1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the House as it deems necessary or desirable in connection with the subject matter of such reports;
>
> (2) studying the operation of Government activities at all levels with a view to determining its economy and efficiency;
>
> (3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government;
>
> (4) studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.
>
> (d) For the purpose of performing such duties the committee, or any subcommittee thereof when authorized by the committee, is authorized to sit, hold hearings, and act at such times and places within the United States, whether or not the House is in session, is in recess, or has adjourned, to require by subpena or otherwise the attendance of such witnesses and the production of such papers, documents, and books, and to take such testimony as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or of any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

As the precedents reveal, the jurisdiction of the committee and of its predecessor, has also extended to such subjects as conserving public lands and natural resources through the coordination of executive agencies,[16] eliminating the

14. See 4 Hinds' Precedents § 4315.

15. Rule XI clause 8, *House Rules and Manual* § 691 (1973). See also Rule X clause 1(i), *House Rules and Manual* § 678 (1979).

16. § 38.4, infra.

necessity of surety bonds for certain federal employees,[17] establishing a commission to study population trends and their resultant influence on government and the economy,[18] and amending certain laws relating to government records.[19]

With respect to oversight responsibilities, the jurisdiction of the Committee on Government Operations may be said to overlap with that of most other standing committees. Such overlapping jurisdiction necessarily arises from the broad oversight functions assigned to the committee by the rules. In addition to giving each standing committee (with certain exceptions) general oversight responsibilities as to the application and operation of laws within its jurisdiction, Rule X clause 2(b) [*House Rules and Manual* §§ 692(a) and (b) (1979)] states that, "The Committee on Government Operations shall review and study, on a continuing basis, the operation of Government activities at all levels with a view to determining their economy and efficiency." Furthermore, Rule X clause 4(c)(2) [*House Rules and Manual* § 696 (1979)] states:

> In addition to its duties under subparagraph (1), the Committee on Government Operations may at any time conduct investigations of any matter without regard to the provisions of clause 1, 2, or 3 (or this clause) conferring jurisdiction over such matter upon another standing committee. The committee's findings and recommendations in any such investigation shall be made available to the other standing committee or committees having jurisdiction over the matter involved (and included in the report of any such other committee when required by clause 2(1)(3) of Rule XI).

The Committee Reform Amendments of 1974 added the following subject areas to the jurisdiction of the Committee on Government Operations: the overall economy and efficiency of government operations and activities, including federal procurement; intergovernmental relationships between the United States and municipalities, and general revenue sharing; and the national archives.[20] The Committee Reform Amendments also eliminated the specific conferral of subpena authority contained in clause 8(d) of Rule XI in 1973 and made the committee subject to the general conferral of subpena authority on all committees contained in Rule XI clause 2(m) and provided additional functions for the committee [Rule X clause 2(c), *House Rules and Man-*

17. § 38.1, infra.

18. § 38.2, infra.

19. § 38.6, infra.

20. H. Res. 988, 120 CONG. REC. 3444–770, 93d Cong. 2d Sess., Oct. 8,1974, effective Jan. 3, 1975.

ual § 692(c) (1979); Rule X clause 4(c), *House Rules and Manual* § 696 (1979)]:

2(c) At the beginning of each Congress, an appropriate representative of the Committee on Government Operations shall meet with appropriate representatives of each of the other committees of the House to discuss the oversight plans of such committees and to assist in coordinating all of the oversight activities of the House during such Congress. Within 60 days after the Congress convenes, the Committee on Government Operations shall report to the House the results of such meetings and discussions, and any recommendations which it may have to assure the most effective coordination of such activities and otherwise achieve the objectives of this clause.

4(c)(1) The Committee on Government Operations shall have the general function of—

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

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

(C) studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(2) In addition to its duties under subparagraph (1), the Committee on Government Operations may at any time conduct investigations of any matter without regard to the provisions of clause 1, 2, or 3 (or this clause) conferring jurisdiction over such matter upon another standing committee. The committee's findings and recommendations in any such investigation shall be made available to the other standing committee or committees having jurisdiction over the matter involved (and included in the report of any such other committee when required by clause 2(1) (3) of Rule XI).

Creating Boards, Committees, and Commissions in the Executive Branch

§ 38.1 The Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) and not the Committee on Post Office and Civil Service had jurisdiction of a bill to establish and maintain a fidelity trust fund and a Federal Surety Board to operate a procedure in lieu of surety bonds for all federal employees required by law or regulation to furnish such bonds.

On Apr. 3, 1950,[21] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his com-

21. 96 CONG. REC. 4608, 81st Cong. 2d Sess.

mittee discharged from further consideration of the bill (H.R. 7913), and to have it rereferred to the Committee on Expenditures in the Executive Departments [now the Committee on Government Operations].

§ 38.2 The Committee on Government Operations, and not the Committee on Ways and Means, has jurisdiction of measures establishing a Commission on Population Growth to study population trends and their influences on government and the economy.

On Sept. 23, 1969,[22] Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, obtained unanimous consent to have the bills (H.R. 9586, H.R. 10515, H.R. 13337, H.R. 13523), and a communication (Exec. Comm. No. 1000) from the executive branch outlining similar proposals, rereferred from the Committee on Ways and Means to the Committee on Government Operations.

§ 38.3 The Committee on Government Operations and not the Committee on Foreign Affairs, considered and reported a bill to establish a Cabinet Committee on Opportunities for Spanish-Speaking People.

On Nov. 24, 1969,[23] Thomas E. Morgan, of Pennsylvania, Chairman of the Committee on Foreign Affairs, obtained unanimous consent to have his committee discharged from further consideration of a bill (S. 740) to establish a Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes, and to have it rereferred to the Committee on Government Operations. Mr. Morgan additionally obtained unanimous consent to effect a similar rereferral of numerous House bills and executive communications to establish an Interagency Committee on Mexican-American Affairs, and for other purposes.

Parliamentarian's Note: When S. 740 was reported by the Senate's Committee on Government Operations,[24] it was entitled, "A bill to establish the Interagency Committee on Mexican-American Affairs, and for other purposes." As amended and passed by the Senate,[25] S. 740 became "A bill

22. 115 CONG. REC. 26568, 91st Cong. 1st Sess.

23. 115 CONG. REC. 35509, 91st Cong. 1st Sess.

24. 115 CONG. REC. 26684, 91st Cong. 1st Sess., Sept. 23, 1969.

25. 115 CONG. REC. 27121, 91st Cong. 1st Sess., Sept. 25, 1969.

to establish the Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes." Thus, the simultaneous rereferrals in the House of the companion bills (i.e., to establish an Interagency Committee on Mexican-American Affairs) were appropriate.

When the House "Interagency" bills were initially introduced in the 91st Congress, the problem of committee jurisdiction was recognized. Consideration was given to both the Committee on Education and Labor and the Committee on Foreign Affairs inasmuch as all the bills dealt with the special problems of Spanish-speaking Americans and yet each measure, as drafted, could have applied to non-Americans of Mexican or other Spanish descent who were temporarily in this country (such as Mexican migrant workers) .

Since S. 740, as amended by the Senate committee and passed by the Senate, sought to create a cabinet level committee on the problems of Spanish-Americans, the possibility of House consideration by the Committee on Government Operations became apparent in light of that committee's jurisdiction over "reorganization in the executive branch of the Government." [26]

26. See Rule XI clause 8(b), *House Rules and Manual* § 691 (1973).

On Dec. 4, 1969,[27] the Committee on Government Operations reported S. 740 with amendments (H. Rept. No. 91–699), and the Speaker referred the bill to the Union Calendar.

Executive Agencies' Coordination

§ 38.4 The Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) and not the Committee on Public Lands (now the Committee on Interior and Insular Affairs) had jurisdiction of a bill to facilitate the conservation of public lands and other natural resources by coordinating the executive agencies of the government exercising functions in connection therewith.

On Feb. 18, 1936,[28] Mr. John J. Cochran, of Missouri, obtained unanimous consent to have the bill (H.R. 11046) referred to the Committee on Expenditures (now the Committee on Government Operations). The measure had been originally referred [29] to the

27. 115 CONG. REC. 36941, 91st Cong. 1st Sess.

28. 80 CONG. REC. 2337, 74th Cong. 2d Sess.

29. 80 CONG. REC. 1760, 74th Cong. 2d Sess., Feb. 10, 1936.

Committee on Public Lands (now the Committee on Interior and Insular Affairs). In so doing, Mr. Cochran noted that he had discussed the matter with the Parliamentarian, the Chairman of the Committee on Public Lands, as well as the author of the bill, Mr. J. W. Robinson, of Utah, and it was "agreeable that this be done.[30]

Executive Agency Reorganization

§ 38.5 The Committee on Government Operations, and not the Committee on Agriculture, has jurisdiction of bills establishing the Rural Electrification Administration as an independent agency and restoring to the agency those functions transferred to the Secretary of Agriculture under Reorganization Plan No. 2 of 1953.

On Mar. 19, 1959,[31] Mr. John W. McCormack, of Massachusetts, obtained unanimous consent to have the bills (H.R. 4147, H.R. 5746), rereferred from the Committee on Agriculture to the Committee on Government Operations.

Government Records and Archives

§ 38.6 The Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) and not the Committee on House Administration had jurisdiction of an executive communication proposing a bill to amend or repeal a multiplicity of laws relating to government records including laws related to recordkeeping requirements of various governmental agencies and functions.

On July 9, 1951,[1] Mr. Thomas B. Stanley, of Virginia, obtained unanimous consent to have the Committee on House Administration discharged from further consideration of a communication (Exec. Comm. No. 568), from the Administrator of the General Services Administration transmitting a proposed bill and to have the communication referred to the Committee on Expenditures in the Executive Departments (now the

30. 80 Cong. Rec. 2337, 74th Cong. 2d Sess., Feb. 18, 1936.

31. 105 Cong. Rec. 4692, 86th Cong. 1st Sess.

1. 97 Cong. Rec. 7829, 82d Cong. 1st Sess.

Committee on Government Operations).

Land Used for Federal Purposes; Intergovernmental Relationships with States

§ 38.7 The Committee on Government Operations and not the Committee on Public Works has jurisdiction of a bill to provide for the adjustment of the legislative jurisdiction exercised by the United States over land in several states used for federal purposes.

On Mar. 10, 1958,[2] Mr. George H. Fallon, of Maryland, a member of the Committee on Public Works, obtained unanimous consent to have that committee discharged from further consideration of S. 1538, and to have it rereferred to the Committee on Government Operations.

Effect of Death or Incapacity of Military Disbursing Officer

§ 38.8 The Committee on Government Operations and not the Committee on Armed Services has jurisdiction of bills to provide for the orderly transaction of the public business in the event of the death, incapacity, or separation from office of a disbursing officer of the military departments.

On July 9, 1953,[3] Clare E. Hoffman, of Michigan, Chairman of the Committee on Government Operations, obtained unanimous consent that the Committee on Armed Services be discharged from further consideration of the identical bills (H.R. 6117, S. 2078), and, additionally, to have the bills referred to the Committee on Government Operations.[4]

Collecting and Accounting for Debts Owed to United States by Government Employees

§ 38.9 The Committee on Government Operations and not the Committee on Post Office and Civil Service has jurisdiction of a communication proposing a bill to provide for collection from military and civilian personnel of amounts due the United States and for accounting procedures with respect thereto.

2. 104 Cong. Rec. 3785, 85th Cong. 2d Sess.

3. 99 Cong. Rec. 8359, 83d Cong. 1st Sess.

4. H.R. 6117 was reported by the Committee on Government Operations on July 15, 1953 (H. Rept. No. 845).

On Jan. 14, 1954,[5] Edward H. Rees, of Kansas, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of a letter from the Acting Secretary of the Navy (Exec. Comm. No. 1106), proposing the legislation described above and to have it rereferred to the Committee on Government Operations.

Travel Costs for Federal Job Applicants

§ 38.10 The Committee on Government Operations, and not the Committee on Post Office and Civil Service, has jurisdiction of proposals to amend the Administrative Expenses Act to provide for the payment of certain travel costs for applicants invited by a federal agency to visit it for purposes of employment.

On Feb. 15, 1967,[6] Thaddeus J. Dulski, of New York, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of an executive communication (Exec. Comm. No. 353), outlining the proposals specified above and to have that communication rereferred to the Committee on Government Operations.[7]

§ 39. Committee on House Administration

Owing its creation to the Legislative Reorganization Act of 1946,[8] the Committee on House Administration was assigned jurisdiction formerly accorded the six standing Committees on Elections,[9] Accounts, and Memorials,

5. 100 Cong. Rec. 257, 83d Cong. 2d Sess.
6. 113 Cong. Rec. 3466, 90th Cong. 1st Sess.
7. See also H.R. 9020, 111 Cong. Rec. 18998, 89th Cong. 1st Sess., Aug. 2, 1965, for a similar proposal which was referred to and reported by the Committee on Government Operations (H. Rept. No. 710).
8. 60 Stat. 812.
9. At one time, there were four standing Committees on Elections. The original Committee on Elections was established in the early days of the first Congress and subsequently divided into three committees about a century later [4 Hinds' Precedents § 4019], because of a demanding workload; concerned exclusively with matters pertaining to the election of Members, the three committees historically dealt with the adjudication of election contests. The Committee on Election of [The] President, Vice President, and Representatives in Congress became a standing com-

as well as the four Joint Committees on the Library, Printing, Enrolled Bills, and the Disposition of Executive Papers.

In 1973, the committee maintained eight subcommittees of which the principal four were the Subcommittees on Accounts, Elections, Library and Memorials, and Printing. The remaining four Subcommittees on Electrical and Mechanical Office Equipment, Contracts, Police, and Personnel were regarded as special[10] subcommittees.

The jurisdiction of the Committee on House Administration pursuant to the 1973 rules[11] read as follows:

(a) Appropriations from the contingent fund.

(b) Auditing and settling of all accounts which may be charged to the contingent fund.

(c) Employment of persons by the House, including clerks for Members and committees, and reporters of debates.

(d) Except as provided in clause 16(d),[12] matters relating to the Library of Congress and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Garden; management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.

(e) Except as provided in clause 16(d), matters relating to the Smithsonian Institution and the incorporation of similar institutions.

(f) Expenditure of contingent fund of the House.

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

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

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

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

(k) Measures relating to the election of the President, Vice President, or Members of Congress; corrupt prac-

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mittee in 1893 [*id.* at § 4299], and reported bills on such subjects as the direct election of Senators [*id.* at § 4300], the necessary and proper expenses of candidates for the House and the Senate [*id.* at § 4301], and the time and manner of holding federal elections.

10. The "special" subcommittees were largely nonlegislative, met infrequently, and were concerned principally with the administrative functions assigned to the Committee on House Administration.

11. Rule XI clause 9, *House Rules and Manual* § 693 (1973). See Rule X clause 1(j), *House Rules and Manual* § 679 (1979).

12. In 1973, Rule XI clause 16(d) [Rule X clause 1(p)(4), *House Rules and Manual* § 685 (1979)] referred to the jurisdiction of the Committee on Public Works as consisting of "measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institute."

tices; contested elections; credentials and qualifications; and Federal elections generally.

(l) Measures relating to services to the House, including the House Restaurant and administration of the House Office Buildings and of the House wing of the Capitol.

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

(n) Such committee shall also have the duty of—

(1) arranging a suitable program for each day observed by the House of Representatives as a memorial day in memory of Members of the Senate and House of Representatives who have died during the preceding period, and to arrange for the publication of the proceedings thereof;

(2) examining all bills, amendments, and joint resolutions after passage by the House; and in cooperation with the Senate, of examining all bills and joint resolutions which shall have passed both Houses, to see that they are correctly enrolled;[13] and when signed by the Speaker of the House and the President of the Senate, shall forthwith present the same, when they shall have originated in the House, to the President of the United States in person, and report the fact and date of such presentation to the House;

(3) reporting to the Sergeant at Arms of the House the travel of Members of the House.

As the precedents reveal, the jurisdiction of the committee and of its predecessors has also extended to such subjects as the printing of pamphlets explaining House operations,[14] the announcement of personnel policies affecting House employees,[15] the fixing of pay rates for employees of the Government Printing Office,[16] the provision of wiretap checks on Members' telephones,[17] and the designation of a national flower.[18]

Under the Committee Reform Amendments of 1974, the Committee on House Administration obtained jurisdiction over parking facilities of the House, and the additional duty of providing through the House Information Systems a scheduling service to eliminate committee scheduling conflicts (Rule X clause 4(d)(3), *House Rules and Manual* § 697 (1979),[19] but was relieved of the duty to arrange memorial services for Members.

In the 94th Congress, the committee also obtained jurisdiction

13. Enrollment is the procedure by which a bill passed in identical form by both houses is printed on parchment, and certified to by the appropriate officer of the body of origin (i.e., the Clerk of the House or the Secretary of the Senate). The enrolled bill is signed first by the Speaker of the House, then by the President of the Senate, and into law by the President of the United States.

14. § 39.8, infra.

15. § 39.7, infra.

16. § 39.6, infra.

17. § 39.9, infra.

18. § 39.5, infra.

19. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

over campaign contributions to candidates for the House (formerly within the jurisdiction of the Committee on Standards of Official Conduct), and over compensation, retirement, and other benefits of Members, officers, and employees of Congress, a subject area shared with the Committee on Post Office and Civil Service[1] under Rule X clause 1(o)(5).

In the 92d Congress, the provisions of House Resolution 457 of that Congress, authorizing the Committee on House Administration to adjust allowances of Members and committees without further action by the House, were enacted into permanent law (85 Stat. 636; 2 USC § 57), but the 94th Congress enacted into permanent law House Resolution 1372 of that subsequent Congress, stripping the Committee on House Administration of that authority and requiring House approval of the committee's recommendations, except in cases made necessary by price changes in materials and supplies, technological advances in office equipment, and cost-of-living increases (90 Stat. 1448; 2 USC § 57a). The Committee on House Administration retains authority under 2 USC § 57 to independently adjust amounts within total allowances (123 CONG. REC. 8227, 95th Cong. 1st Sess., Mar. 21, 1977).

Contingent Fund of the House

§ 39.1 Language in a Rules Committee amendment to a resolution creating a special committee, reported as privileged from that committee, pertaining to the employment of assistants on behalf of an investigating committee and to the payment of expenses from the contingent fund for such investigation was held not germane as properly within the jurisdiction of the Committee on Accounts [now the Committee on House Administration], and not the Committee on Rules.

On June 21, 1944,[2] Speaker Sam Rayburn, of Texas, recognized Mr. Joe B. Bates, of Kentucky, who called up a resolution (H. Res. 551), reported from the Committee on Rules and asked for its immediate consideration. The resolution called for the Speaker to appoint a special committee of seven members to investigate and report to the House on campaign

1. H. Res. 5, 121 CONG. REC. 20–22, 94th Cong. 1st Sess., Jan. 14, 1975.

2. 90 CONG. REC. 6393, 78th Cong. 2d Sess.

expenditures of all House candidates and on possible violations of state or federal law, among other things. The Clerk having previously read the resolution, itself,[3] the Chair directed him to read the committee amendment in the nature of a substitute.

Section 7 of the amendment contained the following language, in part:[4]

> For the purpose of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such public hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Seventy-eighth Congress, to employ such attorneys, experts, clerical, and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee shall be paid from the contingent fund of the House of Representatives upon vouchers approved by the chairman of the committee or the chairman of any duly authorized subcommittee thereof and approved by the Committee on Accounts.

The amendment having been read in its entirety, Mr. John J. Cochran, of Missouri, rose to a point of order and initiated the ensuing exchange:[5]

> Mr. Speaker, I make a point of order against the amendment on the ground that the Rules Committee has exceeded its authority, and I respectfully request to be heard on the point of order.
>
> THE SPEAKER: The Chair will hear the gentleman.
>
> MR. COCHRAN: Mr. Speaker, I invite your special attention to the language on page 6, beginning in line 15.
>
> > The expenses of the committee shall be paid from the contingent fund of the House of Representatives upon vouchers approved by the chairman of the committee and the chairman of any duly authorized subcommittee thereof and approved by the Committee on Accounts.
>
> Also to the words on page 6, lines 12 and 13, "and to make such expenditures."
>
> Mr. Speaker, the Committee on Accounts was set up by this House in 1803; long before the Rules Committee was ever heard of. This all-powerful Rules Committee takes it upon itself to assume jurisdiction over the contingent fund of the House. Not only do the rules of the House place that jurisdiction in the Committee on Accounts,[6]

3. *Id.* at p. 6392.

4. *Id.* at p. 6393.

5. *Id.* at pp. 6393, 6394.

6. At the time, Rule XI clause 36, provided that the jurisdiction of the Committee on Accounts extended to subjects "Touching the expenditure of the contingent fund of the House, the auditing and settling of all accounts which may be charged therein by order of the House, the ascertaining of the travel of Mem-

but your Committee on Accounts is subject to several statutes, specifically referring to the activities of the Committee on Accounts, and the contingent fund. . . .

If this precedent that the Rules Committee seeks to establish is adopted by the House, the House will lose control over its contingent fund. The language that I have read places absolutely no limitation upon the amount this select committee can spend. Vouchers are to be signed by the chairman of the select committee or any subcommittee thereof, and the only jurisdiction the Committee on Accounts has is to put its signature on the voucher and pass it along for payment.

Now, if you can do that with this select committee, you can do it with every select committee and every special committee that this House sets up. . . .

. . . This is not the first time that the Committee on Rules tried to assume the jurisdiction of the Committee on Accounts.

The House rules provide that the Committee on Accounts shall control resolutions providing for expenditures from the contingent fund.

The Committee on Accounts looks at these questions from the standpoint of the committee being the agent of the House. When the House passes a resolution setting up a select committee, regardless of whether the members of the Committee on Accounts are for that resolution or not, the members take it that it is their duty to provide money to carry out the purposes of the resolution. . . .

The practice has always been for the Accounts Committee to hold hearings and require the select or special committee to state its needs and justify its request. . . .

I submit, Mr. Speaker, that the Committee on Rules having taken jurisdiction which did not belong to it, the language I object to is subject to a point of order; and I hope the Chair will so hold.

During debate, Mr. Earl C. Michener, of Michigan, a member of the Committee on Rules, stated:

I realize there is much truth in what the gentleman from Missouri says. This amendment would bypass the Committee on Accounts. To my knowledge that has never been done in the setting up of an investigating committee. The Rules Committee has jurisdiction over investigating committee resolutions, but the Accounts Committee has jurisdiction over the funds with which the committee operates. I have often said it is a good bit like when my little boy used to ask his mother for a new football. She would say: "Yes, John, you may have the football, but you must go to daddy and get the money." That is the way these investigations are controlled; and, personally, I could not speak in opposition to the point of order.

Shortly thereafter, the Speaker announced his decision, as follows:

The Chair has before it a case exactly in point, and the interesting

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bers of the House and the reporting the same to the Sergeant at Arms [H. Jour. 699, 78th Cong. 2d Sess. (1944)]." Presently such jurisdiction is vested in the Committee on House Administration [see Rule X clause 1(j), *House Rules and Manual* § 679 (1979)].

thing about it is that it begins with the statement: On May 3, 1933, Mr. Howard W. Smith of Virginia, by direction of the Committee on Rules, and so forth, presented a rule.

A point of order was made against the rule and the Chair held as follows—and it is exactly on all fours with the instant case:

> The Chair thinks that the provision incorporated in section 5 of the resolution authorizing the committee to employ suitable counsel, assistants, and investigators in the aid of its investigation, and also the provision authorizing all necessary expenses of the investigation to be paid on vouchers approved by the chairman of the committee, is a matter properly within the jurisdiction of the Committee on Accounts.

That is exactly the proposition that is before the Chair at this time. The Chair could cite other precedents.

The point of order, therefore, is sustained as against the committee amendment.

Parliamentarian's Note: This point of order against the amendment did not destroy the privilege of the resolution. This was a germaneness ruling against the amendment. Mr. Howard W. Smith, of Virginia, then offered another substitute the same as the original amendment but without the language about the contingent fund. Compare this situation with those contained in 4 Hinds' Precedents § 4623, where it was held that a bill containing nonprivileged matter in the original text cannot be considered as privileged merely based on a committee amendment removing the nonprivileged matter, and in 8 Cannon's Precedents § 2300, where a funding resolution reported from the Committee on Accounts and also containing legislative provisions within the jurisdiction of other committees was held not to be privileged.

Employment of Persons by the House

§ 39.2 The Committee on House Administration, and not the Committee on Rules, has jurisdiction of propositions authorizing committees of the House to employ additional professional and clerical personnel.

On Feb. 7, 1966,[7] Howard W. Smith, of Virginia, Chairman of the Committee on Rules, stated that House Resolution 640, relating to the employment of House personnel, had been referred to his committee inadvertently; accordingly, he sought and obtained unanimous consent to have the measure rereferred to the Committee on House Administration.[8]

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7. 112 Cong. Rec. 2373, 89th Cong. 2d Sess.

For discussion of House employees generally, see Ch. 6, supra.

8. The jurisdiction of the Committee on House Administration expressly [see

§ 39.3 To a bill amending the rules of the House being considered pursuant to a resolution prohibiting amendments to the bill "which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI," an amendment directing the Committee on House Administration to prepare and implement a plan to eliminate the political patronage employment system in the House was ruled out of order as an attempt to change the jurisdiction of the Committee on House Administration.

On Sept. 16, 1970,[9] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 17654), to improve the operation of the legislative branch of the federal government, and for other purposes.

In the course of the bill's consideration, Mr. Joel T. Broyhill, of Virginia, offered the following amendment:[10]

Amendment offered by Mr. Broyhill of Virginia: On page 126, after line 14 and before line 15, insert the following:

PART—LIMITATIONS ON EMPLOYMENT IN THE HOUSE UNDER THE POLITICAL PATRONAGE SYSTEM

"LIMITATIONS ON EMPLOYMENT ON THE BASIS OF POLITICAL PATRONAGE IN THE HOUSE OF REPRESENTATIVES

"Sec. 463. (a) The Committee on House Administration of the House of Representatives is authorized and directed to—

"(1) review the application, operation, and administration of the system of appointment, employment, and removal, on the basis of political patronage, of employee of the House of Representatives, including pages of the House of Representatives and employees under the Architect of the Capitol performing services for the House, but excluding employees paid out of the clerk hire allowances of Representatives and the Resident Commissioner from Puerto Rico, employees on the professional and clerical staffs of the standing committees of the House, and officers and employees of the House whose positions, in the Judgment of the Committee on House Administration, should be filled with regard to political affiliation because of the nature and implications of their duties and responsibilities or of their employment generally; and

"(2) prepare a plan to eliminate such political patronage system in the House of Representatives.

"(b) Such plan shall include—

"(1) a procedure for the appointment and employment, on and after the date such plan becomes effective, without

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Rule X clause 1(j)(3), *House Rules and Manual* § 679 (1979)] includes the following: "Employment of persons by the House, including clerks for Members and committees, and reporters of debates."

9. 116 CONG. REC. 32204, 91st Cong. 2d Sess.

10. *Id.* at p. 32216.

regard to political affiliation and solely on the basis of fitness to perform the duties concerned, of persons to fill vacancies in positions within the purview of such political patronage system on the date of enactment of this Act, subject to the exceptions contained in subparagraph (1) of subsection (a) of this section;

"(2) a provision extending the appointment and employment procedure referred to in subparagraph (1) of this subsection to positions in categories similar to those included in subparagraph (1) of subsection (a) of this section which are created on or after the date of enactment of this Act; and

"(3) a provision for periodic review by appropriate authority of the application, operation, and administration, of such plan.

"(c) The Committee on House Administration is authorized and directed to submit such plan to the appropriate authority or authorities in the House of Representatives and place such plan in effect at the earliest practicable date not later than the beginning of the second session of the Ninety-second Congress."

Shortly thereafter, Chairman William H. Natcher, of Kentucky, recognized Mr. B. F. Sisk, of California, who had reserved a point of order as to Mr. Broyhill's amendment when it was initially offered. Mr. Sisk pressed his point of order and argued, as follows:[11]

. . . [T]he amendment is obviously in contravention of the rule under which we are operating and which rule, adopted back at the beginning of the debate, said on line 11 no amendment to this bill shall be in order which would have the effect of changing the jurisdiction of any committee of the House listed in rule XI.[12]

In the very beginning of the proposed amendment it starts out with the House Committee on House Administration, and goes into a considerable amount of detail as to the jurisdiction and responsibilities of the committee, and, therefore, would be in violation of the rule under which this bill is being considered.

The Chairman then inquired as to whether Mr. Broyhill desired to be heard on the point of order, and the gentleman from Virginia responded:

Mr. Chairman, it is my understanding that the Chair has sustained a similar point of order on the bill prior to this, but I would say that the amendment does not change the jurisdiction of the House Committee on House Administration, but merely instructs the House Committee on House Administration to change the patronage procedures.

This is a committee that we organized in the House of Representatives, and this merely seeks to do just that.

Announcing that he was prepared to rule, the Chairman stated:

11. *Id.* at p. 32217.

12. H. Res. 1093, agreed to on July 13, 1970 [116 CONG. REC. 23901, 23902, 91st Cong. 211 Sess.], prescribed the special rule under which H.R. 17654 was to be considered.

House Resolution 1093, adopted on July 13, 1970, as the Members of the Committee will remember, provides in part as follows:

> No amendment to the bill shall be in order which would have the effect of changing the jurisdiction of any committee of the House listed in rule XI.

It is the opinion of the Chair that the amendment offered by the gentleman from Virginia (Mr. Broyhill) affects the jurisdiction of the Committee on House Administration, and, therefore, the point of order must be sustained.

The Chair therefore sustains the point of order.

Federal Elections

§ 39.4 A Presidential communication proposing a comprehensive amendment of the federal election laws, including amendments to the Federal Corrupt Practices Act (Title 18, United States Code), and the Internal Revenue Code (Title 26, United States Code), was referred to the Committee on House Administration.

On May 26, 1966,[13] pursuant to the rules,[14] House Document No. 444, a Presidential communication, was taken from the Speaker's table and referred to the Committee on House Administration.

Parliamentarian's Note: The draft bill accompanying the President's letter was discussed by the Chairman of the Committee on Ways and Means and the Chairman of the Committee on House Administration. Title VII of the bill, pertaining to income tax deductions for political contributions, amended the Internal Revenue Code and was clearly within the jurisdiction of the Committee on Ways and Means. It was agreed that while the communication would be referred to the Committee on House Administration, that committee would delete title VII before introducing the bill. The Committee on Ways and Means would then consider title VII as a separate proposition.

National Flower

§ 39.5 The Committee on House Administration and not the Committee on the Judiciary has jurisdiction of a joint resolution designating

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13. 112 CONG. REC. 11686, 89th Cong. 2d Sess.

14. The applicable provision, in pertinent part, reads [Rule XXIV clause 2, *House Rules and Manual* § 882 (1973)] as follows: "2. Business on the Speaker's table shall be disposed of as follows: Messages from the President shall be referred to the appropriate committees without debate."

the rose as the national flower of the United States.

On Feb. 26, 1958,[1] Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, obtained unanimous consent to have his committee discharged from further consideration of House Joint Resolution 465 and to have it rereferred to the Committee on House Administration.

Parliamentarian's Note: Following adoption of the Committee Reform Amendments of 1974, which conferred jurisdiction upon the Committee on Post Office and Civil Service over holidays and celebrations, bills such as this designating national symbols have consistently been referred to the Committee on Post Office and Civil Service. See, for example, rereferrals of resolutions proposing national songs and dances from the Committee on the Judiciary to the Committee on Post Office and Civil Service. 121 CONG. REC. 10345, 94th Cong. 1st Sess., Apr. 16, 1975.

Pay Rates for GPO Employees

§ 39.6 In the 87th Congress, the Committee on House Administration, and not the Committee on Post Office and Civil Service, had jurisdiction of bills amending the act to regulate and fix rates of pay for employees of the Government Printing Office.

On Apr. 19, 1961,[2] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of H.R. 919 and to have it rereferred to the Committee on House Administration.[3]

Personnel Policies

§ 39.7 The Committee on House Administration, pursuant to its jurisdiction, occasionally announces personnel policies or general information affecting House employees.

On Oct. 19, 1966,[4] Speaker John W. McCormack, of Massachusetts, recognized Wayne L. Hays, of Ohio, who, acting in his capacity as Chairman of the Subcommittee on Accounts, Committee on House Administration, obtained unanimous consent to

1. 104 CONG. REC. 2925, 2926 85th Cong. 2d Sess.
2. 107 CONG. REC. 6284, 87th Cong. 1st Sess.
3. See 44 USC § 305.
4. 112 CONG. REC. 27653, 89th Cong 2d Sess.

make the following announcements:

> Mr. Speaker, I have an announcement which I think will be of general interest to all Members, and of special interest to some:
>
> Today the House Committee on Administration passed unanimously a motion ordering and directing the chairman to notify all Members that, as of the 15th of November, any employee put on a Member's payroll, or a committee payroll, shall not be put on for a period of less than 1 month, except that if the person put on does not work out, and they desire to terminate his employment in less than a month, he may not reappear on the Member's payroll for a period of 6 months.
>
> Mr. Speaker, this is done to prevent what has happened to excess in some committees, and I must say in some Members' offices of having people on the payroll for a day or two at a time.
>
> This has caused an impossible situation in the Clerk's office with regard to writing payroll checks. There was no desire to work a hardship, and the membership now knows that this will be in effect as of the 15th of November.

Parliamentarian's Note: The rules provide that the jurisdiction of the Committee on House Administration extends to "employment of persons by the House, including clerks for Members and committees, and reporters of debates,"[5] as well as "expenditure of [the] contingent fund of the House,"[6] among other matters. Accordingly, members of this committee occasionally take the floor to make brief announcements pertaining to personnel matters.[7]

Pamphlets Explaining House Operations

§ 39.8 The Committee on Printing [now the Committee on House Administration], had jurisdiction of a resolution directing the Sergeant at Arms to have printed for occupants of the galleries of the House pamphlets explaining how the House conducts its business.

On June 3, 1935,[8] after Mr. Thomas O'Malley, of Wisconsin,

5. See Rule X clause 1(j)(3), *House Rules and Manual* § 679 (1979).

6. See Rule X clause 1(j)(6), *House Rules and Manual* § 679 (1979).

7. See, for example, 112 CONG. REC. 1399, 89th Cong. 2d Sess., Jan. 27, 1966, where Omar T. Burleson, of Texas, who chaired the committee, was granted unanimous consent to extend his remarks and to insert tables in the Record depicting salary levels of the House employee schedule. See also 111 CONG. REC. 15501, 15502, 89th Cong. 1st Sess., July 1, 1965, where Mr. Hays, by direction of the committee, called up a resolution (H. Res. 261), directing the Clerk of the House to furnish identification cards to certain House employees; the measure provided that the expenses of carrying out the resolution were to be paid out of the contingent fund.

8. 79 CONG. REC. 8604, 74th Cong. 1st Sess.

introduced House Resolution 238, it was referred to the Committee on Printing [now the Committee on House Administration].

Services Relating to House Telephone; Wiretap Checks

§ 39.9 The Chairman of the Committee on House Administration announced to the House his intention to contract with an appropriate firm to determine, on a Member's request, whether that Member's phone was being tapped.

On Apr. 7, 1971,[9] as the House met in the Committee of the Whole, Chairman Chet Holifield, of California, recognized Wayne L. Hays, of Ohio, Chairman of the Committee on House Administration, who obtained unanimous consent to speak out of order:

> Mr. Chairman, in my capacity as chairman of the Committee on House Administration and after consultation with the Speaker, I am going to enter into a contract with a reputable electronics firm to provide a check on any committee phone or any Member's phone who may request it to find out if there is any electronic surveillance on their phone lines. I am sure, if there is any, by the FBI or by anybody else, they will take them off so that when the check is made none will be found, but I propose to keep this service on an irregular basis at any time in the future that any Member may request it. . . .
>
> And, if any Member feels his phone is being tapped, if he will let the Committee on House Administration know within a few days we will provide the service with which to find out whether his phone is, in fact, bugged.

§ 40. Committee on Interior and Insular Affairs

The Committee on Interior and Insular Affairs came into being on Feb. 2, 1951, when the Committee on Public Lands was renamed. Four years earlier, on the effective date [Jan. 2, 1947] of the Legislative Reorganization Act of 1946,[10] the Committee on Public Lands had assumed the jurisdiction of the former Committees on Indian Affairs, Insular Affairs, Irrigation and Reclamation, Mines and Mining, and Territories.

The jurisdiction of the Committee on Interior and Insular Affairs pursuant to the 1973 rules[11] read as follows:

> (a) Forest reserves and national parks created from the public domain.

9. 117 Cong. Rec. 10097, 92d Cong. 1st Sess.

10. 60 Stat. 812.

11. Rule XI clause 10, *House Rules and Manual* § 702 (1973). See Rule X clause 1(k), *House Rules and Manual* § 680 (1979).

(b) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

(c) Geological Survey.

(d) Interstate compacts relating to apportionment of waters for irrigation purposes.

(e) Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.

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

(g) Measures relating generally to Hawaii, Alaska, and the insular possessions of the United States, except those affecting the revenue and appropriations.

(h) Military parks and battlefields; national cemeteries administered by the Secretary of the Interior.

(i) Mineral land laws and claims and entries thereunder.

(j) Mineral resources of the public lands.

(k) Mining interests generally.

(l) Mining schools and experimental stations.

(m) Petroleum conservation on the public lands and conservation of the radium supply in the United States.

(n) Preservation of prehistoric ruins and objects of interest on the public domain.

(o) Public lands generally, including entry, easements, and grazing thereon.

(p) Relations of the United States with the Indian and the Indian tribes.

The committee's jurisdiction in 1973 also extended to several subject areas not expressly listed in the rules. These subjects[12] include:

1. Admission of states to the Union.
2. Energy (mineral) research and development.
3. Jurisdiction over acquired lands.
4. Outdoor recreation.
5. The reservation at Arkansas Hot Springs.
6. Saline water.
7. Water research.
8. Water resources planning.

In 1973, the committee maintained seven subcommittees each of whose jurisdiction was expressly delineated, as follows:[13]

SUBCOMMITTEE ON THE ENVIRONMENT

Environmental impacts of any laws or programs under the jurisdiction of the Committee.

Subcommittee on Indian Affairs

Relations of the United States with the Indians and Indian tribes, and other Indian matters.

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12. This list and other information noted, infra, was prepared by Robert C. Ketcham for the use of the Select Committee on Committees. See "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 74.

13. Robert C. Ketcham, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 81.

SUBCOMMITTEE ON MINES AND MINING

(a) Mining interests generally; Mineral resources of the public lands; Mineral land laws, and claims and entries thereunder.

(b) Geological survey; Mining schools and experimental stations.

(c) Petroleum conservation on the public and other Federal lands and conservation of the radium supply in the United States.

(d) Proposed long-range domestic minerals and energy programs, including availability of domestic minerals and energy to fulfill all domestic requirements.

SUBCOMMITTEE ON NATIONAL PARKS AND RECREATION

The national park system, its units, and related units which are established for the protection, conservation, preservation, or recreational development of nationally significant areas.

SUBCOMMITTEE ON PUBLIC LANDS

(a) Public lands generally, including entry, easements, withdrawals, and grazing.

(b) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

(c) Forest reserves created from the public domain.

(d) National Wilderness Preservation System.

SUBCOMMITTEE ON TERRITORIAL AND INSULAR AFFAIRS

Puerto Rico, Guam, the Virgin Islands, American Samoa, Antarctica, and Trust Territory of the Pacific Islands, and the insular possessions of the United States, except matters affecting revenue and appropriations.

SUBCOMMITTEE ON WATER AND POWER RESOURCES

(a) Irrigation and reclamation projects and other water resources development programs, including policies and procedures relating thereto.

(b) Compacts relating to the use and apportionment of interstate waters.

(c) Water rights.

(d) Saline water research and development program and water resources research program.

(e) Water resources planning conducted pursuant to the Water Resources Planning Act.

(f) Activities of the National Water Commission.

(g) Legislation affecting the use of geothermal resources for the production of water and power.

The jurisdiction of the committee and of its predecessors has also extended to such subjects as the financing and marketing of power on public lands,[14] the seaward boundaries of inland waters,[15] the disposition of proceeds from the sale of oil shale lands,[16] the establishment of a Pennsylvania Avenue historic site commission,[17] the renaming of certain reservoirs,[18] the reestablishment of a Civilian Conservation

14. § 40.3, infra.

15. §§ 40.7, 40.8, infra.

16. § 40.12, infra.

17. § 40.21, infra.

18. § 40.22, infra.

Corps,[19] and matters pertaining to certain employees of the Bureau of Land Management.[20]

The Committee Reform Amendments of 1974 deleted from the committee's jurisdiction the subject of Indian education, removed specific references to Hawaii and Alaska, and granted the committee jurisdiction over parks within the District of Columbia. The amendments also vested in the committee specific oversight jurisdiction over all government activities dealing with Indians. [Rule X clause 3(e), *House Rules and Manual* § 693 (1979).][21] In the 95th Congress, the committee was given legislative jurisdiction over regulation of the domestic nuclear industry, including regulation of research and development reactors and nuclear regulatory research, and oversight jurisdiction over nonmilitary nuclear research and development in eluding the disposal of nuclear waste, when the legislative jurisdiction of the Joint Committee on Atomic Energy was abolished.[22]

19. § 40.1, infra.

20. § 40.2, infra.

21. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

22. H. Res. 5, 121 CONG. REC. 53–55, 95th Cong. 1st Sess., Jan. 4, 1977.

Civilian Conservation Corps

§ 40.1 The Committee on Public Lands (now the Committee on Interior and Insular Affairs), and not the Committee on Education and Labor had jurisdiction of bills to provide for the reestablishment of a Civilian Conservation Corps, an agency which would provide for the conservation of natural resources and the development of human resources through the employment of youthful citizens in the performance of useful work on public lands or on private lands only if related to irrigation or resource improvements.

On Mar. 15, 1950,[23] John Lesinski, of Michigan, Chairman of the Committee on Education and Labor, acting by direction of the committee, obtained unanimous consent to have it discharged from further consideration of three identical bills (H.R. 7462, H.R. 7463, and H.R. 7523), and to have the bills rereferred to the Committee on Public Lands (now the Committee on Interior and Insular Affairs).

23. 96 CONG. REC. 3420, 81st Cong. 2d Sess.

Bureau of Land Management—Employees' Activities

§ 40.2 The Committee on Interior and Insular Affairs and not the Committee on the Judiciary has jurisdiction of a bill relating to the activities of temporary and certain other employees of the Bureau of Land Management.

On May 1, 1951,[24] Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 2976), and to have it rerefered to the Committee on Interior and Insular Affairs.[25]

Financing and Marketing of Power

§ 40.3 In the 87th Congress, the Committee on Interior and Insular Affairs, and not the Committee on Public Works, had jurisdiction of matters relating to the financing of the Bonneville Power Administration and the marketing of power.

On Mar. 13, 1961,[1] Mr. John A. Blatnik, of Minnesota, a member of the Committee on Public Works, requested unanimous consent to have that committee discharged from further consideration of a letter from the Assistant Secretary of the Interior (Exec. Comm. No. 472), transmitting a draft of proposed legislations entitled "A bill to amend the Bonneville Project Act as amended." Mr. Blatnik simultaneously requested that the communication be rereferred to the Committee on Interior and Insular Affairs.

Speaker Sam Rayburn, of Texas, inquired as to whether there was any objection, Mr. Frederick D. Schwengel, of Iowa, reserved the right to object and requested a further explanation from Mr. Blatnik.

The following exchange then took place:

> MR. BLATNIK: This is merely a request to transfer an executive communication from the Department of the Interior, which was submitted to our Committee on Public Works. It deals with the Bonneville Power Administration, and the subject matter deals entirely with financing; a revolving fund. In consulting with the minority and with the chairman of the Committee on Interior and Insular Affairs, the gentleman from New York [Charles A.

24. 97 CONG. REC. 4614, 82d Cong. 1st Sess.

25. H.R. 2976 was reported by the Committee on Interior and Insular Affairs on July 10, 1951 (H. Rept. No. 689).

1. 107 CONG. REC. 3799, 87th Cong. 1st Sess.

Buckley, Chairman of the Committee on Public Works] agreed that the Committee on Public Works was interested in the construction phase but not financing, which very properly belonged under Interior and Insular Affairs.

MR. [WAYNE N.] ASPINALL [of Colorado, Chairman of the Committee on Interior and Insular Affairs]: Mr. Speaker, will the gentleman yield?

MR. BLATNIK: I yield to the gentleman from Colorado.

MR. ASPNALL: Three of these executive communications came up from downtown at the same time. Two of them came to our committee, and this one went to the other committee. It so happens that the Committee on Interior and Insular Affairs has jurisdiction of marketing procedures. That is the difference. It is merely a formality.

When the Speaker renewed his inquiry as to whether there was any objection to Mr. Blatnik's request, none was heard, and the communication was rereferred by unanimous consent.

Forest and Wilderness Areas

§ 40.4 The Committee on Public Lands (now the Committee on Interior and Insular Affairs), and not the Committee on Agriculture had jurisdiction of a bill to add certain lands to the Cleveland National Forest in Orange County, California, created from the public domain.

On Feb. 14, 1939,[2] Mr. Harry R. Sheppard, of California, obtained unanimous consent to have the bill (H.R. 2728), discharged from the Committee on Agriculture and rereferred to the Committee on Public Lands (now the Committee on Interior and Insular Affairs). In so doing, he noted that he had "the consent of the chairmen of both of those committees in making this request."[3]

§ 40.5 The Committee on Interior and Insular Affairs, and not the Committee on Agriculture, has jurisdiction of bills designating and setting aside certain national forest lands, created from the public domain, as wilderness areas as defined by law [act of Sept. 3, 1964, Pub. L. No. 88–577].

On May 6, 1969,[4] William R. Poage, of Texas, Chairman of the Committee on Agriculture, obtained unanimous consent that his committee be discharged from further consideration of the bills (H.R. 393, H.R. 3682), and that they be rereferred to the Com-

2. 84 CONG. REC. 1400, 76th Cong. 1st Sess.
3. H.R. 2728 was reported by the Committee on Public Lands on June 27, 1939 (H. Rept. No. 950).
4. 115 CONG. REC. 11459, 91st Cong. 1st Sess.

mittee on Interior and Insular Affairs. These bills authorized the Secretary of Agriculture to classify as wilderness, national forest lands in the Lincoln Back Country, and parts of the Lewis and Clark and Lolo National Forests in Montana.

Parliamentarian's Note: The Committee on Interior and Insular Affairs has jurisdiction, under Rule X clause 1(k) [*House Rules and Manual* § 680 (1979)] over forest reserves and national parks created from the public domain, while the Committee on Agriculture has jurisdiction, under Rule X clause 1(a) [*House Rules and Manual* § 670 (1979)] over forestry in general and forest reserves other than those created from the public domain. See also 123 CONG. REC. 23434, 95th Cong. 1st Sess., July 18, 1977 [H.R. 8223], indicating that the Committee on Interior and Insular Affairs had jurisdiction over a bill amending section 1862 of title 18 to limit the application of a criminal trespass provision applying in a reserve in a national forest created from the public domain. (The bill in this instance had been referred to the Committee on the Judiciary because it solely addressed a federal criminal statute, but that committee later agreed that the measure should be properly considered by the Committee on Interior and Insular Affairs along with the other legislation affecting the reserve.)

§ 40.6 The Committee on Interior and Insular Affairs, and not the Committee on Agriculture, has jurisdiction of a bill directing the Secretary of Agriculture to set aside for recreational use certain lands which have been established as wilderness areas pursuant to the Wilderness Act of 1964 (78 Stat. 890).

On Apr. 5, 1965,[5] Harold D. Cooley, of North Carolina, Chairman of the Committee on Agriculture obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 6891),[6] and to have it rereferred to the Committee on Interior and Insular Affairs.[7]

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5. 111 CONG. REC. 6822, 89th Cong. 1st Sess.

6. H.R. 6891 provided for the winter recreational use of a portion of the San Gorgonio Wilderness Area, San Bernardino National Forest, California, without reducing the area set aside for wilderness preservation.

7. *See the Parliamentarian's Note* in § 40.5, supra, for additional information as to the nature of this jurisdiction.

Inland Waters, Boundaries of

§ 40.7 In the 82d Congress, the Committee on Interior and Insular Affairs and not the Committee on the Judiciary had jurisdiction of a resolution relative to establishment of seaward boundaries of inland waters.

On June 26, 1952,[8] Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, obtained unanimous consent to have his committee discharged from further consideration of the resolution (H. Res. 684), and to have it rereferred to the Committee on Interior and Insular Affairs.

§ 40.8 In the 82d Congress, the Committee on Interior and Insular Affairs and not the Committee on the Judiciary had jurisdiction of a joint resolution declaring the boundaries of the inland or internal waters of the United States to be as far seaward as is permissible under international law, and providing for a survey of such boundaries to be made by the U.S. Coast and Geodetic Survey.

On May 26, 1952,[9] Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, obtained unanimous consent to have his committee discharged from further consideration of the joint resolution (H.J. Res. 373), and to have it rereferred to the Committee on Interior and Insular Affairs.

Irrigation and Reclamation Matters

§ 40.9 The Committee on Interior and Insular Affairs and not the Committee on Public Works has jurisdiction of a bill to provide the basis for authorization of irrigation works in connection with Chief Joseph Dam, to provide for financial assistance thereto from power revenues.

On May 7, 1952,[10] Mr. Thaddeus M. Machrowicz, of Michigan, obtained unanimous consent to have the Committee on Public Works discharged from further consideration of the bill (H.R. 6163), and to have it rereferred to the Committee on Interior and Insular Affairs.[11]

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8. 98 CONG. REC. 8244, 82d Cong. 2d Sess.

9. 98 CONG. REC. 5968, 82d Cong. 2d Sess.

10. 98 CONG. REC. 4895, 4896, 82d Cong. 2d Sess.

11. H.R. 6163 was reported by the Committee on Interior and Insular Af-

§ 40.10 The Committee on Interior and Insular Affairs and not the Committee on Public Works has jurisdiction of a bill to amend the act of June 28, 1946, authorizing the performance of necessary reclamation protection work between the Yuma project and Boulder Dam by the Bureau of Reclamation.

On June 24, 1957,[12] Mr. Clifford Davis, of Tennessee, obtained unanimous consent to have the Committee on Public Works discharged from further consideration of the bill (H.R. 7534), and to have it rereferred to the Committee on Interior and Insular Affairs.

Indian Lands

§ 40.11 The Committee on Interior and Insular Affairs and not the Committee on Appropriations has jurisdiction of a bill to authorize a $100 per capita payment to members of the Red Lake Band of Chippewa Indians from the proceeds of the sale of timber and lumber on the Red Lake Reservation.

On Apr. 21, 1955,[13] Clarence Cannon, of Missouri, Chairman of the Committee on Appropriations, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 5478), and to have it rereferred to the Committee on Interior and Insular Affairs.[14]

Oil Shale Lands—Proceeds From Disposal Of

§ 40.12 The Committee on Interior and Insular Affairs, and not the Committee on Armed Services, has jurisdiction of bills providing that proceeds from the disposal of oil shale lands [other than naval oil shale reserves] shall go to a special Treasury account, available for disbursement by the Secretary of the Treasury for educational purposes.

On Aug. 3, 1967,[15] L. Mendel Rivers, of South Carolina, Chairman of the Committee on Armed Services, obtained unanimous consent to have his committee dis-

fairs on June 27, 1952 (H. Rept. No. 2327).

12. 103 Cong. Rec. 10124, 85th Cong. 1st Sess.

13. 101 Cong. Rec. 4896, 84th Cong. 1st Sess.

14. H.R. 5478 was reported by the Committee on Interior and Insular Affairs on Mar. 26, 1956 (H. Rept. No. 1946).

15. 113 Cong. Rec. 21179, 90th Cong. 1st Sess.

charged from consideration of the bill (H.R. 10531), and to have it rereferred to the Committee on Interior and Insular Affairs.

Land Claims of United States Based on Accretion or Avulsion

§ 40.13 A bill relating to claims by the United States to lands along the Colorado River, where it forms the boundary between states and where the government's claim is founded upon accretion or avulsion, is referred to the Committee on Interior and Insular Affairs, not the Committee on the Judiciary.

On June 28, 1967,[16] Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 10256), and to have it rereferred to the Committee on Interior and Insular Affairs.[17]

Land Acquisition by the Navy

§ 40.14 The Committee on Interior and Insular Affairs and not the Committee on Armed Services has jurisdiction of bills to authorize the Secretary of the Navy to acquire certain land on the Island of Guam.

On May 5, 1958,[18] Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, obtained unanimous consent that the Committee on Armed Services be discharged from further consideration of three identical bills (H.R. 12018, H.R. 12055, and H.R. 12129), and that the bills be referred to his committee. In so doing, Mr. Aspinall observed that, "It is the sense of the Committee on Armed Services that these bills properly come within the scope and jurisdiction of the Committee on Interior and Insular Affairs."

Outer Continental Shelf—Reserving Areas for Department of Defense

§ 40.15 The Committee on Interior and Insular Affairs, and not the Committee on the Judiciary, has jurisdiction of proposals to reserve for the use of the Department of Defense certain areas in the Outer Continental Shelf, and

16. 113 CONG. REC. 17738, 90th Cong. 1st Sess.

17. H.R. 10256 was reported by the Committee on Interior and Insular Affairs on Sept. 4, 1968 (H. Rept. No. 1859).

18. 104 CONG. REC. 7999, 85th Cong. 2d Sess.

to exclude them from the mineral leasing provisions of the Outer Continental Shelf Lands Act.

On May 16, 1963,[19] Speaker John W. McCormack, of Massachusetts, recognized Mr. Byron G. Rogers, of Colorado, a member of the Committee on the Judiciary, who made the following statement:

> Mr. Speaker, by direction of the Committee on the Judiciary, I ask unanimous consent to rerefer Executive Communication 761, by the Department of the Navy, containing a draft of proposed legislation to provide for the restriction of certain areas in the Outer Continental Shelf, known as the Corpus Christi Offshore Warning Area, for defense purposes and for other purposes, to the Committee on Interior and Insular Affairs.

Immediately thereafter, Mr. Rogers' request was agreed to.

Parliamentarian's Note: The bill, H.R. 6417, on this subject was referred to the Committee on Interior and Insular Affairs upon introduction on May 20, 1963.

Military Parks

§ 40.16 The Committee on Interior and Insular Affairs has jurisdiction of military parks (including the cemeteries therein), administered by the Secretary of the Interior and the National Park Service.

On Oct. 20, 1967,[1] by direction of the Committee on Rules, Mr. Richard Bolling, of Missouri, called up a resolution (H. Res. 241), and asked for its immediate consideration. The Clerk read the resolution; a quorum call followed, after which the House considered and agreed to the committee amendments.

The resolution, with committee amendments, reads as follows:

> *Resolved*, That clause 10 of rule XI of the Rules of the House of Representatives is amended by striking out paragraph (h)[2] and inserting in lieu thereof the following:
>
> "(h) Military parks and battlefields."
>
> Sec. 2. Clause 19 of rule XI of the Rules of the House of Representatives[3] is amended by inserting a new subsection (b), as follows:
>
> "(b) Cemeteries of the United States in which veterans of any war

19. 109 Cong. Rec. 8777, 88th Cong. 1st Sess.

1. 113 Cong. Rec. 29560, 90th Cong. 1st Sess.
2. Rule XI clause 10 prescribed the jurisdiction of the Committee on Interior and Insular Affairs; paragraph (h) read [H. Jour. 1482, 89th Cong. 2d Sess. (1966)] thusly: "Military parks and battlefields and national cemeteries."
3. At the time, clause 19 [H. Jour. 1483, 89th Cong. 2d Sess. (1966)] prescribed the jurisdiction of the Committee on Veterans' Affairs.

or conflict are or may be buried whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior".

In the course of the ensuing discussion, Speaker John W. McCormack, of Massachusetts, recognized Mr. James H. Quillen, of Tennessee, who offered the following explanation for the proposal:[4]

Mr. Speaker, as the able gentleman from Missouri [Mr. Bolling] has ably stated, House Resolution 241 as amended and reported by the Committee on Rules attempts to achieve a more orderly jurisdictional division in the matter of national cemeteries. At the present time there is a bit of a problem because the Rules of the House basically divide the jurisdiction between the Committee on Veterans' Affairs and the Committee on Interior and Insular Affairs. Additionally the Committee on Foreign Affairs has some interest in overseas cemeteries. For some time it has been clear to members of the interested committees that the problem could be broken down into two rather clearly distinguished types of cemeteries; those which are being actively used as national cemeteries in which our military veterans are being buried, and those which are not active cemeteries. This latter group of cemeteries primarily associated with major battlefields of the Civil War is, as a general rule closed to present and future burials. They have become, along with these battlefield sites, military parks of an historical significance, regularly bringing Americans from all over the country to view and visit them.

This second group of cemeteries has long been administered by the Secretary of the Interior. Those cemeteries still open and available for the burial of our service men ought uniformly to be under the jurisdiction of the Committee on Veterans' Affairs. This committee is charged with the overall direction and formulation of our national policy with regard to our service veterans. The committee also deals on a regular and day to day basis with the Veterans' Administration, the agency which handles the matter of veteran burials.

House Resolution 241 has been before the Committee on Rules for some 6 months. . . . If the resolution is adopted and the rules amended, the Committee on Interior and Insular Affairs will retain jurisdiction over "national cemeteries administered by the Secretary of the Interior"—in other words, those cemeteries which are part of military parks and battlefield monuments. The Committee on Veterans' Affairs will have jurisdiction over national cemeteries "in which veterans of any war or conflict are or may be buried whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior."

As I have indicated, all interested committees have been consulted and agree with the resolution. The intention of the Committee on Rules is to assist these committees by adjusting the jurisdictional lines to more accurately reflect the interests of the committees and protect our veterans.

Shortly thereafter, the House agreed to the resolution, as

4. 113 CONG. REC. 29562, 90th Cong. 1st Sess.

amended, by a unanimous roll call vote.[5]

In light of this jurisdictional change, Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, subsequently obtained unanimous consent to have 66 bills and two resolutions rereferred from that committee to the Committee on Veterans' Affairs.[6]

§ 40.17 The Committee on Public Lands (now the Committee on Interior and Insular Affairs), and not the Committee on Military Affairs (now the Committee on Armed Services), had jurisdiction of a bill to revise the boundaries of the Chickamauga-Chattanooga National Military Park in the States of Georgia and Tennessee.

On Jan. 9, 1942,[7] Mr. Estes Kefauver, of Tennessee, obtained unanimous consent to have the Committee on Military Affairs (now the Committee on Armed Services), discharged from further consideration of the bill (H.R. 6332), and to have it rereferred to the Committee on Public Lands (now the Committee on Interior and Insular Affairs).[8]

Mineral Leases of United States

§ 40.18 The Committee on Interior and Insular Affairs, and not the Committee on the Judiciary, has exercised jurisdiction of a private bill providing for the reinstatement and validation of a U.S. oil and gas lease.

On Aug. 5, 1959,[9] Mr. Walter E. Rogers, of Texas, a member of the Committee on the Judiciary obtained unanimous consent to have that committee discharged from further consideration of the private bill (H.R. 8437), and to have it rereferred to the Committee on Interior and Insular Affairs.[10]

Missouri River Basin Project

§ 40.19 Under the rule in effect in the 86th Congress, the Committee on Interior and

5. *Id.* at p. 29566.
6. *Id.* at p. 29567.
7. 88 CONG. REC. 207, 77th Cong. 2d Sess.
8. H.R. 6332 was reported by the Committee on Public Lands on Jan. 26, 1942 (H. Rept. No. 1684).
9. 105 CONG. REC. 15190, 86th Cong. 1st Sess.
10. H.R. 8437 was reported by the Committee on Interior and Insular Affairs on Aug. 24, 1959 (H. Rept. No. 962).

Insular Affairs, and not the Committee on Public Works, had jurisdiction of bills to provide for the inclusion of the Nebraska Mid-State unit in the Missouri River Basin reclamation project.

On Sept. 8, 1959,[11] Mr. Frank E. Smith, of Mississippi, obtained unanimous consent to have the Committee on Public Works discharged from further consideration of the bill (H.R. 8985) and to have it rereferred to the Committee on Interior and Insular Affairs.

§ 40.20 The Committee on Interior and Insular Affairs and not the Committee on Public Works has jurisdiction of a bill to make certain provisions in connection with the construction of the Garrison Diversion Unit, Missouri River Basin reclamation project, by the Secretary of the Interior.

On May 20, 1957,[12] Mr. Clifford Davis, of Tennessee, obtained unanimous consent to have the Committee on Public Works discharged from further consideration of the bill (H. R. 7068), and to have it rereferred to the Committee on Interior and Insular Affairs.

Pennsylvania Avenue as Historic Site

§ 40.21 The Committee on Interior and Insular Affairs, and not the Committee on the District of Columbia, has jurisdiction of proposals to establish a Commission on Pennsylvania Avenue to initiate plans for the further development of the avenue as a national historic site.

On Oct. 21, 1965,[13] Speaker John W. McCormack, of Massachusetts, recognized John L. McMillan, of South Carolina, Chairman of the Committee on the District of Columbia, who proceeded to make the following requests:

> Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia be discharged from further consideration of the joint resolution (H.J. Res. 678) to provide for the administration and development of Pennsylvania Avenue as a national historic site, and that the bill be rereferred to the Interior and Insular Affairs Committee, which more appropriately should handle such legislation.
>
> Also, I make the same request with respect to the Executive communication thereon, dated September 30,

11. 105 CONG. REC. 18587, 86th Cong. 1st Sess.

12. 103 CONG. REC. 7257, 85th Cong. 1st Sess.

13. 111 CONG. REC. 27803, 89th Cong. 1st. Sess.

1965, and printed as House Document No. 296, which was also referred to the Committee on the District of Columbia.

Immediately thereafter, the House granted unanimous consent.

Parliamentarian's Note: The executive communication which contained the genesis of this proposal, No. 1629 of Sept. 30, 1965, and House Joint Resolution 678, were both rereferred by this request. It should be noted, however, that the two were not identical. Mr. William B. Widnall, of New Jersey, who sponsored House Joint Resolution 678, had added to it a new section 3(d) which directed the commission to develop a plan for the relocation of the John F. Kennedy Center for the Performing Arts from the Potomac site to one on Pennsylvania Avenue. This particular addition, while itself a matter which fell within the jurisdiction of the Committee on Public Works, was subsidiary to the main purpose of the legislation.

Renaming Reservoirs

§ 40.22 In the 93d Congress, the Committee on Interior and Insular Affairs, and not the Committee on Public Works, had jurisdiction of a bill to direct the Secretary of the Interior to rename the Alamogordo Reservoir in New Mexico, although that reservoir was a flood control project.

On June 28, 1973,[14] Mr. Ray Roberts, of Texas, a member of the Committee on Public Works, obtained unanimous consent to have that committee discharged from further consideration of the bill (H.R. 8094), and to have it rereferred to the Committee on Interior and Insular Affairs.

Parliamentarian's Note: The Alamogordo Reservoir was authorized as a flood control project by 53 Stat. 1414, a bill reported by the Committee on Public Works.

§ 41. Committee on Internal Security

On Feb. 18, 1969,[15] the Committee on Internal Security became a standing committee of the House, replacing the Committee on Un-American Activities which, itself, had been a standing committee since 1945. Several special committees with a similar investigative jurisdiction but without legislative jurisdiction existed prior to that date, including a

14. 119 Cong. Rec. 22103, 93d Cong. 1st Sess.

15. 115 Cong. Rec. 3746, 91st Cong. 1st Sess.

Special Committee to Investigate Communist Activities (1930), a Special Committee to Investigate Un-American Activities (1934), a Committee on Un-American Activities (1935), and a Special Committee to Investigate Un-American Propaganda Activities (1938).

The jurisdiction of the Committee on Internal Security pursuant to the 1973 rules[16] read as I follows:

> (a) Communist and other subversive activities affecting the internal security of the United States.
>
> (b) The Committee on Internal Security, acting as a whole or by subcommittee, is authorized to make investigations from time to time of (1) the extent, character, objectives, and activities within the United States of organizations or groups, whether of foreign or domestic origin, their members, agents, and affiliates, which seek to establish, or assist in the establishment of, a totalitarian dictatorship within the United States, or to overthrow or alter, or assist in the overthrow or alteration of, the form of government of the United States or of any State thereof, by force, violence, treachery, espionage, sabotage, insurrection, or any unlawful means, (2) the extent, character, objectives, and activities within the United States of organizations or groups, their members, agents, and affiliates, which incite or employ acts of force, violence, terrorism, or any unlawful means, to obstruct or oppose the lawful authority of the Government of the United States in the execution of any law or policy affecting the internal security of the United States, and (3) all other questions, including the administration and execution of any law of the United States, or any portion of law, relating to the foregoing that would aid the Congress or any committee of the House in any necessary remedial legislation.
>
> The Committee on Internal Security shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.
>
> For the purpose of any such investigation, the Committee on Internal Security, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

As the precedents indicate, the jurisdiction of the committee's precursor, the Committee on Un-American Activities extended to such matters as a resolution to

16. Rule XI clause 11, *House Rules and Manual* § 703 (1973).

define "Communism,"[17] and a bill to regulate and control the operation of foreign agencies acting within the United States or its I territories or dependencies.[18]

The committee regarded its oversight jurisdiction as applying "across the board to the internal security activities of all Executive departments."[19]

The committee did not ordinarily employ subcommittees. However, where hearings on a particular subject were anticipated to be lengthy, a special subcommittee was sometimes created.

In the 94th Congress, the Committee on Internal Security was abolished, its jurisdiction was transferred to the Committee on the Judiciary, and records and staff of the Committee on Internal Security were transferred to the Committee on the Judiciary.[20]

Redefining Jurisdiction; Name Change

§ 41.1 The rules were amended to change the name of the Committee on Un-American Activities to the Committee on Internal Security and to redefine its jurisdiction.

On Feb. 18, 1969,[1] William M. Colmer, of Mississippi, Chairman of the Committee on Rules, called up House Resolution 89 and asked for its immediate consideration. The resolution read as follows:

> *Resolved*, That Rule XI of the Rules of the House of Representatives is amended—
>
> (1) by striking out clause 19;[2]
>
> (2) by renumbering clauses 11 through 18 as clauses 12 through 19, respectively; and

17. § 41.2, infra.
18. § 41.3, infra.
19. Dennis J. Taylor, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 90.
20. H. Res. 5, 121 CONG. REC. 20–22, 94th Cong. 1st Sess., Jan. 14, 1975.

1. 115 CONG. REC. 3723, 91st Cong. 1st Sess.
2. At the time, this clause [H. Jour. 1317, 90th Cong. 2d Sess. (1968)] identified the committee's jurisdiction as follows: "19. Committee on un-American Activities. (a) un-American activities. (b) The Committee on un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (1) the extent, character, and objects of un-American propaganda activities in the United States, (2) the diffusion within the United States, of subversive and Un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation."

(3) by inserting immediately after clause 10 the following new clause:

"11. Committee on Internal Security.

"(a) Communist and other subversive activities affecting the internal security of the United States.

"(b) The Committee on Internal Security, acting as a whole or by subcommittee, is authorized to make investigations from time to time of (1) the extent, character, objectives, and activities within the United States of organizations or groups, whether of foreign or domestic origin, their members, agents, and affiliates, which seek to establish, or assist in the establishment of, a totalitarian dictatorship within the United States, or to overthrow or alter, or assist in the overthrow or alteration of, the form of government of the United States or of any State thereof, by force, violence, treachery, espionage, sabotage, insurrection, or any unlawful means, (2) the extent, character, objectives, and activities within the United States of organizations or groups, their members, agents, and affiliates, which incite or employ acts of force, violence, terrorism, or any unlawful means, to obstruct or oppose the lawful authority of the Government of the United States in the execution of any law or policy affecting the internal security of the United States, and (3) all other questions, including the administration and execution of any law of the United States, or any portion of law, relating to the foregoing that would aid the Congress or any committee of the House in any necessary remedial legislation.

"The Committee on Internal Security shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable. . . ."

(b) Clause 31 of rule XI of the Rules of the House of Representatives is amended by striking out "Un-American Activities" and inserting in lieu thereof "Internal Security". . . .[3]

Sec. 4. Nothing in this resolution shall affect (1) the validity of any action or proceeding of the Committee on Un-American Activities or of the House of Representatives before the date of adoption of this resolution, or (2) the validity of any action or proceeding by any officer or agency of the executive branch of the Government, or by any court of competent jurisdiction, based on any action or proceeding referred to in clause (1) of this sentence. Any action or proceeding referred to in clause (2) of the preceding sentence and pending on the date of adoption of this resolution shall be continued by the officer, agency, or court concerned in the same manner and to the same extent as if this resolution had not been adopted.

After lengthy debate,[4] the previous question was moved, the

3. This clause then stated [H. Jour. 1319, 90th Cong. 2d Sess. (1968)] that: "31. No committee of the House, except the Committees on Government Operations, Rules, on Standards of Official Conduct, and Un-American Activities, shall sit, without special leave, while the House is in session."

4. For discussion of the problems in overlapping jurisdiction which the resolution brought about, see § 29.8, supra.

motion carried, and the resolution, itself, was agreed to.[5]

Defining Communism

§ 41.2 The Committee on Un-American Activities (later the Committee on Internal Security), and not the Committee on the Judiciary had jurisdiction of a resolution to "define communism."

On Mar. 20, 1947,[6] Mr. Gordon L. McDonough, of California, obtained unanimous consent to have the Committee on the Judiciary discharged from further consideration of the resolution (H. Res. 99), and to have it rereferred to the Committee on Un-American Activities[7] (later the Committee on Internal Security).

Regulating Foreign Agencies Within the United States

§ 41.3 The Committee on Un-American Activities (later the Committee on Internal Security), and not the Committee on the Judiciary had jurisdiction of a bill to regulate and control the operation of foreign agencies acting within the United States or its territories or dependencies.

On Feb. 5, 1948,[8] Earl C. Michener, of Michigan, Chairman of the Committee on the Judiciary, asked unanimous consent to have his committee discharged from further consideration of the bill (H.R. 2948), and to have it rereferred to the Committee on Un-American Activities (later the Committee on Internal Security). In so doing, Mr. Michener stated that he had conferred with the author of the bill as well as the acting chairman of the Committee on Un-American Activities and observed that it was "agreeable to them that I submit this request."

Immediately thereafter, the House granted unanimous consent.

§ 41.4 The Committee on Un-American Activities (later the Committee on Internal Security), had jurisdiction of a bill to protect the United States against certain Un-

5. 115 Cong. Rec. 3745, 3746, 91st Cong. 1st Sess.
6. 93 Cong. Rec. 2315, 80th Cong. 1st Sess.
7. The abolition of the Committee on Un-American Activities and the creation of the Committee on Internal Security were simultaneous actions but were not solely the result of a name change. The jurisdiction of the successor committee was also changed. See § 29.8, supra.
8. 94 Cong. Rec. 1150, 80th Cong. 2d Sess.

American and subversive activities by requiring registration of Communist organizations.

On Aug. 22, 1950,[9] the Committee on Un-American Activities reported the bill (H.R. 9490), which was then referred to the Union Calendar. This measure became the Subversive Activities Control Act of 1950.[10]

§ 42. Committee on Interstate and Foreign Commerce

The House first established a Committee on Commerce and Manufactures in 1795.[11] The committee was split in 1819, and one of the offspring of that split, the Committee on Commerce, was renamed in 1892—becoming the Committee on Interstate and Foreign Commerce.[12]

During the course of its history, the committee has undergone a number of jurisdictional changes. Until 1883, it had reported the rivers and harbors appropriation bill.[13] In 1935, jurisdiction over measures dealing with water transportation, the Coast Guard, lifesaving service, lighthouses, lightships, ocean derelicts, the Coast and Geodetic Survey, and the Panama Canal was transferred to the Committee on Merchant Marine and Fisheries.[14] At the same time, the Committee on Interstate and Foreign Commerce received exclusive jurisdiction over measures pertaining to radio.[1] In 1947, by virtue of the Legislative Reorganization Act of 1946, the committee's jurisdiction was expanded to include most of its current responsibilities. In 1958, however, matters relating to the Bureau of Standards, standardization of weights and measures, and the metric system became the responsibility of the Committee on Science and Astronautics.[2]

The jurisdiction of the Committee on Interstate and Foreign Commerce pursuant to the 1973 rules read as follows:[3]

9. 96 CONG. REC. 13062, 81st Cong. 2d Sess.

10. 64 Stat. 987.

11. 4 Hinds' Precedents § 4096.

12. 4 Hinds' Precedents § 4096.

13. 4 Hinds' Precedents § 4096.

14. Rule XI clause 12, *House Rules and Manual* § 704 (1973). See Rule X clause 1(l), *House Rules and Manual* § 681 (1979).

1. Rule XI clause 12, *House Rules and Manual* § 704 (1973). See Rule X clause 1(l), *House Rules and Manual* § 681 (1979).

2. 104 CONG. REC. 14513, 85th Cong. 2d Sess., July 21, 1958.

3. Rule XI clause 12, *House Rules and Manual* § 704 (1973). See Rule X

(a) Interstate and foreign commerce generally.

(b) Civil aeronautics.

(c) Inland waterways.

(d) Interstate oil compacts and petroleum and natural gas, except on the public lands.

(e) Public health and quarantine.

(f) Railroad labor and railroad retirement and unemployment, except revenue measures relating thereto.

(g) Regulation of interstate and foreign communications.

(h) Regulation of interstate and foreign transportation, except transportation by water not subject to the jurisdiction of the Interstate Commerce Commission.

(i) Regulation of interstate transmission of power, except the installation of connections between Government water-power projects.

(j) Securities and exchanges.

(k) Weather Bureau.

Among the major pieces of legislation which the committee has reported out and which require periodic legislative activity are the following:

(1) Airport and Airway Development Act of 1970.

(2) Clean Air Act.

(3) Communications Act of 1934.

(4) Campaign Contributions Reform Act (Title I, Federal Elections Campaign Act of 1971).

(5) Communications Satellite Act of 1962.

(6) Controlled Substances Act of 1970.

(7) Community Mental Health Centers Act.

(8) Emergency Rail Services Act of 1970.

(9) Fair Packaging and Labeling Act.

(10) Federal Aviation Act of 1958.

(11) Federal Cigarette Labeling and Advertising Act.

(12) Federal Food, Drug, and Cosmetic Act.

(13) Federal Hazardous Substances Act.

(14) Federal Power Act.

(15) Federal Railroad Safety Act of 1970.

(16) Federal Trade Commission Act.

(17) Flammable Fabrics Act.

(18) National Emissions Standards Act.

(19) Natural Gas Act.

(20) National Traffic and Motor Vehicle Safety Act of 1966.

(21) Public Health Service Act.

(22) Rail Passenger Service Act of 1970.

(23) Railroad Retirement Act of 1935.

(24) Securities and Exchange Act of 1934.

(25) Securities Investor Protection Act of 1970.

(26) War Claims Act of 1948.

In addition to its nonlegislative Subcommittee on Investigations, the Committee on Interstate and Foreign Commerce, in 1973, consisted of four legislative subcommittees with the following responsibilities:

SUBCOMMITTEE ON COMMERCE AND FINANCE

(a) Interstate and foreign commerce generally (including Federal Trade Commission and labeling);

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clause 1(l), *House Rules and Manual* 681 (1979).

(b) Securities and exchanges;

(c) Motor vehicle safety;

(d) Newsprint, pulp and paper, and brand names;

(e) Trading With the Enemy and War Claims Acts; and

(f) Travel and tourism.

SUBCOMMITTEE ON COMMUNICATIONS AND POWER

(a) Interstate and foreign communications;

(b) Weather Bureau;

(c) Petroleum and natural gas (including interstate oil compacts); and

(d) Interstate electric power.

SUBCOMMITTEE ON PUBLIC HEALTH AND ENVIRONMENT

(a) Public health and quarantine;

(b) Food and drugs;

(c) Hospital construction;

(d) Mental health and research; and

(e) Air pollution.

SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS

(a) Interstate and Foreign Transportation;

(b) Civil aeronautics (including Federal Aviation Administration and Civil Aeronautics Board);

(c) Inland waterways;

(d) Railroad retirement and unemployment; and

(e) Railroad labor.

The committee's jurisdiction also extends to bills authorizing the construction of marine hospitals and the acquisition of sites therefor, the establishment of quarantine stations, the spread of leprosy and other contagious diseases, measures declaring whether or not streams are navigable and for preventing or regulating hindrances to navigation (except bridges and dams that are part of river improvements), bills regulating railroads in their interstate commerce relations, bills relating to commercial travelers as agents of interstate commerce, the branding of articles going into such commerce, the prevention of the carriage of indecent and harmful pictures or literature, the protection of game through prohibition of interstate transportation, and to a certain extent, the regulation of the export of livestock, meat, and other agricultural products.[4]

Moreover, as the precedents reveal, the jurisdiction of the committee and its predecessors has included such other legislative matters as creating civil remedies in federal courts for certain violations of commercial ethics,[5] providing aid to engineering and industrial research,[6] authorizing loan guarantees to institutions of higher education for development of telecommunications systems,[7]

4. All of the foregoing are cited in the *House Rules and Manual* §§ 705, 706 (1973). See also Rule X clause 1(l), *House Rules and Manual* § 681 (1979).

5. § 42.3, infra.

6. § 42.4, infra.

7. § 42.8, infra.

assisting in the financing of the arctic winter games in Alaska,[8] constructing hospitals in Indian communities,[9] imposing safety standards on government-purchased vehicles,[10] dealing with war claims of American nationals against foreign countries,[11] and foreign nationals' war claims against the United States.[12]

The Committee Reform Amendments of 1974 vested in the Committee on Interstate and Foreign Commerce jurisdiction over consumer affairs and consumer protection, health and health facilities except those supported by payroll deductions, and biomedical research and development; the committee lost jurisdiction over civil aeronautics (to the Committee on Public Works and Transportation), civil aviation research and development and the National Weather Service (to the Committee on Science and Technology), and trading with the enemy (to the Committee on Foreign Affairs).[13]

In the 95th Congress, the committee obtained "the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of nonnuclear facilities and of use of nonnuclear energy," and obtained the special oversight function of reviewing and studying all laws, programs, and government activities relating to nuclear energy. See the "Memorandum of Understanding" relating to this jurisdiction and to that of the Committee on Interior and Insular Affairs inserted by Mr. Jonathan B. Bingham, of New York, during debate on the adoption of the rules in the 95th Congress.[14]

Arctic Winter Games—Financing

§ 42.1 In the 92d Congress, the Committee on Interstate and Foreign Commerce, and not the Committee on Interior and Insular Affairs, was given jurisdiction of a bill to assist in financing by the Secretary of Commerce of the arctic winter games in Alaska in 1974.

On June 7, 1972,[15] Wayne N. Aspinall, of Colorado, Chairman of

8. § 42.1, infra.
9. § 42.7, infra.
10. § 42.10, infra.
11. §§ 42.12, 42.13, infra.
12. § 42.14, infra.
13. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.
14. H. Res. 5, 123 CONG. REC. 64, 95th Cong. 1st Sess., Jan. 4, 1977.
15. 118 CONG. REC. 19935, 92d Cong. 2d Sess.

the Committee on Interior and Insular Affairs, obtained unanimous consent to have his committee discharged from further consideration of the bill (S. 2988), and to have it rereferred to the Committee on Interstate and Foreign Commerce.

Civil Aeronautics

§ 42.2 In the 91st Congress, the Committee on Interstate and Foreign Commerce, with the concurrence of the Committee on Ways and Means, was given jurisdiction over legislative proposals providing for the expansion and improvement of airports and related facilities, even where such proposals included amendments to the Internal Revenue Code and the imposition of user charges on passengers and property transported by air; but the Committee on Ways and Means reserved the right to consider the tax features of such legislative proposals separately.

On June 18, 1969,[16] Speaker John W. McCormack, of Massachusetts, recognized Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, who made the following request:

> Mr. Speaker, I ask unanimous consent that Executive Communication No. 863, received from the Secretary of Transportation on June 17, relating to the future of air transportation, and referred to the Committee on Ways and Means, be referred to the Committee on Interstate and Foreign Commerce because the chairman of the Committee on Interstate and Foreign Commerce and the chairman of the Committee on Ways and Means understand that the tax provisions contained in that message will be handled by the Committee on Ways and Means.

Immediately thereafter, unanimous consent was granted.

Parliamentarian's Note: Executive Communication No. 863, which proposed the enactment of an Aviation Facilities Expansion Act and included extensive amendments to the Internal Revenue Code was initially referred to the Committee on Ways and Means because of the tax features contained therein. Following discussions between the Chairmen of the Committee on Ways and Means and the Committee on Interstate and Foreign Commerce, the communication was rereferred to the Committee on Interstate and Foreign Commerce. After the rereference, the Chairman of that committee, Harley O. Staggers, of West Virginia, introduced a bill

16. 115 CONG. REC. 16301, 91st Cong. 1st Sess.

(H.R. 12374), on June 24, 1969,[17] embodying the proposals contained in the draft bill submitted with Executive Communication No. 863. H.R. 12374 was referred to the Committee on Interstate and Foreign Commerce. A precedent for this agreement between the two committees was a similar arrangement which had been worked out with respect to the Federal Aid Highway Act of 1959,[18] where title II was considered by the Committee on Ways and Means although the primary jurisdiction over the program fell within the Committee on Public Works.

Unfair Trade Practices

§ 42.3 In the 87th Congress, the Committee on Interstate and Foreign Commerce, and not the Committee on the Judiciary, had jurisdiction of bills creating civil remedies (including injunctions), in the federal courts for misleading or false advertising, dilution of trademark or trade name distinctiveness, or violation of commercial ethics.

On June 4, 1962,[19] Speaker John W. McCormack, of Massachusetts, recognized Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, who made the following request:

> Mr. Speaker, I ask unanimous consent that H.R. 10038, to provide civil remedies to persons damaged by unfair commercial activities in or affecting commerce, and H.R. 10124, be referred to the Committee on Interstate and Foreign Commerce. They were improperly referred to the Committee on the Judiciary. The subject matter of these bills should be properly before the Committee on Interstate and Foreign Commerce.
>
> A previous bill, H.R. 4590, which is superseded by H.R. 10038, had been referred to the Committee on Interstate and Foreign Commerce, and the present bill should likewise fall within that category.

Shortly thereafter, the House agreed by unanimous consent to Mr. Celler's request.

Parliamentarian's Note: H.R. 10038 and H.R. 10124 were identical bills based on language in H.R. 4590, which as Mr. Celler indicated, had been originally referred to the Committee on Interstate and Foreign Commerce.

Engineering and Industrial Research

§ 42.4 In the 75th Congress, the Committee on Interstate and Foreign Commerce and not the Committee on Education (now the Committee on Edu-

17. 115 Cong. Rec. 17138, 91st Cong. 1st Sess.
18. See § 29.4 supra.
19. 108 Cong. Rec. 9601, 87th Cong. 2d Sess.

cation and Labor), had jurisdiction of a bill to aid engineering and industrial research in connection with colleges and schools of engineering in the several state and territorial universities and colleges.

On Apr. 2, 1937,[20] Mr. Fritz G. Lanham, of Texas, a member of the Committee on Education (now the Committee on Education and Labor), obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 5531), and to have it rereferred to the Committee on Interstate and Foreign Commerce.

Federal Alcohol Administration Act

§ 42.5 The Committee on interstate and Foreign Commerce and not the Committee on Ways and Means has jurisdiction of a bill to amend the Federal Alcohol Administration Act to regulate commerce in distilled spirits.

On June 18, 1948,[21] Mr. Daniel A. Reed, of New York, a member of the Committee on Ways and Means, obtained unanimous consent to have that committee discharged from further consideration of the bill (H.R. 5849), and to have it rereferred to the Committee on Interstate and Foreign Commerce.

Holding Companies

§ 42.6 The Committee on Interstate and Foreign Commerce has jurisdiction of a concurrent resolution directing the Federal Trade Commission to investigate and report back to the Congress on propaganda regarding federal legislation on the subject of holding companies.

On Mar. 14, 1935,[1] Speaker Joseph W. Byrns, of Tennessee, recognized Mr. Sam Rayburn, of Texas, a member of the Committee on Interstate and Foreign Commerce, who asked unanimous consent that the House immediately consider Senate Concurrent Resolution No. 12, which read as follows:

> *Resolved by the Senate (the House of Representatives concurring),* That the Federal Trade Commission be, and it is hereby, directed to make an investigation and report its conclusions to the Congress as to the propaganda which is now going on over the Nation re-

20. 81 Cong. Rec. 3090, 75th Cong. 1st Sess.

21. 94 Cong. Rec. 8918, 80th Cong. 2d Sess.

1. 79 Cong. Rec. 3623, 74th Cong. 1st Sess.

garding Federal legislation on the subject of holding companies, and to inform the Congress the origin, magnitude, purpose, methods, and expense of said propaganda.

Reserving the right to object, Mr. Bertrand H. Snell, of New York, initiated the following exchange:

. . . [H]as the gentleman [Mr. Rayburn] taken up this resolution with the members of his committee?

MR. RAYBURN: The resolution would not have gone to the Committee on Interstate and Foreign Commerce in my opinion. I think it would have gone to the Rules Committee.

MR. SNELL: Has it been taken up with the Rules Committee?

MR. RAYBURN: No.

MR. SNELL: It seems to me a matter as important as this ought to be taken up with some committee and should have some little consideration. I do not know that I shall object, but I really think if it is a matter that should go to the Interstate and Foreign Commerce Committee that the ranking minority member of that committee should have an opportunity to be here, or at least have been notified before it was brought out on the floor.

MR. RAYBURN: It is my impression it would not go to that committee.

MR. SNELL: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SNELL: What committee would this resolution naturally go to?

THE SPEAKER: The Committee on Interstate and Foreign Commerce.

Mr. Rayburn's unanimous-consent request was objected to.[2]

And, on the following day,[3] the Speaker referred the measure to the Committee on Interstate and Foreign Commerce.

Hospital Construction in Indian Communities

§ 42.7 The Committee on Interstate and Foreign Commerce and not the Committee on Interior and Insular Affairs has jurisdiction of a bill to provide for the construction of Indian hospitals and to provide for grants to assist in the construction of community hospitals which will serve Indians and non-Indians jointly.

On Feb. 6, 1957,[4] Clair Engle, of California, Chairman of the Committee on Interior and Insular Affairs, obtained unanimous consent to have his committee discharged from the further consideration of the bill (H.R. 2021) and for its rereference to the Committee on Interstate and Foreign Commerce.

2. *Id.* at p. 3626.

3. 79 CONG. REC. 3776, 74th Cong. 1st Sess., Mar. 15, 1935.

4. 103 CONG. REC. 1585, 85th Cong. 1st Sess.

Loan Guarantees to Educational Institutions Developing Telecommunications Systems

§ 42.8 While the Committee on Education and Labor has reported legislation of this type, the Committee on Interstate and Foreign Commerce, having consistently handled legislation relating to noncommercial educational broadcasting facilities pursuant to its jurisdiction under the rules over interstate communications, was held to have jurisdiction of a proposal adding a new section to the Higher Education Facilities Act of 1963 authorizing loan guarantees to institutions of higher education for development and use of educational delivery (telecommunications) systems on and off campus.

On Oct. 28, 1971,[5] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 7248), to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education. In the course of that consideration a jurisdictional question arose over part C of title VII of a proposed committee [Committee on Education and Labor] amendment to H.R. 7248.

The relevant sections pertained to the governmental guarantee of certain loans to institutions of higher education for the purpose of encouraging the development and use of educational delivery (i.e., telecommunications) systems. Of particular pertinence were the following provisions:[6]

PART C—GUARANTEE OF LOANS FOR EDUCATIONAL DELIVERY SYSTEMS

Sec. 721. Title III of the Higher Education Facilities Act of 1963 is amended by adding at the end thereof the following new section:

"GUARANTEE OF LOANS FOR EDUCATIONAL DELIVERY SYSTEMS

"Sec. 310. (a) To encourage institutions of higher education to develop and use educational delivery systems which, through technological means, permit carrying on educational programs of the institution in locations away from the campus and out of the presence of the institution's instructional personnel, the Secretary may guarantee, in accordance with the provisions of this section, the payment of the principal and accrued interest on loans made to eligible borrowers (as defined in subsection (k)) to acquire, install, and operate such systems. . . .

"(k) For purposes of this section—

"(1) The term 'eligible borrower' means an institution of higher edu-

5. 117 CONG. REC. 38036, 92d Cong. 1st Sess.

6. *Id.* at p. 38076.

cation or a nonprofit organization established and operated with the active participation of one or more institutions of higher education for the sole purpose of acquiring, installing, or operating an educational delivery system.

"(2) The terms 'acquiring' and 'installing' mean the procurement and placement in position for service (including planning therefor) of the technological facilities and equipment needed for the operation of the educational delivery system, including any new or remodeled facilities and equipment required by the system for the production, processing, and transmission of electronic signals. Such terms include the construction or repair of facilities needed to house equipment, and space, facilities, and equipment at receiving installations, except where such receiving installations are equipped and operated by an eligible borrower as a part of a 'remote' campus, distributing, or displaying educational materials (whether in an electronic manner, or otherwise).

"(3) The term 'operating' means the use of services of staff and technical personnel, the acquisition of necessary supplies, the maintenance of a debt service reserve, and other activities necessary to operate the educational delivery system, but does not include the provision of educational services.

"(4) The term 'educational delivery system' includes any system which by technological means, enables a teaching classroom to be extended to reach students in remote locations, and, specifically, includes a telecommunication system which provides a network of communications via electronic means over distance, including radio and television in broadcast, closed-circuit, or point-to-point service, data transmission, computers, and other electronic devices involving the use of the electromagnetic spectrum and including apparatus necessary for the production and processing of such electronic transmissions such as audio or video recording equipment, cameras, microphones, control consoles, microwave equipment, transmitters, towers, translators and repeaters, but does not include the apparatus required for reception, distribution at the receiving installation, or display of signals so transmitted."

Harley O. Staggers, of West Virginia, Chairman of the Committee on Interstate and Foreign Commerce, raised a jurisdictional point of order, as follows:[7]

Mr. Chairman,[8] part C of title VII would provide for loan guarantees for educational delivery systems. To show the nature of those systems, I would refer the Members to section 310(b)(3)—page 175, beginning at line 19—which refers to instances where these delivery systems may require licenses issued by the Federal Communications Commission and to the definition of "educational delivery system" in section 310(k)(4)—appearing at page 180, beginning line 23—where these systems are defined to include telecommunications systems, and radio and television broadcasting systems.

Mr. Chairman, I would also point out to the Members that the jurisdiction of the Interstate and Foreign Commerce Committee, insofar as edu-

7. *Id.* at p. 38077.

8. James C. Wright, Jr. (Tex.).

cational broadcasting facilities are concerned, has not laid fallow. In support of this statement I would point to the provisions of subpart A of part IV of title III of the Communications Act of 1934 which provides for grants for educational radio and television broadcasting facilities.

These provisions were originally enacted in 1962 and have been amended at least twice since that time. Since enactment of the Educational Radio and Television Broadcasting Facilities Act of 1962, over $100 million has been authorized to be appropriated for the construction of such facilities.

For these reasons, Mr. Chairman, I think that the point of order lies on this portion.

Responding to the point of order, Mr. John R. Dellenback, of Oregon, noted that:[9]

. . . [T]here is no attempt in part C to amend any statute which is within the jurisdiction of the Committee on Interstate and Foreign Commerce. There is reference on the bottom of page 175, as my good friend has made clear, to the Federal Communications Commission. But if you look at the language of that reference there is no attempt there to change the powers of the Commission, and there is no attempt here to amend any law whatsoever; there is merely a reference to a situation which might possibly exist. It makes clear that where the system requires the use of the frequency spectrum under jurisdiction of the FCC, that Commission will issue the required license, and so on.

So far as that is concerned, of course, any laws that affect the powers of the FCC and any laws that affect the licenses are not within the jurisdiction of the Committee on Education and Labor, but there is no attempt to deal with such laws.

The basic sweep of this particular part C does not go, as you see, to the amendment of any such statutes, and it does not deal with just such a subject as television, but where they are talking about the possible use of tape recorders or talking about the possible use of computer hookups, or talking about a television license, but not dealing with the control of those licenses, but merely dealing with the utilization of telephone lines. And we have hosts of bills which deal with the utilization of equipment that is affected by other statutes than the statute before this body, that provide them, or before another committee.

So, Mr. Chairman, I would say that we are not here dealing with the amendment of any statute within the control of the Committee on Interstate and Foreign Commerce, that we are merely striving to make available to educational institutions throughout the country the broad sweep of potential equipment and assistance which will aid in the educational processes with which the institutions applying for loans are properly concerned, and with which this committee is properly concerned. And that is all that part C deals with.

The Chairman explained his ruling, as follows:

The gentleman from West Virginia (Mr. Staggers) has raised a point of

9. 117 CONG. REC. 38077, 38078, 92d Cong. 1st Sess.

order against section 721 of title VII beginning on page 174, line 3, through page 181, line 13, on the ground that the subject matter of this section is within the jurisdiction of the Committee on Interstate and Foreign Commerce and not that of the Committee on Education and Labor.

Section 721 in the present bill would add a new section to title III of the Higher Education Facilities Act of 1963 to authorize the Secretary of Health, Education, and Welfare to guarantee loans to institutions of higher education and related nonprofit corporations for development and use of educational delivery systems to transmit what takes place in a classroom and on the campus to remote locations on or off the campus.

The Chair observes that on pages 180 and 181 the educational delivery system is so designed as to include a telecommunication system which provides a network of communications via electronic means over distances, and includes radio and television and other electronic devices.

The Chair notes that while the Higher Education Facilities Act of 1963, and amendments thereto, have been reported by the Committee on Education and Labor, that committee in section 721 of the present bill is attempting to add a completely new section to that act to incorporate therein a subject which has heretofore been within the jurisdiction of the Committee on Interstate and Foreign Commerce—that subject being the approval, installation, and operation of broadcasting facilities.

Clause 12(g) of rule XI[10] confers upon the Committee on Interstate and Foreign Commerce jurisdiction over the regulation of interstate and foreign communications. Under that clause, the Committee on Interstate and Foreign Commerce has considered legislation authorizing grants for noncommercial educational broadcasting facilities to public institutions of higher education.

As the gentleman from West Virginia has stated, the original legislation enacted in 1962, and subsequent amendments thereto, were reported by the Committee on Interstate and Foreign Commerce.

Therefore, the Chair holds that the subject of Federal loans for television facilities on and off campus for institutions of higher education is within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The Chair therefore sustains the point of order and the language identified in the point of order is stricken from the committee amendment.

Parliamentarian's Note: This bill was being considered under a special rule permitting jurisdictional points of order to be raised against portions of the Committee on Education and Labor's amendment in the nature of a substitute within the jurisdiction of other House committees.

Physical Fitness and Training Programs as Public Health Measures

§ 42.9 The Committee on Interstate and Foreign Commerce and not the Committee on

10. See Rule X clause 1(l) (5), *House Rules and Manual* § 681 (1979).

Armed Services has jurisdiction of a concurrent resolution expressing the sense of the Congress that a civilian physical fitness and training program should be established in the interest of national security.

On June 27, 1951,[11] Carl Vinson, of Georgia, Chairman of the Committee on Armed Services, obtained unanimous consent to have his committee discharged from further consideration of the concurrent resolution (H. Con. Res. 19), and to have it rereferred to the Committee on Interstate and Foreign Commerce.

Safety Standards on Government-purchased Vehicles

§ 42.10 In the 86th Congress, the Committee on Interstate and Foreign Commerce and not the Committee on Government Operations had rereferred to it a bill to require passenger-carrying motor vehicles purchased for use by the federal government to meet certain safety standards.

On Feb. 16, 1959,[12] Mr. Kenneth A. Roberts, of Alabama, obtained unanimous consent to have the bill (H.R. 1341), rereferred from the Committee on Government Operations to the Committee on Interstate and Foreign Commerce.[13]

U.S. Travel Data

§ 42.11 The Committee on Interstate and Foreign Commerce and not the Committee on Post Office and Civil Service has jurisdiction of a bill authorizing an annual appropriation to enable the Secretary of Commerce to compile and make available information and statistical data relating to travel within the United States.

On Feb. 14, 1951,[14] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 1898), and to have it rereferred to the Committee on Interstate and Foreign Commerce.

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11. 97 Cong Rec. 7254, 82d Cong. 1st Sess.

12. 105 Cong. Rec. 2420, 86th Cong. 1st Sess.

13. H.R. 1341 was reported by the Committee on Interstate and Foreign Commerce on July 27, 1959 (H. Rept. No. 715).

14. 97 Cong. Rec. 1255, 82d Cong. 1st Sess.

War Claims

§ 42.12 The Committee on Interstate and Foreign Commerce and not the Committee on Foreign Affairs has jurisdiction of a bill creating a commission to examine and render final decisions on all claims by American nationals who were members of the Armed Forces of the United States and who were prisoners of war of Germany, Italy, or Japan, for payment of awards.

On Mar. 21, 1947,[15] "after conferring with the chairman of the Committee on Foreign Affairs as well as the chairman of the Committee on Interstate and Foreign Commerce," Mr. James E. Van Zandt, of Pennsylvania, sought unanimous consent that the bill (H.R. 1000), which had been referred to the Committee on Foreign Affairs, "be transferred to the Committee on Interstate and Foreign Commerce." Immediately thereafter, the House granted this request.

Parliamentarian's Note: The War Claims Act of 1948 (50 USC App. §§ 2001 et seq.) permits claims by U.S. nationals for loss of property located in foreign countries during war. Such claims are adjudicated by the Foreign Claims Settlement Commission and are satisfied out of the War Claims Fund which consists of sums covered into the Treasury pursuant to section 39 of the Trading with the Enemy Act (50 USC App. § 39). These are proceeds from properties of Germany or Japan or their nationals retained by the United States after World War II. While the Committee Reform Amendments of 1974 transferred jurisdiction over the Trading with the Enemy Act from the Committee on Interstate and Foreign Commerce to the Committee on Foreign Affairs, including claims under that act (50 USC App. §§ 1–44) by persons (not only U.S. nationals) for property in the custody of the alien property custodian seized from an enemy or an ally thereof under the provisions of that act, there was no indication that the Committee on Interstate and Foreign Commerce has been stripped of jurisdiction over the War Claims Act.

§ 42.13 The Committee on Interstate and Foreign Commerce and not the Committee on Ways and Means has jurisdiction of a bill to change the order of priority for payment out of the German special deposit account

15. 93 CONG. REC. 2417, 80th Cong. 1st Sess.

[amending the Settlement of War Claims Act].

On July 16, 1947,[16] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Mr. Daniel A. Reed, of New York, who stated that he had introduced the bill (H.R. 4213), on the previous day and that "Through error it was referred to the Committee on Ways and Means." Accordingly, Mr. Reed asked unanimous consent that the latter committee be discharged from further consideration of the bill and that it be rereferred to the Committee on Interstate and Foreign Commerce.

Immediately thereafter, the House granted unanimous consent to effect this rereferral.

§ 42.14 The Committee on Interstate and Foreign Commerce and not the Committee on Foreign Affairs has jurisdiction of House joint resolutions authorizing the Secretary of State to repay German and Japanese citizens, subjects, corporations, or associations whose property was taken by the United States since Dec. 18, 1941.

On July 13, 1955,[17] by direction of the Committee on Foreign Affairs, James P. Richards, of South Carolina, Chairman of that committee, asked unanimous consent that House Joint Resolutions 264, 265, 268, and 272, which had been referred to the Committee on Foreign Affairs be rereferred to the Committee on Interstate and Foreign Commerce. The joint resolutions all entitled "to improve the relations of the United States with Western Germany and Japan"[18] were identical. Each authorized the Secretary of State "following as nearly as . . . feasible those [procedures] used as a result of the Treaty of Peace with Italy, to pay amounts equal in value to all property and interest taken by the United States since Dec. 18, 1941, from Germany or Japan, or any citizen or subject thereof, or any corporation or association organized under the laws thereof."

In advancing this request, Mr. Richards noted that:

> . . . Preliminary hearings by an ad hoc subcommittee of the Foreign Affairs Committee developed that these resolutions are similar in purpose to H.R. 6730,[19] a measure sponsored by

16. 93 CONG. REC. 9049, 80th Cong. 1st Sess.

17. 101 CONG. REC. 10440, 84th Cong. 1st Sess.

18. 101 CONG. REC. 4093, 84th Cong. 1st Sess., Mar. 30, 1955; 101 CONG. REC. 3892, 84th Cong. 1st Sess. Mar. 28, 1955.

19. "A bill to amend the Trading With the Enemy Act, as amended, and the War Claims Act of 1948, as amend-

the administration which was introduced June 8, 1955, and referred to the Committee on Interstate and Foreign Commerce.

The House granted the request.

§ 43. Committee on the Judiciary

The Committee on the Judiciary has been a standing committee of the House since 1813, when it was concerned exclusively with matters pertaining to judicial proceedings. The breadth of its jurisdiction grew considerably in the 20th century. In 1947,[1] the committee annexed most of the jurisdiction of the former Committees on Claims, Immigration and Naturalization, Patents, Revision of the Laws, and War Claims.

The jurisdiction of the Committee on the Judiciary pursuant to the 1973 rules read as follows:[2]

(a) Judicial proceedings, civil and criminal generally.

(b) Apportionment of Representatives.

(c) Bankruptcy, mutiny, espionage, and counterfeiting.

(d) Civil liberties.

(e) Constitutional amendments.

(f) Federal courts and judges.

(g) Holidays and celebrations.

(h) Immigration and naturalization.

(i) Interstate compacts generally.

(j) Local courts in the Territories and possessions.

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

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

(m) National penitentiaries.

(n) Patent Office.

(o) Patents, copyrights, and trademarks.

(p) Presidential succession.

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

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

(s) State and Territorial boundary lines.

There were seven subcommittees in 1973, and the jurisdiction of each was specified in the committee's own Rule VIII:

Rule VIII. Jurisdiction of Subcommittees.—The jurisdiction of the seven standing Subcommittees shall, subject to alteration as other Subcommittees are created, be as follows:

SUBCOMMITTEE ON INTERNATIONAL LAW AND CITIZENSHIP

(a) Immigration and naturalization.

(b) Deportation, extradition, and crimes committed outside the United States.

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ed"; 101 CONG. REC. 7932, 84th Cong. 1st Sess., June 8, 1955.

1. This change in jurisdiction was the result of the Legislative Reorganization Act of 1946, 60 Stat. 812.

2. Rule XI clause 13, *House Rules and Manual* § 707 (1973). See Rule X clause 1(m), *House Rules and Manual* § 682 (1979).

(c) Passports, travel, and international compacts and organizations.

(d) Admiralty matters.

(e) Amnesty.

(f) Internal security matters, espionage, and mutiny.

(g) Treaties.

(h) Offshore mineral rights.

(i) Other related matters.

SUBCOMMITTEE ON COURTS AND THE ADMINISTRATION OF JUSTICE

(a) Oversight of the Department of Justice, except as otherwise assigned by these rules.

(b) Oversight of United States Attorneys and United States Marshals.

(c) Administrative Conference and administrative procedure matters.

(d) Judicial ethics and recompense.

(e) The courts—their non-criminal rules; non-criminal procedures; operation; number.

(f) Jury matters.

(g) Other related matters.

SUBCOMMITTEE ON CLAIMS AND GOVERNMENT RELATIONS

(a) Claims against the United States.

(b) Governmental relations, including boundaries, interstate compacts, and state taxation of interstate commerce.

(c) Conflicts of interest and conflicts of laws.

(d) Compensation for individuals or groups.

(e) Federal holidays and celebrations, and charters for non-business corporations.

(f) Apportionment of Representatives, meetings of Congress, attendance of Members and their acceptance of incompatible offices.

(g) Contracts.

(h) Revision and codification of the statutes of the United States. excet tor the Federal Criminal Laws.

(i) Other related matters.

SUBCOMMITTEE ON CONSTITUTIONAL AMENDMENTS AND RIGHTS

(a) Constitutional amendments-1. Presidential succession.

(b) Civil liberties.

(c) Privacy matters, including oversight; consideration of wiretapping and electronic eavesdropping.

(d) Civil rights and equal rights.

(e) Separation of powers.

(f) District of Columbia home rule.

(g) Other related matters.

SUBCOMMITTEE ON CRIMINAL JUSTICE

(a) Revision of the United States Criminal Code.

(b) Law Enforcement Assistance Administration.

(c) Oversight of the Department of Justice in criminal matters.

(d) Criminal justice, including Federal Rules of Criminal Procedure, bail, Criminal Justice Act of 1964.

(e) Firearms legislation, counterfeiting, and other criminal matters not otherwise specifically assigned by these rules.

(f) Other related matters.

SUBCOMMITTEE ON CRIME AND CORRECTIONS

(a) Oversight and investigation of criminal activities, including organized crime, street crime, and crimes associated with narcotics.

(b) Corrections, including probation matters and pre- and post-release problems of criminal offenders.

(c) National Penitentiaries.

(d) Juvenile delinquency.

(e) Other related matters.

SUBCOMMITTEE ON ECONOMIC MATTERS

(a) Antitrust.

(b) Monopolies.

(c) Bankruptcy.

(d) Patents, trademarks, and copyrights.

(e) Insurance.

(f) Federal chartering of business corporations.

(g) Other related matters.

The committee has exercised jurisdictional authority over related subjects. These include bills relating to local courts in the District of Columbia, Alaska, and the territories, the establishment of a court of patent appeals, claims of states against the United States, bills relating to the Office of President, to the flag, removal of political disabilities, and the prohibition of traffic in intoxicating liquors. Moreover, the committee also reports on important subjects of law relating to questions within the jurisdiction of other committees.[3]

As the precedents reveal, the public jurisdiction of the committee and of those committees whose responsibilities it assumed has also extended to such subjects as authorization to modify a trust of which the Library of Congress is a contingent beneficiary,[4] establishment of a national motto,[5] provision of a legal defense for Members and employees sued for duty related action,[6] elimination of renewed oaths of office by civilians,[7] and the establishment of panels to encourage inventions.[8]

In terms of private jurisdiction, the committee has dealt with such matters as conferring or extending veterans' survivor,[9] medical,[10] educational,[11] or insurance[12] benefits, adjusting the annual leave account of a civil service employee,[13] exempting a certain annuity fund from taxation,[14] and providing tax relief to a charitable foundation and its contributors.[15]

Celebration Proclamations

§ 43.1 Measures calling on the President to issue proclama-

3. All of the foregoing are cited in *House Rules and Manual* § 708 (1973). See Rule X clause 1(m), *House Rules and Manual* § 682 (1979).

4. § 43.10, infra.

5. § 43.18, infra.

6. § 43.17, infra.

7. § 43.19, infra.

8. §§ 43.15, 43.16, infra.

9. §§ 43.24, 43.25, infra.

10. §§ 43.26, 43.27, infra.

11. § 43.28, infra.

12. § 43.29, infra.

13. § 43.20, infra.

14. § 43.22, infra.

15. § 43.23, infra.

tions establishing periods of celebration or commemoration were within the jurisdiction of the Committee on the Judiciary.

On Apr. 27, 1967,[16] Speaker John W. McCormack, of Massachusetts, recognized Harley O. Staggers, of West Virginia, Chairman of the Committee on Interstate and Foreign Commerce, who made the following request:

> Mr. Speaker, I ask unanimous consent that House Joint Resolution 117 authorizing and requesting the President to extend through 1967 his proclamation of a period to "See the United States," and for other purposes, be rereferred to the Committee on the Judiciary instead of the Committee on Interstate and Foreign Commerce. The Committee on the Judiciary has handled this matter before.

Immediately thereafter, the House agreed to the rereferral by unanimous consent.[17]

Civil Liberties; Sex Discrimination

§ 43.2 The Committee on the Judiciary and not the Committee on Education and Labor has jurisdiction of proposals amending the Civil Rights Act of 1957 [42 USC § 1975c(a)], to include discrimination on the basis of sex among the several forms of discrimination to be investigated by the Civil Rights Commission.

On Nov. 4, 1971,[18] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 7248), to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education. As Chairman pro tempore Edmond Edmondson, of Oklahoma, noted:

> When the Committee rose on yesterday, it was agreed[19] that title X, ending on page 202, line 8, of the committee substitute amendment would be considered as read and open to amendment at any point.

Chairman of the Committee on the Judiciary, Emanuel Cellar, of New York, made the following point of order:[20]

> Mr. Chairman, I make a point of order with reference to section 1007 of

16. 113 CONG. REC. 11062, 90th Cong. 1st Sess.
17. Effective Jan. 3, 1975, the Committee Reform Amendments of 1974 transferred jurisdiction over holidays and celebrations from the Committee on the Judiciary to the Committee on Post Office and Civil Service. See Rule X clause 1(o)(7), *House Rules and Manual* § 684 (1979).
18. 117 CONG. REC. 39248, 92d Cong. 1st Sess.
19. 117 CONG. REC. 39099, 92d Cong. 1st Sess., Nov. 3, 1971.
20. 117 CONG. REC. 39248, 92d Cong. 1st Sess., Nov. 4, 1971.

the committee substitute,[21] the contents of which are exclusively within the purview of the House Judiciary Committee. It concerns the Civil Rights Act of 1957, and there are a number of bills pending in our committee concerning that act. For that reason a point of order made[22] to the provisions and a motion is made to strike.

The Chair then recognized Mrs. Edith S. Green, of Oregon, a member of the Committee on Education and Labor, who was managing the Bill in the Committee of the whole. The following exchange took place:

THE CHAIRMAN PRO TEMPORE: Does the gentlewoman from Oregon wish to be heard on the point of order?

MRS. GREEN OF OREGON: Mr. Chairman, I concede the point of order.

THE CHAIRMAN PRO TEMPORE: The point of order is conceded. The Chair sustains the point of order and the language in section 1007 is stricken.

Claims Against the United States; Compensating Flood Victims

§ 43.3 The Committee on the Judiciary and not the Committee on Public Works has jurisdiction of a bill to provide for determining the compensation of certain persons whose lands have been flooded and damaged by reasons of fluctuations in the water level of the Lake of the Woods, Minnesota.

On Mar. 17, 1954,[23] George A. Dondero, of Michigan, Chairman of the Committee on Public Works, obtained unanimous consent to have his committee discharged from further consideration of the bill (S. 215), and to

21. Section 1007 was actually part of an amendment in the nature of a substitute recommended by the Committee on Education and Labor [see 117 CONG. REC. 39099, 92d Cong. 1st Sess., Nov. 3, 1971]. It read as follows: "Paragraph (1) of subsection (a) of section 104 of the Civil Rights Act of 1957 (42 USC § 1975c(a)) is amended by inserting immediately after 'religion,' the following: 'sex,' and paragraphs (2), (3), and (4) of subsection (a) of such section 104 are each amended by inserting immediately after 'religion' the following: ', sex'."

22. H. Res. 661, agreed to on Oct. 27, 1971 [117 CONG. REC. 37769, 92d Cong. 1st Sess.], prescribed the special rule by which H.R. 7248 was to be considered, and provided among other things [*id.* at p. 37765], that "all titles, parts, or sections of [amendment in the nature of a substitute] the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248."

23. 100 CONG. REC. 3418, 83d Cong. 2d Sess.

have it rereferred to the Committee on the Judiciary.[24]

Compensating Nonfederal Firemen for Civil Disorder Injuries

§ 43.4 The Committee on the Judiciary and not the Committee on Education and Labor has jurisdiction of a bill providing for compensation of firemen, not employed by the United States, who are killed or injured in the performance of duty during a civil disorder.

On May 6, 1968,[1] Carl D. Perkins, of Kentucky, Chairman of the Committee on Education and Labor, obtained unanimous consent to have the bill (H.R. 16898), rereferred from that committee to the Committee on the Judiciary.

Compensating Certain U.S. Employees for Newly Assigned Duties

§ 43.5 The Committee on the Judiciary and not the Committee on Post Office and Civil Service has jurisdiction of a bill to provide for a claim for the payment of extra compensation for certain work heretofore performed by customs officers and employees.

On Mar. 23, 1950,[2] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of the bil1 (H.R. 7767), and to have it rereferred to the Committee on the Judiciary.

Increasing Pensions for Certain Class of Persons

§ 43.6 The Committee on the Judiciary and not the Committee on Veterans' Affairs has jurisdiction of a private bill amending an omnibus pension act to increase the amount of pension granted a certain class of persons.

On Feb. 15, 1960,[3] Olin E. Teague, of Texas, Chairman of the Committee on Veterans' Affairs, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 10380), and to have it

24. H.R. 2098, which was identical to S. 215, was reported by the Committee on the Judiciary on Aug. 4, 1954 (H. Rept. No. 2273).

1. 114 CONG. REC. 11798, 90th Cong. 2d Sess.

2. 96 CONG. REC. 3989, 81st Cong. 2d Sess.

3. 106 CONG. REC. 2523, 86th Cong. 2d Sess.

rereferred to the Committee on the Judiciary.

Use of Contingent Fund as Reimbursement for Lost Cameras Entrusted to the Capitol Police

§ 43.7 The Committee on Claims (now the Committee on the Judiciary), and not the Committee on Accounts (now the Committee on House Administration), had jurisdiction of a private resolution appropriating money out of the contingent fund of the House to reimburse visitors to the Capitol for cameras checked with the Capitol Police and subsequently lost or stolen.

On Dec. 10, 1943,[4] John J. Cochran, of Missouri, Chairman of the Committee on House Accounts (now the Committee on House Administration), obtained unanimous consent to have his committee discharged from further consideration of the resolution (H. Res. 194), and to have it rereferred to the Committee on Claims (now the Committee on the Judiciary).

Validating Additional Sea Duty Payments for Naval Personnel

§ 43.8 The Committee on the Judiciary and not the Committee on Government Operations has jurisdiction of a bill to provide for validation of additional sea duty payments to certain naval personnel who served on vessels operating on the Great Lakes.

On May 29, 1956,[5] William L. Dawson, of Illinois, Chairman of the Committee on Government Operations, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 11125), and to have it rereferred to the Committee on the Judiciary.

Criminal Justice Training and Research

§ 43.9 The Committee on the Judiciary and not the Committee on Un-American Activities had jurisdiction of a bill establishing an academy of criminal justice and providing for training and research in the administration of criminal justice.

4. 89 Cong. Rec. 10553, 78th Cong. 1st Sess.

5. 102 Cong. Rec. 9253, 84th Cong. 2d Sess.

On Apr. 5, 1965,[6] Edwin E. Willis, of Louisiana, Chairman of the Committee on Un-American Activities, obtained unanimous consent to have his committee discharged from consideration of the bill (H.R. 6071), and to have it rereferred to the Committee on the Judiciary. As Mr. Willis pointed out in making his request, the original referral was inadvertent.

Library of Congress Trust Fund

§ 43.10 The Committee on the Judiciary and not the Committee on House Administration has jurisdiction of a bill authorizing the Attorney General to consent, on behalf of the Library of Congress Trust Fund Board, to a modification of a certain trust of which the Library is a contingent beneficiary.

On Aug. 17, 1959,[7] Omar T. Burleson, of Texas, Chairman of the Committee on House Administration, obtained unanimous consent to have that committee discharged from further consideration of the bill (H.R. 7415), and to have it rereferred to the Committee on the Judiciary. In so doing, Mr. Burleson noted:

> . . . [I]f I may advise the Speaker,[8] the gentleman from Vermont [Mr. Meyer] who introduced the bill and the chairman of the Committee on the Judiciary, the gentleman from New York [Mr. Celler], have agreed to accept the bill in the Judiciary Committee. The reason the request is made is that the other body has referred the companion bill to the Committee on the Judiciary.

Conflicts of Interest in the Executive Branch

§ 43.11 The Committee on the Judiciary and not the Committee on Post Office and Civil Service has jurisdiction of a bill establishing standards to govern possible conflicts of interest of employees of the executive branch of the government, providing the Attorney General with civil remedies for violations of these standards, and supplementing and revising the criminal law (Title 18, United States Code), prescribing restrictions against conflicts of interest.

On Feb. 25, 1960,[9] Speaker Sam Rayburn, of Texas, recog-

6. 111 Cong. Rec. 6822, 89th Cong. 1st Sess.
7. 105 Cong. Rec. 16051, 86th Cong. 1st Sess.
8. Carl Albert (Okla.), Speaker pro tempore.
9. 106 Cong. Rec. 3484, 86th Cong. 2d Sess.

nized Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, who sought unanimous consent that the bill (H.R. 10575), be rereferred from the Committee on Post Office and Civil Service to the Committee on the Judiciary. In presenting his request, Mr. Celler stated "I have already arranged with the chairman of the Committee on Post Office and Civil Service [Thomas J. Murray (Tenn.)] and there is no objection to the rereference of the bill."

Immediately thereafter, the House granted unanimous consent.

D.C. Code of Laws

§ 43.12 The Committee on Revision of the Laws (now the Committee on the Judiciary), and not the Committee on the District of Columbia had jurisdiction of a bill authorizing the appointment of a commission to prepare a new Code of Laws for the District of Columbia.

On Mar. 13, 1940,[10] Jennings Randolph, of West Virginia, Chairman of the Committee on the District of Columbia, obtained unanimous consent to have his committee discharged from further consideration of the bill (H. R. 8891), and to have it referred to the Committee on Revision of the Laws (now the Committee on the Judiciary).

D.C. Judges' Retirement Pay

§ 43.13 The Committee on the Judiciary and not the Committee on the District of Columbia had jurisdiction of bills providing retirement pay for the judges of the police court, the municipal court, and the juvenile court of the District of Columbia.

On June 26, 1939,[11] Mr. Jennings Randolph, of West Virginia, obtained unanimous consent to have the Committee on the District of Columbia discharged from further consideration of H.R. 6651, and to have the bill referred to the Committee on the Judiciary. Unanimous consent had been obtained by Mr. Randolph for the similar rereferral of an identical bill (H. R. 6504), two weeks earlier.[12]

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10. 86 CONG. REC. 2808, 76th Cong. 3d Sess.

11. 84 CONG. REC. 7904, 76th Cong. 1st Sess.

12. 84 CONG. REC. 7050, 76th Cong. 1st Sess., June 12,1939.

Interstate Racketeering in Cigarette Distribution; Cigarette Taxes

§ 43.14 The Committee on the Judiciary, and not the Committee on Ways and Means, has jurisdiction of bills to eliminate racketeering in the interstate sale and distribution of cigarettes and to assist state and local governments in the enforcement of cigarette taxes.

On Feb. 9, 1972,[13] Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, obtained unanimous consent to have that committee discharged from further consideration of the bills (H.R. 7050, H.R. 12184, H.R. 12688, H.R. 12689), and to have them rereferred to the Committee on the Judiciary.

Invention Panels of the Military

§ 43.15 The Committee on Patents (now the Committee on the Judiciary), and not the Committee on Military Affairs (now the Committee on Armed Services), had jurisdiction of a bill to create a National Defense Commission on Inventions.

On Apr. 21, 1941,[14] Andrew J. May, of Kentucky, Chairman of the Committee on Military Affairs (now the Committee on Armed Services), obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 3153), and to have it rereferred to the Committee on Patents (now the Committee on the Judiciary).

§ 43.16 The Committee on the Judiciary and not the Committee on Armed Services has jurisdiction of a bill to authorize the establishment of an Inventive Contributions Awards Board within the Department of Defense.

On June 25, 1953,[15] Chauncey W. Reed, of Illinois, Chairman of the Committee on the Judiciary, obtained unanimous consent to have the Committee on Armed Services discharged from further consideration of the bill (H.R. 5889), and to have it rereferred to his committee.

Legal Defense for Personnel of House Committees Where Official Duties Prompt Lawsuits

§ 43.17 A resolution has been referred to and reported by

13. 118 Cong. Rec. 3429, 3430, 92d Cong. 2d Sess.

14. 87 Cong. Rec. 3206, 77th Cong. 1st Sess.

15. 99 Cong. Rec. 7328, 7329, 83d Cong. 1st Sess.

the Committee on the Judiciary (and subsequently adopted on the Consent Calendar) directing that committee to file general and special appearances on behalf of, and to arrange for the defense of, Members, former Members, and employees of the Committee on Un-American Activities with respect to any lawsuits brought against such persons growing out of actions undertaken in the performance of duties and obligations imposed upon them by the laws of Congress and the rules and resolutions of the House of Representatives.

On Sept. 6, 1961,[16] the House considered on the Consent Calendar House Resolution 417 which read as follows:

> *Resolved*, That effective from January 3, 1961, the provisions of H. Res. 190, Eighty-third Congress, agreed to March 26, 1953, and H. Res. 386, Eighty-third Congress, agreed to August 1, 1953, are continued in effect.

The first resolution (H. Res. 190),[17] referred to above, was a response to the service of subpenas upon six Members and two employees of the House, all of whom were commanded to testify and give depositions in the case of *Michael Wilson et al.* v *Loew's Incorporated et al.*, an action pending in the Superior Court in and for the county of Los Angeles. The Members in question belonged to the Committee on Un-American Activities and the two employees had performed investigative work for that committee. The resolution noted that the complaint was directed, in part, at actions undertaken by the defendants "both in their official capacity with relation to [the] House Committee on Un-American Activities and individually in nonofficial capacities." It further noted that the service of such process upon Members of the House while Congress remained in session "might deprive the district which each respectively represents of his voice and vote;" that such service of process upon staff employees "will hamper and delay if not completely obstruct the work of such committee," and "by reason of the said processes . . . the rights and privileges of the House of Representatives may be infringed."

Accordingly, House Resolution 190 authorized and directed the Committee on the Judiciary to investigate and consider whether the service of aforementioned

16. 107 CONG. REC. 18240, 87th Cong. 1st Sess.

17. 99 CONG. REC. 2356, 2357, 83d Cong. 1st Sess., Mar. 26, 1953.

processes constituted an invasion of "the rights and privileges of the House" and whether allegations contained in the case complaint "reflected upon Members, former Members, and employees of the House and their actions in their representative and official capacities" thereby constituting an invasion of "the rights and privileges of the House of Representatives."[18] To this end, the committee or any subcommittee thereof was authorized to sit and act at any time or place, to hold hearings, to require the attendance of witnesses, the production of documents, and the taking of whatever testimony deemed necessary. The committee was granted subpena power and authorized to incur all necessary expenses for the purposes described including:

> . . . [E]mploy counsel to represent any and all of the Members, former Members, and employees of the House of Representatives named as parties defendant in the aforementioned action of *Michael Wilson et al.* v. *Loew's Inc. et al.*, and such expenses shall be paid from the Contingent Fund of the House of Representatives on vouchers authorized by said committee and signed by the chairman thereof and approved by the Committee on House Administration. . . .

The other resolution (H. Res. 386), incorporated by reference in House Resolution 417 was agreed to on Aug. 1, 1953,[1] and provided, in pertinent part, as follows:[2]

> *Resolved*, That the Committee on the Judiciary, acting as a whole or by subcommittee, is hereby authorized to direct the filing in the case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.* of such special or general appearances on behalf of any of the Members, former Members, or employees of the House of Representatives named as defendants therein, and to direct such other or further action with respect to the aforementioned defendants in such manner as will, in the judgment of the Committee on the Judiciary, be consistent with the rights and privileges of the House of Representatives; and be it further
>
> *Resolved*, That the Committee on the Judiciary is also authorized and directed to arrange for the defense of the Members, former Members, and employees of the Committee on Un-American Activities in any suit hereafter brought against such Members, former Members, and employees, or any one or more of them, growing out of the actions of such Members, former Members, and employees while performing such duties and obligations imposed upon them by the laws of the Congress and the rules and resolutions of the House of Representatives. The Committee on the Judiciary is authorized to incur all expenses necessary for the purposes hereof, including but not limited to expenses of travel and subsist-

18. For further information on questions of privilege, see Ch. 11, supra.

1. 99 CONG. REC. 10950, 83d Cong. 1st Sess.

2. *Id.* at pp. 10949, 10950.

ence, employment of counsel and other persons to assist the committee or subcommittee, and if deemed advisable by the committee or subcommittee, to employ counsel to represent any and all of the Members, former Members, and employees of the Committee on Un-American Activities who may be named as parties defendant in any such action or actions; and such expenses shall be paid from the contingent fund of the House of Representatives on vouchers authorized by the Committee on the Judiciary and signed by the chairman thereof and approved by the Committee on House Administration.

Immediately after the Clerk read House Resolution 417, it was agreed to.[3]

Parliamentarian's Note: While in this instance the Committee on the Judiciary reported a resolution referred to it by the Speaker, authorizing that committee to continue legal actions initially authorized by resolutions adopted in a prior Congress, such a resolution conferring such authority on a standing committee would ordinarily be referred to the Committee on Rules or to the Committee on House Administration where use of the contingent fund is involved.

National Motto

§ 43.18 The Committee on the Judiciary has jurisdiction of a joint resolution to establish a national motto of the United States.

On July 21, 1955,[4] after Mr. Charles E. Bennett, of Florida, introduced House Joint Resolution 396, it was referred to the Committee on the Judiciary.

Oaths of Office by Executive Branch Civilians—Dispensing With Renewals

§ 43.19 The Committee on the Judiciary and not the Committee on Expenditures in the Executive Departments (now the Committee on Government Operations), had jurisdiction of a bill to dispense with unnecessary renewals of oaths of office by civilian employees of the executive departments and independent establishments.

On Apr. 22, 1937,[5] by direction of the Committee on Expenditures the Executive Departments (now the Committee on Government Operations), Mr. John J. Cochran, of Missouri, obtained unanimous consent to have that committee discharged from further consideration of the bill (H.R. 6295), and

3. 107 Cong. Rec. 18240, 87th Cong. 1st Sess., Sept. 6, 1961.

4. 101 Cong. Rec. 11193, 84th Cong. 1st Sess.

5. 81 Cong. Rec. 3740, 75th Cong. 1st Sess.

to have it rereferred to the Committee on the Judiciary. In so doing, Mr. Cochran noted that a similar bill had been reported by the Committee on the Judiciary in the previous Congress.

Private Bill Adjusting Federal Employee's Annual Leave

§ 43.20 The Committee on the Judiciary and not the Committee on Post Office and Civil Service has jurisdiction of a private bill to adjust the "annual-leave account" of an employee under the Federal Civil Service.

On Mar. 21, 1960,[6] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of the private bill (H. R. 10432), and to have it rereferred to the Committee on the Judiciary.

Excluding Employee From United States Code Section Affecting Compensation

§ 43.21 The Committee on the Judiciary and not the Committee on Post Office and Civil Service has jurisdiction of a private bill waiving the applicability to an individual of section 3(b) of the Act entitled "An act to provide a method for payment in certain Government establishments of overtime, leave, and holiday compensation on the basis of night rates pursuant to certain decisions of the Comptroller General, and for other purposes," approved July 31, 1946 [5 USC § 951(b)].

On Oct. 11, 1949,[7] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 6284), and to have it referred to the Committee on the Judiciary.

Providing Tax Relief

§ 43.22 The Committee on the Judiciary and not the Committee on Ways and Means has jurisdiction over a private bill specifying that a certain annuity fund is exempt from taxation under provisions of the Internal Revenue Code.

6. 106 CONG. REC. 6131, 86th Cong. 2d Sess.

7. 95 CONG. REC. 14258, 14259, 81st Cong. 1st Sess.

On Sept. 1, 1959,[8] Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 7854), and to have it rereferred to the Committee on the Judiciary.

(H.R. 7854 was intended to provide tax relief to the annuity fund of the electrical switchboard and panelboard manufacturing industry of New York and the contributors thereto.)

§ 43.23 The Committee on the Judiciary and not the Committee on Ways and Means has jurisdiction of private bills to provide tax relief to a charitable foundation and the contributors thereto.

On Aug. 1, 1955,[9] Jere Cooper, of Tennessee, Chairman of the Committee on Ways and Means, obtained unanimous consent to have his committee discharged from further consideration of two identical bills (H.R. 7746, H.R. 7747), and to have the measures rereferred to the Committee on the Judiciary.

Relating to Veterans' Survivor Benefits

§ 43.24 The Committee on the Judiciary and not the Committee on Veterans' Affairs had jurisdiction of a private bill entitling the parents of a serviceman who died in France to those veterans' benefits to which they would have been entitled had their son's application not been misplaced by the veterans' agency to which delivered.

On Apr. 8, 1948,[10] Edith Nourse Rogers, of Massachusetts, Chairwoman of the Committee on Veterans' Affairs, obtained unanimous consent to have her committee discharged from further consideration of the bill (H.R. 5515), and to have it rereferred to the Committee on the Judiciary. In so doing, Mrs. Rogers noted that the Committee on Veterans' Affairs did not handle claims, and that the rereferral was satisfactory to the Chairman[11] of the Committee on the Judiciary as well as the author of the bill.

§ 43.25 The Committee on the Judiciary and not the Committee on Veterans' Affairs

8. 105 Cong. Rec. 17612, 86th Cong. 1st Sess.
9. 101 Cong. Rec. 12655, 84th Cong. 1st Sess.
10. 94 Cong. Rec. 4272, 80th Cong. 2d Sess.
11. Earl C. Michener (Mich.).

has jurisdiction of a private bill providing that a certain person shall be considered the lawful widow of a World War I veteran and authorizing the Administrator of Veterans' Affairs to pay such benefits to which she is entitled as the lawful widow of such veteran.

On Apr. 5, 1950,[12] John E. Rankin, of Mississippi, Chairman of the Committee on Veterans' Affairs, obtained unanimous consent to have his committee discharged from further consideration of the bill[13] (H.R. 743), and to have it rereferred to the Committee on the Judiciary.

Private Bill Entitling Veteran to Medical Care

§ 43.26 The Committee on the Judiciary and not the Committee on Veterans' Affairs has jurisdiction of a private bill entitling an American citizen who served in the Royal Canadian Air Force during World War II to receive medical, hospital, and domiciliary care to the same extent as those who served an equivalent period of time in the U.S. Armed Forces and who were honorably discharged therefrom.

On Mar. 3, 1953,[14] Edith Nourse Rogers, of Massachusetts, Chairwoman of the Committee on Veterans' Affairs, obtained unanimous consent to have her committee discharged from further consideration of the bill (H.R. 3350), and to have it rereferred to the Committee on the Judiciary.[15]

§ 43.27 The Committee on the Judiciary and not the Committee on Veterans' Affairs has jurisdiction of a private bill authorizing and directing the Administrator of Veterans' Affairs to furnish domiciliary or hospital care in an appropriate Veterans' Administration facility to a veteran of military engagements in the Philippine Islands.

On Mar. 9, 1953,[16] Edith Nourse Rogers, of Massachusetts,

12. 96 Cong. Rec. 4884, 81st Cong. 2d Sess.

13. An identical bill (H.R. 3276), pertaining to the same person was similarly rereferred in a later Congress; see 99 Cong. Rec. 1566, 1567, 83d Cong. 1st Sess., Mar. 3, 1953.

14. 99 Cong. Rec. 1566, 1567, 83d Cong. 1st Sess.

15. H.R. 3350 was reported by the Committee on the Judiciary on July 1, 1953 (H. Rept. No. 699).

16. 99 Cong. Rec. 1759, 1760, 83d Cong. 1st Sess.

Chairwoman of the Committee on Veterans' Affairs, obtained unanimous consent to have her committee discharged from further consideration of the bill (H.R. 3723), and to have it rereferred to the Committee on the Judiciary.

Private Bill Extending Certain Veterans' Benefits

§ 43.28 The Committee on the Judiciary and not the Committee on Veterans' Affairs has considered private bills extending the time within which an educational program under veterans' benefits might be initiated.

On Apr. 29, 1959,[17] Olin E. Teague, of Texas, Chairman of the Committee on Veterans' Affairs, obtained unanimous consent that his committee be discharged from further consideration of two private bills (H.R. 3244, H.R. 3991), and that they be rereferred to the Committee on the Judiciary.

§ 43.29 The Committee on the Judiciary and not the Committee on Veterans' Affairs has jurisdiction of a private bill directing the Administrator of Veterans' Affairs to renew a veteran's insurance policy.

On May 16, 1956,[18] Laurence Curtis, of Massachusetts, obtained unanimous consent to have the Committee on Veterans' Affairs discharged from further consideration of the bill (H.R. 10890), and to have it rereferred to the Committee on the Judiciary. In so doing, he noted that the matter had been cleared with the chairmen of both committees.

Salary Claim Due Former Member's Estate

§ 43.30 The Committee on the Judiciary and not the Committee on House Administration has jurisdiction of a resolution authorizing the Speaker to certify the proper salary certificates and enabling the Comptroller General to certify for payment the claim of a former Member's estate for salary due that Member.

On Aug. 5, 1954,[1] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Mr. Karl M. LeCompte, of Iowa, who noted that the resolution (H. Res. 301), "seems to have the elements of a claim," and that the Committee on

17. 105 Cong. Rec. 7028, 86th Cong. 1st Sess.

18. 102 Cong. Rec. 8268, 84th Cong. 2d Sess.

1. 100 Cong. Rec. 13469, 83d Cong. 2d Sess.

House Administration, which he chaired, voted to request that the measure be referred to the Committee on the Judiciary "which has jurisdiction of claims." Mr. LeCompte added that such action was agreeable to the Chairman[2] of the Committee on the Judiciary.

Immediately thereafter, the resolution was rereferred by unanimous consent.[3]

State Taxation Prohibition

§ 43.31 The Committee on the Judiciary and not the Committee on Ways and Means has jurisdiction of bills "to provide that the several States shall not impose taxes" in respect of income derived from certain interstate activities.

On June 18, 1959,[4] Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, obtained unanimous consent to have the bill (H.R. 7715), rereferred from that committee to the Committee on the Judiciary.[5]

Election Law Penalties

§ 43.32 The Committee on the Judiciary and not the Committee on the Election of the President, Vice President, and Representatives in Congress (now the Committee on House Administration), had jurisdiction of a bill to amend 2 USC § 251 in force Jan. 3, 1935, also adding thereto sections 251A and 251B, relating to offenses in elections and providing penalties therefor.

On Feb. 19, 1936,[6] Mr. Thomas Brooks Fletcher, of Ohio, obtained unanimous consent to have the Committee on the Election of the President, Vice President, and Representatives in Congress (now the Committee on House Administration), discharged from further consideration of the bill (H.R. 9481), and to have it rereferred to the Committee on the Judiciary. Mr. Fletcher noted that he had

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2. Chauncey W. Reed (Ill.).
3. A similar rereferral was obtained with respect to a resolution (H. Res. 269), regarding the same subject in the next Congress; 101 CONG. REC. 8757, 84th Cong. 1st Sess., June 20, 1955.
4. 105 CONG. REC. 11317, 86th Cong. 1st Sess.
5. For an instance where a bill adding a new section to the Internal Revenue Code prohibiting states from taxing individual income earned by persons not domiciled in that state or earned from sources outside that state was rereferred from the Committee on the Judiciary to the Committee on Ways and Means, see 120 CONG. REC. 29006, 93d Cong. 2d Sess., Aug. 19, 1974.
6. 80 CONG. REC. 2360, 74th Cong. 2d Sess.

spoken to the chairmen of both committees.

§ 44. Committee on Merchant Marine and Fisheries

The Committee on Merchant Marine and Fisheries was established on Dec. 21, 1887,[7] to take the place of the old Select Committee on Shipbuilding and Shipowning Interests. The committee was primarily ocean-oriented, and because of the importance of wireless telegraphy (i.e., radio) in maritime commerce, sea disasters, and naval operations,[8] the committee was given jurisdiction over matters relating to radio services in 1919.[9] In 1932, the committee's name changed to become the Committee on Merchant Marine, Radio, and Fisheries; however, the new name lasted only briefly as the committee was divested of radio services jurisdiction by House resolution[10] in 1935. The same resolution also increased the jurisdictional breadth of the committee by transferring to it subject matters formerly within the realm of the Committee on Interstate and Foreign Commerce.[11] The Legislative Reorganization Act of 1946[12] further enhanced the committee's jurisdiction. Under the 1973 rules[13] the committee's jurisdiction read as follows:

> (a) Merchant marine generally.
>
> (b) Coast and Geodetic Survey.
>
> (c) Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.
>
> (d) Fisheries and wildlife, including research, restoration, refuges, and conservation.
>
> (e) Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.

7. 4 Hinds' Precedents § 4129.

8. See Walter J. Oleszek, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 110.

9. The committee had reported on measures pertaining to radio communication before that, however; see 7 Cannon's Precedents § 1853.

10. H. Res. 126, 79 CONG. REC. 2631, 74th Cong. 1st Sess., Feb. 26, 1935.

11. The Committee on Interstate and Foreign Commerce forfeited its jurisdiction over all transportation by water, the Coast Guard, lifesaving service, lighthouses, lightships, ocean derelicts, the Coast and Geodetic Survey, and the Panama Canal. See § 44.19, infra.

12. 60 Stat. 812.

13. Rule XI clause 14, *House Rules and Manual* § 709 (1973). See Rule X clause 1(n), *House Rules and Manual* § 683 (1979).

(f) Merchant marine officers and seamen.

(g) Navigation and the laws relating thereto, including pilotage.

(h) Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.

(i) Registering and licensing of vessels and small boats.

(j) Rules and international arrangements to prevent collisions at sea.

(k) United States Coast Guard and Merchant Marine Academies.

As noted in the *House Rules and Manual*,[14] the jurisdiction of this committee includes the general subjects of shipbuilding, admission of foreign-built ships, registering and licensing of vessels,[15] including pleasure yachts,[16] tonnage taxes and fines and penalties on vessels,[17] the extension and increase of the merchant marine,[18] navigation and the laws relating thereto,[19] pilotage,[20] the naming and measuring of vessels,[1] rules, and international arrangements to prevent collisions at sea,[2] and the shipping, wages, treatment,[3] and health of sailors.[4]

The committee has also exercised a general jurisdiction over subjects relating to inspection of steam vessels as to hulls and boilers[5] lights and signals,[6] and protection from fire on vessels,[7] collisions, coasting districts, marine schools, etc.,[8] regulation of small vessels propelled by naphtha, etc., and transportation of inflammable substances on passenger vessels,[9] the titles, conduct, and licensing of officers of vessels,[10] and regulation of shipping in Hawaii.[11] The committee exercises jurisdiction as to the seal herds and other revenue-producing animals of Alaska.[12]

As the precedents reveal, the committee's jurisdiction has also extended to such matters as regulating the hours and pay of cer-

14. Rule XI clause 14, *House Rules and Manual* § 710 (1973). See Rule X clause 1(n), *House Rules and Manual* § 683 (1979).

15. 4 Hinds' Precedents § 4134.

16. *Id.* at § 4143.

17. *Id.* at § 4131, and 7 Cannon's Precedents § 1856.

18. 4 Hinds' Precedents § 4138.

19. *Id.* at § 4130.

20. *Id.* at § 4136.

1. *Id.* at § 4132.

2. *Id.* at § 4135.

3. *Id.* at § 4140.

4. *Id.* at § 4141.

5. *Id.* at § 4133, and 7 Cannon's Precedents § 1854.

6. 4 Hinds' Precedents § 4135.

7. *Id.* at § 4141.

8. *Id.* at § 4146, and 7 Cannon's Precedents § 1857.

9. 4 Hinds' Precedents § 4142.

10. *Id.* at § 4139.

11. *Id.* at § 4130.

12. 7 Cannon's Precedents §§ 1725, 1851.

tain civilian employees of the Coast Guard,[13] authorizing construction of a geomagnetic station for the Department of Commerce,[14] authorizing construction of a saltwater marine-life research lab,[15] licensing commercial boat personnel,[16] promoting foreign commerce through use of mobile (seagoing) trade fairs,[17] and controlling the shipment overseas of gasoline and petroleum products from the United States.[18] The committee has also had jurisdiction over measures relating to marine resources of the Continental Shelf and the establishment of a Marine Exploration and Development Commission,[19] the importation and interstate shipment of endangered wildlife species,[20] and the use of radios on shipboard.[21]

In 1973, the Committee on Merchant Marine and Fisheries maintained five subcommittees, as follows:

1. Subcommittee on Coast Guard and Navigation;
2. Subcommittee on Fisheries and Wildlife Conservation and the Environment;
3. Subcommittee on Merchant Marine;
4. Subcommittee on Oceanography; and
5. Subcommittee on Panama Canal.

The Committee Reform Amendments of 1974 broadened the jurisdiction of the Committee on Merchant Marine and Fisheries over Coast and Geodetic Survey to include the entire subject of oceanography and marine affairs, including coastal zone management; the amendments also granted the committee jurisdiction over state maritime academies and international fishing agreements.

Canadian Registered Ship—Permitting Travel Between American Ports

§ 44.1 The Committee on Merchant Marine and Fisheries and not the Committee on Interstate and Foreign Commerce has jurisdiction of a joint resolution to permit travel by ship of Canadian registry between American ports.

13. § 44.3, infra.
14. § 44.8, infra.
15. § 44.7, infra.
16. § 44.9, infra.
17. § 44.12, infra.
18. § 44.14, infra.
19. § 44.10, infra.
20. § 44.21, infra.
21. § 44.18, infra. The committee's jurisdiction over this subject was with the consent of the Committee on Interstate and Foreign Commerce although the legislation in question called for amendment of the Communications Act of 1934.

On May 5, 1941,[22] Schuyler Otis Bland, of Virginia, Chairman of the Committee on Merchant Marine and Fisheries, obtained unanimous consent that the joint resolution (H.J. Res. 166), which was referred to the Committee on Interstate and Foreign Commerce, be rereferred to the Committee on Merchant Marine and Fisheries. In so doing Mr. Bland noted that both the author of the resolution and the Chairman of the Committee on Interstate and Foreign Commerce were in agreement with such action.[23]

Canal Zone Code and Postage Stamp Designs

§ 44.2 The Committee on Merchant Marine and Fisheries and not the Committee on Post Office and Civil Service has jurisdiction of a bill amending the Canal Zone Code to prescribe the design of postage stamps to be used in the Canal Zone postal service.

On July 2, 1963,[24] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 6081), and to have it rereferred to the Committee on Merchant Marine and Fisheries.

Civilian Employees of Coast Guard—Duties and Pay

§ 44.3 The Committee on Merchant Marine and Fisheries and not the Committee on Post Office and Civil Service has jurisdiction of a bill and an executive communication pertaining thereto, to regulate the hours of duty and the pay of civilian keepers of lighthouses and civilians employed on lightships and other vessels of the Coast Guard.

On Mar. 21, 1949,[25] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have the bill (H. R. 3294), and a letter from the Acting Secretary of the Treasury pertaining thereto (Exec. Comm. No. 289), rereferred from his committee to the Committee on Merchant Marine and Fisheries. In so

22. 87 Cong. Rec. 3596, 77th Cong. 1st Sess.

23. H.J. Res. 166 was reported by the Committee on Merchant Marine and Fisheries on June 6, 1941 (H. Rept. No. 744).

24. 109 Cong. Rec. 12120, 88th Cong. 1st Sess.

25. 95 Cong. Rec. 2868, 81st Cong. 1st Sess.

doing, Mr. Murray noted that he had made his request at the suggestion of the Chairman of the Committee on Merchant Marine and Fisheries.

Coast and Geodetic Survey Officers

§ 44.4 The Committee on Merchant Marine and Fisheries and not the Committee on Armed Services has jurisdiction of a bill to extend to commissioned officers of the Coast and Geodetic Survey the provisions of the Armed Forces Leave Act of 1946.

On Mar. 11, 1949,[26] Carl Vinson, of Georgia, Chairman of the Committee on Armed Services obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 2572), and to have it referred to the Committee on Merchant Marine and Fisheries.[27]

Fisheries Research—Aiding Fish Restoration and Management Projects

§ 44.5 The Committee on Merchant Marine and Fisheries and not the Committee on Ways and Means has jurisdiction of a bill to provide that the United States shall aid the states in fish restoration and management projects.

On Feb. 25, 1941,[28] by direction of the Committee on Ways and Means, Mr. Frank H. Buck, of California, obtained unanimous consent to have that committee discharged from further consideration of the bill (H.R. 3361), and to have it rereferred to the Committee on Merchant Marine and Fisheries.

Conveyance of Land Formerly Operated as Federal Fish Cultural Station

§ 44.6 The Committee on Merchant Marine and Fisheries and not the Committee on Public Lands (now the Committee on Interior and Insular Affairs), had jurisdiction of a bill to grant a certain parcel of land in St. Louis County, Minnesota (formerly operated as a federal fish cultural station), to the University of Minnesota.

On May 13, 1948,[29] Mr. Fred L. Crawford, of Michigan, ob-

26. 95 Cong. Rec. 2277, 81st Cong. 1st Sess.

27. H.R. 2572 was reported by the Committee on Merchant Marine and Fisheries on June 29, 1949 (H. Rept. No. 950).

28. 87 Cong. Rec. 1389, 77th Cong. 1st Sess.

29. 94 Cong. Rec. 5823, 80th Cong. 2d Sess.

tained unanimous consent that the bill (H.R. 6446), which was previously referred to the Committee on Public Lands (now the Committee on Interior and Insular Affairs), be rereferred to the Committee on Merchant Marine and Fisheries.In so doing, Mr. Aspinall noted that "It is the sense of the Committee on Interior and Insular Affairs that this bill properly comes within the scope and jurisdiction of the Committee on Merchant Marine and Fisheries."

Construction of Saltwater Marine-life Research Laboratory

§ 44.7 The Committee on Merchant Marine and Fisheries and not the Committee on Interior and Insular Affairs had jurisdiction in the 86th Congress of a bill to provide for construction of a saltwater marine-life research laboratory.

On Feb. 16, 1959,[1] Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, requested unanimous consent to have his committee discharged from further consideration of the bill (H.R. 4402), and to have it rereferred to the Committee on Merchant Marine and Fisheries. In so doing, Mr. Aspinall noted that "It is the sense of the Committee on Interior and Insular Affairs that this bill properly comes within the scope and jurisdiction of the Committee on Merchant Marine and Fisheries."

Immediately thereafter, the House granted unanimous consent.

Geomagnetic Station for Department of Commerce

§ 44.8 The Committee on Merchant Marine and Fisheries and not the Committee on Interstate and Foreign Commerce has jurisdiction of an executive communication transmitting a draft of a bill entitled "To authorize the construction and equipment of a geomagnetic station for the Department of Commerce."

On Sept. 13, 1950,[2] Mr. Lindley Beckworth, of Texas, obtained unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of a letter from the Acting Secretary of Commerce (Exec. Comm. No.

1. 105 Cong. Rec. 2382, 86th Cong. 1st Sess.

2. 96 Cong. Rec. 14746, 81st Cong. 2d Sess.

1652), and that the communication be referred to the Committee on Merchant Marine and Fisheries.

Licensing of Commercial Boat Personnel

§ 44.9 The Committee on Merchant Marine and Fisheries and not the Committee on Ways and Means has jurisdiction of a bill relating to the licensing of personnel on tug boats, towing boats, and freight boats [amending 46 USC § 405].

On Oct. 7, 1969,[3] Mr. James A. Burke, of Massachusetts, on behalf of the Chairman of the Committee on Ways and Means,[4] obtained unanimous consent to have that committee discharged from further consideration of the bill (H. R. 14186), and to have it rereferred to the Committee on Merchant Marine and Fisheries.

Parliamentarian's Note: There was no jurisdictional conflict with respect to H.R. 14186. The bill was inadvertently referred to the Committee on Ways and Means when it was introduced on Oct. 3, 1969.

3. 115 Cong. Rec. 28798, 91st Cong. 1st Sess.
4. Wilbur D. Mills (Ark.).

Marine Resources of the Continental Shelf; Marine Exploration and Development

§ 44.10 In the 89th Congress, the Committee on Merchant Marine and Fisheries and not the Committee on Interior and Insular Affairs had jurisdiction of a bill relating to marine resources of the Continental Shelf and establishment of a Marine Exploration and Development Commission.

On Mar. 15, 1965,[5] Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 6009), and to have it rereferred to the Committee on Merchant Marine and Fisheries.

On Mar. 17, 1965,[6] Mr. Aspinall similarly obtained unanimous consent to have an identical bill (H.R. 5884), rereferred from his committee to the Committee on Merchant Marine and Fisheries.

Parliamentarian's Note: Both bills were initially referred to the

5. 111 Cong. Rec. 5001, 89th Cong. 1st Sess.
6. 111 Cong. Rec. 5285, 89th Cong. 1st Sess.

Committee on Interior and Insular Affairs because they dealt with the development of the land mass beneath the sea. The rereferrals were at the instigation of the chairman, who declined jurisdiction.

Merchant Marine Act

§ 44.11 The Committee on Merchant Marine and Fisheries and not the Committee on Ways and Means has jurisdiction of a bill to amend title V of the Merchant Marine Act of 1936.

On Feb. 2, 1959,[7] Speaker Sam Rayburn, of Texas, recognized Wilbur D. Mills, of Arkansas, Chairman of the Committee on Ways and Means, who made the following statement:

> Mr. Speaker, on January 12, last, H.R. 2181, to amend title V of the Merchant Marine Act, 1936, as amended, to promote the maintenance of the American fishing fleet under competitive conditions and in the interest of sustained fish food supplies in case of emergency, and for other purposes, was referred to the Committee on Ways and Means. The bill proposes to amend an act that comes within the jurisdiction of the Committee on Merchant Marine and Fisheries.
>
> I ask unanimous consent, therefore, that the bill be referred to the Committee on Merchant Marine and Fisheries.

Immediately thereafter, unanimous consent was granted.

Mobile (Seagoing) Trade Fairs

§ 44.12 In the 87th Congress, the Committee on Merchant Marine and Fisheries and not the Committee on Interstate and Foreign Commerce had jurisdiction of a bill designed to promote foreign commerce abroad through use of mobile [seagoing] trade fairs.

On Aug. 27, 1962,[8] Oren Harris, of Arkansas, Chairman of the Committee on Interstate and Foreign Commerce, obtained unanimous consent to have his committee discharged from further consideration of the bill (S. 3389), and to have it rereferred to the Committee on Merchant Marine and Fisheries.

Parliamentarian's Note: While the text of the bill (S. 3389), did not disclose the fact, the trade fair contemplated by this bill would have involved U.S. naval or merchant vessels outfitted for this special purpose.[9]

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7. 105 Cong. Rec. 1606, 86th Cong. 1st Sess.

8. 108 Cong. Rec. 17706, 87th Cong. 2d Sess.

9. S. 3389 was reported by the Committee on Merchant Marine and

Private Bill Conveying Land to Utility Company

§ 44.13 In the 87th Congress, the Committee on Merchant Marine and Fisheries and not the Committee on Interior and Insular Affairs had jurisdiction of a private bill to provide for the conveyance of certain land under the control of the Bureau of Sport Fisheries to a utility company.

On Feb. 28, 1961,[10] Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, requested unanimous consent to have his committee discharged from further consideration of the private bill (H.R. 3840), and to have it re-referred to the Committee on Merchant Marine and Fisheries. In so doing, Mr. Aspinall noted:

> . . . It is the sense of the Committee on Interior and Insular Affairs that this bill properly comes within the scope and jurisdiction of the Committee on Merchant Marine and Fisheries.

Immediately thereafter, the House granted unanimous consent.

Parliamentanian's Note: The land to be conveyed was under the control of the Bureau of Sport Fisheries and Wildlife, and was used for conservation and wildlife refuge purposes.[11]

Petroleum Shipment Overseas

§ 44.14 The Committee on Merchant Marine and Fisheries and not the Committee on Armed Services has jurisdiction of a bill to control the shipment to foreign countries of gasoline and petroleum products from the United States.

On July 17, 1947,[12] Walter G. Andrews, of New York, Chairman of the Committee on Armed Services, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 4042), and to have it re-referred to the Committee on Merchant Marine and Fisheries.[13]

Fisheries on Sept. 21, 1962 (H. Rept. No. 2463).

10. 107 Cong. Rec. 2858, 87th Cong. 1st Sess.

11. H.R. 3840 was reported by the Committee on Merchant Marine and Fisheries on Aug. 23, 1961 (H. Rept. No. 1019).

12. 93 Cong. Rec. 9205, 80th Cong. 1st Sess.

13. H.R. 4042 was reported by the Committee on Merchant Marine and Fisheries on July 21, 1947 (H. Rept. No. 1018).

Retirement Benefits of Lighthouse Service Employees

§ 44.15 The Committee on Merchant Marine and Fisheries and not the Committee on Post Office and Civil Service has jurisdiction of a bill to provide benefits for the widows of certain persons who were retired or are eligible for retirement under section 6 of the act entitled "An act to authorize aids to navigation and for other works in the Lighthouse Service, and for other purposes" [approved June 20, 1918, as amended].

On Feb. 20, 1950,[14] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 7192), and to have it referred to the Committee on Merchant Marine and Fisheries.[15]

§ 44.16 The Committee on Merchant Marine and Fisheries and not the Committee on Post Office and Civil Service has jurisdiction of a bill to increase the retirement pay of certain employees of the former Lighthouse Service.

On Mar. 21, 1949,[16] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have the bill (H.R. 2986), rereferred from his committee to the Committee on Merchant Marine and Fisheries. In so doing, Mr. Murray noted that he had made his request at the suggestion of the Chairman of the Committee on Merchant Marine and Fisheries.

Retirement Pay of Members of Life Saving Service

§ 44.17 The Committee on Merchant Marine and Fisheries and not the Committee on Post Office and Civil Service has jurisdiction of a bill to amend the Act of Apr. 14, 1930, to provide increased retirement pay for certain members of the former life saving service.

On Feb. 5, 1947,[17] Mr. T. Millet Hand, of New Jersey, obtained

14. 96 CONG. REC. 1983, 81st Cong. 2d Sess.

15. H.R. 7192 was reported by the Committee on Merchant Marine and Fisheries on June 26, 1950 (H. Rept. No. 2328).

16. 95 CONG. REC. 2868, 81st Cong. 1st Sess.

17. 93 CONG. REC. 800, 80th Cong. 1st Sess.

unanimous consent that the bill (H.R. 70), which was originally referred to the Committee on Post Office and Civil Service, be rereferred to the Committee on Merchant Marine and Fisheries. In so doing, he noted that the chairmen of both committees had no objection to the rereference.

Shipboard Radios

§ 44.18 The Committee on Merchant Marine and Fisheries and not the Committee on Interstate and Foreign Commerce has jurisdiction of a bill relating entirely to the use of radios on shipboard.

On June 8, 1936,[18] Schuyler Otis Bland, of Virginia, Chairman of the Committee on Merchant Marine and Fisheries, requested unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of a bill (S. 4619), to amend the Communications Act of 1934, approved June 19, 1934, for the purpose of promoting safety of life and property through the use of wire and radio communications and for other purposes, and that the bill be referred to the Committee on Merchant Marine and Fisheries. In so doing, he noted that "This bill relates entirely to radios on shipboard, and for that reason the chairman of the Committee on Interstate and Foreign Commerce agrees that it should be referred to the Committee on Merchant Marine and Fisheries."

Immediately thereafter, the House granted unanimous consent.

Water Transportation; Rate Regulation on Inland Waterways

§ 44.19 The House having effected a transfer of jurisdiction by unanimous consent and by amendment of the rules, the Committee on Merchant Marine and Fisheries and not the Committee on Interstate and Foreign Commerce obtained jurisdiction over all water transportation except the regulation of rates on inland waterways.

On Feb. 26, 1935,[19] Sam Rayburn, of Texas, Chairman of the Committee on Interstate and Foreign Commerce, asked unanimous consent that a bill (H.R. 5379), to amend the Interstate Commerce Act, as amended, by providing for the regulation of the transpor-

18. 80 Cong. Rec. 9244, 74th Cong. 2d Sess.

19. 79 Cong. Rec. 2623, 74th Cong. 1st Sess.

tation of passengers and property by water carriers operating in interstate and foreign commerce, be rereferred from the committee he chaired to [what was then] the Committee on Merchant Marine, Radio, and Fisheries. He additionally asked unanimous consent that thereafter all bills relating to or affecting transportation by water carriers, regardless of the fact that they may amend an act which was originally considered by the Committee on Interstate and Foreign Commerce, be referred to the Committee on Merchant Marine, Radio, and Fisheries.

Under reservation of objection, several Members initiated a series of exchanges relating to the unanimous-consent request. In an effort to explain the situation, Mr. Frederick R. Lehlbach, of New Jersey, noted that:[20]

> This unanimous-consent request is to be immediately followed by the presentation of a rule coming from the Rules Committee which further deals with the subject matter of jurisdiction. It does not in any way bring about a conflict of jurisdiction. Insofar as cooperation and coordination with respect to rates of competing water, highway, and railroad carriers are concerned, that is with the Interstate Commerce Committee, but all shipping matters concerning vessels on the rivers and on the coast and in overseas transportation have always belonged to the Merchant Marine Committee.

At another juncture, the chairmen of the two committees involved were queried as follows:

> MR. [ROBERT F.] RICH [of Pennsylvania]: Reserving the right to object, I should like to ask the Chairman of the Interstate Commerce Committee if the regulation of rates will still be under the jurisdiction of his committee?
>
> MR. RAYBURN: Yes.
>
> MR. [FRANCIS D.] CULKIN [of New York]: Reserving the right to object, I should like to ask the distinguished Chairman of the Committee on Merchant Marine, Radio, and Fisheries, on which I happen to serve, if this resolution or proposition proposes that all maritime matters go to the Committee on Merchant Marine and Fisheries? Is that the understanding?
>
> MR. [SCHUYLER OTIS] BLAND [of Virginia]: Not as to inland waters.

Mr. Lehlbach then stated:

> The fact is at the present time inland navigation with respect to its physical aspect is now with the Merchant Marine and Fisheries Committee. Insofar as the rate structure is concerned relative to the various means of transportation in interstate commerce, particularly where it competes with railroads, that remains with the Interstate Commerce Committee, and there is no conflict at all.

Shortly thereafter, the House granted unanimous consent.

A few moments after that,[1] John J. O'Connor, of New York,

20. *Id.* at p. 2624.

1. *Id.* at p. 2627.

Chairman of the Committee on Rules, called up House Resolution 126, which had been previously alluded to by Mr. Lehlbach as he initially explained the unanimous-consent request. House Resolution 126 read as follows:

> *Resolved*, That the rules of the House of Representatives are amended in the following manner:
>
> "Rule X, clause 9. On the Merchant Marine and Fisheries, to consist of 21 Members.[2]
>
> "Rule XI, clause 7. To commerce—to the Committee on Interstate and Foreign Commerce.[3]
>
> "Rule XI, clause 9. To the merchant marine, including all transportation by water, Coast Guard, life-saving service, lighthouses, lightships, ocean derelicts, Coast and Geodetic Survey, Panama Canal, and fisheries—to the Committee on Merchant Marine and Fisheries."[4]

In the course of discussing the resolution, Mr. O'Connor noted that:

> . . . Both committees have agreed entirely to the resolution and the question of their respective jurisdiction. . . .
>
> . . . The Rules Committee came to the determination that you could not properly divide communications, and that radio, telegraph, telephone, and cable inevitably went together, and, the Interstate Commerce Committee having jurisdiction of most of those subjects and for a longer time than the Merchant Marine Committee had jurisdiction over radio, it was thought best and fairest to put radio in the Committee on Interstate and Foreign Commerce. On the other hand the Merchant Marine Committee reestablishes and reclaims its jurisdiction over the merchant marine and over many matters which were under the jurisdiction of the Interstate and Foreign Commerce Committee.

Discussion of the measure continued, after which the resolution was agreed to by voice vote.[5]

Wildlife Conservation Through Land-use Practices

§ 44.20 The Committee on Merchant Marine and Fisheries

2. The only change to be affected by this clause was to remove the word, "Radio" from the name of the Committee on Merchant Marine, Radio, and Fisheries, thus renaming the committee. See H. Jour. 875, 73d Cong. 2d Sess. (1934).

3. At the time, this clause provided that legislative subject matters relating "to commerce, life-saving service, and lighthouses, other than appropriations for life-saving service and lighthouses" were to be referred to the Committee on Interstate and Foreign Commerce; see H. Jour. 875, 73d Cong. 2d Sess. (1934).

4. At the time, this clause provided that legislative subject matters relating "to merchant marine, radio, and fisheries" were to be referred to the Committee on Merchant Marine, Radio, and Fisheries; see H. Jour. 875, 73d Cong. 2d Sess. (1934).

5. 79 Cong. Rec. 2631, 74th Cong. 1st Sess., Feb. 26, 1935.

and not the Committee on Agriculture has jurisdiction of a bill to provide expert assistance and to cooperate with federal, state, and other suitable agencies in promoting the conservation of wildlife by promoting sound land-use practices.

On May 21, 1947,[6] Mr. Raymond H. Burke, of Ohio, obtained unanimous consent to have the Committee on Agriculture discharged from further consideration of the bill (H.R. 2472), and to have it referred to the Committee on Merchant Marine and Fisheries.

Wildlife; Importing and Shipping Endangered Species

§ 44.21 The Committee on Merchant Marine and Fisheries and not the Committee on the Judiciary has jurisdiction of bills regulating the importation and interstate shipment of wildlife species threatened with extinction, even though such proposals include amendments to title 18, United States Code, "Crimes and Criminal Procedure".

On Apr. 27, 1967,[7] Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, obtained unanimous consent to have his committee discharged from further consideration of two bills (H.R. 6138, H.R. 8693), and to have them rereferred to the Committee on Merchant Marine and Fisheries.[8]

§ 45. Committee on Post Office and Civil Service

The Committee on Post Office and Civil Service was created Jan. 2, 1947, as part of the Legislative Reorganization Act of 1946,[9] and combined the former Committees on Post-Office and Post Roads (created in 1808),[10] the Civil Service (created in 1893 as the Committee on Reform in the Civil Service),[11] and the Census (created in 1901).[12] At the same time, jurisdiction over post-roads

6. 93 Cong. Rec. 5615, 80th Cong. 1st Sess.

7. 113 Cong. Rec. 11060, 90th Cong. 1st Sess.

8. Title 18 of the United States Code encompasses federal criminal law and criminal procedure. Accordingly, the Committee on the Judiciary normally deals with amendments thereto.

9. 60 Stat. 812.

10. 4 Hinds' Precedents § 4190.

11. *Id.* at § 4296.

12. *Id.* at § 4351.

was transferred to the Committee on Public Works, and the newly created committee was accorded jurisdiction over the National Archives (formerly within the jurisdiction of a Committee on the Library).

The jurisdiction of the Committee on Post Office and Civil Service pursuant to the 1973 rules[1] read as follows:

> (a) Census and the collection of statistics generally.
>
> (b) Federal Civil Service generally.
>
> (c) National Archives.
>
> (d) Postal-savings banks.
>
> (e) Postal service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service; but excluding post roads.
>
> (f) Status of officers and employees of the United States, including their compensation, classification, and retirement.

In addition to these topics, the committee also routinely considers federal employee-management relations, health benefits, life insurance, retirement, and veterans' preference legislation.

Moreover, as the precedents reveal, the committee and its predecessors have dealt with such subjects as amending the District of Columbia Code to increase the salaries of certain District of Columbia judges,[2] amending the Immigration Act [of Feb. 5, 1917], relative to salaries of various Immigration Service employees,[3] and authorizing the Secretary of Defense and the military departments to grant return rights of employment to certain career and career-conditional employees.[4]

Under the Committee Reform Amendments of 1974, the Committee on Post Office and Civil Service obtained jurisdiction over all federal civil service, including intergovernmental personnel, over the Hatch Act (political activity prohibitions on federal employees, formerly within the jurisdiction of the Committee on House Administration), over holidays and celebrations, and over population and demography.[5]

Advancing Civil Service Status—Private Bill

§ 45.1 The Committee on Post Office and Civil Service and not the Committee on the Ju-

1. Rule XI clause 15, *House Rules and Manual* § 711 (1973). See Rule X clause 1(o), *House Rules and Manual* § 684 (1979).

2. § 45.2, infra.

3. § 45.6, infra.

4. § 45.8, infra.

5. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

diciary had jurisdiction of a private bill providing for an advancement in status in the civil service, particularly the Post Office Department.

On Aug. 15, 1950,[6] Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, obtained unanimous consent to have his committee discharged from further consideration of the bill (S. 2927), and to have it rereferred to the Committee on Post Office and Civil Service.

District of Columbia Judges' Salaries

§ 45.2 The Committee on Post Office and Civil Service, and not the Committee on the District of Columbia, considered a bill amending the District of Columbia Code to increase the salaries of certain District of Columbia judges whose salary adjustments had been omitted from the Federal Salary Act of 1968, which adjusted the pay of judicial, executive, and legislative officials of the government.

On Dec. 11, 1969,[7] Thaddeus J. Dulski, of New York, Chairman of the Committee on Post Office and Civil Service obtained unanimous consent to have the Committee on the District of Columbia discharged from further consideration of the bill (S. 3180), and to have it rereferred to his committee. In so doing, Mr. Dulski noted that the Committee on Post Office and Civil Service had received a letter from Chairman John L. McMillan, of South Carolina, of the Committee on the District of Columbia stating that he was in accord with the request.

Parliamentarian's Note: Certain judges in the District of Columbia had been inadvertently omitted at the time the omnibus legislation was passed by the two Houses. The Chairman of the Committee on the District of Columbia agreed to this rereference since the subject matter had previously been considered in the Committee on Post Office and Civil Service and was part of the comprehensive legislative scheme reported by that committee in 1968, notwithstanding the fact that it amended the District of Columbia Code.

Educational Agency—Establishing Supergrades

§ 45.3 The Committee on Post Office and Civil Service and not the Committee on Education and Labor was held to

6. 96 CONG. REC. 12522, 81st Cong. 2d Sess.
7. 115 CONG. REC. 38543, 91st Cong. 1st Sess.

have jurisdiction under the rules of proposals establishing the position of Deputy Commissioner of a Bureau of Occupational Education at GS–18 and prescribing the number of supergrade positions which must be assigned thereto.

On Nov. 4, 1971,[8] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 7248), to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education. In the course or the bill's consideration, a jurisdictional point of order was raised with respect to title XVI of a proposed committee[9] amendment in the nature of a substitute.

Title XVI,[10] among other things, provided for the establishment of a Bureau of Occupational Education within the U.S. Office of Education. Pursuant to section 1612 (b) of the title, this Bureau was to be staffed in the following manner:

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner, and who is compensated at the rate specified for GS–18 of the General Schedule (5 U.S.C. 5332).

(2) Additional positions shall be assigned to the Bureau as follows—

(A) not less than three positions compensated at the rate specified for GS–17 of the General Schedule (5 U.S.C. 5332), one of which shall be filled by a person with broad experience in the field of community and junior college education;

(B) not less than seven positions compensated at the rate specified for GS–16 of the General Schedule (5 U.S.C. 5332), at least two of which shall be filled by persons with broad experience in the field of postsecondary occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling; and

(C) not less than three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

Immediately after it was agreed by unanimous consent that title XVI be considered as open to

8. 117 CONG. REC. 39248, 92d Cong. 1st Sess.

9. Committee on Education and Labor.

10. 117 CONG. REC. 39281–84, 92d Cong. 1st Sess.

amendment, Chairman pro tempore Edward P. Boland, of Massachusetts, recognized Mr. David N. Henderson, of North Carolina, a member of the Committee on Post Office and Civil Service. The following exchange took place:[11]

MR. HENDERSON: Mr. Chairman, I raise a point of order against section 1612 of title XVI.

THE CHAIRMAN PRO TEMPORE: The Chair will hear the gentleman on his point of order.

MR. HENDERSON: Mr. Chairman, section 1612 establishes a Bureau of Occupational Education. Subsection (b) of section 1612 provides that the Deputy Commissioner of the Bureau shall be compensated at the rate specified for GS–18, and that the Bureau may assign not less than three positions at the rate specified for GS–17, not less than seven positions at the rate for GS–16, and not less than three senior advisers, one of whom shall be skilled in a recognized occupation, another in a branch of engineering, and a third in a branch of social or medical services.

All of these matters relate to the classification and the fixing of rates of compensation for Federal employees, and are matters that relate specifically to the Federal civil service.

Under clause 15 of rule XI of the Rules of the House of Representatives, matters relating to the Federal civil service are matters within the jurisdiction of the Committee on Post Office and Civil Service.[12]

Mr. Chairman, in view of the lateness of the hour and the situation as it now exists, I should point out that Chairman Dulski of the Committee on Post Office and Civil Service in September wrote to the chairman of the Committee on Education and Labor and pointed out these matters that we now make a point of order against as contained in section 1612.

Mr. Chairman, I urge that my point of order against section 1612 be sustained on the basis that it includes matter that is clearly within the jurisdictions of the Committee on Post Office and Civil Service.

At the conclusion of Mr. Henderson's remarks, the Chair recognized Mr. Roman C. Pucinski, of Illinois, who opposed the point of order:

Mr. Chairman, I rise in opposition to the point of order. The provisions in question in title XVI, the Occupational Education Act, create a Bureau of Occupational Education and specify that 11 positions with specific responsibilities be included in that Bureau. Mr. Chairman, these provisions in no way impinge upon the jurisdiction of the Post Office and Civil Service Committee.

These provisions do not amend the Civil Service Act nor do they create

11. *Id.* at p. 39284.

12. Pursuant to the rule [Rule XI clause 15, *House Rules and Manual* § 711 (1973)], the Committee on Post Office and Civil Service exercises jurisdiction over the following subjects, among others: "(b) Federal Civil Service generally. . . . (f) Status of officers and employees of the United States, including their compensation, classification, and retirement."

any exemptions from that act. They simply specify that in the 11 positions created persons must be compensated at rates specified for supergrades. These provisions in no way require that these supergrades must be new supergrades, rather they can be positions which are presently assigned to the Office of Education by Congress. If the Office does not want to reassign these supergrades within the Office to this new Bureau, it will have to come before the Post Office and Civil Service Committee to request additional supergrades; and the decision on whether to give the office any new supergrades will be the decision of the Post Office and Civil Service Committee.

Therefore, Mr. Chairman, I would urge you to overrule the point of order.

Mr. Chairman, the last point I should like to make is that these provisions are in H.R. 7429, the Occupational Education Act, as it was referred to the Committee on Education and Labor.

The important thing is that we are not creating new positions. We are not asking the Civil Service Commission or the committee to approve these positions because these are positions already approved by the committee in previous allocations of supergrades to the Department. All we are saying is that the Commissioner shall reassign existing supergrades in his Department to this new Department for the new duties spelled out in the Act.

Therefore, I see no conflict between the jurisdictions of the committees, and I hope that the point of order will be overruled.

At this juncture, the Chair recognized Mr. Albert H. Quie, of Minnesota, who made the following observations:

It is true that section 1612 establishes by law a Bureau of Occupational Education within the U.S. Office of Education and requires that certain supergrade positions be assigned to that Bureau and that the persons who fill them have certain qualifications of a general nature, such as "highly qualified in the fields of vocational, technical, and occupational education" and "broad experience in the field of community and junior college education."

Now I want to make three points about these provisions:

First. They do not affect the Federal civil service generally or in any way at all; they do not amend, modify, or affect either directly or indirectly any act relating to the Federal civil service. At most, the provisions of this section say that from the supergrade resources available or made available to the Department, the new Bureau will have the specified number. Incidentally, in the opinion of everyone on our committee who worked on the occupational education title, these provisions were absolutely necessary to assure that the purposes of the Occupational Education Act were realized.

Second. While the provisions of this section mandate the assignment of certain supergrade positions to the new Bureau, they do not alter in any way any provision of law or civil service regulations relating to the compensation or classification of such positions, and of course they in no way affect the civil service retirement system.

Third. Finally—and I think this is the critical concern to the members of

the Committee on Post Office and Civil Service—these provisions are not intended to have the effect of adding to the quota of supergrade positions established under title 5, United States Code, section 5108. Fixing the number of such positions is clearly a matter for the Committee on Post Office and Civil Service and these provisions do not interfere with that. The supergrade positions specified in section 1612 would have to come out of the quota established by the Committee on Post Office and Civil Service under section 5108 of title 5 of the United States Code.

Accordingly, I do not believe the point of order will lie against section 1612.

Announcing he was ready to rule, the Chairman stated:[13]

The gentleman from North Carolina (Mr. Henderson) has raised a point of order against section 1612, beginning on page 235, line 18, through page 237, line 8, on the ground that the subject matter of subsection (b) of that section is within the jurisdiction of the Committee on Post Office and Civil Service and not the Committee on Education and Labor.

Section 1612(a) establishes in the Office of Education a Bureau of Occupational Education, which is to serve as the principal agency for the administration of various occupational, vocational, and manpower education and training programs. Section 1612(b) establishes the position of Deputy Commissioner at GS–18 to head the Bureau, and also prescribes the number of supergrade positions which must be assigned to the Bureau.

Clause 15(f), rule XI confers upon the Committee on Post Office and Civil Service jurisdiction over the status of officers and employees of the United States, including their compensation, classification, and retirement. Section 1612(b) of the committee substitute, if considered separately, is a subject properly within the jurisdiction of the Committee on Post Office and Civil Service.[14] Under the precedents of the House, if a point of order is sustained against a portion of a pending section or paragraph, the entire section or paragraph may be ruled out of order.

Accordingly, the Chair sustains the point of order against section 1612, and the language in that section is stricken from the committee amendment.

Certain Educational Agencies—Waiver of Civil Service Laws Regarding Employment

§ 45.4 The Committee on Post Office and Civil Service and

13. 117 Cong. Rec. 39285, 92d Cong. 1st Sess.

14. It should be noted that H. Res. 661, agreed to on Oct. 27, 1971 [117 Cong. Rec. 37769, 92d Cong. 1st Sess.] prescribed the special rule by which H.R. 7248 was to be considered. This resolution provided, among other things [*id.* at p. 37765] that "all titles, parts, or sections of the [amendment in the nature of a] substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248."

not the Committee on Education and Labor was held to have jurisdiction under the rules of proposals which would: (1) authorize the Secretary of Health, Education, and Welfare to (a) fix entrance level rates of compensation up to two grades higher than prescribed under the General Schedule for officers and employees of a National Institute of Education; (b) appoint up to one-third of the regular, technical, or professional employees of the institute without regard to civil service laws; (c) fix rates of compensation up to GS–18 level for members of a National Advisory Council on Educational Research and Development; and (2) permit the National Advisory Council on Educational Research and Development to employ personnel and fix rates of compensation without regard to civil service laws.

On Nov. 4, 1971,[15] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 7248), to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education. In the course of that consideration a jurisdictional question arose over title XIV of a proposed committee[16] amendment in the nature of a substitute.

Title XIV[17] provided for the establishment of a National Institute of Education within the Department of Health, Education, and Welfare, as well as a National Advisory Council on Educational Research and Development. The jurisdictional conflict pertained to those sections within the title which provided for the staffing of these organizations.

The staffing of the institute was detailed in section 1405 which read as follows:

> Sec. 1405. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out purposes of this title. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code, except that (1) to the extent that the Secretary deems such action necessary to recruit men and women of exceptional talent he may establish the entrance grade for personnel at a level up to two grades higher than the grade level provided for by such personnel under the General Schedule established by such title, and fix their compensation accordingly, and (2) to the

15. 117 CONG. REC. 39248, 92d Cong. 1st Sess.

16. Committee on Education and Labor.

17. 117 CONG. REC. 32971, 92d Cong. 1st Sess.

extent the Secretary deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to the civil service or classification laws; Provided, That personnel appointed under this clause do not exceed at any one time one-third of the number of full-time, regular technical or professional employees of the Institute.

The staffing of the council was provided for in section 1406, pertinent sections of which are excerpted below:

Sec. 1406(a). The President shall appoint a National Advisory Council on Educational Research and Development. . . .

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. . . . One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio. . . .

(e) The Council is authorized without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, to employ and fix the compensation of such personnel as may be necessary to carry out its functions.

Immediately after it was agreed by unanimous consent[18] that title XIV be considered as open to amendment, Chairman pro tempore Richard Bolling, of Massachusetts, recognized Mr. H.R. Gross, of Iowa, a member of the Committee on Post Office and Civil Service, who raised the following point of order:

Mr. Chairman, I make a point of order against title XIV inasmuch as it invades the jurisdiction of the House Post Office and Civil Service Committee.

Mr. Chairman, this title, on pages 220 and 222 and 223, includes authorizations for the Secretary of Health, Education, and Welfare to recruit men and women of certain talent, and establishes entrance grades for personnel at levels up to two grades higher than the grade levels provided for under the

18. *Id.* at p. 39272.

general schedule, and authorizes the Secretary to appoint personnel of the National Institute of Education without regard to the Civil Service or classification laws.

The language in title XIV also authorized the President to appoint a National Advisory Council on Education, Research and Development, and it authorizes the Council to employ and fix the compensation of such personnel as may be necessary to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to the classification of positions and the General Schedule rates of pay.

Clause 15 of rule XI [19] of the Rules of the House of Representatives provides that the Committee on Post Office and Civil Service shall have jurisdiction over all matters relating to the Federal civil service.

The civil service laws, the classification laws, and the laws relating to the General Schedule all pertain to title 5, United States Code, and are clearly under the jurisdiction of the Committee on Post Office and Civil Service.

Therefore, Mr. Chairman, my point of order against title XIV is based on the fact that it contains matters that are clearly and wholly within the jurisdiction of the House Committee on Post Office and Civil Service. There can be no claim or pretense on the part of the House Committee on Education and Labor to jurisdiction in these matters.

Mr. Chairman, I insist that my point of order be sustained.

The Chair then recognized Mr. John Brademas, of Indiana, who, as a member of the Committee on Education and Labor, which drafted the substitute for H.R. 7248, responded, as follows:

First, Mr. Chairman, I oppose the point of order made by the gentleman from Iowa on the basis that the scope of his point of order is much too broad. The intent of the rule adopted for consideration of the bill now under consideration is to provide that any "titles, parts, or sections" of the bill would be subject to a point of order where the subject matter jurisdiction was in question. In this case, Mr Chairman, the personnel exemptions to the civil service laws are the only matters in question with respect to jurisdiction.

I contend, therefore, that the question of the point of order should be directed to those provisions with respect to which there is a question of jurisdiction, and not to the entire title.

Second, Mr. Chairman, with regard to the jurisdiction question, legislation to establish a National Institute of Education was introduced in the House during the 91st, and again during the 92d Congresses. In each instance the bills were referred to the Committee on Education and Labor. Extensive hear-

19. Rule XI clause 15, *House Rules and Manual* § 711 (1973) lists the following subjects, among others, as being within the jurisdiction of the Committee on Post Office and Civil Service: " (b) Federal Civil Service generally. . . . (f) Status of officers and employees of the United States, including their compensation, classification, and retirement."

ings were held over a period of 2 years, and at no time was the jurisdictional question raised. I suggest, therefore, Mr. Chairman, that this bill is clearly within the jurisdiction of the Committee on Education and Labor, and germane to the bill before this Chamber.

Third, Mr. Chairman, the specific provisions of concern to which the gentleman from Iowa makes reference have been a part of this legislation since the date of its introduction to the House 2 years ago. The only change made by the Committee on Education and Labor was to limit the number of exemptions from the civil service laws.

Therefore, Mr. Chairman, I hope that the point of order is overruled.

Immediately thereafter, the Chairman announced that he was ready to rule and explained his reasoning and conclusion:

The gentleman from Iowa makes a point of order against title XIV. The Chair has examined the title, and has found that the language in section 1405, and in section 1406 invades the jurisdiction of the Committee on Post Office and Civil Service.

Under provisions of House Resolution 661[20] under which the Committee of the Whole is considering this bill, it is provided that all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives shall be subject to a point of order.

The gentleman from Iowa has directed his point of order, not just to the sections on pages 220 through 223, but to the whole title.

Under the rule, the point of order in this case must be sustained against the whole title, and the entire title is thus stricken.[1]

FBI Reemployment of Civil Service Retirees

§ 45.5 The Committee on Civil Service (now the Committee on Post Office and Civil Service), and not the Committee on Naval Affairs (now the Committee on Armed Services), had jurisdiction of a

20. H. Res. 661, agreed to on Oct. 27, 1971 [117 CONG. REC. 37769, 92d Cong. 1st Sess.], prescribed the special rule by which H.R. 7248 was to be considered, and provided, among other things [*id*. at p. 37765], that "all titles, parts or sections of the [amendment in the nature of a] substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248."

1. See also 117 CONG. REC. 39286, 39287, 92d Cong. 1st Sess., Nov. 4, 1971, where another proposed title of H.R. 7248, which called for the establishment of an advisory council (the Council on Higher Education Relief Assistance), to be staffed without regard to civil service laws, was similarly objected to, and struck from the bill.

bill to permit the reemployment by the Federal Bureau of Investigation of persons retired under the Civil Service Retirement Act.

On Apr. 25, 1941,[2] Carl Vinson, of Georgia, Chairman of the Committee on Naval Affairs (now the Committee on Armed Services), obtained unanimous consent to have his committee discharged from further consideration of the bill (S. 881), and to have it referred to the Committee on Civil Service (now the Committee on Post Office and Civil Service).[3]

Immigration Service Salaries

§ 45.6 The Committee on Civil Service (now the Committee on Post Office and Civil Service), and not the Committee on Immigration and Naturalization (now the Committee on the Judiciary), had jurisdiction of a bill to amend section 24 of the Immigration Act of Feb. 5, 1917, relative to salaries of various employees of the Immigration Service.

On May 8, 1946,[4] Mr. John Lesinski, of Michigan, obtained unanimous consent that the Committee on Immigration and Naturalization (now the Committee on the Judiciary), be discharged from further consideration of the bill (H.R. 2988), and that it be referred to the Committee on Civil Service (now the Committee on Post Office and Civil Service).

Military Disabled Retirees—Ceiling on Military and Civilian Remuneration to the Federally Employed

§ 45.7 The Committee on Post Office and Civil Service and not the Committee on Armed Services has jurisdiction of a bill to provide that certain officers of the uniformed services who have been retired for disability incurred in line of duty, and who hold civilian office or employment with the United States, may receive retired pay and civilian pay totaling $6,000.

On Jan. 13, 1955,[5] Carl Vinson, of Georgia, Chairman of the Committee on Armed Services, obtained unanimous consent to

2. 87 Cong. Rec. 3329, 77th Cong. 1st Sess.
3. S. 881 was reported by the Committee on Civil Service on July 14, 1941 (H. Rept. No. 944).
4. 92 Cong. Rec. 4676, 79th Cong. 2d Sess.
5. 101 Cong. Rec. 279, 84th Cong. 1st Sess.

rerefer the bill (H.R. 487), from his committee to the Committee on Post Office and Civil Service.

Authorizing Military to Grant Employee Return Rights

§ 45.8 The Committee on Post Office and Civil Service and not the Committee on Armed Services has jurisdiction of proposed legislation to authorize the Secretary of Defense and the secretaries of the military departments to grant return rights of employment to career and career-conditional employees in the civil service who accept temporary overseas assignments with the defense establishment.

On Feb. 26, 1959,[6] Carl Vinson, of Georgia, Chairman of the Committee on Armed Services, obtained unanimous consent to have an executive communication (Exec. Comm. No. 553), containing the legislative proposals described above rereferred from his committee to the Committee on Post Office and Civil Service.

6. 105 CONG. REC. 3042, 86th Cong. 1st Sess.

§ 46. Committee on Public Works

The Committee on Public Works was created on Jan. 2, 1947, as part of the Legislative Reorganization Act of 1946,[7] and combined the Committees on Flood Control (created in 1916),[8] Public Buildings and Grounds (created in 1837),[9] Rivers and Harbors (created in 1883),[10] and Roads (created in 1913).[11]

In 1973, the jurisdiction of the Committee on Public Works read as follows:[12]

> (a) Flood control and improvement of rivers and harbors.
>
> (b) Measures relating to the Capitol Building and the Senate and House Office Buildings.
>
> (c) Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.

7. 60 Stat. 812.
8. 7 Cannon's Precedents § 2069.
9. 4 Hinds' Precedents § 4231.
10. *Id.* at § 4118.
11. 7 Cannon's Precedents § 2065.
12. Rule XI clause 16, *House Rules and Manual* § 713 (1973). See Rule X clause 1(p), *House Rules and Manual* § 685 (1979).

(d) Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institute.

(e) Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.

(f) Oil and other pollution of navigable waters.

(g) Public buildings and occupied or improved grounds of the United States generally.

(h) Public reservations and parks within the District of Columbia, including Rock Creek Park and the Zoological Park.

(i) Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).

(j) Water power.

Among the other subjects upon which the committee has reported on over the years[13] are disaster relief, regional development, and relocation assistance.

As the precedents reveal, the jurisdiction of the committee and its predecessors has also extended to such matters as converting toll bridges to free bridges,[14] enabling the Secretary of Agriculture to build national forest roads and trails,[15] providing economic development programs in conjunction with a state centennial observance,[16] providing facilities for educational institutions,[17] transferring the U.S. interest in educational and recreational facilities to the states,[1] providing school facilities for dependents of workmen on water projects,[2] establishing the jurisdiction of the Federal Works Administrator over certain school buildings,[3] authorizing the conveyance of certain Army lands,[4] creating a Division of Stream Pollution Control in the Bureau of the Public Health Service,[5] and establishing a revolving fund in the Treasury for certain regional power administrations.[6]

In 1973, the Committee on Public Works maintained six subcommittees of which five were legislative and one investigative, as follows:

LEGISLATIVE SUBCOMMITTEES

(1) Subcommittee on Economic Development;

13. Terrence T. Finn, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 124.

14. § 46.6, infra.

15. § 46.16, infra.

16. § 46.8, infra.

17. §§ 46.9, 46.10, infra.

1. § 46.11, infra.

2. § 46.18, infra.

3. § 46.12, infra.

4. §§ 46.1–46.4, 46.7, infra.

5. § 46.22, infra.

6. § 46.21, infra.

(2) Subcommittee on Energy;

(3) Subcommittee on Public Buildings and Grounds;

(4) Subcommittee on Transportation; and

(5) Subcommittee on Water Resources.

OVERSIGHT SUBCOMMITTEE

(6) Subcommittee on Investigations and Review.

In the exercise of its oversight jurisdiction, the committee relies on its Subcommittee on Investigations and Review. Among the executive agencies the committee oversees completely or in part are the Corps of Engineers, the Environmental Protection Agency, the Federal Highway Administration, the General Services Administration, the National Highway Traffic Safety Administration, and the various regional economic commissions (for example, the Coastal Plains Regional Commission).

During the 92d Congress, the Subcommittee on Investigations and Review studied such matters[7] as highway safety, the impact of the postal building program on federal agencies, closure of the Fort Worth clinical research center, the federal water pollution program, disaster relief, safety and security in public buildings, and (in conjunction with the Subcommittee on Energy) the energy crisis.

Under the Committee Reform Amendments of 1974, the Committee on Public Works and Transportation lost jurisdiction over parks in the District of Columbia to the Committee on Interior and Insular Affairs, but obtained jurisdiction over: transportation, including civil aviation, but excluding railroads, which remain within the jurisdiction of the Committee on Interstate and Foreign Commerce; roads and the safety thereof; water transportation subject to the jurisdiction of the Interstate Commerce Commission; and related transportation regulatory agencies with the exception of those relating to railroads.

Army Lands—Conveyance to State and Local Governments

§ 46.1 The Committee on Public Works and not the Committee on Armed Services has jurisdiction of a bill authorizing the Secretary of the Army to sell certain lands within a Corps of Engineers water project to the State of Oklahoma.

7. Terrence T. Finn, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 126.

On Apr. 21, 1953,[8] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized George A. Dondero, of Michigan, Chairman of the Committee on Public Works, who proceeded to make the following statement:

> Mr. Speaker, the bill H.R. 4505 was referred to the Committee on Armed Services. The bill has to do with the sale of certain land in the State of Oklahoma. I received a letter this morning from the Honorable Dewey Short, chairman of the committee, to the effect that either he would ask unanimous consent that the Committee on Armed Services be discharged from the consideration of the bill and to have the bill referred to the Committee on Public Works or that I should do so. I now make that request.

Immediately thereafter, the House granted his request by unanimous consent.[9]

§ 46.2 The Committee on Public Works and not the Committee on Armed Services has jurisdiction of a bill authorizing the Secretary of the Army to convey certain land acquired as part of a river and harbor improvement project to the Brownsville Navigation District of Cameron County, Texas.

On July 23, 1954,[10] Mr. Leslie C. Arends, of Illinois, obtained unanimous consent to have the bill (H.R. 9913), referred from the Committee on Armed Services to the Committee on Public Works.

§ 46.3 The Committee on Public Works and not the Committee on Armed Services has jurisdiction of a bill authorizing the Secretary of the Army to convey certain lands in San Diego, California held in connection with a flood control project to the city of San Diego.

On May 21, 1953,[1] George A. Dondero, of Michigan, Chairman of the Committee on Public Works, obtained unanimous consent to have the Committee on Armed Services discharged from further consideration of the bill (H.R. 1613), and to have it re-referred to his committee. In so doing, he noted that he had received a letter from the Chairman of the Committee on Armed Services, Dewey Short, of Missouri, in which the original referral of the bill was brought to his attention.

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8. 99 Cong. Rec. 3486, 83d Cong. 1st Sess.

9. H.R. 4505 was reported by the Committee on Public Works on May 21, 1953 (H. Rept. No. 446).

10. 100 Cong. Rec. 11757, 83d Cong. 2d Sess.

1. 99 Cong. Rec. 5322, 83d Cong. 1st Sess.

Army Land Conueyance—Flood Control Project

§ 46.4 In the 89th Congress, the Committee on Public Works and not the Committee on Armed Services had jurisdiction of a bill authorizing the Secretary of the Army to convey to a third party, lands acquired by the government as part of a Corps of Engineers public works-flood control project.

On July 15, 1965,[2] Speaker John W. McCormack, of Massachusetts, recognized Mr. Robert A. Everett, of Tennessee, who made the following request:

> Mr. Speaker, on January 4, 1965, H.R. 1296 was referred through error to the Committee on Armed Services. We have cleared this with the chairman of that committee, and as a member of the Committee on Public Works, I ask unanimous consent that this bill be rereferred to the Committee on Public Works.

Immediately thereafter, the House granted unanimous consent.

Bridge Alteration; Toll Bridges

§ 46.5 The Committee on Public Works and not the Committee on Interstate and Foreign Commerce has jurisdiction of a bill to amend the act of June 21, 1940, relating to the alteration of certain bridges over navigable waters, so as to include highway bridges, and for other purposes.

On June 6, 1951,[3] Mr. Lindley Beckworth, of Texas, obtained unanimous consent to have the Committee on Interstate and Foreign Commerce discharged from further consideration of the bill (H.R. 3464), and to have it referred to the Committee on Public Works.

§ 46.6 The Committee on Roads (now the Committee on Public Works), and not the Committee on Interstate and Foreign Commerce had jurisdiction of a bill to aid several states in making certain toll bridges free bridges, to authorize an appropriation for such purpose, and to make such appropriation available for matching funds apportioned under the Federal Highway Act.

On May 18, 1936,[4] Sam Rayburn, of Texas, (chairman of the

2. 111 CONG. REC. 17002, 89th Cong. 1st Sess.

3. 97 CONG. REC. 6181, 82d Cong. 1st Sess.

4. 80 CONG. REC. 7444, 74th Cong. 2d Sess.

Committee on Interstate and Foreign Commerce, obtained unanimous consent that the bill (H.R. 12722), be rereferred from his committee to the Committee on Roads (now the Committee on Public Works).

Authorizing Defense Homes Corporation to Convey District of Columbia Land

§ 46.7 The Committee on Public Works and not the Committee on Banking and Currency had jurisdiction of a bill to authorize the Defense Homes Corporation to convey certain lands in the District of Columbia to Howard University.

On Mar. 9, 1948,[5] Jesse P. Wolcott, of Michigan, Chairman of the Committee on Banking and Currency, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 5509), and to have it rereferred to the Committee on Public Works.

Parliamentarian's Note: This bill authorized the Reconstruction Finance Corporation [RFC], to discharge the indebtedness of the Defense Homes Corporation to the RFC, and the Secretary of the Treasury to discharge the indebtedness of the RFC to the Treasury.[6]

Economic Development Programs in Conjunction With State Centennial Observances

§ 46.8 Under the rules of the 89th Congress a bill providing for federal economic assistance and economic development programs as part of a state centennial observance was within the jurisdiction of the Committee on Public Works and not the Committee on the Judiciary. (This was an instance in which the Speaker took the floor in debate to explain his referral of the bill.)

On Mar. 2, 1966,[7] the House resolved itself into the Committee of the Whole for the consideration of the bill (H.R. 9963). In the course of the debate which ensued, Chairman Charles A. Vanik, of Ohio, recognized Mr. James C. Cleveland, of New Hampshire, who noted that:[8]

> This bill, to promote the economic development of the State of Alaska, by

5. 94 Cong. Rec. 2414, 80th Cong. 2d Sess.

6. H.R. 5509 was reported by the Committee on Public Works on May 11, 1948 (H. Rept. No. 1931).

7. 112 Cong. Rec. 4571, 89th Cong. 2d Sess.

8. *Id.* at pp. 4572, 4573.

providing for the U.S. participation in the statewide exposition to be held in Alaska next year, provides for an authorization for appropriations from the Federal Treasury of $5,600,000. It is disturbing to me that the bill is being sponsored to provide for a centennial celebration of Alaska when even in the purposes of the bill it is clearly stated that the money is for projects that will contribute to the economy of Alaska.

It is quite obvious that the money will be expended on industrial, agricultural, educational, research, or commercial projects or facilities which will endure in their use far beyond the life of the centennial celebration. . . .

Last fall, when the legislation was reported, many of us in the minority were unaware of the fact that the Committee on the Judiciary, which committee has jurisdiction over holidays and celebrations, had before it some 250 bills relative to holidays, celebrations, centennials, and the like. These bills encompass over five score separate proposals. Many of them provide for the expenditure of Federal funds. The Committee on Public works, which handled this legislation, does not have jurisdiction of holidays and celebrations. However, the bill was referred to the committee when it was introduced last summer.

The Chairman later recognized Mr. John W. McCormack, of Massachusetts, who explained the manner in which the bill was referred to the Committee on Public Works: (9)

Mr. Chairman, in view of the remarks made by the gentleman from New Hampshire [Mr. Cleveland] about the reference of this bill, and overhearing them and confining myself to that aspect of his remarks, I simply want to advise the Members of the House that in my judgment as the Speaker, this bill was properly referred to the Committee on Public Works.

In the original bill, the bill calls for the participation in the 1967 exposition, jointly with the State of Alaska through economic development projects such as industrial, agricultural, educational, research, or commercial facilities, and so forth.

Mr. Chairman, I thoroughly respect the views of my friend, the gentleman from New Hampshire [Mr. Cleveland], but I cannot be on the floor and listen to one challenge the reference of a bill that I made. I realize that I might make mistakes occasionally, but I will always make the reference of a bill that the rules call for. In my clear judgment this bill was properly referred to the Committee on Public Works.

Parliamentarian's Note: As the excerpts quoted above reveal, there was some concern as to how this bill was referred. As introduced the bill was primarily an economic development measure, contemplating public works to stimulate tourism and commercial development. In this form, the bill was primarily within the jurisdiction of the Committee on Public Works. As reported, however, the primary emphasis of the bill was federal recognition of and participation in the centennial celebra-

9. *Id.* at pp. 4579, 4580.

tion of the Alaska Purchase. Economic development was a secondary purpose. In this form, the bill was similar to centennial bills that are normally, under the precedents, referred to the Committee on the Judiciary. (The rule under which the bill was considered, H. Res. 741, 89th Cong. 2d Sess., H. Jour. 290, provided that it would be in order to consider the substitute amendment recommended by the Committee on Public Works, such substitute for the purpose of amendment to be considered under the five-minute rule as an original bill.)

Federal Educational and Recreational Facilities Under Lanham Public War Housing Act

§ 46.9 The Committee on Public Works and not the Committee on Banking and Currency has jurisdiction of a bill to provide that schools constructed under the act entitled "An act to expedite the provision of housing in connection with national defense, and for other purposes," approved Oct. 14, 1940, as amended, may be donated to local school agencies.

On Mar. 12, 1947,[10] Jesse P. Wolcott, of Michigan, Chairman of the Committee on Banking and Currency, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 2190), and to have it rereferred to the Committee on Public Works.

Parliamentarian's Note: The Committee on Public Buildings and Grounds—later to be incorporated into the Committee on Public Works—reported[11] what was popularly known as the "Lanham Public War Housing Act," the act of Oct. 14, 1940 (Pub. L. No. 76–849). The legislation was designed to provide federal housing facilities for persons engaged in national defense activities and for their families in areas where an acute shortage of housing existed.

§ 46.10 The Committee on Public Works and not the Committee on Banking and Currency has jurisdiction of bills to amend the Act of Oct. 14, 1940, as amended (1) relative to additional facilities for educational institutions; and (2) to permit the making of

10. 93 Cong. Rec. 1981, 1982, 80th Cong. 1st Sess.

11. 86 Cong. Rec. 11606, 76th Cong. 3d Sess., Sept. 5, 1940 (H. Rept. No. 2923).

contributions for the maintenance and operations of school facilities.

On. Feb. 27, 1948,[12] Jesse P. Wolcott, of Michigan, Chairman of the Committee on Banking and Currency, obtained unanimous consent to have his committee discharged from further consideration of the bills (H.R. 2845 and H.R. 3545, respectively), and to have them referred to the Committee on Public Works.[13]

Parliamentarian's Note: The Lanham War Housing Act had as its purpose to provide housing for persons engaged in national defense activities, as by authorizing the Federal Works Administrator to provide housing for such persons and their families in areas in which acute shortages of housing existed, without complying with state statutes and municipal ordinances prescribing zoning regulations.

§ 46.11 The Committee on Public Works and not the Committee on Banking and Currency has jurisdiction of a bill to authorize the transfer without charge to the states and their political subdivisions of all interest of the United States in educational and recreational facilities acquired under the Act of Oct. 14, 1940, as amended.

On Mar. 11, 1947,[14] Jesse P. Wolcott, of Michigan, Chairman of the Committee on Banking and Currency, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 2473), and to have it rereferred to the Committee on Public Works.

Jurisdiction of Federal Works Administrator Over School Buildings; Rebuilding Schools Destroyed by Fire

§ 46.12 The Committee on Public Works and not the Committee on Banking and Currency had jurisdiction of a bill to transfer jurisdiction over certain school buildings to the Federal Works Administrator and to authorize an appropriation to rebuild a school building destroyed by fire.

On Feb. 27, 1948,[15] Jesse P. Wolcott, of Michigan, Chairman of

12. 94 CONG. REC. 1909, 80th Cong. 2d Sess.

13. The Record also discloses the identical rereferrals later in the session; see 94 CONG. REC. 4127, 80th Cong. 2d Sess., Apr. 6, 1948.

14. 93 CONG. REC. 1915, 80th Cong. 1st Sess.

15. 94 CONG. REC. 1909, 80th Cong. 2d Sess.

the Committee on Banking and Currency, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 5433), pertaining to certain school buildings located in Vanport, Oregon, and to have the bill referred to the Committee on Public Works.[16]

National Capital Planning Commission; Planning Kennedy Center Site

§ 46.13 The Committee on Public Works and not the Committee on the District of Columbia had jurisdiction of a joint resolution directing the National Capital Planning Commission to study the location and development of the John F. Kennedy Center for the Performing Arts.

On Sept. 15, 1965,[17] John L. McMillan, of South Carolina, Chairman of the Committee on the District of Columbia, obtained unanimous consent to have his committee discharged from further consideration of the joint resolution (H.J. Res. 646), and to have it rereferred to the Committee on Public Works.[1]

National Monument Commission; Monument Construction

§ 46.14 The Committee on Public Works and not the Committee on Interior and Insular Affairs has jurisdiction of a communication from the National Capital Park and Planning Association submitting a bill to create a National Monument Commission to build a monument on the Nevius Tract adjoining Arlington Cemetery.

On Aug. 15, 1951,[2] John R. Murdock, of Arizona, Chairman of the Committee on Interior and Insular Affairs, obtained unanimous consent to have his committee discharged from further consideration of the communication (Exec. Comm. No. 699), and to have it rereferred to the Committee on Public Works.

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16. The Record also discloses the identical rereferral later in the session; see 94 CONG. REC. 4127, 80th Cong. 2d Sess., Apr. 6, 1948.

H.R. 5433 was reported by the Committee on Public works on May 17, 1948 (H. Rept. No. 1967).

17. 111 CONG. REC. 23927, 89th Cong. 1st Sess.

1. For a similar rereference, see 111 CONG. REC. 27803, 89th Cong. 1st Sess., Oct. 21, 1965 [H.J. Res. 659].

2. 97 CONG. REC. 10098, 82d Cong. 1st Sess.

Road Construction or Maintenance—Creating Federal Highway Corporation to Finance Interstate Highways

§ 46.15 The House rejected a motion to rerefer from the Committee on Public Works to the Committee on Appropriations identical bills to create a federal highway corporation for financing the construction of the National System of Interstate Highways; to amend and supplement the Federal Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented; and for other purposes.

On Feb. 24, 1955,[3] acting by direction of the Committee on Appropriations which he chaired, Clarence Cannon, of Missouri, moved to rerefer the two identical bills (H.R. 4260 and H.R. 4261), from the Committee on Public Works to the Committee on Appropriations. Mr. Cannon having demanded a division, the question was taken and there were—ayes 87, noes 131. A request for the yeas and nays was then refused, so the motion was rejected.

3. 101 Cong. Rec. 2029, 84th Cong. 1st Sess.

National Forest Roads and Trails

§ 46.16 In the 87th Congress, the Committee on Public Works and not the Committee on Agriculture had jurisdiction of proposed legislation enabling the Secretary of Agriculture to construct and maintain a system of roads and trails for the national forests.

On May 7, 1962,[4] Mr. William R. Poage, of Texas, obtained unanimous consent to have a letter (Exec. Comm. No. 2000), from the Secretary of Agriculture rereferred from the Committee on Agriculture to the Committee on Public Works. The letter contained a draft bill which would authorize the Secretary to grant permanent easements for road rights-of-way through the national forests; permit him to acquire, construct, and maintain forest development roads and trails; and authorize financing of the construction by using appropriated funds, charging users of the national forests, and of the products therefrom, and through cooperative financing with public or private agencies. The proposal would not have amended title 23, "High-

4. 108 Cong. Rec. 7826, 87th Cong. 2d Sess.

ways," of the United States Code or any other existing law.

United States Code Provisions Relating to Highways

§ 46.17 Bills having the purpose of codifying and enacting into law title 23 of the United States Code, entitled "Highways," but also containing substantive revisions of certain provisions of the highway laws, were rereferred from the Committee on the Judiciary to the Committee on Public Works with the understanding that this action was not to be construed as a jurisdictional waiver by the Committee on the Judiciary over codification bills.

On June 4, 1958,[5] by direction of the Committee on the Judiciary, Emanuel Celler, of New York, who chaired that committee, asked unanimous consent that the two bills (H.R. 12776 and H.R. 12777), be rereferred from his committee to the Committee on Public Works. Mr. Celler emphasized that such a request was "not to be construed as a waiver by the Committee on the Judiciary of any of the jurisdiction under the Legislative Reorganization Act of 1946 or the United States Code," but rather was being urged "solely because of the particular circumstances with respect to the drafting of the bills."

He explained those circumstances as follows:

> . . . Under section 12 of Public Law 350 of the 83d Congress, the Secretary of the Department of Commerce was directed to transmit to the Committees on Public Works of the Senate and of the House of Representatives a suggested draft of a bill or bills for a Federal Highway Act, which will include such provisions of existing law, and such changes or new provisions as the Secretary deems advisable. The Secretary submitted such a draft bill to the committees, as a result of which the bill H.R. 10488, to revise the Federal aid highway laws of the United States, was introduced and referred to the Committee on Public Works. A companion bill, S. 3151, was referred to the Senate Committee on Public Works. Through the cooperation between the counsel of the House Committee on Public Works and the law revision counsel of the Committee on the Judiciary, clerical changes have been suggested in the bill H.R. 10488 to provide for the enactment into law of title 23, United States Code "Highways." As a result, the bills H.R. 12776 and H.R. 12777 were introduced containing a number of clerical changes to achieve that purpose. These two bills are, however, essentially the same as the bill submitted by the Secretary of Commerce to the Committee on Public Works and which is now pending be-

5. 104 CONG. REC. 10164, 85th Cong. 2d Sess.

fore that committee which has set hearings for tomorrow.

Therefore, in view of these special circumstances and without any intention to waive the prerogative of the Committee on the Judiciary, I make this unanimous-consent request.

Immediately thereafter, the House granted unanimous consent to effect the bills' rereferral.

School Facilities for Dependents of Workmen Engaged in a Water Conservation Project

§ 46.18 In the 90th Congress, the Committee on Public Works and not the Committee on Education and Labor had jurisdiction of a bill authorizing and directing the Secretary of the Army to provide school facilities for dependents of construction workers engaged in the building of a Corps of Engineers project.

On June 17, 1968,[6] Carl D. Perkins, of Kentucky, Chairman of the Committee on Education and Labor, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 17487), and to have it rereferred to the Committee on Public Works.

H.R. 17487 was specifically intended to provide facilities for the dependents of persons working on the construction of the Dworshak Dam and Reservoir project.

Smithsonian-affiliated Buildings

§ 46.19 The Committee on Public Works and not the Committee on Interior and Insular Affairs has jurisdiction of a bill providing for the construction of a National Air Museum for the Smithsonian Institution.

On July 2, 1958,[7] Clair Engle, of California, Chairman of the Committee on Interior and Insular Affairs, asked unanimous consent that the bill (S. 1985), be rereferred to the Committee on Public Works, "it having been erroneously referred to the Committee on Interior and Insular Affairs."

Immediately thereafter, unanimous consent was granted.

§ 46.20 In the 90th Congress, the Committee on Public Works and not the Committee on House Administration reported a measure authorizing the trustees of the Smithsonian Institution to construct, with privately donated funds, an annex to the

6. 114 CONG. REC. 17429, 90th Cong. 2d Sess.

7. 104 CONG. REC. 12941, 85th Cong. 2d Sess.

National Gallery of Art on a site previously earmarked for that purpose by the Congress.

On Apr. 10, 1968,[8] Omar T. Burleson, of Texas, Chairman of the Committee on House Administration, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 16358), and to have it rereferred to the Committee on Public Works.

Parliamentarian's Note: Executive Communication No 1579, transmitting a draft bill on this subject to the Congress, was not rereferred from the Committee on House Administration along with the bill since it contained information regarding the gallery which, as part of the Smithsonian, is within the jurisdiction of the Committee on House Administration. Matters pertaining to the actual construction of Smithsonian buildings are within the jurisdiction of the Committee on Public Works. Matters pertaining to the management of the Institution are within the jurisdiction of the Committee on House Administration.[9]

Revolving Funds for Regional Power Administrations

§ 46.21 In the 86th Congress, the Committee on Public Works and not the Committee on Interior and Insular Affairs had jurisdiction of proposed legislation dealing with the establishment of revolving type funds in the Treasury for the Southeastern and Southwestern Power Administrations.

On July 2, 1959,[10] Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, obtained unanimous consent to have his committee discharged from further consideration of an executive communication (Exec. Comm. No. 1109), and to have that communication re-

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8. 114 CONG. REC. 9553, 90th Cong. 2d Sess.

9. The rules [Rule XI clause 16(d) *House Rules and Manual* § 713 (1973)] provide that the Committee on Public Works has jurisdiction over "measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institute."

The rules provide also [Rule XI clause 9(e), *House Rules and Manual* § 693 (1973)] that the Committee on House Administration has jurisdiction "except as provided in clause 16(d) [over] matters relating to the Smithsonian Institution.. . ."

10. 105 CONG. REC. 12629, 86th Cong. 1st Sess.

referred to the Committee on Public Works.

Stream Pollution Control

§ 46.22 The Committee on Rivers and Harbors (now the Committee on Public Works), and not the Committee on Interstate and Foreign Commerce had jurisdiction of a bill to create a Division of Stream Pollution Control in the Bureau of Public Health Service.

On June 8, 1936,[11] Sam Rayburn, of Texas, Chairman of the Committee on Interstate and Foreign Commerce, obtained unanimous consent to have the bill (H.R. 12764), rereferred from his committee to the Committee on Rivers and Harbors (now the Committee on Public Works).

Water Resources Conservation and Development

§ 46.23 A Presidential message pertaining to the need for regional conservation and development of national water resources was, on motion, referred to the Committee on Rivers and Harbors (now the Committee on Public Works) after a motion to refer to the Committee on Flood Control was withdrawn following rejection of the previous question.

On June 3, 1937,[12] Speaker William B. Bankhead, of Alabama, laid before the House the following message from President Franklin D. Roosevelt:

To the Congress of the United States:

Nature has given recurrent and poignant warnings through dust storms, floods, and droughts that we must act while there is yet time if we would preserve for ourselves and our posterity the natural sources of a virile national life. . . .

For instance, our recent experiences of floods have made clear that the problem must be approached as one involving more than great works on main streams at the places where major disasters threaten to occur. There must also be measures of prevention and control among tributaries and throughout the entire headwaters areas. A comprehensive plan of flood control must embrace not only downstream levees and floodways and retarding dams and reservoirs on major tributaries but also smaller dams and reservoirs on the lesser tributaries, and measures of applied conservation throughout an entire drainage area, such as restoration of forests and grasses on inferior lands, and encouragement of farm practices which diminish run-off and prevent erosion on arable lands. . . .

11. 80 CONG. REC. 9241, 74th Cong. 2d Sess.

12. 81 CONG. REC. 5296, 5297, 75th Cong. 1st Sess.

It is also well to remember that improvements of our national heritage frequently confer special benefits upon regions immediately affected, and a large measure of cooperation from State and local agencies in the undertaking and financing of important projects may fairly be asked for. . . .

I think, however, that for the time being we might give consideration to the creation of seven regional authorities or agencies—one on the Atlantic seaboard; a second for the Great Lakes and Ohio Valley; a third for the drainage basin of the Tennessee and Cumberland Rivers; a fourth embracing the drainage basins of the Missouri River and the Red River of the North; a fifth embracing the drainage basins of the Arkansas, Red, and Rio Grande Rivers; a sixth for the basins of the Colorado River and rivers flowing into the Pacific south of the California-Oregon line; and a seventh for the Columbia River Basin. And, in addition, I should leave undisturbed the Mississippi River Commission, which is well equipped to handle the problems immediately attending the channel of that great river. . . .

Such regional bodies would also provide a useful mechanism through which consultation among the various governmental agencies working in the field could be effected for the development of integrated programs of related activities. Projected programs would be reported by the regional bodies annually to the Congress through the President after he has had the projects checked and revised in light of national budgetary considerations and of national planning policies. When the national planning board is established I should expect to use that agency to coordinate the development of regional planning to insure conformity to national policy, but not to give to the proposed national planning board any executive authority over the construction of public works or over management of completed works. . . .

For nearly a year I have studied this great subject intensively and have discussed it with many of the Members of the Senate and the House of Representatives. My recommendations in this message fall into the same category as my former recommendation relating to the reorganization of the executive branch of the Government. I hope, therefore, that both of these important matters may have your attention at this session.

FRANKLIN D. ROOSEVELT.
THE WHITE HOUSE, JUNE 3, 1937.

Although William M. Whittington, of Mississippi, Chairman of the Committee on Flood Control, moved that the President's message be referred to his committee,[13] the previous question on that motion was subsequently voted down.[14] Shortly thereafter, Mr. Whittington withdrew his motion, after which Joseph J. Mansfield, of Texas, Chairman of the Committee on Rivers and Harbors (now the Committee on Public Works), moved that the message be referred to his committee. The latter motion was agreed to.[15]

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13. *Id.* at p. 5297.
14. *Id.* at p. 5306.
15. *Id.* at p. 5307.

Parliamentarian's Note: The Committee on Flood Control and the Committee on Rivers and Harbors were both incorporated into the present day Committee on Public Works. Had Mr. Whittington not withdrawn his motion to refer, Mr. Mansfield would have been obliged to offer an amendment to that motion to accomplish his purpose.

§ 47. Committee on Science and Astronautics

The Committee on Science and Astronautics was established on July 21, 1958,[16] although it did not commence operations until January 1959. The committee was vested with jurisdiction formerly accorded a Select Committee on Astronautics and Space Exploration established the previous March,[1] as well as the subject of science scholarships and matters relating to the Bureau of Standards (transferred from the Committee on Interstate and Foreign Commerce).[2]

It should be noted that, initially, the committee's primary purpose was to oversee the National Aeronautics and Space Administration (NASA) and the nonmilitary national space program.[3] Indeed,

> [O]ne of the major legislative problems involved in creating NASA was to distinguish the aeronautical and space activities to be conducted by NASA from those to be conducted by the Department of Defense. This distinction was made in the Act by *excluding* "activities peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States (including the research and development necessary to make effective provision for the defense of the United States) . . ." (42 U.S. Code, sec. 2451(b)).[4]

The jurisdiction of the Committee on Science and Astronau-

16. 104 CONG. REC. 14513, 14514, 85th Cong. 2d Sess. The name of the committee was changed to the Committee on Science and Technology effective Jan. 3, 1975. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974.

1. After the new standing committee was created, no Members were elected to it during the remainder of the second session of the 85th Congress. The Members appointed to the select committee continued to serve on that committee until the end of the session.

2. *House Rules and Manual* § 719 (1973). See *House Rules and Manual* § 687 (1979).

3. Spencer M. Beresford, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 135.

4. *Id.* at p. 136.

tics pursuant to the 1973 rules[5] read as follows:

(a) Astronautical research and development, including resources, personnel, equipment, and facilities.

(b) Bureau of Standards, standardization of weights and measures and the metric system.

(c) National Aeronautics and Space Administration.

(d) National Aeronautics and Space Council.

(e) National Science Foundation.

(f) Outer space, including exploration and control thereof.

(g) Science Scholarships.

(h) Scientific research and development.

Pursuant to its responsibilities, the committee oversees and reports the annual authorization bills for the National Aeronautics and Space Administration and the National Science Foundation.

The committee has reported on such subject matters as:[6]

(1) International space cooperation;

(2) Ocean and atmospheric sciences;

(3) Satellite programs (weather, communications, earth resources);

(4) Science fellowships and research grants;

(5) Science policy;

(6) Scientific and technical manpower; and

(7) Technology assessment.

Further insight into the committee's jurisdictional expanse is seen in the following list of legislative subject categories:[7]

(1) Measurement systems;

(2) Metric system;

(3) Research and development: (a) Aeronautical (by or for the National Aeronautics and Space Administration Civil Aviation); (b) Astronautical, generally; and (c) Scientific (except that required for the national defense);

(4) Science and technology;

(5) Science fellowships;

(6) Science policy;

(7) Science scholarships;

(8) Scientific centers;

(9) Scientific measurements and observations;

(10) Scientific programs;

(11) Scientific resources including manpower;

(12) Space, outer (Control, exploration, space programs);

(13) Technology assessment; and

(14) Weights and measures.

As the precedents reveal, the committee's jurisdiction has extended to such matters as the establishment of a Council on Environmental Quality,[8] expression of congressional support for an inter-

5. Rule XI clause 18, *House Rules and Manual* § 718 (1973). See Rule X clause l(r), *House Rules and Manual* § 687 (1979).

6. Spencer M. Beresford, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 134.

7. *Id.* This list was prepared by the staff of the Select Committee on Committees [enumeration added].

8. § 47.2, infra.

national biological program,[9] and U.S. participation in the World Science Pan-Pacific Exposition.[10]

It should be borne in mind, moreover, that the focal point of the committee's jurisdiction has shifted over the years from primary concern with astronautical matters to a far broader emphasis on scientific research and development, in general. Thus, the committee has recently reported on such matters as computer technology and genetic engineering. And, of course, as new technological advances take place, the committee's jurisdiction expands, accordingly.

In 1973, the committee maintained the following six subcommittees:

(1) Subcommittee on Aeronautics and Space Technology;

(2) Subcommittee on Energy;

(3) Subcommittee on International Cooperation in Science and Space;

(4) Subcommittee on Manned Space Flight;

(5) Subcommittee on Science, Research, and Development;

(6) Subcommittee on Space Science and Applications.

The Subcommittees on Aeronautics and Space Technology, Manned Space Flight, and Space Science and Applications were fundamentally concerned with NASA and its authorization bills. The Subcommittee on Science, Research, and Development dealt with authorizing legislation for the National Science Foundation. The Subcommittees on Energy and International Cooperation in Science and Space were largely investigative and nonlegislative in nature.

In the Committee Reform Amendments of 1974, the Committee on Science and Technology obtained legislative jurisdiction over civil aviation research and development, environmental research and development, energy research and development (except nuclear research and development which remained with the Joint Committee on Atomic Energy), and the National Weather Service. The amendments also vested in the committee oversight jurisdiction over all laws, programs and government activities involving nonmilitary research and development.[11]

When the legislative jurisdiction of the Joint Committee on Atomic Energy was abolished in the 95th Congress, the Committee on Science and Technology obtained jurisdiction over all energy re-

9. § 47.3, infra.

10. § 47.4, infra.

11. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

search and development, including nuclear research and development.[12]

Creation of the Committee; Acquisition of Functions of Other Committees

§ 47.1 Transferring certain functions of the Committees on Armed Services and Interstate and Foreign Commerce, the House amended its rules to create a new standing committee to take over and continue the work started by the Select Committee on Astronautics and Space Exploration to be known as the "Committee on Science and Astronautics."

On July 21, 1958,[1] Speaker Sam Rayburn, of Texas, recognized Mr. Richard Bolling, of Missouri, who, by direction of the Committee on Rules, called up House Resolution 580 and asked for its immediate consideration. The resolution was read by the Clerk, as follows:

Resolved, That the Rules of the House of Representatives are hereby amended as follows:

Rule X, clause 1, is hereby amended by inserting after (p) the following:

"(q) Committee on Science and Astronautics, to consist of 25 members."

. . .

Rule XI, clause 11, is hereby amended to read as follows:

"11. Committee on Interstate and Foreign Commerce.

"(a) Interstate and foreign commerce generally.

"(b) Civil aeronautics.

"(c) Inland waterways.

"(d) Interstate oil compacts and petroleum and natural gas, except on the public lands.

"(e) Public health and quarantine.

"(f) Railroad labor and railroad retirement and unemployment, except revenue measures relating thereto.

"(g) Regulation of interstate and foreign communications.

"(h) Regulation of interstate and foreign transportation, except transportation by water not subject to the jurisdiction of the Interstate Commerce Commission.

"(i) Regulation of interstate transmission of power, except the installation of connections between Government waterpower projects.

"(j) Securities and exchanges.

"(k) Weather Bureau."

Rule XI is further amended by inserting after clause 16 the following:

"17. Committee on Science and Astronautics.

"(a) Astronautical research and development, including resources, personnel, equipment, and facilities.

"(b) Bureau of Standards, standardization of weights and measures, and the metric system.

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12. H. Res. 5, 123 CONG. REC. 53–70, 95th Cong. 1st Sess., Jan. 4, 1977.

1. 104 CONG. REC. 14513, 85th Cong. 2d Sess.

"(c) National Advisory Committee for Aeronautics.

"(d) National Science Foundation.

"(e) Outer space, including exploration and control thereof.

"(f) Science scholarships.

"(g) Scientific research and development."

Immediately thereafter, Mr. Bolling offered this amendment:

Amendment offered by Mr. Bolling: On page 2, line 24, strike out line 24 through the remainder of the resolution and in lieu thereof insert the following:

"(c) National Aeronautics and Space Administration.

"(d) National Aeronautics and Space Council.

"(e) National Science Foundation.

"(f) Outer space, including exploration and control thereof.

"(g) Science Scholarships.

"(h) Scientific research and development."

Referring to the amendment, he stated that it was "in effect a perfecting amendment so that the language of the resolution which establishes the new committee will conform to the act which is to become law, which was passed by both the House and the other body last week establishing this National Administration on Aeronautics and Science. This is to make the rules of the House conform to this act which is about to become law."

Asked to elaborate further with respect to the resolution itself, Mr. Bolling explained that it amended the rules of the House to provide for the establishment of a new standing legislative committee to be known as the Committee on Science and Astronautics. The committee would consist of 25 members and would have jurisdiction over the exploration and control of outer space and astronautic research and development, including resources, personnel, equipment, and facilities.

The standing committee would take over, and continue, the work started by the House Select Committee on Astronautics and Space Exploration. Certain functions of the Committee on Interstate and Foreign Commerce and the Armed Services Committee would be transferred to this committee; namely legislation relating to the scientific agencies—the Bureau of Standards, the National Advisory Committee for Aeronautics and the National Science Foundation. The chairmen of the Interstate and Foreign Commerce Committee and the Armed Services Committee agreed with these proposed transfers. The committee would also cooperate with the Executive in the operation of the Space Agency.

Further discussion of the resolution proceeded briefly, after which the Chair put the question on the

amendment which was agreed to, and the resolution, as amended, was then agreed to.[2]

Parliamentarian's Note: On Mar. 5, 1958,[3] the House passed House Resolution 496, creating the Select Committee on Astronautics and Space Exploration, consisting of 13 members authorized and directed to conduct a complete study and investigation "with respect to all aspects and problems relating to the exploration of outer space and the control, development, and use of astronautical resources, personnel, equipment, and facilities." House Resolution 496 directed the select committee to report to the House by June 1, 1958, or the earliest practical date thereafter, but not later than Jan. 3, 1959. After the new standing committee was created, no Members were elected to it nor were any bills referred to it during the remainder of the second session of the 85th Congress. The Members appointed to the select committee continued to serve on that committee until the end of the session.

Establishing Council on Environmental Quality

§ 47.2 Under the rules in effect in the 90th Congress, the Committee on Science and Astronautics and not the Committee on Interior and Insular Affairs had jurisdiction of a bill to establish a Council on Environmental Quality to study environmental changes and their effect on man.

On Apr. 17, 1967,[4] Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 7796), and to have it rereferred to the Committee on Science and Astronautics.

International Biological Program

§ 47.3 In the 91st Congress, the Committee on Science and Astronautics and not the Committee on Foreign Affairs had jurisdiction of a joint resolution expressing the support of Congress for the international biological program, established under the auspices of the International Council of Scientific Unions and sponsored in the United States by the National Academy of Sciences.

2. *Id.* at p. 14514.
3. 104 Cong. Rec. 3443, 85th Cong. 2d Sess.
4. 113 Cong. Rec. 9708, 90th Cong. 1st Sess.

On Apr. 29, 1969,[5] Thomas E. Morgan, of Pennsylvania, Chairman of the Committee on Foreign Affairs, obtained unanimous consent to have his committee discharged from further consideration of the joint resolution (H.J. Res. 589), and to have it rereferred to the Committee on Science and Astronautics.[6]

World Science Pan-Pacific Exposition

§ 47.4 The Committee on Science and Astronautics and not the Committee on Foreign Affairs had jurisdiction of bills, messages, and communications dealing with the participation of the United States in the World Science Pan-Pacific Exposition.

On June 24, 1959,[7] Thomas E. Morgan, of Pennsylvania, Chairman of the Committee on Foreign Affairs, obtained unanimous consent to have his committee discharged from further consideration of the bills (H.R. 7431, H.R. 7434, H.R. 7435, H.R. 7436, H.R. 7438, H.R. 7440, and H.R. 7443), and to have them rereferred to the Committee on Science and Astronautics. Immediately thereafter, a message from the President was similarly referred.

§ 48. Committee on Small Business

The Committee on Small Business was created as a standing committee effective Jan. 3, 1975, with the adoption of the Committee Reform Amendments of 1974.[8] Paragraph (1) of its jurisdiction was transferred from the Committee on Banking and Currency, and paragraph (2) was transferred mainly from the Committee on the Judiciary:

> (s) Committee on Small Business.
>
> (1) Assistance to and protection of small business, including financial aid.
>
> (2) Participation of small-business enterprises in Federal procurement and Government contracts.
>
> In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special

5. 115 CONG. REC. 10745, 91st Cong. 1st Sess.

6. H.J. Res. 589 was reported by the Committee on Science and Astronautics on June 11, 1969 (H. Rept. No. 91–302).

7. 105 CONG. REC. 11810, 86th Cong. 1st Sess.

8. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975. See Rule X clause 1(s), *House Rules and Manual* § 688 (1979).

oversight function provided for in clause 3(g) with respect to the problems of small business.

The committee's oversight jurisdiction [Rule X clause 3(g), *House Rules and Manual* § 693 (1979)], reads as follows:

(g) The Committee on Small Business shall have the function of studying and investigating, on a continuing basis, the problems of all types of small business.

The standing committee was the successor to the permanent Select Committee on Small Business, which had been incorporated into the rules as a permanent select committee, but without legislative jurisdiction, in the 92d Congress;[9] prior to that time, a Select Committee on Small Business had been created by separate House resolution in each Congress since 1941.[10]

§ 49. Committee on Standards of Official Conduct

The Committee on Standards of Official Conduct was established on Apr. 13, 1967,[11] with instructions to "recommend as soon as practicable . . . such changes in laws, rules, and regulations, as the committee deems necessary to establish and enforce standards of official conduct for Members, officers, and employees of the House." The committee became a permanent standing committee on Apr. 3, 1968,[12] at which time its jurisdiction was redefined, and a code of "Official Conduct" and provisions for "Financial Disclosure" were made part of the House rules. On July 8, 1970,[13] the committee was granted certain legislative and investigative authority over the subjects of lobbying and the reporting of campaign contributions.

The jurisdiction of the Committee on Standards of Official Conduct pursuant to the 1973 rules[14] and the procedures which governed the exercise of that jurisdiction were as follows:

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

(b) Measures relating to financial disclosure by Members, officers, and employees of the House of Representatives.

9. H. Res. 5, 117 Cong. Rec. 134–144, 92d Cong. 1st Sess., Jan. 22, 1971.

10. See H. Res. 294, 87 Cong. Rec. 9418–28, 77th Cong. 1st Sess., Dec. 4, 1941.

11. 113 Cong. Rec. 9448, 90th Cong. 1st Sess. (H. Res. 418).

12. 114 Cong. Rec. 8812, 90th Cong. 2d Sess. (H. Res. 1099).

13. 116 Cong. Rec. 23136, 91st Cong. 2d Sess. (H. Res. 1031).

14. Rule XI clause 19, *House Rules and Manual* § 720 (1973). See Rule X clause 1(t), *House Rules and Manual* § 689 (1979).

(c) Measures relating to activities designed to (1) assist in defeating, passing, or amending any legislation by the House or (2) influence, directly or indirectly, the passage or defeat of any legislation by the House.

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

(e) The committee is authorized (1) to recommend to the House of Representatives, from time to time, such legislative or administrative actions as the committee may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House of Representatives; (2) to investigate, subject to paragraph (f) of this clause, any alleged violation, by a Member, officer, or employee of the House of Representatives, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities and, after notice and a hearing, shall recommend to the House of Representatives, by resolution or otherwise, such action as the committee may deem appropriate in the circumstances; (3) to report to the appropriate Federal or State authorities, with approval of the House of Representatives, any substantial evidence of a violation, by a Member, officer, or employee of the House of Representatives, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation; and (4) to give consideration to the request of a Member, officer, or employee of the House of Representatives, for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, officer, or employee and, with appropriate deletions to assure the privacy of the individual concerned, to publish such opinion for the guidance of other Members, officers, and employees of the House of Representatives.

(f)(1) No resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, officer, or employee of the House of Representatives shall be made, and no investigation of such conduct shall be undertaken, unless approved by the affirmative vote of not less than seven members of the committee. (2) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, officer, or employee of the House of Representatives only (A) upon receipt of a complaint, in writing and under oath, made by or submitted to a Member of the House of Representatives and transmitted to the committee by such Member, or (B) upon receipt of a complaint, in writing and under oath, directly from an individual not a Member of the House of Representatives if the committee finds that such complaint has been submitted by such individual to not less than three Members of the House of Representatives who have refused, in writing, to transmit such complaint to the committee. (3) No investigation shall be undertaken of any alleged violation of a law,

rule, regulation, or standard of conduct not in effect at the time of the alleged violation. (4) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his official conduct. In any case in which a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker of the House of Representatives shall designate a Member of the House of Representatives from the same political party as the ineligible member of the committee to act as a member of the committee in any committee proceeding relating to the official conduct of such ineligible member.

(g) The Committee on Standards of Official Conduct, acting as a whole or by subcommittee, is authorized to conduct investigations and studies, from time to time, of the laws, rules, regulations, procedures, practices, and activities pertaining to (1) lobbying activities as described in subparagraphs (1) and (2) of paragraph (c) of this clause, or (2) the raising, reporting, and use of political campaign contributions as described in paragraph (d) of this clause, or (3) both. Each such investigation and study may include all pertinent matters which would assist the Congress in connection with necessary remedial legislation. The committee may obtain the views of all parties familiar with the subject matter covered by the investigation and study. The committee shall report to the House (or to the Clerk of the House if the House is not in session) the results of each such investigation and study, together with such recommendations as the committee considers advisable.

(h) For the purpose of carrying out the foregoing provisions of this clause, the committee, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

Further insight into the jurisdiction of the committee may be obtained through examination of the rules establishing a code of conduct[15] and the financial disclosure requirements.[16] Measures relating to these matters were incorporated by reference as falling within the committee's realm.[17]

In 1973 the relevant provisions read as follows:

RULE XLIII

CODE OF OFFICIAL CONDUCT

There is hereby established by and for the House of Representatives the following code of conduct, to be known as the "Code of Official Conduct":

15. Rule XLIII, *House Rules and Manual* § 939 (1979).

16. Rule XLIV, *House Rules and Manual* § 940 (1979).

17. See Rule XI clauses 19(a), (b), *House Rules and Manual* § 720 (1973).

1. A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

2. A Member, officer, or employee of the House of Representatives shall adhere to the spirit and the letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof.

3. A Member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

4. A Member, officer, or employee of the House of Representatives shall accept no gift of substantial value, directly or indirectly, from any person, organization, or corporation having a direct interest in legislation before the Congress.

5. A Member, officer, or employee of the House of Representatives shall accept no honorarium for a speech, writing for publication, or other similar activity, from any person, organization, or corporation in excess of the usual and customary value for such services.

6. A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. He shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable prior campaign expenditures. He shall expend no funds from his campaign account not attributable to bona fide campaign purposes.

7. A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund raising events if the sponsors of such affairs do not give clear notice in advance to the donors or participants that the proceeds are intended for other purposes.

8. A Member of the House of Representatives shall retain no one from his clerk hire allowance who does not perform duties commensurate with the compensation he receives.

As used in this Code of Official Conduct of the House of Representatives—(a) the terms "Member" and "Member of the House of Representatives" include the Resident Commissioner from Puerto Rico and each Delegate to the House; and (b) the term "officer or employee of the House of Representatives" means any individual whose compensation is disbursed by the Clerk of the House of Representatives.

RULE XLIV

FINANCIAL DISCLOSURE

Members, officers, principal assistants to Members and officers, and professional staff members of committees shall, not later than April 30, 1969, and by April 30 of each year thereafter, file with the Committee on Standards of Official Conduct a report disclosing certain financial interests as provided in this rule. The interest of a spouse or any other party, if constructively controlled by the person reporting, shall be considered to be the same as the interest of the person reporting. The report shall be in two parts as follows:

PART A

1. List the name, instrument of ownership, and any position of manage-

ment held in any business entity doing a substantial business with the Federal Government or subject to Federal regulatory agencies, in which the ownership is in excess of $5,000 fair market value as of the date of filing or from which income of $1,000 or more was derived during the preceding calendar year. Do not list any time or demand deposit in a financial institution, or any debt instrument having a fixed yield unless it is convertible to an equity instrument.

2. List the name, address, and type of practice of any professional organization in which the person reporting, or his spouse, is an officer, director, or partner, or serves in any advisory capacity, from which income of $1,000 or more was derived during the preceding calendar year.

3. List the source of each of the following items received during the preceding calendar year: (a) Any income for services rendered (other than from the United States Government) exceeding $5,000. (b) Any capital gain from a single source exceeding $5,000, other than from the sale of a residence occupied by the person reporting. (c) Reimbursement for expenditures (other than from the United States Government) exceeding $1,000 in each instance. (d) Honorariums from a single source aggregating $300 or more.

4. List each creditor to whom the person reporting was indebted for a period of ninety consecutive days or more during the preceding calendar year in an aggregate amount in excess of $10,000, excluding any indebtedness specifically secured by the pledge of assets of the person reporting of appropriate value.

Campaign receipts shall not be included in this report.

Information filed under part A shall be maintained by the Committee on Standards of Official Conduct and made available at reasonable hours to responsible public inquiry, subject to such regulations as the committee may prescribe including, but not limited to, regulations requiring identification by name, occupation, address, and telephone number of each person examining information filed under part A, and the reason for each such inquiry.

The committee shall promptly notify each person required to file a report under this rule of each instance of an examination of his report. The committee shall also promptly notify a Member of each examination of the reports filed by his principal assistants and of each examination of the reports of professional staff members of committees who are responsible to such Member.

PART B

1. List the fair market value (as of the date of filing) of each item listed under paragraph 1 of part A and the income derived therefrom during the preceding calendar year.

2. List the amount of income derived from each item listed under paragraphs 2 and 3 of part A, and the amount of indebtedness owed to each creditor listed under paragraph 4 of part A.

The information filed under this part B shall be sealed by the person filing and shall remain sealed unless the Committee on Standards of Official Conduct, pursuant to its investigative authority, determines by a vote of not less than seven members of the committee that the examination of such in-

formation is essential in an official investigation by the committee and promptly notifies the Member concerned of any such determination. The committee may, by a vote of not less than seven members of the committee, make public any portion of the information unsealed by the committee under the preceding sentence and which the committee deems to be in the public interest.

Any person required to file a report under this rule who has no interests covered by any of the provisions of this rule shall file a report, under part A only of this rule, so stating.

In any case in which a person required to file a sealed report under part B of this rule is no longer required to file such a report, the committee shall return to such person, or his legal representative, all sealed reports filed by such person under part B and remaining in the possession of the committee.

As used in this rule—(1) the term "Members" includes the Resident Commissioner from Puerto Rico and each Delegate to the House; and (2) the term "committees" includes any committee or subcommittee of the House of Representatives and any joint committee of Congress, the expenses of which are paid from the contingent fund of the House of Representatives.

In the course of analyzing the scope of the committee's jurisdiction, it should be noted that the Committee on Rules is expressly excluded from responsibility over "rules or joint rules relating to the Code of Official Conduct or relating to financial disclosure by a Member, officer, or employee of the House" (in the 95th Congress, the Committee on Rules regained jurisdiction over financial disclosure rules).[18] Thus, the Committee on Standards of Official Conduct has been charged with exclusive responsibilities in regard to the Code of Official Conduct (Rule XLIII). Secondly, the procedural safeguards which are incorporated in the rules significantly affect the committee's investigatory and advisory roles. Thus, no action—not even an advisory opinion—will be undertaken by the committee unless seven of its 12 members (the party ratio of which is one to one) choose to proceed. No complaint will be considered unless it is in writing, under oath, submitted or transmitted by a Member or unless its submission is made by a nonmember after its transmission has been rejected, in writing, by three Members. Moreover, no action not in violation of a law, rule, regulation, or standard at the time of its commission will be investigated. And, no member of the committee may partake in any proceeding relating to his own official conduct.

As the precedents indicate, the committee has issued advisory

18. Rule XI clause 17(a), *House Rules and Manual* § 715 (1973) and Rule X clause 1(q)(1), *House Rules and Manual* § 686 (1979).

opinions and reports pursuant to its responsibilities[19] and has also dealt with such matters as roll call irregularities and recommendations with respect thereto.[20]

In the 94th Congress, jurisdiction over the raising, reporting, and use of campaign contributions for candidates for the House was transferred to the Committee on House Administration.[1] And Special Committees to Investigate Campaign Expenditures are no longer created, since the Committee on House Administration, with jurisdiction over that subject, now has standing investigatory power as do other standing committees [Rule XI clause 2(m), *House Rules and Manual* § 718 1979)].[2]

In the 95th Congress, the jurisdiction of the Committee on Standards of Official Conduct over lobbying activities and over financial disclosure were removed from the committee, leaving it with jurisdiction over measures relating to the Code of Official Conduct and the special functions now provided in Rule X clause 4(e)[3] [transferred from Rule XI clause 19(e),[4] carried in full above]:[5]

> (e)(1) The Committee on Standards of Official Conduct is authorized: (A) to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House; (B) to investigate, subject to subparagraph (2) of this paragraph, any alleged violation by a Member, officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities, and, after notice and hearing, to recommend to the House by resolution or otherwise, such action as the committee

19. See Ch. 12 §§ 9.1, 10, 13.1, 15.2, and the appendix thereto, supra.

20. 49.2, infra.

1. H. Res. 5, 121 CONG. REC. 20–22, 94th Cong. 1st Sess., Jan. 14, 1975.

2. Rule XI clause 2(m) resulted from the adoption of the Committee Reform Amendments of 1974, H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974.

3. *House Rules and Manual* § 698 (1979).

4. *House Rules and Manual* § 720 (1973).

5. H. Res. 5, 123 CONG. REC. 53–70, 95th Cong. 1st Sess., Jan. 4, 1977. The clause was transferred by the Committee Reform Amendments of 1974, which also permitted a majority of the committee, rather than seven members, to authorize an investigation. Subparagraph (E) was added to the clause by H. Res. 5, in the 95th Congress, to provide a mechanism for a committee member to disqualify himself from participating in an investigation.

may deem appropriate in the circumstances; (C) to report to the appropriate Federal or State authorities, with the approval of the House, any substantial evidence of a violation, by a Member, officer, or employee of the House, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation; and (D) to give consideration to the request of any Member, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, officer, or employee and, with appropriate deletions to assure the privacy of the individual concerned, to publish such opinion for the guidance of other Members, officers, and employees of the House.

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

(B) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, officer, or employee of the House of Representatives only—

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

(ii) upon receipt of a complaint, in writing and under oath, directly from an individual not a Member of the House if the committee finds that such complaint has been submitted by such individual to not less than three Members of the House who have refused, in writing, to transmit such complaint to the committee.

(C) No investigation shall be undertaken by the committee of any alleged violation of a law, rule, regulation, or standard of conduct not in effect at the time of the alleged violation.

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

(E) A member of the committee may disqualify himself from participating in any investigation of the conduct of a Member, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member of the House from the same political party as the disqualifying member of the com-

mittee to act as a member of the committee in any committee proceeding relating to such investigation.

Lobbying Activities; Campaign Contributions

§ 49.1 The rules were amended to confer upon the Committee on Standards of Official Conduct jurisdiction over measures relating to (1) lobbying activities affecting the House, and (2) raising, reporting, and use of campaign contributions for candidates for the House; the committee was also given authority to investigate those matters and to report its findings to the House.

On July 8, 1970,[6] by direction of the Committee on Rules, William M. Colmer, Chairman of that committee, called up House Resolution 1031 and asked for its immediate consideration. The Clerk then read the resolution, as follows:

Resolved, That (a) clause 19 of rule XI of the Rules of the House of Representatives[7] is amended by inserting immediately below paragraph (b) thereof the following new paragraphs:

"(c) Measures relating to activities designed to (1) assist in defeating, passing, or amending any legislation by the House or (2) influence, directly or indirectly, the passage or defeat of any legislation by the House.

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

(b) Clause 19 of rule XI of the Rules of the House of Representatives is further amended by inserting immediately below paragraph (d) thereof the following new paragraph:

"(g) The Committee on Standards of Official Conduct, acting as a whole or by subcommittee, is authorized to conduct investigations and studies, from time to time, of the laws, rules, regulations, procedures, practices, and activities pertaining to (1) lobbying activities as described in subparagraphs (1) and (2) of paragraph (c) of this clause, or (2) the raising, reporting, and use of political campaign contributions as described in paragraph (d) of this clause, or (3) both. Each such investigation and study may include all pertinent matters which would assist the Congress in connection with necessary remedial legislation. The committee may obtain the views of all parties familiar with the subject matter covered by the investigation and study. The com-

6. 116 Cong. Rec. 23136, 91st Cong. 2d Sess.

7. This clause defined the jurisdiction of the Committee on Standards of Official Conduct [H. Jour. 1435, 91st Cong. 1st Sess. (1969)] and did not then include [Rule XI clause 19, *House Rules and Manual* § 720 (1973)] paragraphs "(c)," "(d)," and "(g)."

mittee shall report to the House (or to the Clerk of the House if the House is not in session) the results of each such investigation and study, together with such recommendations as the committee considers advisable.".

Sec. 2. The Committee on Standards of Official Conduct shall conduct its first investigation and study under authority of the amendments made by the first section of this resolution during the remainder of the Ninety-first Congress, and shall submit to the House (or to the Clerk of the House if the House is not in session), at the earliest practicable date prior to the close of the Ninety-first Congress, a report of the results of that investigation and study. Such report shall contain such recommendations as the committee considers advisable, including a draft of proposed legislation to carry out such recommendations.

As debate on the measure commenced, Mr. Colmer noted that the resolution comprised part of the entire congressional reorganization effort:

One of the facets of this reorganization program was the question of amending the House rules with reference to lobbying activities. This matter gave your rules committee, and particularly the subcommittee, considerable concern. It was finally decided that because of the depth and the complexity of the matter that the appropriate place for the lobbying provision was in the Standing Committee on Standards of Official Conduct.

So, primarily, this resolution authorizes the Committee on Standards of Official Conduct to make a study of this matter and report back to the Congress by the end of this session. It also provides that the subject of campaign contributions shall likewise be studied and a report made back to this Congress by the Committee on Standards of Official Conduct.

Shortly thereafter, Mr. H. Allen Smith, of California, further elaborated on the position of the Committee on Rules in recommending the proposed jurisdictional change: (8)

There are several reasons why the Committee on Rules believes that the jurisdiction over both the Federal lobby statute, as well as over campaign fund raising and usage, should be vested in the Committee on Standards of Official Conduct. First, in its short period of existence, the committee has proven itself to be more than able in discharging its present responsibilities. Second, matters contained in this resolution are of a nature as to clearly fall within the natural jurisdiction of that committee, and they are so interrelated that divided jurisdiction over them cannot be effectively discharged. Additionally, by vesting this jurisdiction with the committee, the House will be giving this important matter to a committee which does not have substantial duties in other areas that could compete for its energies and time.

Further, the committee has an able and adequate staff and sufficient office space to assume this additional responsibility. In addition, it is a bipartisan

8. 116 CONG. REC. 23137, 91st Cong. 2d Sess.

committee from the standpoint of its membership—there being six Democrats and six Republicans. It also has adequate provisions to maintain confidential information.

The resolution also requires that during the remainder of the 91st Congress a study and investigation shall be conducted, and a report containing "such recommendations as the committee considers advisable, including a draft of proposed legislation to carry out such recommendations" must be made to the House. The Committee on Rules has recommended this provision because of the need to bring the Federal Regulation of Lobbying Act up to date now, rather than later.

As the debate proceeded, several Members proposed questions regarding the jurisdiction to be accorded the Committee on Standards of Official Conduct pursuant to the resolution. Mr. Durward G. Hall, of Missouri, for one, prompted the following exchange with B. F. Sisk, of California, Chairman of the Committee on Rules' Subcommittee on the Reorganization of Congress: (9)

. . . Mr. Speaker,(10) I would like to ask the gentleman about the language on page 2 of House Resolution 1031, beginning about on line 7, where it says the Committee on Standards of Official Conduct is delegated authority:

To conduct investigations and studies, from time to time, of the laws, rules, regulations, procedures, practices, and activities pertaining to (1) lobbying activities as described in subparagraphs (1) and (2) of paragraph (c) of this clause, or

Mr. Speaker, in the gentleman's opinion does that also apply to and permit such studies and investigations—by which I presume the committee means surveillance and review and oversight—of executive agencies that might be lobbying the legislative branch? To point this up, I have an old telegram in my hand here from a certain department, which is not only a threat that unless Congress acts certain things will happen; but it also states that the executive branch will make certain recommendations to do or not to do certain things to the interest of our constituents, if Congress does not act within such a time in a certain and allegedly proper way.

This is, of course, a telegram paid for at the taxpayers' expense in direct violation of existing law. I, for one, would certainly hope it would be in the purview of this new committee under this resolution, and that the gentleman would so indicate at this time, in order to preclude such lobbying activities of the legislative branch by the executive.

Is that the gentleman's interpretation of the intent?

MR. SISK: Let me thank my colleague from Missouri very much for the statement he has made. I join him in his concern about some of the activities which he has discussed.

It is my understanding that his statement is correct, that the language is sufficiently broad here to permit the Committee on Standards of Official Conduct to make a study and to look into that phase of it and to make legis-

9. *Id.* at pp. 23137, 23138.

10. Hale Boggs (La.), Speaker pro tempore.

lative recommendations as to handling that part of what we might call the executive lobbying, along with all other kinds and types of lobbying.

My answer would be "yes," emphatically it would be my understanding that is the intent of the language herein contained.

Shortly thereafter, Mr. Samuel N. Friedel, of Maryland, expressed his reservations that House Resolution 103 would encroach upon the jurisdiction of the Committee on House Administration which committee he chaired:

Under rule XI, section 9(k) relating to the jurisdiction of the Committee on House Administration the rule[11] reads:

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

I believe the proposal, so far as the lobby is concerned, might be in order, but I believe the rest is usurping the jurisdiction of the Committee on House Administration. We have a bill right now before our committee relating to elections, campaign contributions and expenditures and the reporting thereof. We have had hearings on this subject. We intend to pursue it all the way through. We are pursuing this under our assigned authority concerned with corrupt practices of which contributions and expenditures are a part.

Obviously the purpose of this resolution would encroach upon the jurisdiction of the Committee on House Administration.

MR. SISK: If the gentleman will permit me to comment, of course, it was certainly not the intention of the Committee on Rules, or of the subcommittee, to invade in any sense the jurisdiction of the Committee on House Administration. As we interpret the rule which the gentleman read, which I have before me, there would be no jurisdictional question, at least in our opinion.

As the gentleman knows, the committee does have jurisdiction over contested elections and over matters which arise therefrom, and has a subcommittee which looks into these matters.

MR. FRIEDEL: And also contributions and disbursements which are within the Corrupt Practices Act.

The discussion between Mr. Sisk and Mr. Friedel on this point continued with Mr. Sisk observing that:

. . . It is not the intent of the subcommittee nor of the Committee on Rules, as I understand it . . . to turn over to the Committee on Standards of Official Conduct the matter of contested elections or the matter of dealing specifically with elections of the President and Vice President, et cetera, as listed here under subsection (k). . . .

On the other hand, it was the decision of the committee to turn over to them the lobbying. The question then arose as to campaign expenditures and possible ramifications, as would be of concern to the American public as well as Members of Congress, as it might

11. See Rule XI clause 9(k), *House Rules and Manual* § 693 (1973).

tie to lobbying activities. It was felt that these two items should go together. . . .

Again, as I say, there is no intent to invade or step on the toes of our good friends on the Committee on House Administration.

Mr. Friedel responded by suggesting that those provisions of the resolution which pertained to campaign contributions be struck from the measure "because we have a reform bill before our [the Committee on House Administration's sub-] committee on Federal elections involving specifically the matters of contributions and expenditures, which was referred to our committee under the rules of the House."

Mr. Sisk replied, that:

. . . [A]ll this resolution before us does is to call for the Committee on Standards of Official Conduct to make a study, to make an investigation of the subjects of lobbying and campaign expenditures, and to report back to the House.

He additionally stated ". . . [I]f in their [the Committee on Standards of Official Conduct] recommendations they find that there might be a need for some changes in connection with campaign expenditures, that could very well be acted on legislatively by the gentleman's [Mr. Friedel] committee [the Committee on House Administration] either accepting or rejecting the recommendations."

At this juncture, Mr. John H. Kyl, of Iowa, a member of the Committee on House Administration, also expressed concern as to whether the passage of House Resolution 1031 might result in a duplication of jurisdictional authority. Mr. Kyl pointed out that before the Committee on Standards of Official Conduct could proceed with any investigation, the funds to be used would have to be approved by the Committee on House Administration. The latter committee, he added, maintained a firm policy of not providing funds for "any investigation which is a duplication of another committee's investigation." Continuing the discussion on this point, Mr. Kyl prompted the following exchange: (12)

MR. KYL: The point I am trying to make is unless this bill also removes authority from the House Administration Committee, then the House Administration Committee can in every instance deny funds for investigation, because the Committee on House Administration itself is, under the rules, given authority to cover exactly the same subject material.

MR. SMITH of California: Will the gentleman yield?

MR. SISK: Yes. I yield to the gentleman.

12. *Id.* at pp. 23139, 23140.

MR. SMITH of California: Let us talk about what we are discussing here for a minute. Let us read section (k) of the rule we are referring to, rule 9:

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

Let us read what this resolution does. This says:

> Measures relating to the raising, reporting, and use of campaign contributions for candidates.

It has to do with raising money and funds and giving effective authority to investigate if they are contested. We are not changing your authority at all. You are left in the same position. When we change the rules and give the authority, they will have to get some money to operate.

MR. KYL: Will the gentleman yield further?

MR. SISK: I am glad to yield to the gentleman.

MR. KYL: I would say to the other gentleman from California that again I am not in contention with his desire. What I am trying to indicate is unless your piece of legislation, your resolution, does remove from the House Administration Committee certain authority which it now has under the rules, they could effectively block every anticipated effort of the Ethics Committee.

MR. SMITH of California: I do not think so. That is not the way I read it. I do not think that committee would do it. The jurisdiction is clear. It is a changing of the rules of the House.

MR. SISK: Let me make clear—

MR. FRIEDEL: Mr. Speaker, will the gentleman yield?

MR. SISK: Yes, I yield to the gentleman from Maryland.

MR. FRIEDEL: This resolution embodies what the Committee on House Administration is doing at the present time. They are investigating these very matters. Of course, you can bring in legislation to correct and reform things that are wrong. However, we are doing it right now. It is a part of our basic jurisdiction under the rules of the House, Rule XI, section 9(k) wherein "corrupt practices" is spelled out, and campaign contributions and expenditures, and the reporting thereof constitute an important segment of the Corrupt Practices Act.

In the course of the remaining discussion, no other jurisdictional issues were addressed. House Resolution 1031 was agreed to, unanimously, on a roll call vote.[13]

Parliamentarian's Note: Notwithstanding the passage of House Resolution 1031, the Committee on House Administration retains jurisdiction under the rules[1] over "corrupt practices" and "Federal elections generally."

Roll Call Irregularities

§ 49.2 The Committee on Standards of Official Conduct informed the Speaker of its inquiry into roll call

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13. *Id.* at p. 23140.

1. See Rule X clause 1(j)(11), *House Rules and Manual* § 679 (1979).

irregularities, and of its recommendation for an improved recording system in the House.

On June 19, 1969,[2] Speaker John W. McCormack, of Massachusetts, laid before the House the following communication from Chairman Charles M. Price, of Illinois, and ranking minority member Leslie C. Arends, of Illinois, of the Committee on Standards of Official Conduct which was read and referred to the Committee on House Administration:

DEAR MR. SPEAKER: On September 27, 1968 you referred to this Committee a letter from the Clerk of the House of Representatives reporting on his investigation of recording irregularities in roll calls taken on September 9, 10, and 16, 1968. You stated, "It seems to me that the allegations set forth in the Clerk's (the Clerk of the House) letter are matters that may come within the jurisdiction of the Committee on Standards of Official Conduct." The Committee interpreted this referral as a request for it to move on its own initiative as provided in the Rules of the House. Accordingly on October 1, 1968, the Committee directed its staff to inquire into these irregularities.

The first phase of the inquiry sought to fix the responsibility for the specific irregularities referred to in the letter from the Clerk of the House. In pursuing this, the need became apparent for an examination of roll call mechanics in general. The Committee now has drawn certain conclusions with respect to the specific irregularities but feels that until the institution of improved recording procedures, which it previously has recommended, it should continue to observe the working of the present system.

With respect to the responsibility for the irregularities referred, the Committee was satisfied that the Clerk of the House accurately reported the information he received. But, after deeper scrutiny of all facets of the situation, the Committee became convinced that the tally clerk's explanation, that he had made the specific erroneous entries "at the request of" another employee was not accurate. The Committee verified that the errors did, in fact, occur, but the most probable explanation is that the tally clerk's response to the Clerk of the House was an instinctively defensive reaction stemming from the complete state of exhaustion which he was experiencing at the time.

In the Committee's belief, several factors contributed to this condition in the tally clerk. At a point when legislative activity in the House was unusually high and with his assistant physically incapacitated and off the job, the tally clerk assumed the full burden of both positions. In the Committee's opinion, this burden was beyond his physical capacity to perform with accuracy, and led to impairment of his efficiency, culminating in the errors referred to as well as several others which were disclosed at about that time.

The Committee therefore reaffirms its earlier interim finding that neither the Member nor employees named in

2. 115 CONG. REC. 16629, 91st Cong. 1st Sess.

the original referral, nor any names subsequently disclosed, were parties to any complicity in these errors.

It may be argued that the tally clerk should have sought assistance during this period. Undoubtedly he would have done so had he recognized the effect the increasing work load was producing in his performance.

Addressing the larger matter of the entire system of tallying, the Committee has made what it feels is the most detailed analysis of the subject ever undertaken and has arrived at numerous statistical conclusions. All of these support the conviction that an unacceptably small percentage of the random error inherent in the present system is subsequently corrected by the Members. While these errors have had absolutely no effect on legislative results, they should be eliminated to the greatest extent possible. Early indications are that there has been some improvement in the 91st Congress to date in the correction of errors but not enough to obviate the need for a modernized system of roll call recording.

In view of the foregoing, the Committee renews its earlier recommendation for installation of a modernized voting system at the earliest possible date.

§ 50. Committee on Veterans' Affairs

The Committee on Veterans' Affairs was created on Jan. 2, 1947, as part of the Legislative Reorganization Act of 1946,[3] and was accorded jurisdiction formerly held by the Committee on World War Veterans' Legislation (created in 1924),[4] the Committee on Invalid Pensions (created in 1831),[5] and the Committee on Pensions (created in 1825).[6]

In 1967,[7] jurisdiction over veterans' cemeteries administered by the Department of Defense was transferred to the committee from the Committee on Interior and Insular Affairs.

In 1973, the jurisdiction of the committee under the rules read as follows:[8]

(a) Veterans' measures generally.

(b) Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior.

(c) Compensation, vocational rehabilitation, and education of veterans.

(d) Life insurance issued by the Government on account of service in the armed forces.

(e) Pensions of all the wars of the United States, general and special.

3. 60 Stat. 812.

4. 7 Cannon's Precedents § 2077.

5. 4 Hinds' Precedents § 4258.

6. *Id.* at § 4260.

7. 113 CONG. REC. 29566, 90th Cong. 1st Sess., Oct. 20, 1967 (H. Res. 241).

8. Rule XI clause 20, *House Rules and Manual* § 722 (1973). See Rule X clause l(u), *House Rules and Manual* § 690 (1979).

(f) Readjustment of servicemen to civil life.

(g) Soldiers' and sailors' civil relief.

(h) Veterans' hospitals, medical care, and treatment of veterans.

Further insight into the scope of the committee's jurisdiction is provided by the legislative subject categories list prepared by the staff of the Select Committee on Committees.[9] With respect to the Committee on Veterans' Affairs, the list reads, as follows [enumeration added]:

(1) Administration of the Veterans' Administration;

(2) Veterans' cemeteries;

(3) Veterans' compensation;

(4) Veterans' education;

(5) Veterans' employment;

(6) Veterans' health care;

(7) Veterans' housing;

(8) Veterans' insurance;

(9) Veterans' pensions;

(10) Veterans' readjustment; and

(11) Veterans' training.

As the precedents reveal, the jurisdiction of the committee has also extended to such matters as the erection of headstones to mark honorary burial places for deceased and missing veterans;[10] veterans' civil liabilities;[11] survivors' death benefits;[12] and veterans' cemeteries not administered by the Secretary of the Interior.[13]

The committee's oversight responsibilities revolve around the Veterans' Administration (VA) with particular emphasis on the administration of VA hospitals.

In 1973, the committee maintained five subcommittees, as follows:

(1) Subcommittee on Compensation;

(2) Subcommittee on Education and Training;

(3) Subcommittee on Hospitals;

(4) Subcommittee on Housing;

(5) Subcommittee on Insurance.

Soldiers' and Sailor Civil Relief Act of 1940

§ 50.1 The Committee on Veterans' Affairs and not the Committee on Armed Services has jurisdiction of a bill to amend section 200 of the Soldiers' and Sailors' Civil Relief Act of 1940 to permit the establishment of certain facts by a declaration under penalty of perjury in lieu of an affidavit.

On Feb. 4, 1959,[14] Carl Vinson, of Georgia, Chairman of the Com-

9. Terrence T. Finn, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 144.

10. §§ 50.3, 50.4, infra.

11. §§ 50.1, 50.2, infra.

12. § 50.6, infra.

13. § 50.7, infra.

14. 105 Cong. Rec. 1812, 86th Cong. 1st Sess.

mittee on Armed Services, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 3313), and to have it rereferred to the Committee on Veterans' Affairs.[15]

Parliamentarian's Note: The Soldiers' and Sailors' Civil Relief Act of 1940[16] was enacted in order to suspend temporarily the enforcement of civil liabilities, in certain cases, of persons in the military service in order to enable such individuals to devote their entire energy to the defense needs of the United States.

§ 50.2 The Committee on Veterans' Affairs and not the Committee on Armed Services has jurisdiction of bills pertaining to the Soldiers' and Sailors' Civil Relief Act of 1940 (1) to provide that it shall not apply to divorce proceedings, (2) to render sections 200(1) and 200(2) inapplicable to future actions and proceedings relating to default judgments, and (3) to amend it so as to guarantee to persons after their period of military service certain rights with respect to employment.

On Apr. 2, 1948,[1] Mr. Walter G. Andrews, of New York, obtained unanimous consent that the four bills described above (H.R. 3137, H.R. 4580, regarding divorce proceedings, H.R. 3808, regarding default judgments, H.R. 582, with respect to employment), be rereferred from the Committee on Armed Services to the Committee on Veterans' Affairs.

Erection of Headstones; Payment Therefor

§ 50.3 The Committee on Veterans' Affairs and not the Committee on Armed Services has jurisdiction of a bill providing for the erection of headstones for certain members of the armed forces buried outside the United States, lost at sea, or reported missing in the performance of duty.

On Feb. 13, 1947,[2] Mr. Walter G. Andrews, of New York, obtained unanimous consent to have the Committee on Armed Services discharged from further consideration of the bill (H.R. 243), and to

15. H.R. 3133 was reported by the Committee on Veterans' Affairs on Mar. 2, 1960 (H. Rept. No. 1309).
16. Pub. L. No. 76–861, 54 Stat. 1178.

1. 94 Cong. Rec. 4070, 80th Cong. 2d Sess.
2. 93 Cong. Rec. 1001, 80th Cong. 1st Sess.

have it rereferred to the Committee on Veterans' Affairs.

§ 50.4 The Committee on Veterans' Affairs and not the Committee on Armed Services has jurisdiction of bills authorizing the Secretary of War to furnish headstones to mark honorary burial places and relating to the payment therefor.

On Feb. 13, 1947,[3] Mr. Walter G. Andrews, of New York, asked unanimous consent to have the Committee on Armed Services discharged from further consideration of a bill (H.R. 1184), authorizing the furnishing of headstones and of a companion measure (H.R. 507), providing for the payment of such headstones. He additionally requested that both measures be referred to the Committee on Veterans' Affairs.

Immediately thereafter, the House granted unanimous consent.

Interest on Government Life Insurance Loans

§ 50.5 The Committee on World War Veterans' Legislation (now the Committee on Veterans' Affairs), and not the Committee on Ways and Means had jurisdiction of a bill to reduce the interest on loans on U.S. Government (converted) life insurance.

On Nov. 28, 1941,[4] Mr. Victor Wickersham, of Oklahoma, asked unanimous consent to have the bill (H.R. 6114), rereferred from the Committee on Ways and Means to the Committee on World War Veterans' Legislation[5] (now the Committee on Veterans' Affairs). In so doing, he stated that he had talked to the Chairman of the Committee on Ways and Means, and there was no objection.

Immediately thereafter, the House granted unanimous consent.

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3. 93 Cong. Rec. 1001, 80th Cong. 1st Sess.

4. 87 Cong. Rec. 9248, 77th Cong. 1st Sess.

5. At the time, the jurisdiction of the committee consisted of subjects relating "to war-risk insurance of soldiers, sailors, and marines, and other persons in the military and naval service of the United States during or growing out of the World War, the United States Veterans' Bureau, the compensations, allowances, and pensions of such persons and their beneficiaries, and all legislation affecting them other than civil service, public lands, adjusted compensations, and private claims." Rule XI clause 40, H. Jour. 825, 77th Cong. 1st Sess. (1941)

Survivors' Death Benefits for Military Retirees

§ 50.6 The Committee on Veterans' Affairs and not the Committee on Armed Services has jurisdiction of a bill "To amend § 102 of the Servicemen's and Veterans' Survivor Benefits Act to provide that all retired members of the uniformed services who served not less than 25 years on active duty and who thereafter die shall be considered to have died service-connected deaths."

On May 18, 1959,[6] Carl Vinson, of Georgia, Chairman of the Committee on Armed Services, obtained unanimous consent to have his committee discharged from further consideration of the bill (H. R. 1129), and to have it re-referred to the Committee on Veterans' Affairs.

Veterans' Cemeteries Not Administered by Secretary of the Interior

§ 50.7 The rules of the House were amended to transfer jurisdiction over all veterans' cemeteries not administered by the Secretary of the Interior from the Committee on Interior and Insular Affairs to the Committee on Veterans' Affairs.

On Oct. 20, 1967,[7] by direction of the Committee on Rules, Mr. Richard Bolling, of Missouri, called up a resolution (H. Res. 241), and asked for its immediate consideration. The Clerk read the resolution; a quorum call followed, after which the House considered and agreed to the committee amendments.

The resolution, with committee amendments, read as follows:

> *Resolved*, That clause 10 of rule XI[8] of the Rules of the House of Representatives is amended by striking out paragraph (h) and inserting in lieu thereof the following:
>
> "(h) Military parks and battlefields."
>
> Sec. 2. Clause 19 of rule XI of the Rules of the House of Representatives[9] is amended by inserting a new subsection (b), as follows:

6. 105 Cong. Rec. 8273, 86th Cong. 1st Sess.

7. 113 Cong. Rec. 29560, 90th Cong. 1st Sess.

8. At the time, Rule XI clause 10, prescribed the jurisdiction of the Committee on Interior and Insular Affairs. Clause 10 (h) stated [H. Jour. 1482, 89th Cong. 2d Sess. (1966)] specifically: "(h) Military parks and battlefields; national cemeteries administered by the Secretary of the Interior."

9. At the time, this clause [H. Jour. 1483, 89th Cong. 2d Sess. (1966)] set forth the jurisdiction of the Committee on Veterans' Affairs.

"(b) Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior".

In the course of the ensuing discussion, Mr. James H. Quillen, of Tennessee, pointed out[10] that under the then-prevailing rules, no less than three committees (Veterans' Affairs, Interior and Insular Affairs, and Armed Services) possessed jurisdictional interests[11] in matters relating to national cemeteries. He noted that such cemeteries were distinguishable insofar as they belonged to one of two main categories; to wit, those which were in active use as burial grounds for military veterans, and those which were inactive for all practical purposes.

With respect to the active cemeteries, he stated:

. . . Those cemeteries still open and available for the burial of our service men ought uniformly to be under the jurisdiction of the Committee on Veterans' Affairs. This committee is charged with the overall direction and formulation of our national policy with regard to our service veterans. The committee also deals on a regular and day to day basis with the Veterans' Administration, the agency which handles the matter of veteran burials.

As the debate proceeded, Mr. E. Ross Adair, of Indiana, further explained the distinction between the types of cemeteries and the rationale behind the resolution:[12]

Under this resolution the Committee on Veterans' Affairs will assume legislative jurisdiction over all national cemeteries except 13 which are now administered by the Secretary of the Interior as a part of the national park system. Seven of these cemeteries are closed to further burials. These cemeteries are located in national historical parks and battlefields. They are administered by the National Park Service because their significance as national monuments overshadows their importance as places of current burial. Therefore, it seems appropriate that legislative jurisdiction over this small group of national cemeteries should remain with the Committee on Interior and Insular Affairs.

After additional discussion, the resolution as amended was agreed to, unanimously, by roll call vote.[13]

§ 51. Committee on Ways and Means

The Committee on Ways and Means was established as a standing committee on Jan. 7, 1802,[14] at which time it held ju-

10. 113 Cong. Rec. 29562, 90th Cong. 1st Sess.

11. See § 40.16, supra.

12. 113 Cong. Rec. 29563, 90th Cong. 1st Sess.

13. *Id.* at p. 29566.

14. 4 Hinds' Precedents § 4020.

risdiction over both revenue and appropriation bills, general oversight of the debt and the departments of government, and veterans' affairs.[15] Over time, some of this jurisdiction was transferred to other committees. In 1814, the Committee on Public Expenditures took over the subject of governmental departments; in 1824, a Committee on Veterans' Affairs garnered that subject, and in 1865, when the Committee on Appropriations was created and given jurisdiction over appropriation of the revenue, the Committee on Ways and Means' jurisdiction was largely restricted to revenue-raising measures, and the consideration of reports from the Treasury.[16] In 1880, the bonded debt of the United States formally became one of the committee's responsibilities. And, in 1947, by virtue of the Legislative Reorganization Act of 1946,[17] the committee lost previously held jurisdiction over the subject of recesses and final adjournments to the Committee on Rules while the main elements of its jurisdiction were more fully defined and have remained part of the committee's mandate in 1973.

It should be noted that the committee's revenue jurisdiction has extended to such subjects as transportation of dutiable goods, collection districts, ports of entry and delivery,[18] customs unions, reciprocity treaties,[19] revenue relations of the United States with Puerto Rico,[20] the revenue bills relating to agricultural products generally, excepting oleomargarine,[1] and tax on cotton and grain futures.

The committee has long held jurisdiction over subjects relating to the Treasury of the United States and the deposit of public moneys although it failed to make good a claim to the subjects of "national finances" and "preservation of the Government credit."[3]

Having once held jurisdiction over seal herds and other revenue-producing animals in Alaska, the committee lost this jurisdiction to the Committee on Merchant Marine and Fisheries in the 68th Congress.[4] The committee also used to report resolutions dis-

15. Linda H. Kamm, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 154.

16. 4 Hinds' Precedents § 4020.

17. 60 Stat. 812.

18. 4 Hinds' Precedents § 4026.

19. *Id.* at § 4021.

20. *Id.* at § 4025.

1. *Id.* at § 4022.

2. *Id.* at § 4028.

3. *Id.* at § 4023.

4. 7 Cannon's Precedents §§ 1725, 1851.

tributing the President's annual message,[5] but the practice was discontinued as of the first session of the 64th Congress.[6]

The jurisdiction of the Committee on Ways and Means pursuant to the 1973 rules read as follows:[7]

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

(b) National social security.

(c) Reciprocal trade agreements.

(d) Revenue measures generally.

(e) Revenue measures relating to the insular possession.

(f) The bonded debt of the United States.

(g) The deposit of public moneys.

(h) Transportation of dutiable goods.

The following list of legislative subject categories provides some additional insight into the scope of the committee's jurisdiction beyond that specified in the rules[8]

(1) Airport trust fund;

(2) Highway trust fund;

(3) National health insurance;

(4) Public Debt;

(5) Renegotiation;

(6) Revenue sharing;

(7) Social Security: (a) Disability insurance, (b) Maternal and Child Health Care, (c) Medicaid, (d) Medicare, (e) Old Age and Survivors' Insurance, (f) Public assistance, aid for families with dependent children, (g) Public assistance, social services, (h) Public assistance, supplemental security income for aged, blind and disabled, and (i) Unemployment Compensation;

(8) Taxes, corporate income;

(9) Taxes, disability insurance fund;

(10) Taxes, estate;

(11) Taxes, excise;

(12) Taxes, gift;

(13) Taxes, individual income;

(14) Taxes, interest equalization;

(15) Taxes, old age and survivors' insurance fund;

(16) Taxes, unemployment compensation;

(17) Trade, adjustment assistance;

(18) Trade, customs administration;

(19) Trade, import control;

(20) Trade, negotiating authority;

(21) Trade, reciprocal agreements;

(22) Trade, tariffs.

In an effort to clarify the scope of its subject matter, the committee identified four main areas in its legislative activity report for the 92d Congress as comprising the major focus of its jurisdiction. Those areas[9] are, as follows:

5. 4 Hinds' Precedents § 4030.

6. 8 Cannon's Precedents § 3350.

7. Rule XI clause 21, *House Rules and Manual* § 724 (1973). See Rule X clause 1 (v), *House Rules and Manual* § 691 (1979).

8. Linda H. Kamm, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, pp. 150, 151 [enumeration and punctuation added].

9. Cited by Linda H. Kamm, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, pp. 149, 150.

1. Federal revenue measures generally. Included in this category are personal and corporate income taxes, excise taxes, estate taxes, gift taxes, miscellaneous taxes, and tax aspects of both the Highway and Airport Trust Funds. With respect to the trust funds, the committee prepares the revenue-generating provisions of law while the Committee on Public Works [for the Highway Trust Fund] and the Committee on Interstate and Foreign Commerce [for the Airport Trust Fund] prepare the nontax aspects of the legislation. Aviation, including jurisdiction over the Airport Trust Fund, was transferred from the Committee on Interstate and Foreign Commerce to the Committee on Public Works and Transportation by the Committee Reform Amendments of 1974.[10]

2. The bonded debt of the United States. The Committee on Ways and Means provides the House with an overview of revenues, spending, and the financial stability of the Nation as a whole in conjunction with its legislative responsibilities in this area.

3. National social security programs. The basic programs are:

(a) Old-Age, Survivors' and Disability Insurance, which is the basic Social Security program;

(b) Medicare, which provides basic hospital benefits for people over 65 and eligible disabled persons and voluntary medical insurance for the elderly and disabled;

(c) Medicaid, under which states receive grants-in-aid to help pay for medical care for the poor;

(d) Public assistance, including supplemental security income for the aged, blind and disabled, aid to families with dependent children, maternal and child health care and social services;

(e) Unemployment Compensation, which involves trust funds in each of the 50 states, includes programs for extended and emergency benefits in times of high unemployment.

Medicaid and other health care and programs supported by general revenues, as opposed to payroll deductions, were transferred to the Committee on Interstate and Foreign Commerce. Supplemental medical benefits under part B title 18 of the Social Security Act, since neither financed from payrolls nor from general revenues but rather financed by deductions from payments to retired social security recipients, do

10. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

The Committee on Ways and Means generates all revenue-raising legislation including payments into trust funds with the exception of the railroad retirement fund. This fund is within the jurisdiction of the Committee on Interstate and Foreign Commerce.

not fall within either committee's exclusive jurisdiction and have been a matter of joint jurisdiction since 1974. Work incentive programs within the Social Security Act were transferred to the Committee on Education and Labor, by the Committee Reform Amendments of 1974.[11]

4. Trade and tariff legislation. The committee's jurisdiction over tariffs stems from a period when they were a major source of revenue. Trade jurisdiction has included the Reciprocal Trade Agreements Act and the Trade Expansion Act of 1962.

Much of the committee's oversight work involves the Department of Health, Education, and Welfare, and the Department of the Treasury although committee-sponsored legislation is administered by many departments. Also within the committee's oversight jurisdiction are the Tariff Commission and the Tax Court. In addition, the committee frequently consults with a number of departments in the course of preparing legislation. Examples of the latter would include the Departments of Agriculture on trade matters, Commerce on tariffs, Health, Education, and Welfare on social security and health, Interior on mining tax treatment and fishing trust funds, Labor on work incentives, State on trade and tariffs, Treasury on customs, taxes, trade, trust funds, and the economy, generally, and Transportation on highway and airport trust funds.[12]

As the precedents reveal, the committee's jurisdiction has also extended to such subjects as agricultural employment insofar as it relates to the Social Security Act,[13] codifying the internal revenue laws of the United States,[14] taxation aspects of the Civil Service Retirement Act,[15] directing the Secretary of State through a resolution of inquiry to transmit information about foreign trade agreements,[16] and providing a federal war service bonus for District of Columbia residents.[17]

For many years, the Committee on Ways and Means conducted all business in the full committee and did not have established subcommittees. However, the Com-

11. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

12. Linda H. Kamm, "Monographs on the Committees of the House of Representatives" (93d Cong. 2d Sess., Dec. 13, 1974), committee print, p. 155.

13. §§ 51.1, 51.2, infra.

14. § 51.4, infra.

15. § 51.3, infra.

16. § 51.5, infra.

17. § 51.7, infra.

mittee Reform Amendments of 1974 required each standing committee that has more than 20 members to establish at least four subcommittees [Rule X clause 6(c), *House Rules and Manual* § 701(c) (1979)].[18] Since that time the committee has maintained subcommittees with legislative jurisdiction as well as an oversight subcommittee.

Some of the effects of the Committee Reform Amendments on the Committee on Ways and Means have heretofore been mentioned. In sum, the committee obtained jurisdiction over tax-exempt foundations and charitable trusts, and lost jurisdiction over: health care and facilities supported by general revenues; work incentive programs; general revenue sharing; and renegotiation (to the Committee on Banking and Currency).[19]

Agricultural Employment and the Social Security Act

§ 51.1 The Committee on Ways and Means and not the Committee on Agriculture had jurisdiction of a bill to amend the Farm Credit Act of 1933, as amended, and the Federal Farm Loan Act, as amended, to provide that after a certain date, employment by production credit associations and national farm loan associations would be covered by the old-age and survivors insurance benefit provisions of the Social Security Act.

On June 18, 1947,[20] Clifford R. Hope, of Kansas, Chairman of the Committee on Agriculture, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 2415), and to have it referred to the Committee on Ways and Means.

§ 51.2 The Committee on Ways and Means and not the Committee on Agriculture has jurisdiction of a bill to extend the period during which income from agricultural labor and nursing services may be disregarded by the states in making old-age assistance payments without prejudicing their rights to grants-in-aid under the Social Security Act

18. H. Res. 5, 121 CONG. REC. 20–32, 94th Cong. 1st Sess., effective Jan. 14, 1975.

19. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

20. 93 CONG. REC. 7262, 7263, 80th Cong. 1st Sess.

On June 4, 1947,[21] Clifford R. Hope, of Kansas, Chairman of the Committee on Agriculture, obtained unanimous consent to have his committee discharged from further consideration of the bill (S. 1072), and to have it re-referred to the Committee on Ways and Means.[22]

Civil Service Retirement Act and Annuity Taxation

§ 51.3 The Committee on Ways and Means and not the Committee on Post Office and Civil Service has jurisdiction of a bill to amend the Civil Service Retirement Act approved May 29, 1930, as amended, so as to exempt annuity payments under such act from taxation.

On Feb. 15, 1951,[23] Thomas J. Murray, of Tennessee, Chairman of the Committee on Post Office and Civil Service, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 2575), and to have it rereferred to the Committee on Ways and Means.[1]

Codification of Internal Revenue Laws

§ 51.4 The Committee on Ways and Means and not the Committee on the Revision of the Laws (now the Committee on the Judiciary), was, by unanimous consent, granted jurisdiction of a bill to consolidate and codify the internal revenue laws of the United States.

On Jan. 18, 1939,[2] Robert L. Doughton, of North Carolina, Chairman of the Committee on Ways and Means, introduced the bill (H.R. 2762), and asked unanimous consent that it be referred to his committee. In so doing, he noted that the Chairman of the Committee on Revision of the Laws (now the Committee on the Judiciary), had no objection to this request.

Immediately thereafter, the House granted unanimous consent.[3]

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21. 93 Cong. Rec. 6344, 80th Cong. 1st Sess.

22. S. 1072 was reported by the Committee on Ways and Means on June 26, 1947 (H. Rept. No. 713).

23. 97 Cong Rec. 1294, 82d Cong. 1st Sess.

1. See 93 Cong. Rec. 209, 80th Cong. 1st Sess., Jan. 9, 1947, where a similar bill (H.R. 738), in an earlier Congress was directly referred to the Committee on Ways and Means.

2. 84 Cong. Rec. 449, 76th Cong. 1st Sess.

3. H.R. 2762 was reported by the Committee on Ways and Means on Jan. 20, 1939 (H. Rept. No. 6).

Parliamentarian's Note: At the time, the Committee on Ways and Means had jurisdiction over matters relating "to the revenue and such measures as purport to raise revenue and the bonded debt of the United States,"[4] while the Committee on the Revision of the Laws had jurisdiction over subjects relating to "the revision and codification of the statutes of the United States."[5]

Foreign Trade Information—Resolutions of Inquiry

§ 51.5 The Committee on Ways and Means and not the Committee on Foreign Affairs had jurisdiction of a resolution of inquiry directing the Secretary of State to transmit to the House information touching upon the failure of the Republics of Brazil and Colombia to ratify certain trade agreements.

On June 3, 1935,[6] Mr. Harold Knutson, of Minnesota, offered the resolution (H. Res. 236), which was referred to the Committee on Ways and Means.

Tax Incentives to Improve Economic Circumstances of Indians

§ 51.6 In the 88th Congress, the Committee on Ways and Means and not the Committee on Interior and Insular Affairs had jurisdiction of a bill to improve the economic circumstances of Indians by, inter alia, providing tax incentives (including deductions from gross income under the Internal Revenue Code) for persons investing in Indian property or furthering industrialization on Indian reservations.

On Feb. 1, 1964,[7] Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, obtained unanimous consent to have his committee discharged from further consideration of the bill (H.R. 980), and to have it rereferred to the Committee on Ways and Means.

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4. H. Jour. 1118, 76th Cong. 1st Sess. (1939).

5. *Id.* at p. 1119.

6. 79 CONG. REC. 8604, 74th Cong. 1st Sess.

7. 110 CONG. REC. 1582, 88th Cong. 2d Sess.

E. COMMITTEE ON RULES

§ 52. History and Role

The Committee on Rules has existed as part of the House committee structure since the First Congress.[8] It was established in 1789 as a select committee; in the early years of the House, the Speaker appointed the committee in each Congress and the committee varied in size from three to nine members.[9]

It became a standing committee of the House in 1880 and was constituted as a committee of five members with jurisdiction over "all proposed action touching rules, joint rules, and order of business."[10]

From 1858 until 1910, the Speaker served as a member of the committee.[11] In 1910, the rules were amended to prohibit this practice,[12] but the prohibition was removed from the rules in the Legislative Reorganization Act of 1946.[13]

The size of the committee was increased to 15 members in the 87th Congress, and this size was maintained through the 92d Congress.[14] Effective Jan. 3, 1975, the rules of the House were amended to eliminate all reference to committee size,[15] and in the 94th Congress 16 members were elected to the committee from nominations submitted to the House from the respective party caucuses.[16]

The essential portion of the present jurisdiction of the committee as set forth in Rule X clause 1(q) (over the rules, joint rules, order of business of the House, and recesses and final adjournments of the House) was first made effective Jan. 2, 1947,

8. Some early Congresses created no Committee on Rules (the 6th, 15th, 16th, 18th, and 19th).

9. Kravitz, Walter and Oleszek, Walter, "A Short History of the Development of the House Committee on Rules," Congressional Research Service (June 18, 1995), Multilith JK 1015 I, p. 2.

10. 4 Hinds' Precedents § 4321.

11. *Id.* at 4321.

12. 7 Cannon's Precedents § 2047.

13. Pub. L. No. 79–610, 60 Stat. 812, Aug. 2, 1946, effective Jan. 2, 1947.

14. H. Res. 127, 107 CONG. REC. 1589, 87th Cong. 1st Sess., Jan. 31, 1961. This increase in the committee's size was made part of the rules in the 88th Congress. H. Res. 5, 109 CONG. REC. 22, 88th Cong. 1st Sess., Jan. 9, 1963.

15. Committee Reform Amendments of 1974, H. Res. 988, 93d Cong. 2d Sess., Oct. 8, 1974.

16. H. Res. 76, 94th Cong. 1st Sess., Jan. 20, 1975; H. Res. 101, 94th Cong. 1st Sess., Jan. 28, 1975.

by the Legislative Reorganization Act of 1946.[17] The Congressional Budget Act of 1974 gave the committee jurisdiction over emergency waivers of the reporting date required by that act for bills and resolutions authorizing new budget authority,[18] and this change was incorporated into the rules of the House effective Jan. 3, 1975, by the Committee Reform Amendments of 1974.[19]

The Committee on Rules considered and reported the Congressional Budget Act of 1974, major portions of which were enacted as an exercise of the rulemaking power of the House (and of the Senate);[1] therefore proposals to amend that Act, as well as special orders waiving provisions of that Act, are within the jurisdiction of the committee. Since the committee has original jurisdiction over the "rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct)", it has the authority to report to the House as privileged proposals to amend the standing rules. Propositions to make or change the rules of the House,[2] to create committees,[3] and to direct committees to undertake certain investigations[4] fall within

17. Pub. L. No. 79–601, § 121 [amending Rule XI (1) (p)], 60 Stat. 812, 828. Previous to the jurisdiction of the committee as stated in the Legislative Reorganization Act of 1946, § 53 of Rule XI provided "All proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules." 4 Hinds' Precedents § 4321.

18. Pub. L. No. 93–344, § 402(b), 88 Stat. 297, 318, July 12, 1974; the provisions of § 402 were made effective by that act with respect to the fiscal year beginning Oct. 1, 1976.

19. H. Res. 988, 93d Cong. 2d Sess., Oct. 8, 1974.

1. See Pub. L. No. 93–344, § 904, 88 Stat. 297, 331.

2. 5 Hinds' Precedents §§ 6770, 6776: 7 Cannon's Precedents § 2047.

3. 4 Hinds' Precedents § 4322: 7 Cannon's Precedents § 2048.

4. 4 Hinds' Precedents §§ 4322–4324; 7 Cannon's Precedents § 2048. The Legislative Reorganization Act of 1946, Pub. L. No. 79–601, 60 Stat. 812, retained the traditional authority of the Committee on Rules to report resolutions authorizing investigations by House standing (as well as select) committees and conferring subpena authority on those committees; during consideration of that legislation in the House an amendment was rejected to grant permanent subpena authority to all standing committees. See 92 CONG. REC. 10073, 79th Cong. 2d Sess., July 25, 1946. The Committee Reform Amendments of 1974, H. Res. 988, 93d Cong. 2d Sess., Oct. 8, 1974, did however grant to all standing committees the authority to conduct studies and investigations and to issue subpenas, whether or not the

this jurisdiction. The committee also has general jurisdiction over statutory provisions changing the procedures of the House for consideration of resolutions or bills disapproving or approving proposed action by the executive branch or by other governmental authorities.[5]

Although the Committee on Rules has standing jurisdiction over permanent changes in the rules of the House, major changes in the rules have not always emanated from the committee but have on occasion been developed by other institutions within the House. For example, the Legislative Reorganization Act of 1346,[6] and the Committee Reform Amendments of 1974,[7] were reported or considered by select or joint committees created for that purpose (by resolutions reported from the Committee on Rules) and not directly by the Committee on Rules itself. In the 96th Congress, a Select Committee on Committees was created,[8] by a resolution

House was in session [Rule XI clause 2(m), effective Jan. 3, 1975].

5. See the compilation of statutory provisions entitled "A. Resolutions which are privileged for consideration in the House" in "'Congressional Disapproval' Provisions contained in public laws", *House Rules and Manual* § 1013 (1979).

6. Pub. L. No. 79–601, 79th Cong. 2d Sess., 60 Stat. 812, Aug. 2, 1946. H. Con. Res. 18, 79th Cong. 1st Sess., reported by the Committee on Rules on Jan. 16, 1945, created a joint committee on the organization of Congress and was agreed to by both Houses. S. 2177, which became the Legislative Reorganization Act of 1946, was reported in the Senate and passed the House (with amendments) on July 25, 1946. The Senate bill and House amendment were the product of the joint committee, which filed its report in the House on Mar. 4, 1946 (H. Rept. No. 79–1675).

7. H. Res. 988, 93d Cong. 2d Sess., Oct. 8, 1974 (effective Jan. 3, 1975). H. Res. 132, reported from the Committee on Rules on Jan. 30, 1973, created a select committee to study the operation and implementation of Rules X and XI (relating to committees) of the House of Representatives; the resolution passed the House on Jan. 31, 1973, and the select committee considered and reported the Committee Reform Amendments (H. Rept. No. 93–916).

8. H. Res. 118, 96th Cong. 1st Sess., was reported from the Committee on Rules on Feb. 28, 1979, and passed the House on Mar. 20, 1979; the resolution created a Select Committee on Committees, which filed several reports with the House on proposed changes in committee jurisdiction and procedure. The only proposal reported by the committee to reach House consideration was H. Res. 549, to create a new standing Committee on Energy; the House adopted the resolution on Mar. 25, 1980, with substantial changes (rejecting the creation of a new standing com-

reported from the Committee on Rules at the informal direction of the Democratic Caucus, to recommend changes in the rules relative to committee jurisdiction and procedure. As stated above, however, the Committee on Rules did consider and report the Congressional Budget Act of 1974, and the Impoundment Control Act of 1974,[9] which created a congressional budget process and a mechanism for disapproving or approving impoundment and rescission proposals of the President. The Committee on Rules also reported the Legislative Reorganization Act of 1970, which made major changes in the rules of the House.[10] Of course, even in the case where a select committee and not the Committee on Rules reports changes in the rules, Rules Committee action is ordinarily necessitated to provide an order of business resolution for consideration in the House.[11]

Additionally, substantive changes in the rules of the House may occur at the beginning of each Congress, when the resolution adopting the rules of the House, offered by the direction of the majority party caucus, may include changes recommended by the caucus. Such a resolution is privileged and does not require action by the Committee on Rules, which at the time the resolution is offered is not constituted.[12] While the resolution has traditionally been offered by the (prospective) Chairman of the Committee on Rules, at the direction of the majority party caucus, the resolution has on occasion been offered by the Majority Leader. A review of the resolutions adopting the

mittee but clarifying instead the current energy jurisdiction of existing committees).

9. Pub. L. No. 93–344, 88 Stat. 297, July 12, 1974, contains the text of both acts and was reported as one measure by the Committee on Rules (H. Rept. No. 93–658).

10. Pub. L. No. 91–510, 84 Stat. 1140, Oct. 26, 1970; see H. Rept. No. 91–1215, June 17, 1970, the report of the Committee on Rules on H.R. 17654.

11. The Committee on Rules reported a special order for consideration of the Legislative Reorganization Act of 1946 on July 20, 1946 (H. Res. 717, adopted by the House on July 25, 1946), a special order for consideration of the Committee Reform Amendments of 1974 on Sept. 25, 1974 (H. Res. 1395, adopted Sept. 30, 1974), and a special order for consideration of a resolution reported from the Select Committee on Committees in the 96th Congress (to amend the rules relative to committee jurisdiction over energy) on Mar. 12, 1980 (H. Res. 607, adopted by the House on Mar. 18, 1980).

12. See *Deschler's Precedents*, Ch. 1, for discussion of the procedure at the commencement of Congress and the procedure for adoption of rules.

rules of the House demonstrates that the majority party caucus in recent years has become more active in recommending substantial changes in the rules at the beginning of the Congress.[13]

The Committee on Rules is subject to discharge, upon a petition signed by a majority of the House membership, from the further consideration of certain special orders of business, which have been referred to that committee at least seven (legislative) days prior to the filing of a discharge motion (Rule XXVII clause 4). In some previous Congresses, the rules contained a special discharge rule relative to the Committee on Rules. In 1949, the House adopted for the first time the so-called 21-day rule; the 81st Congress version read as follows:[14]

> . . . If the Committee on Rules shall adversely report, or fail to report within twenty-one calendar days after reference, any resolution pending before the committee providing for an order of business for the consideration by the House of any public bill or joint resolution favorably reported by a committee of the House, on days when it shall be in order to call up motions to discharge committees it shall be in order for the chairman of the committee which reported such bill or joint resolution to call up for consideration by the House the resolution which the Committee on Rules has so adversely reported or failed to report, and it shall be in order to move the adoption by the House of said resolution adversely reported, or not reported, notwithstanding the adverse report, or the failure to report, of the Committee on Rules, and the Speaker shall recognize the Member seeking recognition for that purpose as a question of the highest privilege. Pending the consideration of said resolution the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said resolution shall have been fully disposed of.

This rule restricted the power of the Committee on Rules to prevent floor consideration of a measure reported by a legislative committee. It made in order as privileged a motion to call up a resolution providing for the consideration of a public bill favorably reported by a committee, which had been before the Committee on Rules for 21 days. During the 81st Congress, the rule was utilized to pass eight bills. In the 82d Congress, when the majority party held a smaller majority in the

13. In the 96th Congress, the majority party caucus even continued to propose further changes in the rules to the Committee on Rules after the adoption of the rules, the caucus not having completed its consideration of rules changes during the organizational caucus of December 1978.

14. H. Res. 5, 95 CONG. REC. 10, 81st Cong. 1st Sess., Jan. 3, 1949 [paragraph (2)(c) of Rule XI].

House, the rule was not incorporated into the rules.

A version of the 21-day rule was again adopted in 1965.[15] This version of the rule in the 89th Congress differed in two respects from that of the 81st Congress. First, the Speaker was under no mandatory obligation to recognize the individual seeking the special order, and the matter was entirely within his discretion. Secondly, the individual who could be recognized was not limited solely to the chairman of the committee which had reported the measure out, but could be "the chairman or any member of the committee . . . who has been so authorized by the committee." At the beginning of the 90th Congress, the resolution adopting the rules of the House was amended to delete the 21-day rule, and the provision has not been included in the rules since that time.[16]

Between 1967 and 1970, the committee forfeited whatever jurisdiction it might have had over measures relating to the Code of Official Conduct, measures relating to financial disclosures of House Members, officers, and employees, measures relating to lobbying activities, and measures relating to the raising, reporting, and use of campaign contributions for House candidates. Jurisdiction over these subjects was granted to the Committee on Standards of Official Conduct.[17] In the 94th Congress, the Committee on Standards of Official Conduct lost jurisdiction over the raising and reporting of campaign contributions (to the Committee on House Administration),[18] and in the 95th Congress jurisdiction over lobbying activities and over financial disclosure was removed from the Committee on Standards of Official Conduct.[19] Since the latter committee retained jurisdiction in the 95th Congress only over the Code of Official Conduct (Rule XLIII), other rules relating to conduct of Members which were adopted in the 95th Congress were considered and reported to the House by the Committee on Rules (Rule XLIV on financial disclosure, Rule XLV prohibiting unofficial office accounts, Rule XLVI limiting the use of the frank, and Rule XLVII limiting outside earned income).[1]

15. H. Res. 9, 111 CONG. REC. 25, 89th Cong. 1st Sess., Jan. 4, 1965.

16. H. Res. 7, 113 CONG. REC. 28–33, 90th Cong. 1st Sess., Jan. 10, 1967.

17. H. Res. 1099, 114 CONG. REC. 8803, 90th Cong. 2d Sess., Apr. 3, 1968.

18. H. Res. 5, 121 CONG. REC. 20–22, 94th Cong. 1st Sess., Jan. 14, 1975.

19. H. Res. 5, 123 CONG. REC. 53, 95th Cong. 1st Sess., Jan. 4, 1977.

1. See H. Res. 287, 123 CONG. REC. 5885, 95th Cong. 1st Sess., Mar. 2, 1977.

The most important function of the Committee on Rules in the contemporary practice of the House is its authority to report special orders providing for the consideration of legislation. This function of the committee, which had its origins in 1883,[2] enables the House by majority vote to vary the order of business, to proceed with particular measures or matters, to waive any rule of the House which impedes consideration, and to provide whatever special procedures may be appropriate. This authority includes but is not limited to, recommendations temporarily waiving specific House rules, discharging legislation not reported from other committees, permitting or precluding consideration of certain amendments, disposing of differences between the two Houses, and reconciling differences among committees reporting the same measure. This aspect of the role of the Committee on Rules is treated exhaustively in Chapter 21 (Order of Business), infra, of this work.

The Committee on Rules is among those committees which can report matters directly to the floor as privileged under Rule XI clause 4. Matters reported from the committee concerning the rules, joint rules, and order of business are privileged; under clause 4(b) of that rule, such reports may be called up for consideration by the House on the same day reported if the House by a two-thirds vote permits such consideration. The report of the committee may be called up on the day following its filing in the House and the question of consideration cannot be raised at that time. Clauses 4(c), 4(d), and 4(e) of Rule XI also specifically deal with reports from the Committee on Rules, their content, the procedures for filing such reports, and voting on such reports.

Subjects treated elsewhere include: special rules and the order of business (Ch. 21), infra, motions to discharge special orders from the Committee on Rules (Ch. 18), infra, consideration and debate (Ch. 29), infra, and adoption of the rules of the House on recommendation of the majority party caucus (Chs. 1, 3), supra.

Role of the Committee on Rules

§ 52.1 The failure of the Committeeon Rules to grant a particular rule having resulted in debate, Members discussed the role of the committee at the turn of the century and its purpose as formulated in that era.

2. See 4 Hinds' Precedents § 3152; 5 Hinds' Precedents § 6870.

On July 14, 1955,[3] a supplemental appropriations bill (H. R. 7278) under consideration in the Committee of the Whole became subject to innumerable points of order, all of which Chairman Wilbur D. Mills, of Arkansas, was obliged to sustain.[4] Several Members attributed the bill's vulnerability to inaction by the Committee on Rules which did not report a rule waiving points of order against the measure. In the course of debate, Clarence Cannon, of Missouri, Chairman of the Committee on Appropriations,[5] made the following observations about the history of the Committee on Rules:[6]

> MR. CANNON: . . . [T]he session this afternoon is reminiscent of the good old times when I first came to the floor 34 years ago. In those days it was estimated that a third of the time of the House was taken up in the discussions of points of order. We had long sessions, during which all the parliamentary authorities and would—be parliamentary authorities of the House rose and expressed themselves practically every day, taking up a large part of the daily program.
>
> And in those halcyon days the Committee on Rules governed the House. There were three men on the Committee on Rules in those days. And the Speaker of the House was a member of the committee. As I recall it, the Committee on Rules in the 61st Congress consisted of Speaker Cannon; John Dalzell, of Pennsylvania, on the part of the majority; and James Richardson, of Tennessee, on the part of the minority. Every day or so they would send around and tell Richardson to "Come on out to the Speaker's room, we are going to have a meeting of the Committee on Rules." They would go into session for about 3 minutes and tell him what the report of the committee would be. Then when they came out on the floor with the resolution Richardson would take up his portion of the time telling what an outrage it was, until finally Speaker Cannon would beckon Dalzell up to the Speaker's stand and say, "John, go down there and tell Jim Richardson to come out to the Speaker's room—we are going to commit another outrage."
>
> Eventually the reaction against the government of the House by the Committee on Rules became so pronounced that in the election of 1910 it was the sole issue before the country in the congressional campaign. The Committee on Rules dominated the House of Representatives. No measure could be considered unless the committee sponsored it. Finally, the reaction against the Committee on Rules became so great that it resulted in an overturn of the House and for the first time in 16 years, the people elected a Democratic Congress.

3. 101 CONG. REC. 10572–625, 84th Cong. 1st Sess.

4. See § 52.5, infra.

5. Mr. Cannon served as Clerk at the Speaker's Table from 1915 to 1921, became a Member of the House in 1923, and compiled *Cannon's Precedents* by 1936.

6. 101 CONG. REC. 10609, 84th Cong. 1st Sess.

Several days later, there still being some discord between Members over the fate of H.R. 7278, Mr. Cannon discussed[7] the role of the Committee on Rules, as he perceived it and as he believed former "Parliamentarian" Hinds[8] perceived it:

> What is the function of the Committee on Rules? We have traveled far afield in the interpretation and adaptation of the functions of the Committee on Rules. Let us get back to the fundamentals. There have been two great revisions of the rules of the House in modern times, the first one in 1880 and the last one in 1911. If you will read the debates on those two revisions with relation to the duties of the Committee on Rules you will find that committee was not intended to retard legislation. Wherever there was a conflict as to priority the Committee on Rules was designed to resolve the conflict. They were to make possible the consideration of a bill which otherwise could not be considered. They were never authorized, it was never intended, that they should deny the House the right to pass upon any proposition reported by other committees.
>
> . . . [M]ay I quote from the great Parliamentarian, Asher C. Hinds, who knew more about the procedure of the House than any man who ever lived. Asher Hinds excelled in parliamentary knowledge anyone who has ever served the United States Congress since 1789.

Here is what he said:

> The Committee on Rules officiates as to the consideration of bills only when, for some reason, the ordinary method prescribed by the rules for the order of business is not satisfactory or produces delay.

The purpose of the rules was to put the matter before the House and put it before the House now.

Hinds further said:

> The number of bills in relation to which it officiates by reporting special orders is relatively few.

It never occurred to him that the time would ever come when the Committee on Rules would arrogate to itself the authority to pass on every bill reported out by a committee of the House. And to deny it consideration as it has denied the House the right and opportunity to consider . . . items objected to in the supplementary appropriation bill.

§ 52.2 A controversy having arisen over the failure of the Committee on Rules to report a special rule waiving points of order against and thus protecting the provisions in a supplemental appropriations bill, the chairman and the ranking majority member discussed their concepts of the committee's role and its reason for inac-

7. 101 Cong. Rec. 11059, 84th Cong. 1st Sess., July 20, 1955.

8. Asher C. Hinds served the House as Clerk at the Speaker's Table from 1895 to 1911, at which time he became a Member of the House from Maine. Hinds' Precedents, the first compilation of the parliamentary precedents of the House, was published in 1907.

tion in the particular instance.

On July 14, 1955,[9] the House resolved itself into the Committee of the Whole for the consideration of a bill (H.R. 7278), reported by the Committee on Appropriations making supplemental appropriations for the fiscal year ending June 30, 1956, and for other purposes. In the course of the bill's consideration, however, points of order were raised against virtually every paragraph[10] by a Member who had unsuccessfully urged the Committee on Rules to report a rule which would have waived all points of order. This, in turn, prompted discussion of the propriety or impropriety of the Rules Committee action,[11] as well as the role of the committee in the House.

At one juncture in the discussion, Chairman Wilbur D. Mills, of Arkansas, recognized William M. Colmer, of Mississippi, the ranking majority member of the Committee on Rules, who made the following remarks, among others:[12]

> I am not going into anything that transpired in the executive session in the Rules Committee and I am not going to either praise or criticize any member of that committee, but I think I can lay my finger on the trouble here.
>
> I know that the Rules Committee becomes a whipping boy at one or more sessions of this Congress, and usually more than once. I know we are patted on the back sometimes because we prevent the Members from having to vote on some controversial matter, and then again I know that we are the recipients of brickbats that come our way because we have offended somebody with a pet measure.
>
> If I am any judge of this situation, the trouble is in section 1301 on page 32 of this bill, where the Committee on Appropriations set out to legislate the salaries of their employees, and other committees were left out. . . .
>
> . . . [T]here were other committees represented that thought that if the thing was going to be done, it ought to be done across the board.
>
> Then there was opposition, it has been shown here, from the Veterans' Affairs Committee. The chairman of the Veterans' Affairs Committee appeared before our committee and objected to waiving points of order on an item setting up a study committee, duplicating the work his committee was doing.
>
> Other committees were represented as objecting to certain items in the bill which were considered as encroaching

9. 101 CONG. REC. 10572, 84th Cong. 1st Sess.

10. See § 52.5, infra.

11. See § 52.1, supra, in which Clarence Cannon, of Missouri, then Chairman of the Committee on Appropriations and a former Clerk at the Speaker's Table of the House, discusses his perception of the proper role of the Committee on Rules.

12. 101 CONG. REC. 10609, 84th Cong. 1st Sess.

on the prerogatives of their respective committees.

. . . I say to you that this is an unfortunate situation. Those who want to raise points of order against everything in the bill, of course, are permitted to do so. But maybe there was some reason or some justification not aimed at agriculture or at the armed service or at these other agencies that guided the Committee on Rules in taking the action that it did.

I am sure the members of the Committee on Rules need no defense at my hands. They can and will bear their share of the responsibility. But those responsible for mutilating the bill here today must likewise take their full share of the responsibility.

Several days later, on July 19, 1955,[13] Speaker Sam Rayburn, of Texas, recognized Howard W. Smith, of Virginia, Chairman of the Committee on Rules, who obtained unanimous consent to proceed out of order and thereupon made the following remarks, among others:

Mr. Speaker, I asked permission to speak out of order this morning because I was unfortunately not on the floor Thursday [Judy 14, 1955] when the Rules Committee got its kicking around by the Appropriations Committee. . . . I realize that the time of the session has come when nobody loves the Rules Committee, and particularly when they do not get exactly what they want from the Rules Committee. I am also cognizant of the philosophy around here on the part of some Members that the Rules Committee is just a traffic cop and supposed to joyfully and gladly give everybody a rule who asks for one. But my people did not elect me to Congress to be a traffic cop, and I think that is true of the other members of the Rules Committee. I think that committee feels they have some functions of a discretionary nature to perform. . . .

To begin with when the Committee on Appropriations appeared before us they told us they had a bill of 38 pages and that all but 4 pages was in violation of the rules of the House. Of course everybody set up and took notice about that time. A great many questions were asked about it.

Since I have been chairman of the Rules Committee there has been much complaint from legislative committees that the Appropriations Committee invades their field and then goes to the Rules Committee and gets a rule waiving points of order. So I made the rule that when that occurred in any appropriation bill we would do the chairman of the Legislative Committee the courtesy of letting him know and giving him an opportunity to be heard. It appeared that there were at least three instances there that I thought the chairman of the respective legislative committees ought to be heard on. One of them involved matters of a legislative character with respect to the Agricultural Committee; another one was with respect to the House Administration Committee; also the chairman of the Committee on Veterans' Affairs appeared in opposition to the rule on the ground that the bill invaded the jurisdiction of that committee.

13. 101 CONG. REC. 10944, 84th Cong. 1st Sess.

The Rules Committee did not refuse anybody a rule. The committee just adjourned without acting on it. . . .

. . . [I] do not think the Rules Committee or any member of it has any apologies to offer about what happened. We were pursuing our policy and we were under the impression that the same rules applied to the Appropriations Committee as to any other committee in the House. We expect to pursue the same policy in the future that we have in the past. I think I can speak for the entire committee when I make that statement.

Increase in Committee Membership

§ 52.3 The House adopted a resolution increasing the membership of the Committee on Rules from 12 to 15 for the duration of the 87th Congress.

On Jan. 31, 1961,[14] Mr. James W. Trimble, of Arkansas, called up House Resolution 127 and asked for its immediate consideration. The resolution read as follows:

Resolved, That during the Eighty-seventh Congress the Committee on Rules shall be composed of fifteen members.

Following lengthy debate on the history, role, and power of the Committee on Rules, the House agreed to the resolution by yeas—217, nays—212.[15]

§ 52.4 The 88th Congress adopted the rules of the 87th Congress with an amendment increasing from 12 to 15, the membership of the Committee on Rules.

On Jan. 9, 1963,[16] Speaker John W. McCormack, of Massachusetts, recognized Mr. Carl Albert, of Oklahoma, who offered and asked for the immediate consideration of the following privileged resolution (H. Res. 5):

Resolved, That the Rules of the House of Representatives of the Eighty-seventh Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended, be, and they are hereby, adopted as the Rules of the House of Representatives of the Eighty-eighth Congress, with the following amendment therein as a part thereof, to wit:

Strike out subsection (p) of rule X and insert in lieu thereof the following:

"(p) Committee on Rules, to consist of fifteen members."

Following debate on the proposal, the resolution was agreed to by yeas—235, nays—196.[17]

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14. 107 Cong. Rec. 1573, 87th Cong. 1st Sess.

15. *Id.* at pp. 1589, 1590.

16. 109 Cong. Rec. 14, 88th Cong. 1st Sess.

17. *Id.* at pp. 21, 22.

Expediting House Business—Effect of Failure to Report Special Rule Waiving Points of Order

§ 52.5 The Committee on Rules having adjourned without acting on a requested special rule waiving all points of order against provisions of a supplemental appropriations bill, a member of the Committee on Appropriations subsequently raised points of order against virtually every paragraph when the bill was read for amendment in order to demonstrate what may happen where points of order are not waived in such circumstances.

On July 14, 1955,[18] the House resolved itself into the Committee of the Whole for the consideration of a bill (H.R. 7278), making supplemental appropriations for the fiscal year ending June 30, 1956, and for other purposes. Shortly thereafter, Clarence Cannon, of Missouri, Chairman of the Committee on Appropriations, who controlled half of the time allotted for debate, yielded to Mr. Louis C. Rabaut, of Michigan.

Mr. Rabaut then made the following remarks, among others:[19]

Mr. Chairman,[20] with malice toward nobody but with determination to do my duty as I see it, I want to report to this House that yesterday I appeared before the Committee on Rules, as was the request of the full Committee on Appropriations. I told the Committee on Rules that this bill was filled with paragraphs that were subject to points of order; that the bill probably contained very few pages where a ruling could be denied against points of order, and the bill would be bad. I said there were so few pages that I limited it to about four pages that would not be subject to a point of order.

I read to the committee a prepared statement and said the bill contained many of the paragraphs that were in the final supplemental bill as handled by the Committee on Appropriations every year, and that a rule is usually granted.

The gentleman from New York [Mr. Taber], the gentleman from California [Mr. Phillips], and the gentleman from Wisconsin [Mr. Davis] were present and opposed a rule. Mr. Davis lent his moral support.

Past history always allowed a rule. To my surprise the committee failed to act, and we find ourselves with a bill involving approximately $1,650,000,000. Twelve subcommittees of the Committee on Appropriations worked on this bill, practically the entire membership of 50; the hearings comprise several volumes, yet under the situation the House will not be able to work its will as to accepting or rejecting the many provisions and amounts in this bill before us because

18. 101 CONG. REC. 10572, 84th Cong. 1st Sess.

19. *Id.* at pp. 10572, 10573.

20. Wilbur D. Mills (Ark.).

a point of order would lie in most instances.

. . . So this is my notice that I intend to cite the paragraphs that are subject to points of order and ask for their deletion from this bill.

Although several Members took exception[1] to Mr. Rabaut's stated intention, as the Clerk read the bill for amendment[2] Mr. Rabaut proceeded to raise points of order against 31 paragraphs in the bill. Each point of order was based on the contention that the language in question constituted legislation in an appropriation bill.[3] In each instance the Chair sought comment from Mr. Cannon, who would concede the point of order—whereupon the Chair would sustain it. When this process concluded, the total amount of funds to be appropriated was trimmed by more than $1.4 billion,[4] a figure comprising 86 percent of the original total.[5]

1. See § 52.2, supra, for comments from the Chairman and the ranking majority member of the Committee on Rules. See also § 52.1, supra, in which Mr. Cannon discusses the historical role of the Committee on Rules.
2. 101 CONG. REC. 10604–25, 84th Cong. 1st Sess.
3. For information on legislation on appropriation bills generally, see Ch. 26, infra.
4. 101 CONG. REC. 10949, 84th Cong. 1st Sess., July 19, 1955.
5. For a comparable instance in an earlier Congress, see 94 CONG. REC. 7603, 80th Cong. 2d Sess., June 9, 1948, where the Committee on Rules reported out a rule [H. Res. 651], for the consideration of a supplemental appropriations bill (H.R. 6829), calling for the waiver of all points of order against "any provisions contained therein" as well as the waiver of all points of order against "any amendment offered by direction of the Committee on Appropriations."

§ 53. Jurisdiction and Scope of Authority

Under the 1973 rules[6] the jurisdiction of the Committee on Rules[7] extended to:

(a) The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct or relating to financial disclosure by a Member, officer, or employee of the House of Representatives), and order of business of the House.

(b) Recesses and final adjournments of Congress.

This jurisdiction was made effective Jan. 2, 1947, as a part of the Legislative Reorganization Act of 1946.[8] Effective July 12, 1974, the Committee on Rules was given specific authority under section 402(b) of the Congressional Budget Act of 1974 to report

6. Rule XI clauses 17(a), 17(b), *House Rules and Manual* § 715 (1973).
7. See § 52, supra, for a brief history of the Committee on Rules, touching upon the evolution of its powers.
8. 60 Stat. 812.

emergency waivers of the required date under that act for bills and resolutions authorizing new budget authority;[9] that jurisdiction was incorporated into the rules in the 93d Congress.[10] The subject of recesses and final adjournments was formerly under the jurisdiction of the Committee on Ways and Means. Jurisdiction over rules relating to official conduct and financial disclosure was transferred to the Committee on Standards of Official Conduct on Apr. 3, 1968,[11] but in the 95th Congress, jurisdiction over rules relating to financial disclosure by Members, officers, and employees of the House was returned to the Committee on Rules (H. Res. 5, 123 CONG. REC. 53–70, 96th Cong. 1st Sess., Jan. 4, 1977).

The principal jurisdiction of the committee is over propositions to make or change the rules,[12] for the creation of committees,[13] and directing them to make investigations.[14] It also reports resolutions relating to the hour of daily meeting and the days on which the House shall sit,[15] and orders relating to the use of the galleries during the electoral count.[16]

In addition, the committee reports special orders providing the times and methods for consideration of public bills or classes of bills, thereby enabling the House, by majority vote, to determine the order and manner of consideration of measures on the House or Union Calendars. This special order jurisdiction also entitles the committee to bring a measure, not reported by legislative committee, directly before the House for its consideration,[17] and to report other resolutions to facilitate the disposal of business on the Speaker's table.

Jurisdiction, Generally

§ 53.1 The Committee on Rules may consider any matter that is properly before them.

On July 30, 1959,[18] the Committee on Education and Labor

9. Pub. L. No. 93–344, § 402b.

10. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

11. H. Res. 1099, 114 CONG. REC. 8811, 90th Cong. 2d Sess.

12. 5 Hinds' Precedents §§ 6770, 6776; 7 Cannon's Precedents § 2047.

13. 4 Hinds' Precedents § 4322; 7 Cannon's Precedents § 2048.

14. 4 Hinds' Precedents §§ 4322–4324; 7 Cannon's Precedents § 2048.

15. 4 Hinds' Precedents § 4325.

16. *Id.* at § 4327.

17. The role of the Committee on Rules with respect to special orders and order of business, generally, is treated in Ch. 21, infra.

18. 105 CONG. REC. 14742, 86th Cong. 1st Sess.

had received unanimous consent to have until midnight to file a report on a bill (H.R. 8342), pertaining to the prevention of abuses in labor organizations.

Shortly thereafter, as the program for the forthcoming week was being discussed, Mr. Clare E. Hoffman, of Michigan, initiated the following exchange with Speaker Sam Rayburn, of Texas:[19]

> Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. HOFFMAN of Michigan: I ask the question, under the rules of the House, can the Committee on Rules report out a bill before they get a majority report from the committee?
>
> THE SPEAKER: The gentleman from North Carolina [Mr. Barden] asked unanimous consent, which was obtained, to have until midnight tonight to file a report of the Committee on Education and Labor on the so-called labor bill.
>
> MR. HOFFMAN of Michigan: My question is, until a majority of the committee sign the report, can the Committee on Rules consider the bill?
>
> THE SPEAKER: The Committee on Rules has the authority to consider any matter which is properly before them. The Chair would certainly hold that this is properly before the Committee on Rules.

Amending the House Rules

§ 53.2 The Committee on Rules has jurisdiction of a resolution proposing amendments to the rules of the House, and the reporting of such a measure is privileged under the rules.

On Mar. 26, 1935,[20] John J. O'Connor, of New York, Chairman of the Committee on Rules, called up House Resolution 172, which was read by the Clerk as follows:

> *Resolved*, That rule XXIV of the House of Representatives be, and is hereby, amended by striking out paragraph 6 thereof and inserting in lieu thereof the following:
>
> "6. On the first Tuesday of each month after disposal of such business on the Speaker's table as requires reference only, the Speaker shall direct the Clerk to call the bills and resolutions on the Private Calendar. Should objection be made by two or more Members to the consideration of any bill or resolution so called, it shall be recommitted to the committee which reported the bill or resolution and no reservation of objection shall be entertained by the Speaker. Such bills and resolutions, if considered, shall be considered in the House as in the Committee of the Whole. No other business shall be in order on this day unless the House, by two-thirds vote on motion to dispense therewith, shall otherwise determine. On such motion debate shall be limited to 5 minutes for and 5 minutes against said motion.
>
> "On the third Tuesday of each month after the disposal of such business on

19. *Id.* at p. 14743.

20. 79 CONG. REC. 4480, 4481, 74th Cong. 1st Sess.

the Speaker's table as requires reference only, the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar, preference to be given to omnibus bills containing bills or resolutions which have previously been objected to on a call of the Private Calendar. All bills and resolutions on the Private Calendar so called, if considered, shall be considered in the House as in the Committee of the Whole. Should objection be made by two or more members to the consideration of any bill or resolution other than an omnibus bill, it shall be recommitted to the committee which reported the bill or resolution and no reservation of objection shall be entertained by the Speaker.

"Omnibus bills shall be read for amendment by paragraph, and no amendment shall be in order except to strike out or to reduce amounts of money stated or to provide limitations. Any item or matter stricken from an omnibus bill shall not thereafter during the same session of Congress be included in any omnibus bill.

"Upon passage of any such omnibus bill, said bill shall be resolved into the several bills and resolutions of which it is composed, and such original bills and resolutions, with any amendments adopted by the House, shall be engrossed, where necessary, and proceedings thereon had as if said bills and resolutions had been passed in the House severally.

"In the consideration of any omnibus bill the proceedings as set forth above shall have the same force and effect as if each Senate and House bill or resolution therein contained or referred to were considered by the House as a separate and distinct bill or resolution."

Speaker Joseph W. Byrns, of Tennessee, then recognized Mr. Thomas L. Blanton, of Texas, who raised a point of order against the resolution, stating in part:

> Mr. Speaker, I raise the point of order that this resolution is not privileged from the Committee on Rules; that the Committee on Rules has no authority, in the way that this rule was introduced and passed upon by the committee and reported, to report such a resolution to the House. Only a joint resolution passed by both the House and Senate, and signed by the President, could authorize this House to pass an omnibus bill, embracing the amounts carried in many private bills, and then, after passage, send all of such private bills to the Senate as bills regularly engrossed [1] and passed by the House, as this rule proposes, when they were not so engrossed and passed.

Mr. Blanton continued to speak to his point of order, noting that for a century it had been House practice "that all bills involving a charge upon the Treasury must be considered in the Committee of the Whole House on the State of the Union, unless otherwise considered by unanimous consent. . . . [W]here bills are considered in the House as in the Committee of the Whole," [2] he ob-

1. An engrossed bill is the final copy of the measure as passed by the House with the text as amended by floor action and certified to by the Clerk of the House. See Ch. 24, infra.
2. Ordinarily, procedure in the House as in Committee of the Whole is only

served, "the rule changes entirely," for the person "in charge of that legislation can move the previous question at any time and shut off debate."

Mr. Blanton additionally expressed reservations as to the effect of the proposal, contending that "old bills, hoary with age and time" could be put back on the calendar and "not a Member of this House would have an opportunity to even raise his voice to show why he made objection to their passage." (3)

Moreover, he contended, "Unless there be two Members simultaneously objecting to it, the bill would be passed." These changes he was convinced would render it "impossible to prevent the passage of the numerous bad bills which have been favorably reported through the years gone by."

Mr. Blanton continued with the argument underlying his point of order (4)

> Mr. Speaker, I ask the Chair to hear me just a moment further on the point of order.

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by unanimous consent since the rules governing the order of business and admissions of motions make no provision for a motion to consider a matter "in the House as in Committee of the Whole" [4 Hinds' Precedents § 4923]. The Committee on Rules, however, may report a resolution providing a special order for consideration of a measure in the House as in Committee of the Whole [H. Res. 1515, 120 CONG. REC. 40858, 93d Cong. 2d Sess., Dec. 18, 1974]. In recent times, an order for this procedure means merely that the bill will be considered as having been read for amendment and will be open for amendment and debate under the five minute rule [H.R. 18619, 116 CONG. REC. 28050, 91st Cong. 2d Sess., Aug. 10, 1970; Rule XXIII clause 5, *House Rules and Manual* § 870 (1979)] without general debate [4 Hinds' Precedents §§ 4924, 4925; 6 Cannon's Precedents § 639; 8 Cannon's Precedents §§ 2431, 2432] but with the motion for the previous question in order. The Speaker remains in the chair, and when the previous question has been ordered, he makes no report but puts the question on the engrossment and third reading and on the passage [Jefferson's Manual, § 424 (1979)].

3. The rule which was then in effect provided that on each Saturday it would be in order for the House to resolve itself into the Committee of the Whole to consider business on the Private Calendar and that if there were objection or reservation of objection after the Clerk read the bill, there would be "10 minutes' general debate to be divided, five minutes controlled by the Member offering the objection or reservation and five minutes controlled by the chairman of the committee reporting the bill, or in his absence by any Member supporting the bill." [H. Jour. 879. 73d Cong. 2d Sess. (1934)].

4. 79 CONG. REC. 4481, 4482, 74th Cong. 1st Sess.

I make the point of order, Mr. Speaker, that the Rules Committee, with all of its power, has no authority to bring in a rule that will take away from all of the 435 Representatives of the people in the House of Representatives their representative capacity, their privilege of representing the people of the United States as Members of different districts in Congress, with the inherent right to be heard on public questions, especially upon legislation coming up in the House that takes large sums of money out of the Treasury.

Now, if this rule is passed, it will take away from every Member of this House, except the chairman of the committee in charge of legislation on private bill day, the right to be heard, the inherent right to be heard, in his representative capacity on legislation and his right to protest against the passage of bad bills that will wrongfully take large sums of money from the Public Treasury. Why, the one in charge of legislation at that time could move the previous question immediately if he wanted to, for such bills are to be considered in the House.

If the Rules Committee has authority to bring in this kind of rule, Mr. Speaker, I submit to the Chair in all earnestness it has authority to bring in a rule on the floor of this House that will prevent any Member of the House of Representatives, except a member of the Rules Committee, from being heard on any kind of bill that comes up in the House. It would permit the Rules Committee, Mr. Speaker, to bring in a rule that would force the consideration of every supply bill, of every big appropriation bill, to be heard without any debate in the House instead of in the Committee of the Whole House on the state of the Union. Why, the chairman would have the authority to move the previous question any time he wanted to and prevent every Member on the floor except himself from being heard.

THE SPEAKER: Of course, the gentleman knows that in passing on a point of order the Chair cannot take into consideration the effect of a resolution or bill that may be pending; that is a matter that must be considered by the membership itself with respect to the legislation in question.

Shortly thereafter, Mr. Frederick R. Lehlbach, of New Jersey, stated on the point of order:

Mr. Speaker, rule XI, paragraph 45,[5] reads as follows:

> The following-named committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Rules, on rules, joint rules, and order of business.

The resolution under discussion is a resolution amending rule XXIV of the House of Representatives. This disposes of the point of order.

After a brief exchange between Mr. Lehlbach and Mr. Blanton, the Speaker ruled on the point of order as follows:

In disposing of a point of order it is not within the province of the Chair to consider the effect, or what may be the effect, of the passage of any rule or legislation which may be pending. After all, rules reported by the Committee on

5. See Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

Rules must be considered and acted upon by a majority of the House, which action, of course, is controlling.

The gentleman from New Jersey has read from clause 45 of rule XI, which, with the permission of the House, the Chair will reread:

> The following-named committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Rules, on rules, joint rules, and order of business.

The pending resolution proposes to amend the rules of the House, it relates to the order of business in the House, and, under the rule the Chair has just read, is made a matter of privilege

The point of order is overruled.

§ 53.3 A resolution reported by the Committee on Rules to amend the House rules so as to permit any standing committee or subcommittee thereof to fix a lesser number than a majority to constitute a quorum for the purpose of taking sworn testimony was debated on the floor and recommitted to the Committee on Rules by unanimous consent.

On Sept. 14, 1951,[6] Speaker Sam Rayburn, of Texas, recognized Mr. John E. Lyle, Jr., of Texas, who, by direction of the Committee on Rules, called up House Resolution 386 and asked for its immediate consideration. The resolution read as follows:

> *Resolved*, That rule XI (2)(f) of the Rules of the House of Representatives is hereby amended to read as follows:
>
> "(f) The rules of the House are hereby made the rules of its standing committees so far as applicable, except that a motion to recess from day to day is hereby made a motion of high privilege in said committees, and except that each standing committee, and each subcommittee of any such committee, is authorized to fix a lesser number than a majority of its entire membership who shall constitute a quorum thereof for the purpose of taking sworn testimony: *Provided*, That such quorum shall consist of not less than one member of the majority party and one member of the minority party."

In the course of the ensuing debate, several Members expressed reservations about possible consequences of the rules amendment as drafted. Referring to the last clause of the resolution, Mr. Charles A. Halleck, of Indiana, for example, noted that:[7]

> . . . [I]f this proviso stands as it is written, there would be a complete bar available to either the majority or the minority to prevent the taking of the testimony, through the simple operation by which either all of the members of the majority or the minority, whichever it might be, would absent themselves from the hearing. I think

6. 97 CONG. REC. 11394, 82d Cong. 1st Sess.

7. *Id.* at p. 11397.

that should be corrected. I want this resolution adopted, but I am afraid, as a practical matter, if we write the rule in this fashion we might create a circumstance that would effectively block action by committees that should be taken.

Although Mr. Lyle did propose an amendment to strike the offending language and his amendment was agreed to, he thereafter obtained unanimous consent that the resolution be recommitted to the Committee on Rules.[8]

§ 53.4 In response to a point of order pertaining to the fixing of debate in terms of days rather than hours, the Chair indicated that the Committee on Rules may report a resolution to waive the rules of the House on any matter (except where its authority is limited by the Constitution or other rule).

On Sept. 3, 1940,[9] Speaker pro tempore Jere Cooper, of Tennessee, recognized Adolph J. Sabath, of Illinois, Chairman of the Committee on Rules, who proceeded to call up House Resolution 586 which read, in pertinent part, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H.R. 10132, a bill to protect the integrity and institutions of the United States through a system of selective compulsory military training and service. That after general debate, which shall be confined to the bill and continue not to exceed 2 days, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Military Affairs, the bill shall be read for amendment under the 5-minute rule.

During debate, the Chair recognized Mr. Vito Marcantonio, of New York, who raised the following point of order:[10]

Mr. Speaker, I make the point of order that the resolution is contrary to the unwritten law of the House. It has been the universal practice, custom, and tradition of the House to have debate fixed by hours. This resolution fixes general debate by days. This is entirely meaningless, because a day may be terminated by a motion that the Committee rise or by adjournment, and for that reason I press my point of order.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. The gentleman from New York makes the point of order that the resolution is contrary to the unwritten rules of the House in that general debate is fixed by days instead of hours.

In the first place, the point of order comes too late.[11]

8. *Id.* at p. 11398.

9. 86 CONG. REC. 11358, 76th Cong. 3d Sess.

10. *Id.* at pp. 11359, 11360.

11. A point of order against a resolution reported from the Committee on

In the second place, this is a resolution reported by the Committee on Rules to change the rules of the House, which is permissible on anything except that which is prohibited by the Constitution.

The point of order is overruled.

Closed Rules

§ 53.5 In the 91st Congress, during consideration of a bill to reorganize the legislative branch, an amendment to Rule XI clause 23, restricting the power of the Committee on Rules to report a "closed rule" was held to change the jurisdiction of the committee, which, under Rule XI clause 17, may report on "rules, joint rules and order of business," and was therefore ruled out of order as in violation of a special rule prohibiting consideration of amendments to that bill having the effect of changing House committee jurisdictions.

On July 29, 1970,[12] the House had resolved itself into the Committee of the Whole for the further consideration of H.R. 17654, a bill to improve the legislative branch of the federal government (the Legislative Reorganization Act of 1970), and for other purposes.

Chairman William H. Natcher, of Kentucky, recognized Mr. Andrew Jacobs, Jr., of Indiana, who offered an amendment which read, in part, as follows:[13]

Sec. 123(a) Clause 23 of Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: "In addition, the Committee on Rules shall not report any rule or order for the consideration of any legislative measure which limits, restricts, or eliminates the actual reading of that measure for amendment or the offering of any amendment to that measure."

Shortly thereafter, Mr. H. Allen Smith, of California, raised a point of order against the amendment:

Mr. Chairman, I raise the point of order that this very definitely limits the jurisdiction of the Rules Committee and would prohibit us from issuing a closed rule and other types of rules. The rule under which this measure was considered strictly prohibits the changing of any jurisdiction of any committee.

THE CHAIRMAN: Does the gentleman from Indiana desire to be heard on the point of order?

MR. JACOBS: Mr. Chairman, as I understand the term "jurisdiction," it

Rules must be made before debate begins. For more information on points of order, in general, see Ch. 31, infra.

12. 116 CONG. REC. 26413, 91st Cong. 2d Sess.

13. *Id.* at p. 26414.

means the territory or subject matter over which legal power is exercisable, not the rules by which such power proceeds.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would like to point out to the gentleman from Indiana that under House Resolution 1093 we have the following language, beginning in line 11:

> No amendments to the bill shall be in order which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI.

Therefore, the Chair sustains the point of order.

Correcting the Record Through Motion

§ 53.6 A Member having made a motion to correct the Record so as to show the language actually uttered in debate and not as extended and revised, the motion, after debate, was referred to the Committee on Rules.

On July 5, 1945,[14] Mr. Malcolm C. Tarver, of Georgia, addressed Speaker Sam Rayburn, of Texas, and offered the following motion (as a question of the privileges of the House):

> Mr. Speaker, I move that the daily Record of July 2, 1945, which contains in the Appendix on pages A3448 and A3449 a speech entitled "$120,000,000 for Rural Electrification," purporting to have been delivered by the gentleman from Mississippi, Hon. John E. Rankin, be corrected for the permanent or bound copy of the Record, so as to show the exact stenographic report of the colloquy which occurred between myself and the gentleman from Mississippi on that date and as a part of that speech.

Prior to offering the motion, Mr. Tarver had stated that under leave to revise and extend his remarks, the gentleman from Mississippi had so "materially changed and enlarged"[15] certain of the statements he made in the course of a colloquy with Mr. Tarver "as to misrepresent materially the position assumed by me in the colloquy." A unanimous-consent request to effect the same result having been objected to by Mr. Rankin,[16] the quoted motion was then offered presumably as a question of the privileges of the House under Rule IX relating to the accuracy of the Record.

In the debate which ensued, the propriety or impropriety of the revision and extension of the remarks in question was not immediately apparent, thereby prompting Mr. Matthew M. Neely, of West Virginia, to offer the following motion:[17]

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14. 91 CONG. REC. 7221, 79th Cong. 1st Sess.

15. *Id.* at p. 7220.

16. *Id.* at p. 7221.

17. *Id.* at p. 7225.

> Mr. Speaker, in behalf of peace in the House and the orderly progress of legislation, I move that the motion of the gentleman from Georgia be referred to the Committee on Rules.

Shortly thereafter, the Neely motion was agreed to.

Parliamentarian's Note: Although a motion to refer may specify reference to any committee, the Committee on House Administration, it should be noted, has jurisdiction over the correction of the *Congressional Record*.[18]

Establishing Investigatory Committees

§ 53.7 The jurisdiction of the Committee on Rules over resolutions establishing investigatory committees does not extend to provisions in the resolution or in committee amendments thereto calling for such committees' expenses to be paid from the contingent fund of the House, and an amendment from that committee has been held not germane as a matter within the jurisdiction of the Committee on Accounts (now the Committee on House Administration).

On June 21, 1944,[19] Mr. Joe B. Bates, of Kentucky, called up a resolution (H. Res. 551), reported from the Committee on Rules and asked for its immediate consideration. House Resolution 551 provided for the establishment of a special committee to be appointed by the Speaker for the purpose of investigating and reporting back to the House with respect to the campaign expenditures of all candidates for the House. The resolution having been read earlier,[20] Speaker Sam Rayburn, of Texas, directed the Clerk to report the committee amendment in the nature of a substitute.

Section 7 of the committee amendment contained the following language:

> For the purpose of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such public hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Seventy-eighth Congress, to employ such attorneys, experts, clerical, and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures, as it deems advisable. The cost of sten-

18. Rule X clause 1(j), *House Rules and Manual* § 679(a) (1979).

19. 90 CONG. REC. 6393, 78th Cong. 2d Sess.

20. *Id.* at p. 6392.

ographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee shall be paid from the contingent fund of the House of Representatives upon vouchers approved by the chairman of the committee or the chairman of any duly authorized subcommittee thereof and approved by the Committee on Accounts.

Immediately after the Clerk read the committee amendment, the Chair recognized Mr. John J. Cochran, of Missouri, who commenced the ensuing exchange:

Mr. Speaker, I make a point of order against the amendment on the ground that the Rules Committee has exceeded its authority, and I respectfully request to be heard on the point of order.

THE SPEAKER: The Chair will hear the gentleman.

MR. COCHRAN: Mr. Speaker, I invite your special attention to the language on page 6, beginning in line 15.

> The expenses of the committee shall be paid from the contingent fund of the House of Representatives upon vouchers approved by the chairman of the committee and the chairman of any duly authorized subcommittee thereof and approved by the Committee on Accounts.

Also to the words on page 6, lines 12 and 13, "and to make such expenditures."

Mr. Speaker, the Committee on Accounts was set up by this House in 1803, long before the Rules Committee was ever heard of. This all-powerful Rules Committee takes it upon itself to assume jurisdiction over the contingent fund of the House. Not only do the rules of the House[1] place that jurisdiction in the Committee on Accounts, but your Committee on Accounts is subject to several statutes, specifically referring to the activities of the Committee on Accounts, and the contingent fund.

Continuing to address himself to the point of order, Mr. Cochran additionally voted:[2]

If this precedent that the Rules Committee seeks to establish is adopted by the House, the House will lose control over its contingent fund. The language that I have read places absolutely no limitation upon the amount this select committee can spend. Vouchers are to be signed by the chairman of the select committee or any subcommittee thereof, and the only jurisdiction the Committee on Accounts has is to put its signature on the voucher and pass it along for payment.

Now, if you can do that with this select committee, you can do it with

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1. At the time, Rule XI clause 36 provided that the jurisdiction of the Committee on Accounts extended to subjects "touching the expenditure of the contingent fund of the House, the auditing and settling of all accounts which may be charged therein by order of the House, the ascertaining of the travel of Members of the House and the reporting the same to the Sergeant at Arms." [H. Jour. 699, 78th Cong. 2d Sess. (1944)]. Presently such jurisdiction is vested in the Committee on House Administration [Rule X clause 1(j), *House Rules and Manual* § 679(a) (1979)].

2. 90 CONG. REC. 6393, 6394, 78th Cong. 2d Sess.

every select committee and every special committee that this House sets up. . . .

The practice has always been for the Accounts Committee to hold hearings and require the select or special committee to state its needs and justify its request.

If it is the desire of the House to pass this jurisdiction to the Rules Committee, then change the rules, but do not let the Rules Committee assume jurisdiction now or at any time in the future unless you do. It is time this House assert itself and serve notice on the Rules Committee to stay within its jurisdiction. . . .

I submit, Mr. Speaker, that the Committee on Rules having taken jurisdiction which did not belong to it, the language I object to is subject to a point of order; and I hope the Chair will so hold.

At the conclusion of Mr. Cochran's remarks, Mr. Bates asserted that he had "no desire to usurp any of the rights of the Committee on Accounts," and expressed his belief that such a feeling was shared by "members on both sides of the Committee on Rules."

Mr. Earl C. Michener, of Michigan, also a member of the Committee on Rules, expressed his agreement to the point of order, and in so doing, delineated one of the key limitations of the Committee on Rules' jurisdiction over measures creating investigatory committees:

I realize there is much truth in what the gentleman from Missouri says. This amendment would bypass the Committee on Accounts. To my knowledge that has never been done in the setting up of an investigating committee. The Rules Committee has jurisdiction over investigating committee resolutions, but the Accounts Committee has jurisdiction over the funds with which the committee operates. I have often said it is a good bit like when my little boy used to ask his mother for a new football. She would say: "Yes, John, you may have the football, but you must go to daddy and get the money." That is the way these investigations are controlled; and, personally, I could not speak in opposition to the point of order.

Following Mr. Michener's remarks, Mr. Howard W. Smith, of Virginia, another member of the committee, stated also that "It was never the desire of the Committee on Rules to usurp the authority of the Committee on Accounts." He added, however, that he believed that "the language objected to is language that has been used in previous resolutions where no point of order has been raised to it."

Shortly thereafter, the Speaker rendered his decision as follows:

The Chair has before it a case exactly in point, and the interesting thing about it is that it begins with the statement:

On May 3, 1933, Mr. Howard W. Smith of Virginia, by direction of the Committee on Rules, and so forth, presented a rule.

A point of order was made against the rule and the Chair held as fol-

lows—and it is exactly on all fours with the instant case:

> The Chair thinks that the provision incorporated in section 5 of the resolution authorizing the committee to employ suitable counsel, assistants, and investigators in the aid of its investigation, and also the provision authorizing all necessary expenses of the investigation to be paid on vouchers approved by the chairman of the committee, is a matter properly within the jurisdiction of the Committee on Accounts.

That is exactly the proposition that is before the Chair at this time. The Chair could cite other precedents.

The point of order, therefore, is sustained as against the committee amendment.[3]

Parliamentarian's Note: This point of order against the amendment did not destroy the privilege of the resolution. This was a germaneness ruling against the amendment. Mr. Howard W. Smith, of Virginia, then offered another substitute the same as the original amendment but without the language about the contingent fund. Compare this situation with those contained in 4 Hinds' Precedents § 4623, where it was held that a bill containing nonprivileged matter in the original text cannot be considered as privileged merely based on a committee amendment removing the nonprivileged matter, and in 8 Cannon's Precedents § 2300, where a funding resolution reported from the Committee on Accounts and also containing legislative provisions within the jurisdiction of other committees was held not to be privileged.

Investigations Pertaining to Impeachment

§ 53.8 The Speaker has referred to the Committee on Rules resolutions authorizing the Committee on the Judiciary to investigate the conduct of federal officials and directing that committee to report its findings to the House "together with such resolutions of impeachment as it deems proper."

3. For a comparable instance in a later Congress, see 95 CONG. REC. 1617–19, 81st Cong. 1st Sess., Feb. 28, 1949, where a resolution (H. Res. 44), calling for a study of Panama Canal tolls by the Committee on Merchant Marine and Fisheries was reported out by the Committee on Rules with a provision authorizing the former committee "to make such expenditures as it deems advisable" [within a $15,000 limit] from the contingent fund of the House, a matter within the jurisdiction of the Committee on House Administration. The Member who called the measure up, John E. Lyle, Jr. [Tex.], announced that "the resolution must be amended to comply with the rules of the House" and introduced an amendment to strike the contingent fund provision.

On Feb. 21, 1966,[4] pursuant to a previous order of the House, Speaker pro tempore Carl Albert, of Oklahoma, recognized Mr. H. R. Gross. of Iowa:

> Mr. Speaker, on file in the U.S. Supreme Court, ignored and gathering dust for nearly 4 years, is an official transcript that sets forth in detail the shocking story of a bitter feud among Federal judges in Oklahoma City, Okla.
>
> The transcript is the verbatim statement of Federal Judge Stephen S. Chandler in which he accuses Federal Judges Alfred P. Murrah and Luther Bohanon of persecution.

Mr. Gross then elaborated on the contents of the transcript which included allegations of telephone tapping, attempted bribery, wrongful assertion of judicial power, and conduct unbecoming to the federal judiciary in general. He concluded his statement by observing:[5]

> As a citizen and a Member of Congress, I cannot sit idly by and watch while the respect and confidence in the Federal judiciary is undermined in Oklahoma or any other area of the Nation. And I submit that there are other areas that need attention.
>
> I urge in the strongest terms at my command that the proper committees of Congress launch an immediate investigation.

4. 112 Cong. Rec. 3489, 89th Cong. 2d Sess.
5. *Id.* at p. 3490.

On Feb. 22, 1966,[6] the Record reveals that a measure (H. Res. 739), introduced by Mr. Gross "authorizing the Committee on the Judiciary to conduct certain investigations" was referred by Speaker John W. McCormack, of Massachusetts, to the Committee on Rules.[7]

§ 53.9 Resolutions directly calling for the impeachment or censure of the President are referred by the Speaker to the Committee on the Judiciary, whereas resolutions calling for an investigation by that committee or by a select committee with a view toward impeachment are referred to the Committee on Rule.

On Oct. 23, 1973,[8] following dismissal of Special Prosecutor Archibald Cox by President Richard M. Nixon, and the resignations of Attorney General Elliot Richardson and Assistant Attorney General William D. Ruckelshaus, numerous resolutions were offered by Members calling for a wide range of congressional ac-

6. 112 Cong. Rec. 3665, 89th Cong. 2d Sess.
7. For information on impeachment powers, generally, see Ch. 14, supra.
8. 119 Cong. Rec. 34871–74, 93d Cong. 1st Sess.

tion. Speaker Carl Albert, of Oklahoma, referred these proposals either to the Committee on Rules or to the Committee on the Judiciary, depending upon the wording of each measure.

All of the aforementioned resolutions directing the Committee on the Judiciary to investigate the President's conduct (H. Res. 644, H. Res. 645), or to investigate whether grounds for his impeachment existed (H. Res. 626, H. Res. 627, H. Res. 628, H. Res. 629, H. Res. 630, H. Res. 641, H. Res. 642), were referred by the Chair to the Committee on Rules, as were those measures calling for such inquiries by a select committee (H. Res. 637, H. Res. 646), or without designating a committee (H. Res. 636). Precedents supporting such referrals[9] date from the 19th century, and are premised on the theory that the very act of directing a committee to undertake an investigation amounts to the adoption of a new rule; this is understood to be so regardless of whether the measure pertains to a standing committee or whether a select committee is created, in which case a "rule" establishing jurisdiction would be essential.

All of the resolutions directly calling for the impeachment (H. Res. 625, H. Res. 631, H. Res. 635, H. Res. 638, H. Res. 643, H. Res. 648, H. Res. 649), or censure (H. Con. Res. 365), of the President were referred by the Chair to the Committee on the Judiciary in view of that committee's longstanding historical jurisdiction over the subject matter.

Resolution Proposing Special or Standing Committee Investigation

§ 53.10 A resolution proposing that a question of the privileges of the House be investigated by a special committee or by a standing committee was referred, by unanimous consent, to the Committee on Rules.

On June 1, 1939,[10] Speaker William B. Bankhead, of Alabama, recognized Mr. Clare E. Hoffman, of Michigan, who rose to a question of the privilege of the House, and submitted a resolution (H. Res. 208), with respect thereto.

The resolution recounted in the preamble certain events which took place on the floor of the House involving a colloquy between two Members and a unanimous-consent request by one of

9. 4 Hinds' Precedents §§ 4322–4324; 7 Cannon's Precedents § 2048.

10. 84 Cong. Rec. 6531, 76th Cong. 1st Sess.

those Members to have certain remarks of his deleted from the Record. Contending that the Record as ultimately published failed to reflect a true account of the events which took place, the resolution stated, in part:

> Now, therefore, be it
>
> *Resolved*, That a committee of three be appointed by the Speaker of the House, or, in the discretion of the Speaker, make reference to a standing committee of the House, to ascertain from the reporters of the House and from such other sources as they may deem trustworthy a true and correct record of what did occur, deleting from such record all such matters which the gentleman from Oklahoma [Mr. Massingale] was given permission to delete, and retaining in the Record all such other transactions and proceedings which occurred on the floor of the House and for the withdrawal of which permission was not given; and thereupon to report its conclusions to the House, together with such recommendations as it may deem desirable.

After the Speaker indicated that matters stated in the resolution "probably" raised a question of the privileges of the House, the following exchange ensued:[11]

> THE SPEAKER: . . . Is it the desire of the gentleman to have the resolution referred to a committee?
>
> MR. HOFFMAN: Either to a special committee or to any standing committee, in the discretion of the Speaker.
>
> THE SPEAKER: The Chair will state that in the opinion of the Chair the Committee on Rules would have jurisdiction over the resolution.
>
> Is there objection to referring the resolution of the gentleman from Michigan to the Committee on Rules? [After pause.] The Chair hears none, and it is so ordered.

Joint Resolutions to Establish Joint Committees

§ 53.11 Joint resolutions providing for the establishment of joint congressional committees have been within the jurisdiction of the Committee on Rules.

On June 2, 1937,[12] Speaker William B. Bankhead, of Alabama, recognized Mr. Robert L. Doughton, of North Carolina, who sought unanimous consent to take from the Speaker's table and consider a joint resolution (S. J. Res. 155), to create a Joint Congressional Committee on Tax Evasion and Avoidance.

The resolution in question read as follows:[13]

> *Resolved, etc.*, That (a) there is hereby established a joint congressional committee to be known as the Joint Committee on Tax Evasion and Avoid-

11. *Id.* at p. 6532.

12. 81 CONG. REC. 5243, 75th Cong. 1st Sess.

13. *Id.* at pp. 5243, 5244.

ance (hereinafter referred to as the joint committee).

(b) The joint committee shall be composed of six Members of the Senate who are members of the Committee on Finance, appointed by the President of the Senate, and six Members of the House of Representatives who are members of the Committee on Ways and Means, appointed by the Speaker of the House of Representatives. A vacancy in the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as the original selection.

Sec. 2. It shall be the duty of the joint committee to investigate the methods of evasion and avoidance of income, estate, and gift taxes, pointed out in the message of the President transmitted to Congress on June 1, 1937, and other methods of tax evasion and avoidance, and to report to the Senate and the House, at the earliest practicable date, and from time to time thereafter, but not later than February 1, 1938, its recommendations as to remedies for the evils disclosed by such investigation.

Sec. 3. (a) The joint committee, or any subcommittee thereof, shall have power to hold hearings and to sit and act at such places and times, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to have such printing and binding done, and to make such expenditures, as it deems advisable. Subpenas shall be issued under the signature of the chairman of said joint committee, and shall be served by any person designated by him. Amounts appropriated for the expenses of the joint committee shall be disbursed one-half by the Secretary of the Senate and one-half by the Clerk of the House. The provisions of sections 101 and 102 of the Revised Statutes shall apply in case of any failure of any witness to comply with any subpena, or to testify when summoned, under authority of this joint resolution.

(b)(1) The Secretary of the Treasury and any officer or employee of the Treasury Department, upon request from the joint committee, shall furnish such committee with any data of any character contained in or shown by any return of income, estate, or gift tax.

(2) The joint committee shall have the right, acting directly as a committee or by or through such examiners or agents as it may designate or appoint, to inspect any or all such returns at such times and in such manner as it may determine.

(3) The joint committee shall have the right to submit any relevant or useful information thus obtained to the Senate, the House of Representatives, the Committee on Ways and Means, or the Committee on Finance, and shall have the right to make public, in such cases and to such extent as it may deem advisable, any such information or any such returns. The Committee on Ways and Means or the Committee on Finance may submit such information to the House or to the Senate, or to both the House and the Senate, as the case may be.

Sec. 4. The joint committee shall have power to employ and fix the compensation of such officers, experts, and employees as it deems necessary for

the performance of its duties, but the compensation so fixed shall not exceed the compensation fixed under the Classification Act of 1923, as amended, for comparable duties. The joint committee is authorized to utilize the services, information, facilities, and personnel of the departments and agencies in the executive branch of the Government and of the Joint Committee on Internal Revenue Taxation.

Sec. 5. The joint committee may authorize any one or more officers or employees of the Treasury Department to conduct any part of such investigation on behalf of the committee, and for such purpose any person so authorized may hold such hearings, and require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, administer such oaths, and take such testimony as the committees may authorize. In any such case subpenas shall be issued under the signature of the chairman of the joint committee and shall be served by any person designated by him.

Sec. 6. All authority conferred by this joint resolution shall expire February 1, 1938.

Several Members commented on the resolution while reserving the right to object. Mr. Maury Maverick, of Texas, announced[14] his intention to object after stating that he did not believe the House had the opportunity to give the measure "mature consideration." Accordingly, unanimous consent was denied.

On June 7, 1937,[15] the joint resolution having been referred in the interim to the Committee on Rules, and reported therefrom together with a special rule providing for its consideration, the Speaker recognized Mr. Bertrand H. Snell, of New York, who raised the following point of order:

I make a point of order with respect to the reference of Senate Joint Resolution 155, to create a Joint Congressional Committee on Tax Evasion and Avoidance. This resolution was referred erroneously, in my judgment, to the Rules Committee. I will read section 35, rule XI:[16]

All proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules.

I appreciate the fact that in making this point of order I am making it to the court who made the reference, and I am making this point of order under no misapprehension. . . .

I appreciate the fact that the average investigation resolution goes to the Committee on Rules, because it has been determined that that was simply a change in the rules of the House providing for a new committee to make an investigation; but this Senate Joint Resolution 155 goes much further than any resolution of this kind that has ever come to my attention. This resolution is much more than an investigation; it is just full of legislation. In the first place, it authorizes an appropriation. It places new duties on the Secretary of the Treasury. It provides for

14. *Id.* at p. 5245.

15. 81 CONG. REC. 5369, 75th Cong. 1st Sess.

16. The equivalent of this provision is set forth in Rule X clause 1(q), *House Rules and Manual* § 786(a) (1979).

the repeal of the law for publicity of income-tax returns under certain circumstances. It allows this committee to create positions, fix compensation, and so forth. It also delegates new authority to the employees of the Department of the Treasury. It is so full of legislation that even the chairman of the Rules Committee himself,[17] under a reservation to object to the immediate consideration of the resolution last week, brought up the question of the legislation contained in the resolution. There are at least five definite legislative proposals in this bill.

As we all know, Rules Committee is not a legislative committee, and it has never been the custom of the House to refer legislative proposals to this committee. If the Chair needs any further proof that this is legislation, I refer to the fact that even the Parliamentarian of the House has placed this Senate Joint Resolution 155 on the Union Calendar and I expect he did so because it authorized an appropriation of funds out of the Treasury of the United States.

After addressing himself to the anticipated issue of tardiness in the making of his point of order, Mr. Snell concluded his initial remarks by stating:

. . . This [S.J. Res. 155] in reality, is nothing but a legislative proposal. I think it was erroneously referred to the Rules Committee and that the Rules Committee had no jurisdiction whatever over matters of this character.

I ask a ruling from the Chair.

17. John J. O'Connor (N.Y.).

Parliamentarian's Note: Ordinarily a motion to rerefer a bill erroneously referred is in order under Rule XXII clause 4 on motion of a committee either claiming or relinquishing jurisdiction, but when a bill has been reported such a motion comes too late and a point of order against the Speaker's referral does not lie.

The Speaker then recognized Mr. O'Connor, who indicated it was his understanding that the "primary ground" for the referral of Senate Joint Resolution 155 was that it "proposed an investigation." He described the language of the joint resolution as:

. . . practically identical with the joint resolution which created the Joint Committee on the Reorganization of the Executive Branches of the Government and which was likewise referred to the Committee on Rules and reported out by the Rules Committee.

This Senate Joint Resolution 155, not being a privileged matter, because it contains provisions as to expenditures required the reporting of a separate House resolution for its consideration. While the joint resolution, Senate Joint Resolution 155, is on the Union Calendar, No. 328, the other resolution from the Rules Committee, House Resolution 226, for the consideration of the joint resolution has been placed on the House Calendar No. 113.

Mr. Snell and Mr. O'Connor debated the matter from their different perspectives:[18]

18. 81 CONG. REC. 5369, 5370, 75th Cong. 1st Sess.

MR. SNELL: . . . Would the gentleman maintain that the Rules Committee would have jurisdiction over matter such as is contained in Senate Joint Resolution 155?

MR. O'CONNOR of New York: Oh, no; of course it would not. It would not have jurisdiction over appropriations. That is the only big question that I see.

MR. SNELL: There is authorization for appropriation, also delegation of authority in the resolution and new duties for the Secretary of the Treasury. It also creates new positions. There are at least five definite subjects of legislation contained in the joint resolution.

MR. O'CONNOR of New York: As to the delegation of duties to the employees of the Treasury Department, I do not believe that is any different than permitting this joint committee to employ the services of persons connected with those departments. Strictly under the rules, of course, under subsection 35 of rule XI, nothing is said about the Rules Committee having jurisdiction of investigations, but as far as I remember—and I served for at least 8 years under the distinguished chairmanship of the gentleman from New York [Mr. Snell]—as far back as I can remember, all of these investigating resolutions went to the Rules Committee. I think that is the basis of referring this resolution, that is based on precedent. It is a custom, a practice, that has grown up in the House.

Mr. Snell continued to argue that the joint resolution contained legislative matter, contending that the language granting the joint committee power "to make such expenditures as it deems advisable" amounted to authorization for an appropriation from the Committee on Appropriations. While Mr. O'Connor did not agree, he conceded the language was "not usual, I confess."

Mr. Clarence Cannon, of Missouri, stated on the point of order:

Mr. Speaker, there are few bills of all the thousands that are introduced in the House of Representatives which do not contain material that would warrant their being sent to any one of a number of committees. Some of them carry provisions which come within the jurisdiction of as many as six or eight committees of the House; and on the other hand few bills are referred to any committee which do not contain material which, if presented alone, would come within the jurisdiction of some other committee or committees of the House. It naturally follows that decision as to which one of a number of committees having some claim of jurisdiction [to which] bills are to be referred is a daily occurrence at the Speaker's table. But the rule followed in such references is that the bill goes to that committee having jurisdiction of the principal objective for which the bill was introduced. The primary purpose of the bill is to secure an investigation, and bills providing for investigations in effect propose changes in the rules, and therefore are referred to the Committee on Rules.

The Speaker then made his ruling as follows:[19]

19. *Id.* at pp. 5370, 5371.

THE SPEAKER: The Chair is ready to rule.

The gentleman from New York [Mr. Snell] raises the point of order that Senate Joint Resolution 155 was improperly referred to the Committee on Rules for consideration by that committee. The gentleman from New York further makes the suggestion that although the Rules Committee had reported this resolution back to the House and that it had gone on the calendar, this is his first opportunity to raise a point of order against the jurisdiction of the Committee on Rules.

With reference to that particular phase of the gentleman's statement, section 2113 of volume 7 of Cannon's Precedents of the House of Representatives, states:

> After a public bill has been reported, it is not in order to raise a question of jurisdiction.

Although it may be true, as stated by the gentleman from New York, that this is his first opportunity to raise that question, in view of the fact the bill has already been reported by the committee to which it was referred, the Chair rules it is too late to raise that question.

On the general proposition raised by the gentleman from New York, the Chair may say this is not a matter of first impression. The question as to the jurisdiction of the Committee on Rules over joint resolutions creating joint committees to make investigations was decided by Speaker Longworth on April 1, 1930. On that occasion the gentleman from New York, Mr. Snell, chairman of the Committee on Rules reported from that committee House Joint Resolution 251, which authorized the appointment of a commission to be composed of Senators, Representatives, and persons to be appointed by the President. The commission was empowered to study the feasibility of equalizing the burden and to minimize the profits of war.

The report on this joint resolution was referred to the calendar and the Committee of the Whole House on the state of the Union.

On April 1, 1930, when Mr. Snell called up the resolution for consideration, Mr. Stafford, of Wisconsin, raised the question as to the jurisdiction of the Committee on Rules to consider and report on the matters therein contained. In debating the point of order the gentleman from New York [Mr. Snell], among other things, stated:

> We propose setting up a special committee to do a special piece of work, and that comes under the general provision of the rules, because it is a change of the rules for a specific purpose. As far as I know, there has never been any decision against it, and I believe it is entirely in accordance with the rules, because we are changing the rules for a specific purpose, namely setting up a special committee to do a specific piece of work. As far as I know, all the decisions have been to the effect that such matters are privileged to come from the Committee on Rules.

That is the end of the argument made by the gentleman from New York at that time on this particular question.

The Speaker, Mr. Longworth, in deciding the point of order, said:

> It has been the common practice of the occupant of the chair, and I think of many of his predecessors, to

> invariably refer bills and joint resolutions which create a joint commission, particularly composed of Members of the House, to the Committee on Rules. There is no other committee to which they could possibly go. It is a change in the rules, insofar as it permits and provides that Members of the House shall serve on the commission which it creates.
>
> It appears to the Chair that the reasoning of the gentleman from New York, enunciated at that time, and the decision of the then Speaker, Mr. Longworth, are sound in principle and in precedent. Acting upon that decision as authority, the Chair overrules the point of order.

Parliamentarian's Note: Under the provisions of Rule X in the 94th Congress,[20] such matters may now be referred simultaneously to more than one committee, sequentially, or even divided into two or more parts.

Consideration of Bill to Amend Nonexisting Act

§ 53.12 The Committee on Rules may report a resolution making in order the consideration of a bill to amend a nonexisting act (another bill not yet signed into law), and a point of order with respect thereto is a question for the House, and not the Chair, to decide.

On May 13, 1953,[1] Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Leo E. Allen, of Illinois, Chairman of the Committee on Rules, who called up House Resolution 233 and asked for its immediate consideration. The resolution provided that upon its adoption it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 5134), to amend the Submerged Lands Act.

Immediately after the Clerk read the resolution, the following exchange took place:

> MR. [MICHAEL A.] FEIGHAN [of Ohio]: Mr. Speaker, a point of order.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. FEIGHAN: Mr. Speaker, I make a point of order against the consideration of this rule because it attempts to make in order the consideration of the bill H.R. 5134, which is a bill to amend a nonexisting act.
>
> THE SPEAKER: The Chair will state that the point of order that has been raised by the gentleman from Ohio is not one within the jurisdiction of the Chair, but is a question for the House to decide, whether it wants to consider such legislation.

Although further discussion ensued regarding the necessity and rationale for this legislation[2] the

20. Rule X clause 5, *House Rules and Manual* § 700 (1979).

1. 99 CONG. REC. 4877, 83d Cong. 1st Sess.

2. *Id.* at pp. 4877–81.

resolution was agreed to by voice vote.[3]

Parliamentarian's Note: After it passed the House, H.R. 4198, the initial bill providing for a Submerged Lands Act, was passed by the Senate with amendments. H.R. 5134, an effort to amend the as yet nonexistent Submerged Lands Act, was intended to counter the Senate's removal of title III from the provisions of H.R. 4198. Ultimately, both measures became part of the Submerged Lands Act.[4]

Request to Senate

§ 53.13 In the House, a resolution raising a question of the privileges of the House requesting the Senate to expunge debate as well as certain rollcall votes of the House, and an editorial critical of the House, inserted in the Record by a Senator, was, on motion, referred to the Committee on Rules.

On July 12, 1956,[5] Speaker Sam Rayburn, of Texas, recognized Mr. Clare E. Hoffman, of Michigan, who rose to a question of personal privilege which he later consolidated[6] by unanimous consent with a question of the privilege of the House. Mr. Hoffman took exception to certain matter inserted in the Record by a Senator including the Houses' rollcall votes on H.R. 7535, the "Federal aid to education bill," and the "Powell amendment" thereto, along with the state and political affiliation of each Member voting, certain critical excerpts from a press editorial, and remarks from the floor of the Senate.

After reading some of the offending material, Mr. Hoffman offered House Resolution 588, which read as follows:

> *Resolved,* whereas in the Congressional Record of July 9, 1956, certain articles appear which reflect upon the integrity of the House as a whole in its representative capacity, and upon individual Members of the House; and
>
> Whereas such statements tend to disgrace, degrade, and render ineffective the actions of the Members of the House; and
>
> Whereas the statements so made and carried in the Record adversely affect the rights of the House collectively, its safety, dignity, and the integrity of its proceedings: Now, therefore, be it
>
> *Resolved,* That the House hereby by the adoption of this resolution most re-

3. *Id.* at p. 4881.
4. 43 USC § 1301. H.R. 4198, approved May 22, 1953, became Pub. L. No. 83–31. H.R. 5134, approved Aug. 7, 1953, became Pub. L. No. 83–212.
5. 102 CONG. REC. 12522, 84th Cong. 2d Sess.
6. *Id.* at p. 12523.

spectfully requests that the other body expunge from its records the rollcall votes and remarks appearing on pages 11016–11017 and the remarks appearing on page A5384 of the daily Congressional Record of July 9, 1956, under the caption "Ignoring the Children"; and be it further

Resolved, That a copy of this resolution be transmitted to the Presiding Officer of the other body.

Following some additional remarks by Mr. Hoffman, the Speaker recognized Mr. John W. McCormack of Massachusetts, who moved that the resolution be referred to the Committee on Rules. The motion was agreed to.

Special Rules

§ 53.14 A point of order against a special order reported from the Committee on Rules, alleging lack of jurisdiction by the committee reporting the bill made in order, will not lie, the Committee on Rules having authority to report a resolution making any properly or improperly referred bill a special order of business.

On May 2, 1939,[7] Samuel Dickstein, of New York, Chairman of the Committee on Immigration and Naturalization (now the Committee on the Judiciary), raised a point of order against a resolution (H. Res. 175), reported by the Committee on Rules providing that upon its adoption, the House would resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 5643), investing U.S. circuit courts of appeals with original and exclusive jurisdiction to review certain alien detention orders. The basis of Mr. Dickstein's point of order as Speaker William B. Bankhead, of Alabama, later phrased it[8] was that "the Committee on the Judiciary, to which it was referred, had no jurisdiction or authority under the rules of the House to consider the bill; therefore it had no legal right to report the bill to the House for its consideration under the rules of the House." The substance of this argument was not essential to the Chair's decision, however, since the point of order was overruled as being untimely.[9]

Notwithstanding this result, Mr. Carl E. Mapes, of Michigan, sought to examine the "jurisdictional defects" issue as the following exchange attests:

MR. MAPES: Mr. Speaker, in order to protect the rights of the Committee on Rules, will the Chair permit this obser-

7. 84 CONG. REC. 5052, 76th Cong. 1st Sess.

8. *Id.* at p. 5054.

9. *Id.* at p. 5055.

vation? The gentleman from New York slept on his rights further until the Committee on Rules reported a rule making the consideration of this measure in order. Even though the reference had been erroneous and the point of order had been otherwise made in time, the Committee on Rules has the right to change the rules and report a rule making the legislation in order. This point also might be taken into consideration by the Speaker, if necessary.

THE SPEAKER: The Chair is of the opinion that the statement made by the gentleman from Michigan, although not necessary to a decision of the instant question, is sustained by a particular and special decision rendered by Mr. Speaker Garner on a similar question. The decision may be found in the Record of February 28, 1933. In that decision it is held, in effect, that despite certain defects in the consideration or the reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules making in order a motion to consider such bill. The Chair thinks that that decision by Mr. Speaker Garner clearly sustains the contention made by the gentleman from Michigan.

MR. MAPES: I call attention to the point, Mr. Speaker, only for the purpose of future reference. I agree fully with the ruling of the Speaker.

Parliamentarian's Note: In this instance, it does not seem that the special rule cured any defect since no waivers of points of order were stated in the rule. Failure to move rereferral under Rule XXII clause 4 prior to the report of the Committee on the Judiciary conferred jurisdiction on that committee over the bill in question.

§ 53.15 The rules of the House give the Committee on Rules the authority to report resolutions providing for special orders of business; and a point of order does not lie against such a resolution because its adoption would have the effect of abrogating another standing rule of the House.

On Nov. 28, 1967,[10] by direction of the Committee on Rules, Mr. Claude D. Pepper, of Florida, called up House Resolution 985 and asked for its immediate consideration. The resolution provided that upon its adoption, the House would concur in Senate amendments to a House bill (H.R. 2275) with a further amendment.

H.R. 2275 was originally a private bill providing relief for an individual. The Senate passed the bill with an amendment which basically provided that all seats in the House of Representatives shall be filled by election of Members from districts. House Resolution 985 provided for the amendment of that Senate amendment

10. 113 CONG. REC. 34032, 90th Cong. 1st Sess.

in order to permit those states which had always elected their Representatives at—large to continue to do so for one more Congress.

In the course of discussion, Mr. Paul C. Jones, of Missouri, made the point of order that the proceedings were in violation of a House rule.[11] The following exchange took place:

> Mr. Jones of Missouri: All right, we will start with rule XX. I will take it under rule XX, which provides—and I can read the English language, though I cannot give you a legal interpretation—
>
> > Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if, originating in the House—
>
> Which this one did not—
>
> it would be subject to that point—
>
> Then they give a proviso—
>
> That a motion to disagree with the amendments—
>
> And there is no motion to disagree. The motion in the resolution is to agree with the amendment, not to disagree with it. I think at that point someone slipped up. I said I am not a lawyer, but I think I can read the English language, and I have a pretty good idea of what the intention was. I think I have a pretty good idea of what the intentions of the Members of the House were. I ask the Members of the House to give this matter consideration. We are voting now upon a principle and not upon some specific bill that has never been considered, in this House and which rule XX provides should be considered in the Committee of the Whole.
>
> THE SPEAKER [John W. McCormack, of Massachusetts]: The Chair is prepared to rule. The Chair has given serious consideration to the point of order raised by the gentleman from Missouri. The Committee on Rules has reported out a special rule. It is within the authority of the rules, and a reporting out by the Rules Committee is consistent with the rules of the House. Therefore, the Chair overrules the point of order.

Discussion proceeded, and the previous question was moved.[12]

At this juncture, Mr. Jones again raised his point of order, and the following exchange ensued:

> MR. JONES of Missouri: Mr. Speaker, I make a point of order against a vote on this resolution and I make the point of order based entirely on rule XX, which says that any amendment of the Senate to any House bill shall be subject to a point of order that it shall first be considered in the Committee of the Whole House on the State of the Union if it originated in the House it would be subject to that point of order. I believe there is no question about it being subject to a point of order should it originate here in this House. Until that issue is debated in the Committee of the Whole House on the State of the

11. *Id.* at p. 34033.

12. *Id.* at o. 34038.

Union I believe that we are violating rule XX of the House rules.

THE SPEAKER: The Chair will state that the Chair has previously ruled on the point of order raised by the gentleman, and the matter is one that is now before the House for the consideration of the House, and the will of the House.

For the reasons heretofore stated and now stated, the Chair overrules the point of order.

MR. JONES of Missouri: Respectfully, Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. JONES of Missouri. Mr. Speaker, can the Chair tell me under what authority the House can consider this in the House rather than in the Committee of the Whole House on the State of the Union, in view of rule XX which says it shall first be considered in the Committee of the Whole House on the State of the Union?

THE SPEAKER: The Chair will state that the House can change its rules at any time upon a resolution that is properly before the House reported by the Committee on Rules. The present resolution has been put before the House by the Committee on Rules within the authority of the Committee on Rules, therefore the matter presents itself for the will of the House.[13]

§ 54. Committee Procedure

The rules expressly grant privileged status to certain actions of the Committee on Rules. It may sit, without special leave, even while the House is reading a measure for amendment under the five-minute rule.

While the Committee on Rules is unique among the House's standing committees, it is subject to most of the rules' provisions affecting them.

The committee is completely exempt, however, from a number of provisions affecting most standing committees. Thus, the Committee on Rules is not obliged to provide time for, or even to include at all, in its reports any supplemental, minority, or additional views of its members.[14] Similarly, the committee is under no obligation under House rules "to make public announcement of the date, place, and subject matter of any hearing" it plans to conduct.[15] Moreover, the committee is exempt from certain rule provisions which pertain solely to standing committees with legislative jurisdiction. For example, the requirements of Rule XIII clause 7[16] pertaining to the inclusion, in reports accompanying public bills, of

13. Special rules from the Committee on Rules and their effect on the order of business are treated in Ch. 21, infra.

14. See Rule XI clause 2(1)(5), *House Rules and Manual* § 714 (1979).

15. See Rule XI clause 2(g)(3), *House Rules and Manual* § 708 (1979).

16. *House Rules and Manual* § 748(b) (1979).

certain estimates of costs arising under said bills are specifically made inapplicable to the Committee on Rules. Similarly, privileged reports from the Committee on Rules are exempted from the provisions of Rule XI clause (2)(l)(6)[17] requiring that measures reported by committees not be considered in the House until the third calendar day on which the committee report on such measure has been available to Members.

Committee Rules

§ 54.1 The Committee on Rules having adopted rules of procedure, the chairman of the committee inserted them in the Record.

On Feb. 28, 1967,[18] Speaker John W. McCormack, of Massachusetts, recognized William M. Colmer, of Mississippi, Chairman of the Committee on Rules, who then stated:

> Mr. Speaker, rule XI of the House provides that all committees of the House of Representatives other than the Committee on Appropriations shall have regular meeting days during the sessions of the Congress.
>
> The same rule also provides that the committees of the House may adopt additional rules not inconsistent with the rules of the House.
>
> In conformity with and carrying out the provisions of rule XI, the Committee on Rules today unanimously adopted the following rules of procedure for the Committee on Rules:
>
> RULES FOR THE COMMITTEE ON RULES, ADOPTED UNANIMOUSLY FEBRUARY 28, 1967
>
> RULE 1. MEETINGS
>
> The Committee on Rules shall meet at 10:30 a.m. on Tuesday of each week while the Congress is in session. Meetings shall be called to order and presided over by the Chairman or, in the absence of the Chairman, by the ranking Majority Member of the Committee present as acting chairman.
>
> Meetings and hearings of the Committee shall be open to the public except when a majority of the Committee determine that testimony received may bear upon matters affecting the national security. Executive sessions of the Committee shall be closed.
>
> For the purpose of hearing testimony, a majority of the Committee shall constitute a quorum.
>
> A printed transcript of any hearing or public meeting of the Committee may be had if the Chairman decides it is necessary, or if a majority of the Members request it.
>
> A Tuesday meeting of the Committee may be dispensed with where, in the judgment of the Chairman, there is no need therefor, and additional meetings may be called by the Chairman or by written request of a majority of the Committee duly filed with the counsel of the Committee.
>
> RULE 2. VOTING
>
> No measure or recommendation shall be reported or tabled by the Committee unless a majority of the Committee is actually present.

17. *House Rules and Manual* § 715 (1979).

18. 113 CONG. REC. 4774, 4775, 90th Cong. 1st Sess.

A roll call vote of the Members of the Committee may be had upon the request of any Member.

RULE 3. REPORTING

Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee, the Chairman or acting Chairman shall report the same or designate some Member of the Committee to report the same to the House, as provided in the Rules of the House.

RULE 4. COMMITTEE STAFFING

The professional and clerical staffs of the Committee shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of the members of the staffs and delegate such authority as the Chairman deems appropriate, with the exception of the Minority staff, who shall be selected by and under the general supervision and direction of the Ranking Minority Member of the Committee.

RULE 6. MISCELLANEOUS

The Committee shall prepare, maintain, and publish for the Members of the Committee, so far as practicable, a calendar listing all matters formally before it. Information on the Calendar shall include the numbers of the bills or resolutions, a brief description of a bill's contents, including the legislative committee reporting it and the name of the principal sponsoring Member. For purposes of this rule, matters formally before the Committee include: bills or resolutions over which the Committee has original jurisdiction, and bills or resolutions from other committees concerning which the chairman or designated member of such committee has requested a hearing in writing and forwarded to the Committee on Rules a copy of such bill or resolution as reported, together with the final printed committee report.

Upon adoption of the rules and procedures of the Committee at the opening of each Congress, the Chairman may have these rules and procedures printed in an early issue of The Congressional Record.

Calling Meetings

§ 54.2 The Chairman of the Committee on Rules is under no obligation to call a meeting thereof, but where he declines to call a meeting, a majority of the committee members may do so pursuant to those rules applicable to all standing committees.

On May 27, 1946,[19] the House received a message from the Senate to the effect that that body had passed an amended version of the so-called Case bill (H.R. 4908), which was entitled, "An act to provide additional facilities for the mediation of labor disputes, and for other purposes." The message also requested House concurrence in the Senate's amended version of the bill.

Later in the day, Speaker Sam Rayburn, of Texas, recognized Mr. Howard W. Smith, of Virginia, a member of the Committee on Rules, who asked the following question:[20]

19. 92 CONG. REC. 5848, 79th Cong. 2d Sess.

20. *Id.* at p. 5863.

Mr. Speaker, the Committee on Rules all day long has been seeking to get a meeting of that committee. This morning I made the unanimous-consent request that the Committee on Rules be given until tomorrow night to file its report on the so-called Case bill. Objection was made by the gentleman from New York to that request. So that the situation now is that unless the committee meets this afternoon it will not be possible to carry out the previously agreed upon schedule of the House to take up the Case bill on Wednesday morning. My parliamentary inquiry is whether when the chairman of the Committee on Rules absents himself from the floor of the House and from the office of the committee and declines to call a meeting of the committee to transact important business for the country it is within the province of a majority of the members of the committee to themselves call a meeting and report whatever legislation they desire to the floor of the House.

The Speaker responded by stating:

The Chair will read clause 48 of rule XI: (1)

A standing committee of the House shall meet to consider any bill or resolution pending before it: (1) on all regular meeting days selected by the committee; (2) upon the call of the chairman of the committee; (3) if the chairman of the committee, after 3 days' consideration, refuses or fails, upon the request of at least three members of the committee, to call a special meeting of the committee within 7 calendar days from the date of said request, then, upon the filing with the clerk of the committee of the written and signed request of a majority of the committee for a called special meeting of the committee, the committee shall meet on the day and hour specified in said written request. It shall be the duty of the clerk of the committee to notify all members of the committee in the usual way of such called special meeting.

That is the answer of the Chair to the parliamentary inquiry of the gentleman from Virginia.

Mr. Smith then elaborated on his initial inquiry, prompting the following exchange: (2)

MR. SMITH of Virginia: Mr. Speaker, may I submit a further inquiry?

Under those circumstances, is it possible for the chairman of the committee of his own volition to prevent the House from taking action on legislation vital to the Nation until the time set forth in the rule has elapsed?

THE SPEAKER: Under the rules of the House, the chairman of a committee does not have to call a meeting of the committee. The answer to the question as to how the committee can get together if the chairman does not desire

1. This provision has changed very little in substance since 1946. The 1979 rules [Rule XI clause 2(c)(2), *House Rules and Manual* § 705 (1979)], require that the committee chairman be notified of the filing of a request for the meeting and that he be provided with three calendar days within which to call it himself, before the committee majority may file its notice mandating such a meeting.

2. 92 CONG. REC. 5863, 5864, 79th Cong. 2d Sess.

to call the committee together or refuses to call them together is contained in the rule just read.

§ 54.3 Any Member may request that the Chairman of the Committee on Rules call a meeting of that committee to consider reporting a resolution making in order the disposition of a House bill with Senate amendments thereto.

On Aug. 13, 1957,[3] Speaker Sam Rayburn, of Texas, recognized Mr. Kenneth B. Keating, of New York, who requested unanimous consent to take a civil rights bill (H.R. 6127), from the Speaker's desk, with Senate amendments thereto, and to disagree to the amendments of the Senate and ask for a conference. This request being objected to, Mr. Emanuel Celler, of New York, asked unanimous consent that the House concur in the Senate amendments—a request to which Mr. Keating objected.

Thereafter, the following exchange took place:

MR. KEATING: Would the Speaker recognize me to move to send the bill to the Rules Committee?

THE SPEAKER: The Chair would not. It is not necessary to do that.

MR. KEATING: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. KEATING: Would the Speaker advise what action is necessary now in order to get the bill to the Committee on Rules?

THE SPEAKER: Anyone can make the request of the chairman of the Committee on Rules to call a meeting of the committee to consider the whole matter.

MR. KEATING: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. KEATING: Mr. Speaker, if that were done, would the bill which is now on the Speaker's desk be before the Rules Committee?

THE SPEAKER: It would not be before the Committee on Rules. The Committee on Rules could consider the matter of what procedure to recommend to the House for the disposition of this whole matter.

Absence of a Quorum

§ 54.4 The Chairman of the Committee on Rules has withdrawn a report presented from the floor where a question arose as to whether a quorum of the committee was present at the time the resolution was ordered reported.

On Feb. 2, 1951,[4] Mr. Adolph J. Sabath of Illinois, a member of

3. 103 CONG. REC. 14568, 85th Cong. 1st Sess.

4. 97 CONG. REC. 876, 82d Cong. 1st Sess.

the Committee on Rules, sought to file a privileged report (H. Res. 95), authorizing the Committee on the Judiciary to conduct studies and investigations relating to matters within its jurisdiction.

Shortly thereafter, Mr. Clarence J. Brown, of Ohio, made the point of order that the resolution was not properly reported by the committee whereupon the following exchange took place:

> MR. BROWN of Ohio: I think an inquiry by the Chair will determine there was not a quorum present, and that the resolution was not before the committee at that time.
>
> MR. [EDWARD E.] COX [of Georgia]: That is right. That is a correct statement.
>
> MR. BROWN of Ohio: I must protest, Mr. Speaker, and I must make the point of order inasmuch as I regret to do so.
>
> MR. SABATH: Mr. Speaker, even if a quorum was not present, no point of order has been made. But a quorum was present, and I can give you the names of the seven Members who were present. They were Mr. Cox, Mr. Colmer, Mr. Madden, Mr. Delaney, Mr. Mitchell, Mr. Latham, and myself. Seven of twelve makes a quorum. But I withheld it because the gentleman from Ohio [Mr. Brown] objected due to some misunderstanding with the gentleman from New York [Mr. Celler]. Since that time I have learned that the gentleman from New York [Mr. Celler] has agreed with the gentleman from Ohio [Mr. Brown] on the assignment of committees and because the gentleman from New York [Mr. Celler] assured me that an agreement has been reached with the gentleman from Ohio [Mr. Brown] as to the number of subcommittees, I present it today. A quorum was present. The committee had jurisdiction.
>
> MR. COX: Mr. Speaker, if the gentleman will yield there, the gentleman will recall that the gentleman from Virginia [Mr. Smith] and the gentleman from Texas were not present. There was not a single Republican present.
>
> MR. SABATH: There was a Republican present.
>
> MR. COX: Not a single Republican was present. This was not on the agenda but it was called up after the Republicans left, and there was not the majority present.

Shortly thereafter, Mr. Sabath withdrew the report.

Presumption of Procedural Regularity

§ 54.5 A point of order against a special rule, presumably reported at a properly convened meeting of the Committee on Rules, will not lie on the ground that the measure made in order by the special rule was not properly reported by a standing committee and was the subject of misrepresentations before the Committee on Rules.

On July 23, 1942,[5] Speaker Sam Rayburn, of Texas, recog-

5. 88 CONG. REC. 6542, 77th Cong. 2d Sess.

nized Adolph J. Sabath, of Illinois, Chairman of the Committee on Rules, who called up House Resolution 528. The resolution provided for a special rule, the adoption of which would enable the House to resolve itself into the Committee of the Whole to consider a bill (H.R. 7416), providing a means to vote for wartime servicemen absent from their states of residence.

Immediately after the Clerk's reading, the following exchange took place:

> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I make a point of order against the rule.
>
> I make the point of order, Mr. Speaker, that this rule was obtained by fraud; that it was represented to the Rules Committee that the Committee on Election of [the] President, Vice President, and Representatives in Congress [now, the Committee on House Administration] had held a meeting and reported this bill. No such meeting was ever held. The chairman of the committee was in New York, sick, and a majority of the rest of the members was not even notified that any such meeting was contemplated. Fraud vitiates everything, and I cannot believe that the Rules Committee would report this rule out knowing that they were being defrauded. If they did not know it, the fraud vitiates the rule. That is a well-known legal maxim that every lawyer is familiar with. So I make the point of order, Mr. Speaker, that this proposition is not legally before the House because it was never legally reported. The members of the Rules Committee were misled into believing it had been reported and therefore were defrauded into reporting this rule, which vitiates the whole proceeding.
>
> THE SPEAKER: The only thing that interests the Chair is whether or not the Committee on Rules had a formal meeting and reported this resolution. The Chair has no right, as the Chair thinks, in the absence of some evidence to the contrary, to assume that the Committee on Rules had anything but a formal session and reported this special rule. Therefore the Chair overrules the point of order of the gentleman from Mississippi.

Three-day Rule for Filing Reports

§ 54.6 The Committee on Rules must present to the House reports concerning rules, joint rules, and orders of business within three legislative days of the time when ordered reported by the committee.

On Jan. 25, 1944,[6] Speaker Sam Rayburn, of Texas, recognized Mr. John E. Rankin, of Mississippi, who initiated the following exchange in the course of asking a parliamentary inquiry:

> Mr. Speaker, on day before yesterday the Committee on Rules voted, I understand unanimously, to report to the

6. 90 CONG. REC. 675, 78th Cong. 2d Sess.

House a rule on the soldiers' vote bill, S. 1285. This rule has not been reported to the House.

My parliamentary inquiry is whether if the chairman of the Committee on Rules declines further, or delays further, to report this rule to the House so we may proceed with this legislation, some other member of the Committee on Rules may do so without a resolution.

I may say to the Chair that it is my definite understanding that unless the chairman of the Committee on Rules does report it, a motion will be in order under the privilege of the House to require the resolution to be brought to the floor of the House, but what I am trying to find out is whether or not some other member of the committee would have the right to report this rule and let us proceed with the legislation.

THE SPEAKER: The rule provides that the Committee on Rules shall present to the House reports concerning joint resolutions and other business within 3 legislative days of the time when ordered reported by the committee.[7]

The Chair does not feel it necessary at this time to answer the parliamentary inquiry further because the Chair believes that action will provide the answer.

§ 55. Reports From the Committee

A report from the Committee on Rules on rules, joint rules, or order of business is privileged.

It may report at any time on "rules, joint rules, and order of business."[8] It is always in order to call up the committee's reports providing that the matter reported is within its jurisdiction[9] and providing that if a measure is reported on the same day it is called up in the House, at least two-thirds of the Members present vote affirmatively to consider the report;[10] this latter proviso is inapplicable during the last three days of a session.[11] Pending the consideration of the report, the Speaker may entertain one motion to adjourn, but after the result is announced, no dilatory motion is permissible. The rule expressly prohibits the committee from reporting any special rule which "shall operate to prevent the motion to recommit" as provided elsewhere [Rule XVI clause 4] in the rules, although it should be noted that a motion to recommit a special rule from the committee, itself, is not in order. The committee is also expressly prohibited from reporting a special rule which sets aside business under the Calendar Wednesday provi-

7. See Rule XI clause 4(c), *House Rules and Manual* § 730 (1979).

8. Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

9. The inclusion of nonprivileged matter vitiates the privilege.

10. Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979).

11. See § 56.2, infra.

sions[12] of the rules by a vote of less than two-thirds of the Members present. Although the rule grants privileged status to the committee's reports, they yield to questions of privilege and are not in order after the House has voted to go into the Committee of the Whole. Moreover, a conference report takes precedence over a committee report.[13] No rule reported by the committee providing a special order of business is divisible.[1] The privileged status of a measure may be lost through the inclusion of nonprivileged matter.[2]

Rule XI[3] mandates that the committee "present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when ordered reported by the committee." This rule additionally provides that if a special rule is not considered immediately, "it shall be referred to the calendar and, if not called up by the Member making the report within seven legislative days thereafter, any member of the Rules Committee may call it up as a privileged matter and the Speaker *shall* recognize any member of the Rules Committee seeking recognition for that purpose (emphasis supplied)." The rule also provides that an adversely reported resolution may be called up for consideration by any Member of the House on those days set aside for motions to discharge committees, and the Speaker is obliged to recognize the Member seeking recognition for that purpose "as a question of the highest privilege."[4]

Privileged Status of Reports

§ 55.1 A resolution establishing a standing (or a select) committee [but not specifically amending the rules of the House], is reported and called up as privileged by the Committee on Rules.

12. A resolution making this ultimate result possible has been held in order, however; see *House Rules and Manual* § 729(b) (1979).

For the Calendar Wednesday rule, see Rule XXIV clause 7, *House Rules and Manual* § 897 (1979).

13. See Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979).

1. Rule XVI clause 6, *House Rules and Manual* § 791 (1979).

2. See *House Rules and Manual* § 727 (1979) and § 55.3, infra.

3. Clause 4(c), *House Rules and Manual* § 730 (1979).

4. For extensive treatment of committee procedure with respect to special orders and the order of business, generally, see Ch. 21, infra. See also Ch. 18, infra, with respect to motions to discharge matters from the committee.

On Apr. 6, 1967,[5] the Record reveals that:

> Mr. [William M.] Colmer [of Mississippi] from the Committee on Rules, filed a privileged report (H. Res. 418, Rept. No. 178) which was referred to the House Calendar and ordered to be printed.

One week later, on Apr. 13, 1967,[6] the following exchange took place:

> MR. COLMER: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 418 and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> *Resolved*, That there is hereby established a standing committee of the House of Representatives to be known as the Committee on Standards of Official Conduct (hereafter referred to as the "committee"). The committee shall be composed of twelve Members of the House of Representatives. Six members of the committee shall be members of the majority party and six shall be members of the minority party.
>
> Sec. 2. The jurisdiction of the committee shall be to recommend as soon as practicable to the House of Representatives such changes in laws, rules, and regulations as the committee deems necessary to establish and enforce standards of official conduct for Members, officers, and employees of the House.
>
> Sec. 3. The committee may hold such hearings and take such testimony as may be necessary to carry out the purposes of this resolution.
>
> THE SPEAKER PRO TEMPORE:[7] The gentleman from Mississippi is recognized for 1 hour.

On July 8, 1969,[8] Mr. Ray J. Madden, of Illinois, introduced a resolution (H. Res. 472), creating a select committee to be known as the Committee on the House Restaurant. The resolution was referred to the Committee on Rules which reported it on July 8.

Two days later, on July 10, 1969,[9] Speaker John W. McCormack, of Massachusetts, recognized Mr. Madden who proceeded to make the following statement:

> Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 472 and ask for its immediate consideration.

The resolution was then read by the Clerk, as follows:

> H. RES. 472
>
> *Resolved*, That (a) there is hereby created a select committee to be known as the "Committee on the House Restaurant," which shall be composed of five Members of the House of Representatives to be appointed by the Speaker, not more than three of whom shall be of the majority party, and one of whom shall be designated as chairman. Any vacancy occurring in the membership of the committee shall be

5. 113 CONG. REC. 8622, 90th Cong. 1st Sess.

6. 113 CONG. REC. 9425, 90th Cong. 1st Sess.

7. Wilbur D. Mills (Ark.).

8. 115 CONG. REC. 18714, 91st Cong. 1st Sess.

9. 115 CONG. REC. 19080, 91st Cong. 1st Sess.

filled in the same manner in which the original appointment was made.

(b) On and after July 15, 1969, until otherwise ordered by the House, the Architect of the Capitol shall perform the duties vested in him by section 208 of Public Law 812, 76th Congress (40 U.S.C. 174k) under the direction of the select committee herein created.

Parliamentarian's Note: A resolution creating a standing or a select committee is deemed to be the equivalent of a new rule. Hence, the privileged status which attaches to such a measure when reported out by the Committee on Rules.

Privileged Status of Report on Rules, Joint Rules, or Order of Business

§ 55.2 A resolution from the Committee on Rules was not privileged for consideration before the call of committees on Calendar Wednesday.

On Aug. 21, 1935,[10] Speaker Joseph W. Byrns, of Tennessee, recognized John J. O'Connor, of New York, Chairman of the Committee on Rules, who called up the following resolution (H. Res. 358) which had been reported from his committee on the previous day:

Resolved, That during the remainder of the first session of the Seventy-fourth Congress it shall be in order for the acting majority leader or the Chairman of the Committee on Rules to move that the House take a recess, and said motion is hereby made of the highest privilege; and it shall also be in order at any time during the remainder of the first session of the Seventy-fourth Congress to consider reports of the Committee on Rules, as provided in clause 45, rule XI, except that the provision requiring a two-thirds vote to consider such reports is hereby suspended during the remainder of this session of Congress.

A brief discussion ensued, after which the Chair recognized Mr. Bertrand H. Snell, of New York, who initiated the following exchange:[11]

Mr. Speaker, this is Calendar Wednesday, and I object to the consideration of the resolution as not being privileged on Calendar Wednesday.

THE SPEAKER: The Chair does not think the resolution is privileged on Calendar Wednesday.

MR. SNELL: Then, Mr. Speaker, ask for the regular program.

MR. [THOMAS] O'MALLEY [of Wisconsin]: Regular order, Mr. Speaker.

THE SPEAKER: The regular order is, This is Calendar Wednesday.

Parliamentarian's Note: House rules[12] [Rule XI clause 4(a), *House Rules and Manual* § 726 (1979)], provide that the Com-

10. 79 CONG. REC. 14038, 74th Cong. 1st Sess.

11. *Id.* at p. 14039.

12. At the time, Rule XI clause 45; see H. Jour. 1277, 74th Cong. 1st Sess. (1935).

mittee on Rules shall have leave to report at any time "on rules, joint rules, and order of business." The rules[13] also provide, however, that every Wednesday a procedure commonly referred to as "Calendar Wednesday" shall be followed unless the House decides otherwise by a two-thirds vote on a motion to dispense therewith. Briefly stated, "Calendar Wednesday" provides that the Speaker shall call the committees in order [i.e., the order in which listed in the rules], and each committee when named may call up any reported bill on the House or Union Calendar except those bills which are privileged under the rules.[14]

§ 55.3 While legislation creating a joint investigative committee is customarily accorded the same privileged status as any other measure within the jurisdiction of the Committee on Rules, where the proposed legislation includes material or matters not privileged for consideration if reported by the Committee on Rules, that privilege is destroyed. And, in such an instance, the Committee on Rules had to report a special rule making in order the consideration of the measure.

On June 2, 1937,[15] Mr. Robert L. Doughton, of North Carolina, unsuccessfully sought unanimous consent to take from the Speaker's table the joint resolution (S.J. Res. 155), to create a Joint Congressional Committee on Tax Evasion and Avoidance and to have the resolution considered immediately.

Senate Joint Resolution 155 read, in part, as follows:

> *Resolved, etc.,* That (a) there is hereby established a joint congressional committee to be known as the Joint Committee on Tax Evasion and Avoidance (hereinafter referred to as the joint committee).
>
> (b) The joint committee shall be composed of six Members of the Senate who are members of the Committee on Finance, appointed by the President of the Senate, and six Members of the House of Representatives who are members of the Committee on Ways and Means, appointed by the Speaker of the House of Representatives. . . .
>
> Sec. 2. It shall be the duty of the joint committee to investigate the methods of evasion and avoidance of income, estate, and gift taxes, pointed out in the message of the President

13. Rule XXIV clause 4, *House Rules and Manual* § 889 (1979); Rule XXIV clause 7, *House Rules and Manual* § 897 (1979).

14. For further discussion of calendars, see Ch. 22, infra. Special orders are taken up in Ch. 21, infra.

15. 81 CONG. REC. 5243–45, 75th Cong. 1st Sess.

transmitted to Congress on June 1, 1937, and other methods of tax evasion and avoidance, and to report to the Senate and the House, at the earliest practicable date, and from time to time thereafter, but not later than February 1, 1938, its recommendations as to remedies for the evils disclosed by such investigation.

Sec. 3. (a) The joint committee, or any subcommittee thereof, shall have power to hold hearings and to sit and act at such places and times, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to have such printing and binding done, and to make such expenditures, as it deems advisable. . . .

(b)(1) The Secretary of the Treasury and any officer or employee of the Treasury Department, upon request from the joint committee, shall furnish such committee with any data of any character contained in or shown by any return of income, estate, or gift tax.

(2) The joint committee shall have the right, acting directly as a committee or by or through such examiners or agents as it may designate or appoint, to inspect any or all such returns at such times and in such manner as it may determine.

(3) The joint committee shall have the right to submit any relevant or useful information thus obtained to the Senate, the House of Representatives, the Committee on Ways and Means, or the Committee on Finance, and shall have the right to make public, in such cases and to such extent as it may deem advisable, any such information or any such returns. The Committee on Ways and Means or the Committee on Finance may submit such information to the House or to the Senate, or to both the House and the Senate, as the case may be.

Sec. 4. The joint committee shall have power to employ and fix the compensation of such officers, experts, and employees as it deems necessary for the performance of its duties, but the compensation so fixed shall not exceed the compensation fixed under the Classification Act of 1923, as amended for comparable duties. The joint committee is authorized to utilize the services, information, facilities, and personnel of the departments and agencies in the executive branch of the Government and of the Joint Committee on Internal Revenue Taxation.

Sec. 5. The joint committee may authorize any one or more officers or employees of the Treasury Department to conduct any part of such investigation on behalf of the committee, and for such purpose any person so authorized may hold such hearings, and require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, administer such oaths, and take such testimony as the committee may authorize. In any such case subpenas shall be issued under the signature of the chairman of the joint committee and shall be served by any person designated by him.

Sec. 6. All authority conferred by this joint resolution shall expire on February 1, 1938.

Several days later,[16] Mr. Bertrand H. Snell, of New York,

16. 81 CONG. REC. 5369, 75th Cong. 1st Sess., June 7, 1937.

raised a point of order against its referral to the Committee on Rules,[17] stating, in part:

> This resolution is much more than an investigation; it is just full of legislation. In the first place, it authorizes an appropriation. It places new duties on the Secretary of the Treasury. It provides for the repeal of the law for publicity of income-tax returns under certain circumstances. It allows this committee to create positions, fix compensation, and so forth. It also delegates new authority to the employees of the Department of the Treasury.

Commenting on the point of order at the time, Mr. John J. O'Connor, of New York, noted:

> This Senate Joint Resolution 155, not being a privileged matter, because it contains provisions as to expenditures required the reporting of a separate House resolution for its consideration.

As the discussion proceeded, however, Mr. O'Connor did appear to concede that the joint resolution may have trespassed in part on the jurisdiction of, at least, one standing committee [the Committee on Appropriations] as the following exchange indicates:

> MR. SNELL: . . . Would the gentleman maintain that the Rules Committee would have jurisdiction over matter such as is contained in Senate Joint Resolution 155?
>
> MR. O'CONNOR of New York: Oh, no; of course it would not. It would not have jurisdiction over appropriations

Following brief debate, Speaker William B. Bankhead, of Alabama, overruled the point of order, as follows:[18]

> The gentleman from New York [Mr. Snell] raises the point of order that Senate Joint Resolution 155 was improperly referred to the Committee on Rules for consideration by that committee. The gentleman from New York further makes the suggestion that although the Rules Committee had reported this resolution back to the House and that it had gone on the calendar, this is his first opportunity to raise a point of order against the jurisdiction of the Committee on Rules.
>
> With reference to that particular phase of the gentleman's statement, section 2113 of volume 7 of Cannon's Precedents of the House of Representatives, states:
>
> > After a public bill has been reported, it is not in order to raise a question of jurisdiction.
>
> Although it may be true, as stated by the gentleman from New York, that this is his first opportunity to raise that question, in view of the fact the bill has already been reported by the committee to which it was referred, the Chair rules it is too late to raise that question.
>
> On the general proposition raised by the gentleman from New York, the

17. S.J. Res. 155 was taken from the Speaker's table and referred to the Committee on Rules on June 2, 1937. See 81 CONG. REC. 5262, 75th Cong. 1st Sess.

18. 81 CONG. REC. 5370, 5371, 75th Cong. 1st Sess.

Chair may say this is not a matter of first impression. The question as to the jurisdiction of the Committee on Rules over joint resolutions creating joint committees to make investigations was decided by Speaker Longworth on April 1, 1930. On that occasion the gentleman from New York, Mr. Snell, Chairman of the Committee on Rules, reported from that committee House Joint Resolution 251, which authorized the appointment of a commission to be composed of Senators, Representatives, and persons to be appointed by the President. The commission was empowered to study the feasibility of equalizing the burden and to minimize the profits of war.

The report on this joint resolution was referred to the calendar and the Committee of the Whole House on the state of the Union.

On April 1, 1930, when Mr. Snell called up the resolution for consideration, Mr. Stafford, of Wisconsin, raised the question as to the jurisdiction of the Committee on Rules to consider and report on the matters therein contained. In debating the point of order the gentleman from New York [Mr. Snell], among other things, stated:

> We propose setting up a special committee to do a special piece of work, and that comes under the general provision of the rules, because it is a change of the rules for a specific purpose. As far as I know, there has never been any decision against it, and I believe it is entirely in accordance with the rules, because we are changing the rules for a specific purpose, namely, setting up a special committee to do a specific piece of work. As far as I know, all the decisions have been to the effect that such matters are privileged to come from the Committee on Rules.

That is the end of the argument made by the gentleman from New York at that time on this particular question.

The Speaker, Mr. Longworth, in deciding the point of order, said:

> It has been the common practice of the present occupant of the chair, and I think of many of his predecessors, to invariably refer bills and joint resolutions which create a joint commission, particularly composed of Members of the House, to the Committee on Rules. There is no other committee to which they could possibly go. It is a change in the rules insofar as it permits and provides that Members of the House shall serve on the commission which it creates.

It appears to the Chair that the reasoning of the gentleman from New York, enunciated at that time, and the decision of the then Speaker, Mr. Longworth, are sound in principle and in precedent. Acting upon that decision as authority, the Chair overrules the point of order.

Parliamentarian's Note: While Mr. Snell's point of order was overruled,[19] the Committee on Rules did report a special rule (H. Res. 226),[1] for the consideration of Senate Joint Resolution 155 waiving all points of order against that resolution. Hence, the mere fact that the Committee on Rules had primary jurisdiction of the

19. *Id.* at p. 5371.

1. 81 CONG. REC. 5442, 75th Cong. 1st Sess., June 8, 1937.

joint resolution was not sufficient, in itself, to grant the privilege normally accorded such matters under the rules.[2]

Discharging Resolution From the Committee by Petition

§ 55.4 Under the discharge rule, where the Committee on Rules is discharged from further consideration of a resolution, the House immediately votes on adoption of the resolution and amendments are not in order.

On Jan. 24, 1944,[3] Speaker Sam Rayburn, of Texas, recognized Mr. John E. Rankin, of Mississippi, who called up a motion to discharge the Committee on Rules from further consideration of a resolution (H. Res. 29), amending the rules of the House[4] for the purpose of extending the jurisdiction of the Committee on World War Veterans' Legislation to cover veterans of World War II.

In the course of the ensuing debate, Mr. Harold D. Cooley, of North Carolina, raised a parliamentary inquiry, thereby initiating the following exchange:[5]

> I wish to be advised for my own information and for the information of the House as to whether or not this resolution will be subject to amendment in the event of an affirmative vote on the motion to discharge. There seems to be some uncertainty about it.
>
> THE SPEAKER: The Chair will read the rule,[6] which is very clear:
>
> > If the motion should prevail to discharge the Committee on Rules from any resolution pending before the committee the House shall immediately vote on the adoption of said resolution, the Speaker not entertaining any dilatory or other intervening motions except one motion to adjourn.
>
> MR. [ADOLPH J.] SABATH [of Illinois]: That is on the resolution itself, Mr. Speaker.
>
> THE SPEAKER: On the resolution itself.
>
> MR. COOLEY: My parliamentary inquiry was about the resolution after the discharge of the committee.
>
> THE SPEAKER: That is exactly what the Chair was reading. It reads: "On the resolution." When the House votes to discharge the committee then the resolution is before the House for a vote.

Shortly thereafter, Mr. Cooley again addressed himself to this issue:

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2. See Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).
3. 90 CONG. REC. 629, 78th Cong. 2d Sess.
4. Because the resolution was written prior to the adoption of the rules of of the 78th Congress, the measure actually called for an amendment of the rules of the 77th Congress.
5. 90 CONG. REC. 631, 78th Cong. 2d Sess.
6. See Rule XXVII clause 4, *House Rules and Manual* § 908 (1979).

Mr. Speaker, with the permission of the Chair, I should like to invite the attention of the Chair to a provision contained in chapter 5 of rule 24,[7] which provides:

> If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution, such motion not being debatable; and such motion is hereby made of high privilege, and if it shall be decided in the affirmative the bill shall be immediately considered under the general rules of the House and if unfinished before adjournment of the day on which it is called up it shall remain the unfinished business until it is fully disposed of.

If it is going to be considered under the general rules of the House it occurs to me it will be subject to amendment.

The Chair replied, as follows:

It is not considered under the general rules of the House; and, further than that, a legislative committee is not being discharged. The Committee on Rules is not a legislative committee.

The Chair is going to hold that the resolution is not subject to amendment within the rule we are operating under today. We must do it according to the special rule adopted for discharge.

7. Mr. Cooley was referring to Rule XXVII clause 4 [H. Jour. 704, 78th Cong. 2d Sess. (1944); see Rule XXVII clause 4, *House Rules and Manual* § 908 (1979)].

Ramseyer Rule and Reports of the Rules Committee

§ 55.5 A report from the Committee on Rules pertaining to a special rule providing for the consideration of a bill amending existing law was not subject to the provisions of the Ramseyer rule.

On May 23, 1935,[8] Speaker Joseph W. Byrns, of Tennessee, recognized Mr. Lawrence Lewis, of Colorado, who called up the following resolution (H. Res. 215):

> *Resolved,* That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of H.R. 3019, a hill to amend sections 1, 3, and 15 of the act entitled "An act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, and so forth", approved June 28, 1934. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Lands, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be consid-

8. 79 Cong. Rec. 8094, 74th Cong. 1st Sess.

ered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Immediately thereafter, Mr. Robert F. Rich, of Pennsylvania, rose to a point of order:

Mr. Speaker, I make the point of order that the report does not comply with the Ramseyer rule because it does not show the changes in the law by the proposed bill. I will read the rule which will be found in the Manual on page 338, 2a:

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

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

(2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions proposed to be made.[9]

The Speaker ruled as follows:

. . . The Chair will state that the point of order raised by the gentleman may be good as to reports by a legislative committee.[10] But this is a special rule from the Committee on Rules which merely makes in order the consideration of a bill. The Chair does not think the point is well taken when made against the report of the Committee on Rules and therefore overrules the point of order.

§ 55.6 Reports of the Committee on Rules on resolutions amending the rules of the House were not subject to the Ramseyer rule in the 74th Congress.

On Mar. 26, 1935,[11] Speaker Joseph W. Byrns, of Tennessee, recognized John J. O'Connor, of New York, Chairman of the Committee on Rules, who called up House Resolution 172, a measure amending the Private Calendar rule[12] which sets forth the days and conditions pursuant to which private bills or resolutions are considered in the House.

Following a point of order pertaining to the privileged status of

9. See Rule XIII clause 3, *House Rules and Manual* § 745 (1979), where the identical language may be found as well as this additional clause: "*Provided, however,* That if a committee reports such a bill or joint resolution with amendments or an amendment in the nature of a substitute for the entire bill, such report shall include a comparative print showing any changes in existing law proposed by the amendments or substitute instead of as in the bill as introduced."

For further information about the Ramseyer rule, generally, see § 60, infra.

10. See also § 55.6, infra.

11. 79 CONG. REC. 4480, 74th Cong. 1st Sess.

12. See Rule XXIV clause 6, *House Rules and Manual* § 893 (1979), which resulted from the passage of this resolution.

the resolution, the Chair recognized Mr. John J. Cochran, of Missouri, who made the following parliamentary inquiry:[13]

Is this resolution subject to the Ramseyer rule?[14]

If it is, I make the point of order that the report does not comply with that rule.

THE SPEAKER: The Ramseyer rule, to which the gentleman refers, has to do with reports of committees on bills which amend the statutes. This resolution proposes to amend the rules of the House, and therefore does not come within the provisions of clause 2a of rule XIII, the so-called "Ramseyer rule." The Chair, therefore, does not think that the Ramseyer rule applies to this report of the Committee on Rules.[15]

Parliamentarian's Note: See Rule XI clause 4(d) applicable to resolutions reported from the Committee on Rules proposing permanent repeal or amendment (but not temporary waiver) of rules of the House requiring comparative print to be included in accompanying report (effective Jan. 3, 1975, H. Res. 988, 93d Cong.).

Typographical Error in Report

§ 55.7 Where the print of a resolution from the Committee on Rules implied that it was reported by a Member not a member of that committee, the Chair indicated that since the evidence was to the contrary, the incorporation of the erroneous name would be regarded as a mere typographical error, not fatal to

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13. 79 CONG. REC. 4482, 74th Cong. 1st Sess.

14. At the time, the "Ramseyer rule" read as follows:

"Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document—(1) The text of the statute or part thereof which is proposed to be repealed; and (2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions proposed to be made." [H. Jour. 1278, 74th Cong. 1st Sess. (1935)].

Since then [see Rule XIII clause 3, *House Rules and Manual* § 745 (1979)], the following language has been added: *"Provided, however,* That if a committee reports such a bill or joint resolution with amendments or an amendment in the nature of a substitute for the entire bill, such report shall include a comparative print showing any changes in existing law proposed by the amendments or substitute instead of as in the bill as introduced."

15. For more information about the Ramseyer rule, generally, see § 60, infra.

the measure's consideration were a point of order to be raised.

On Aug. 1, 1939,[16] Speaker William B. Bankhead, of Alabama, recognized Mr. Adolph J. Sabath, of Illinois, a member of the Committee on Rules, who called up a resolution (H. Res. 286), and asked for its immediate consideration. House Resolution 286 was a special rule providing for the consideration of H.R. 7120, a bill to provide for the construction and financing of self-liquidating projects, among other purposes.

Immediately after the Clerk read the resolution, Mr. Carl E. Mapes, of Michigan, rose to a point of order, which prompted the following exchange with the Chair:

> MR. MAPES: . . . [F]or the protection of the Committee on Rules I think I should call attention to the fact that this rule is reported by the chairman of the Committee on Banking and Currency [Mr. Steagall].
>
> THE SPEAKER: Is the gentleman from Michigan now making a point of order against the resolution?
>
> MR. MAPES: I make a point of order for the purpose really of submitting a parliamentary inquiry to the Speaker. Frankly, I do not care to press the point of order, but I desire to call attention to the matter. I knew there was no member of the Committee on Rules who was enthusiastic about this rule or the legislation.
>
> THE SPEAKER: Will the gentleman submit his parliamentary inquiry?
>
> MR. MAPES: But I did not know there was no member who was willing to attach his name to the report of the committee. May I ask the Speaker if it is proper procedure, or parliamentary, for a Member of the House not a member of the Rules Committee to report a rule from the Committee on Rules?
>
> THE SPEAKER: The Chair is prepared to rule on the parliamentary inquiry.
>
> The attention of the Chair has been called to this matter. It appears from the print of the resolution that the gentleman from Alabama [Mr. Steagall], "of the Committee on Rules," reported the resolution. The record shows, however, that the chairman of the Committee on Rules [Mr. Sabath] did, as a matter of fact, report the rule. It is evident to the Chair that the incorporation of the name "Mr. Steagall" was a clerical or typographical error, and the Chair would so hold if a point of order were against it.

Supplemental Reports by Legislative Committees

§ 55.8 Where the Committee on Rules reports out a resolution providing for the consideration of a bill at the request of the legislative committee which has reported the bill, and that legislative committee in another session of the same Congress obtains

16. 84 CONG. REC. 10710, 76th Cong. 1st Sess.

unanimous consent to file a supplemental report recommending that the bill be amended, the filing of the supplemental report does not vitiate the Rules Committee action.

On May 10, 1939,[17] Joseph J. Mansfield, of Texas, Chairman of the Committee on Rivers and Harbors (now the Committee on Public Works), submitted the committee report (H. Rept. No. 76–611), on S. 685, an act dealing with water pollution, with an amendment. Speaker William B. Bankhead, of Alabama, referred the bill to the Union Calendar.

On July 10, 1939,[18] Mr. William M. Colmer, of Mississippi, acting at the behest of the Committee on Rules, submitted the following privileged resolution (H. Res. 249), which was referred to the House Calendar and ordered to be printed:

> *Resolved*, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 685, an act to create a Division of Water Pollution Control in the United States Public Health Service, and for other purposes. That after general debate, which shall be confined to the bill and shall continue not to exceed 2 hours, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Rivers and Harbors, the bill shall be read for amendments under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Seven months later, on Feb. 29, 1940,[19] Mr. Colmer called up the identical resolution and noted in his introductory remarks[20] that the bill had been passed by the Senate and was "amended" by the Committee on Rivers and Harbors "before reporting it here." He was referring to a supplemental report (supplemental reps. No. 611, pt. 2), filed by that committee several days earlier by unanimous consent.[1] This sequence of events was discussed at some length as the House considered the rule (H. Res. 249).

At one point in the debate, the Speaker sought to clarify the situation, observing:[2]

17. 84 Cong. Rec. 5408, 76th Cong. 1st Sess.

18. 84 Cong. Rec. 8773, 76th Cong. 1st Sess.

19. 86 Cong. Rec. 2178, 76th Cong. 3d Sess.

20. *Id.* at p. 2179.

1. The supplemental report was submitted by Mr. Mansfield on Feb. 20, 1940 [86 Cong. Rec. 1720, 76th Cong. 3d Sess.].

2. 86 Cong. Rec. 2184, 76th Cong. 3d Sess., Feb. 29, 1940.

The resolution now pending provides for the consideration of Senate bill 685. Under the provisions of the rule, if adopted, the Senate bill would be the matter before the House, but under the liberal terms of the rule the Senate bill will be subject to amendment or to amendment by way of substitute from the committee in charge of the bill.

Shortly thereafter, Mr. Earl C. Michener, of Michigan, was recognized for a parliamentary inquiry and stated:

. . . The point was this, that a legislative committee asked for a rule to consider a specific piece of legislation dealing with a specific matter in a particular way. I was not then a member of the committee. After consideration the Rules Committee felt it wise to recommend a rule providing for the consideration of this particular thing in this particular way. Shortly after that the legislative committee secured unanimous consent to file a supplemental report on this original bill, and in their report the legislative committee adopted another bill dealing with the same matter but in an entirely different way and in a way that possibly—and probably—would not have been authorized when the rule was asked for.

A confidential copy is floating around here of the bill which the committee intends to bring up. My inquiry is whether that can be done under the rules of the House. If that can be done, it is a simple matter for any committee to ask for a rule on a perfectly harmless bill which every one might be for, and then, after they get the rule, bring in another bill in fact, under the same number. This rule was granted on July 10 last year. Then in January, 7 months later, they introduce a new bill in a supplemental report and are attempting to bring this new bill dealing with the same subject matter in an entirely different manner before the House under the old rule. Can that be done?

The Speaker asked a few clarifying questions, after which he replied to the inquiry as follows: (3)

The gentleman from Michigan [Mr. Michener], who raises this question by parliamentary inquiry, of course, is familiar with the general principle that all proposed action touching the rules, joint rules, and orders of business shall be referred to the Committee on Rules. Under a broad, uniform construction of that jurisdiction, the Rules Committee, as the Chair understands it, has practically plenary power, unreserved and unrestricted power, to submit for the consideration of the House any order of business it sees fit to submit, subject, of course, to the approval of the House.

The Chair, of course, knows nothing about what was in the minds of the committee in reference to this legislation. The Chair can only look at the face of the record as it is presented from a parliamentary standpoint. As the Chair construes the resolution now pending, It is very broad in its terms. It provides for the consideration of a Senate bill pending on the Union Calendar and the Chair assumes that the Committee on Rules was requested to give a rule for the consideration of that bill, which was the original basis for any legislation that may be passed

3. *Id.* at pp. 2184, 2185.

touching this subject of stream pollution.

In conformance with the general power and jurisdiction of the Rules Committee, it did report a resolution providing that in the consideration of the Senate bill any germane amendments may be offered; and, of course, it is not the province of the Chair, presiding over the House, to determine the relevancy or germaneness of any amendment that may be submitted in the Committee of the Whole, whether by way of a substitute or by way of amendment.

The Chair is clearly of the opinion that the Rules Committee had a perfect right under the general authority conferred upon it to report this resolution providing for this method of consideration of the bill.

Multiple Reports

§ 55.9 Only one member of the Committee on Rules may file a report on a resolution.

On Jan. 17, 1950,[4] Speaker Sam Rayburn, of Texas, recognized Adoloph J. Sabath, of Illinois, Chairman of the Committee on Rules, who reported a privileged resolution (H. Res. 133, H. Rept. No. 1477), amending paragraph 2(c) of Rule XI of the rules of the House,[5] which resolution was then referred to the House Calendar and ordered to be printed. There being a misunderstanding, however, as to whether Mr. Sabath intended to call up the resolution in the future, Mr. Edward E. Cox, of Georgia, also a member of the Committee on Rules, sought to report the identical resolution, himself, pursuant to committee authorization.

Under these circumstances, the following exchange took place:[6]

MR. COX: Mr. Speaker, if the gentleman will yield to me, by direction of the Committee on Rules I file a privileged resolution; and permit me to make this statement: these differences may be ironed out later.

THE SPEAKER: The Chair will ask the gentleman from Georgia if it is the same resolution that has already been reported to the House.

MR. COX: I presume it is the same resolution.

THE SPEAKER: The Chair doubts very seriously whether two reports on the same resolution can be filed at the same time.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I make a point of order against the filing of this rule at this time.

THE SPEAKER: Permit the Chair to handle this matter.

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4. 96 CONG. REC. 499, 81st Cong. 2d Sess.

5. H. Res. 133, which was not agreed to in that session, was identical to Rule XI clause 24, *House Rules and Manual* § 732 (1973). The change proposed to be effected was the elimination of the so-called "twenty-one day rule"; the latter is discussed in Ch. 18, infra.

6. 96 CONG. REC. 501, 81st Cong. 2d Sess.

MR. MARCANTONIO: But I am making a point of order.

THE SPEAKER: The Chair was clarifying the situation. The Chair is of opinion that two reports cannot be filed on the same resolution at the same time.

After the matter was discussed further, Mr. Howard W. Smith, of Virginia, made the following request:

. . I am wondering if in the interest of harmony and getting this matter straightened out the Speaker would not permit the Committee on Rules to file the resolution which the gentleman from Georgia has attempted to file.

THE SPEAKER: The Chair is trying to carry out orderly procedure. If two identical resolutions on the same subject matter can be reported, then a number can be reported and the Record would be cluttered up. The Chair hopes the gentleman from Virginia will not say that he hopes the Chair will allow something to be done if he thinks it is unnecessary because the report has already been filed.

As to the agreement,[7] the Chair knows nothing about that, and the Chair thinks that any agreement that may be worked out between now and tomorrow can as well be worked out without the reporting of an unnecessary resolution as with it.

Calling Up Report Providing for Special Order

§ 55.10 Only a member of the Committee on Rules designated to do so may call up a report from the committee providing for a special order of business, unless the rule has been on the calendar seven legislative days without action.

On June 6, 1940,[8] Mr. Hamilton Fish, Jr., of New York, sought to call up for consideration the report of the Committee on Rules providing for the consideration of H.R. 9766, a bill to authorize the deportation of Harry Bridges.

Speaker Sam Rayburn, of Texas, and Mr. Fish then engaged in the following exchange:

THE SPEAKER: The unfinished business, the Chair will state to the gentleman, is the gentleman's resolution offered upon yesterday.

MR. FISH: As I understand the parliamentary situation, the gentleman

7. Mr. Cox was authorized to file the report by the committee. Mr. Cox stepped aside to let Mr. Sabath file the report, however, when the former gentleman believed the two were in agreement that Mr. Sabath would call the resolution up on the following Thursday (Jan. 19, 1950). This is the "agreement" to which the Speaker referred. When it became apparent that the two Members were not in agreement upon that course of action, however, Mr. Cox attempted to file the report himself.

8. 86 CONG. REC. 7706, 76th Cong. 3d Sess.

from Mississippi [Mr. Colmer] has reported that rule to the House already.

THE SPEAKER: The gentleman is correct.

MR. FISH: Now, therefore, under the rules as I have quoted them, rule XI, paragraph 2, clause 45, I am calling up that report for consideration.

THE SPEAKER: Has the gentleman been authorized by the Rules Committee to call up the rule?

MR. FISH: I am calling it up under the rules of the House, realizing that the rules require a two-thirds vote to bring it up for consideration immediately under rule XI. That I consider the privilege of any member of the Rules Committee.

THE SPEAKER: The Chair cannot recognize the gentleman from New York to call up the resolution unless the Record shows he was authorized to do so by the Rules Committee. The Chair would be authorized to recognize the gentleman from Mississippi [Mr. Colmer] to call up the rule in the event the resolution offered by the gentleman from New York, which was the unfinished business, is not called up.

MR. FISH: Will the Chair permit me to read this rule?

THE SPEAKER: The Chair would be glad to hear the gentleman.

MR. FISH: Rule XI reads as follows:

> It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting).

I submit, according to that rule and the reading of that rule, Mr. Speaker, that any member of the Rules Committee can call up the rule, but it would require the membership of the House to act upon it by a two-third vote in order to obtain consideration.

THE SPEAKER: The precedents are all to the effect that only a Member authorized by the Rules Committee can call up a rule, unless the rule has been on the calendar for 7 legislative days without action.

Discharging Measure Not Yet Reported by Committee to Which Referred

§ 55.11 The Committee on Rules reported and the House adopted a resolution making in order the immediate consideration of a bill which had not been reported by the committee to which referred.

On Aug. 19, 1964,[9] Howard W. Smith, of Virginia, Chairman of the Committee on Rules, called up House Resolution 845 and asked for its immediate consideration. The resolution provided that upon its adoption, the House would resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 11926), to limit jurisdiction of federal courts in reapportionment cases.

Immediately thereafter, Mr. James G. O'Hara, of Michigan,

9. 110 CONG. REC. 20212, 88th Cong. 2d Sess.

was recognized by the Speaker. The following exchange took place:[10]

MR. O'HARA of Michigan: Mr. Speaker, I make a point of order.

THE SPEAKER: The gentleman will state it.

MR. O'HARA of Michigan: Mr. Speaker, I make a point of order against the consideration of House Resolution 845 on the grounds that the Committee on Rules is without jurisdiction to bring such resolution to the floor of the House under the provisions of rule 16 of the Rules of the House of Representatives, and I ask permission to be heard on the point of order.

THE SPEAKER: The Chair will hear the gentleman.

MR. O'HARA of Michigan: Mr. Speaker, a review of the precedents of this House reveals occasions on which the House has permitted the Committee on Rules to bring before it resolutions making in order the consideration of bills that have been improperly referred to legislative committees, bills that had not yet been referred to the Committee on Rules, and possibly even a bill not yet introduced. In addition, a decision of the Speaker of the House permitted the consideration of resolution of the Committee on Rules of a bill that had not been placed on the calendar at the time the resolution was reported by the Committee on Rules. However, Mr. Speaker, I can find no occasions on which the House has clearly permitted the Committee on Rules to report to it a resolution making in order the consideration of a bill that had been introduced in the House of Representatives and referred by it—properly referred by it—to one of its legislative committees and not yet reported out or acted upon by that legislative committee to which the bill had been referred.

Mr. Speaker, I move to make this point of order after noting the gentleman from Virginia, the chairman of the Committee on Rules, which reported out House Resolution 845, is on record strongly opposing such action by the Committee on Rules as unprecedented and unwarranted. The Congressional Record of June 29, 1953, reports the gentleman's opposition to a resolution reported from the Committee on Rules which would have brought to the floor a bill pending before the Committee on Ways and Means and not yet reported by that committee.

The gentleman from Virginia did not follow up the point of order in that matter, but he was persuasive in effecting a recommittal of the resolution and a return to the regular order of business.

The only comparable incident I can find which might provide a precedent for this, Mr. Speaker, was the action taken by this Congress on the price control legislation in the 79th Congress, 2d session, found at page 8059 of the Congressional Record. This, however, it might be pointed out, was emergency legislation and a similar version had earlier been reported by a legislative committee, acted upon by the House and vetoed by the President.

I point out that in that instance the request for the rule was based on the fact that the legislation was about to expire and it was impossible to get action through the ordinary channels.

10. *Id.* at pp. 20212, 20213.

The request for the rule was made by the chairman of the committee having legislative jurisdiction over the Price Control Act, a situation distinctly different from the one in which we find ourselves today, where we are asked to consider a rule making in order the consideration of a bill which was referred to a legislative committee, not yet reported by that committee and with no request made for its consideration by the chairman of the committee I to which it was referred.

THE SPEAKER: Does the gentleman from Virginia [Mr. Smith] desire to be heard on the point of order?

MR. SMITH of Virginia: Just briefly, Mr. Speaker. The rules are perfectly clear. The Committee on Rules, under the rules of the House, may report a rule on any pending bill. This is a pending bill before the Rules Committee and the precedents for that are well established. The rule itself is very plain.

THE SPEAKER: The Chair is prepared to rule.

The Chair finds a precedent in volume 5 of "Hinds' Precedents of the House of Representatives" at section 6771. On February 4, 1895, a similar point of order was raised against an action taken by the Rules Committee. The Speaker at that time, Speaker Crisp, of Georgia, ruled on a point of order made by Mr. Thaddeus M. Mahon, of Pennsylvania. The point of order was the same as that made by the gentleman from Michigan [Mr. O'Hara], that the bill had not been reported from the Committee on War Claims and therefore it was not in order for the Committee on Rules to report a resolution for its consideration in the House.

Speaker Crisp overruled the point of order, holding that the Committee on Rules had jurisdiction to report a resolution fixing the order of business and the manner of considering a measure, even though the effect of its adoption would be to discharge a committee from a matter pending before it, thereby changing the existing rule relative to the consideration of business.

Speaker Crisp further said that it was for the House to determine whether the change in the mode of consideration should be made, as recommended by the committee.

The rules of the House provide that—

> The following-named committees shall have leave to report at any time on the matters herein stated, viz: The Committee on Rules, on rules, joint rules, and order of business.

The Chair also desires to state that in 1929 a similar point of order was raised. In 1946 and again in 1953 the Committee on Rules reported similar resolutions and on each occasion the precedent established by Speaker Crisp was followed and adhered to.

Therefore, the Chair overrules the point of order.[11]

Parliamentarian's Note: See Chapter 21, §§ 16.15–16.18, infra, for a complete discussion of the authority of the Committee on Rules to discharge bills pending before other committees.

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11. For similar instances, see 107 CONG. REC. 5267, 87th Cong. 1st Sess., Mar. 29, 1961 [H. Res. 238]; and 92 CONG. REC. 8059, 79th Cong. 2d Sess., July 1, 1946 [H. Res. 689].

§ 56. Same-day Consideration of Reported Resolution

Rule as to Same-day Consideration

§ 56.1 A vote of not less than two-thirds of the Members voting is required for the consideration of a resolution on the same day that it is reported by the Committee on Rules [except during the last three days of a session].

On Aug. 16, 1962,[12] Speaker John W. McCormack, of Massachusetts, recognized Mr. B. F. Sisk, of California, who, by direction of the Committee on Rules, was about to report a privileged resolution (H. Res. 763, H. Rept. No. 87–2242), and then to ask for its immediate consideration when the following exchange took place:

> MR. [GERALD R.] FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state his parliamentary inquiry.
>
> MR. FORD: Mr. Speaker, is my understanding correct that the gentleman from California is moving for the consideration of the rule, and if this is approved by a two-thirds vote, then we wil1 consider the rule. . . .
>
> THE SPEAKER: The resolution has not been reported as yet, and the gentleman from California has not yet made a motion; but, assuming the gentleman from California offers a motion for the present consideration of the resolution, the question of consideration would be submitted to the membership without debate and a two-thirds vote would be necessary to consider the resolution.[13] If the question of consideration was decided in the affirmative the resolution would then be considered under the regular rules of the House, providing 1 hour of debate, one-half of the time to be assigned to the member of the Rules Committee on the minority side in charge.

Shortly thereafter, Mr. Sisk called up House Resolution 763, which was read by the Clerk, and the Speaker put the question on its consideration. The question was taken; and two-thirds having voted in favor thereof, the House considered the resolution.[14]

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12. 108 CONG. REC. 16759, 87th Cong. 2d Sess.

13. The rules provide that the calling up for consideration of a report from the Committee on Rules on the same day presented is not in order "unless so determined by a vote of not less than two-thirds of the Members voting"; this provision, however, does not apply during the last three days of the session. See Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979), and § 56.2, infra.

14. For similar examples, see 97 CONG. REC. 10479, 82d Cong. 1st Sess., Aug. 21, 1951 [H. Res. 397]; 95 CONG. REC. 12287, 81st Cong. 1st Sess., Aug. 25, 1949 [H. Res. 346, H. Res. 319]; and 92 CONG. REC. 5746, 79th Cong. 2d Sess., May 25, 1946 [H. Res. 640].

Consideration During Last Three Days of a Session

§ 56.2 The requirement that a report from the Committee on Rules may not be called up for consideration on the same day it is reported without an affirmative vote of two-thirds of the Members voting does not apply during the last three days of a session.

On Thursday, Dec. 31, 1970,[15] Speaker John W. McCormack, of Massachusetts, recognized William M. Colmer, of Mississippi, Chairman of the Committee on Rules, who, by direction of that committee, reported a privileged resolution (H. Res. 1337, H. Rept. No. 91–1804), prescribing a rule for the consideration of House Joint Resolution 1421, making further continuing appropriations for the fiscal year 1971. Mr. Colmer then called up House Resolution 1337 and asked for its immediate consideration.

At this juncture Mr. Sidney R. Yates, of Illinois, initiated the following exchange with the Speaker:[16]

> Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state his parliamentary inquiry.
>
> MR. YATES: Mr. Speaker, as I understand it, this is a rule that was reported by the Committee on Rules today.
>
> In view of rule XI, section 22,[17] will approval of this rule require a two-thirds vote, in view of the fact that the rule provides as follows:
>
> > It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session).
>
> The parliamentary inquiry I address to the Chair is: Are we within the last 3 days of the session or without them and is this rule subject to approval by a majority vote or a two-thirds vote?
>
> THE SPEAKER: The Chair is holding that we are within the last 3 days of the session and that consideration of this resolution is not subject to the two-thirds vote requirement.
>
> MR. YATES: Rather than a two-thirds vote?
>
> THE SPEAKER: In answer to the gentleman's inquiry, a two-thirds vote is not required to consider the resolution during the last 3 days of a session of Congress.

Parliamentarian's Note: The last three days of a session are determined either by adoption by both Houses of a *sine die* adjourn-

15. 116 CONG. REC. 44292, 91st Cong. 2d Sess.

16. *Id.* at pp. 44292, 44293.

17. See Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979).

ment concurrent resolution or by remaining in session until within three days of the constitutional termination at noon on Jan. 3. In this instance, House Concurrent Resolution 799 providing for a *sine die* adjournment on Jan. 2, 1971, was adopted by the House on Dec. 31, 1970, but was not agreed to in the Senate until Jan. 2.

Determining the Last Three Days of a Session

§ 56.3 Where a session of Congress is required by the 20th amendment to the Constitution to end at noon on Sunday, Jan. 3, that Sunday is considered a "non dies" under the rules in computing the final three calendar days within which the Committee on Rules may call up a resolution on the same day it is reported.

On Thursday, Dec. 31, 1970,[18] William M. Colmer, of Mississippi, Chairman of the Committee on Rules, called up and asked for the immediate consideration of a rule (H. Res. 1337), providing for the consideration of a joint resolution (H.J. Res. 1421), making further continuing appropriations for the fiscal year 1971. Since the Committee on Rules had just reported House Resolution 1337 moments earlier, Mr. Sidney R. Yates, of Illinois, inquired of Speaker John W. McCormack, of Massachusetts, whether or not a two-thirds vote would be required to consider the resolution.[19]

The Speaker replied as follows:[20]

> In answer to the gentleman's inquiry, a two-thirds vote is not required to consider the resolution during the last 3 days of a session of Congress.[1]

The Chair's response elicited a further inquiry from Mr. Yates:

> Will the Chair enlighten me by defining the 3-day period? Are they 3 legislative days or 3 calendar days?
>
> THE SPEAKER: The Chair will state to the gentleman from Illinois in response to his parliamentary inquiry that there are only 3 days remaining; which would be Thursday, Friday, and Saturday
>
> MR. YATES: Well, it is not within the 3 days end under that definition, is it, Mr. Speaker?
>
> THE SPEAKER: The Chair will state to the gentleman that Sundays are not

18. 116 CONG. REC. 44292, 91st Cong. 2d Sess.

19. See Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979); see also §§ 56.1, 56.2, supra.

20. 116 CONG. REC. 44293, 91st Cong. 2d Sess.

1. Under the provisions of the 20th amendment, "the terms of Senators and Representatives [shall end] at noon on the 3d day of January," [U.S. Const. amend. 20, § 1].

counted within the purview of the rule. Former Speaker Longworth held that Sunday was "non dies"[2] in a ruling in 1929—see also Cannon's Precedents, vol. VII, 994 and 995.

Parliamentarian's Note: The Speaker considered both of the precedents cited, as well as several other critical factors in arriving at his decision. The first precedent [7 Cannon's Precedents § 994] states that "In counting the three days required by the Consent Calendar rule,[3] holidays or days on which the House is not in session are not construed as legislative days and are not included." The second precedent [7 Cannon's Precedents § 995] declares that "In counting the three days required under the consent rule, Sunday is not included." Also, Sundays are not counted in determining a constitutional adjournment "for not more than three days" (5 Hinds' Precedents § 6673). Thus, these "legislative days" precedents were persuasive on this "calendar day" issue insofar as they accorded a "non dies" status to Sundays. Moreover, the House met daily at noon, pursuant to a standing order; the 91st Congress could not then meet on Sunday, Jan. 3, 1971, unless it changed this standing order. Finally, at the time Mr. Yates made his parliamentary inquiry on Thursday, Dec. 31, there were less than 72 hours remaining in the 91st Congress even if it did meet on the morning of Sunday, Jan. 3, and chose to remain in session up to the constitutional limit[4] of noon on that date.

Waiver of Two-thirds Vote Requirement by Unanimous Consent

§ 56.4 The House has agreed by unanimous consent that it would be in order on the following day to consider a report from the Committee on Rules without the rules-prescribed requirement of a two-thirds vote.

On Jan. 24, 1955,[5] Speaker Sam Rayburn, of Texas, recognized Howard W. Smith, of Virginia, Chairman of the Committee on Rules, who made the following request:

> Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow to consider a report from the Committee on Rules as provided in clause 21, rule XI,[6] except that the provision

2. "Non dies," literally nonday.
3. See Rule XIII clause 4, *House Rules and Manual* § 746 (1979). This rule, it should be noted, expressly refers to "legislative days."
4. U.S. Const. amend. 20, § 1.
5. 101 CONG. REC. 625, 84th Cong. 1st Sess.
6. See Rule XI clause 23, *House Rules and Manual* § 729 (1973), which pro-

requiring a two-thirds vote to consider said reports is hereby waived.

Immediately thereafter, the House granted unanimous consent.

§ 56.5 The House has agreed by unanimous consent that during the remainder of a session it would be in order to consider reports from the Committee on Rules without a two-thirds vote.

On July 30, 1955,[7] Speaker Sam Rayburn, of Texas, recognized Mr. John W. McCormack, of Massachusetts, who made the following request:

Mr. Speaker, I ask unanimous consent that during the remainder of this session it shall be in order to consider at any time reports from the Committee on Rules as provided in clause 21, rule XI,[8] except that the provision requiring a two-thirds vote to consider such reports shall be waived.

Immediately thereafter, the House granted unanimous consent.[9]

§ 57. Consideration and Adoption by House of Resolutions Reported From the Committee

Hour Rule for Debate on Resolutions and on Amendments

§ 57.1 Debate on resolutions reported by the Committee on Rules providing for investigations is under the hour rule and no amendments are in order [unless the Member in charge yields for that purpose or the House votes down the previous question when moved at the expiration of the hour].

vides, in part, that "It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting."

7. 101 CONG. REC. 12362, 84th Cong. 1st Sess.

8. See Rule XI clause 23, *House Rules and Manual* § 729 (1973), and § 56.4, supra.

9. For a similar instance in a later Congress, see 104 CONG. REC. 19174, 85th Cong. 2d Sess., Aug. 22, 1958, where the House granted unanimous consent that reports from the Committee on Rules could be considered at any time "during the remainder of the week." Where unanimous consent has not been obtainable, the House has, on occasion, waived the two-thirds vote requirement by adoption of a special rule.

On Apr. 8, 1937,[10] Mr. Arthur H. Greenwood, of Indiana, a member of the Committee on Rules, called up for immediate consideration a resolution that would have authorized the Speaker to appoint a special committee to investigate subversive activities of groups or individuals operating within the United States. Mr. Carl E. Mapes, of Michigan, immediately propounded the following parliamentary inquiry:

> Mr. Speaker, this resolution and the one to follow it, the Dies resolution, provide for the appointment of investigating committees. Each resolution is somewhat extensive and contains separate paragraphs and sections that relate to different subject matters. My inquiry is, Will there be opportunity to read the resolutions section by section and to offer amendments to them?
>
> THE SPEAKER:[11] The resolution is being considered in the House under the rules and precedents, and it will be considered in its entirety.
>
> MR. MAPES: To construe the Speaker's ruling——
>
> THE SPEAKER: If the previous question is ordered, of course, there will be no opportunity to offer amendments to the resolution.
>
> MR. MAPES: There will be no opportunity for amendments?
>
> THE SPEAKER: Not if the previous question is agreed to.
>
> The gentleman from Indiana [Mr. Greenwood] is recognized.

Following an hour of debate on the merits of the resolution, Mr. Greenwood then moved the previous question, which was defeated. In response to a parliamentary inquiry, Speaker pro tempore Fred M. Vinson, of Kentucky, had stated that this left the resolution open to amendment, but the House immediately agreed to a motion to lay the resolution on the table. A motion to reconsider the vote to table the resolution was also laid on the table.

The proceedings were as follows:

> MR. GREENWOOD: Mr. Speaker, I move the previous question on the resolution.
>
> MR. [THOMAS] O'MALLEY [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.
>
> MR. O'MALLEY: If the motion for the previous question is defeated, the resolution will then be open for amendment?
>
> THE SPEAKER PRO TEMPORE: The gentleman is well informed.
>
> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.
>
> MR. RANKIN: If we vote down the motion for the previous question, then, the Speaker states, the resolution will be open for amendment. Will we then be under the 5-minute rule? Will the rest of us who are opposed to the reso-

10. 81 CONG. REC. 3283, 3290, 75th Cong. 1st Sess.

11. William B. Bankhead (Ala.).

lution be enabled to speak on it or offer amendments?

THE SPEAKER PRO TEMPORE: Being in the House, its consideration will be under the 1-hour rule.

MR. RANKIN: Then every Member who rose to speak would be recognized for 1 hour? I am for that.

THE SPEAKER PRO TEMPORE: Any Member recognized by the Chair would be entitled to recognition for 1 hour.

The gentleman from Indiana moves the previous question on the resolution.

The question was taken, and the Speaker pro tempore announced the noes seemed to have it.

MR. [LINDSAY C.] WARREN [of North Carolina]: Mr. Speaker, I move to lay the resolution upon the table.

THE SPEAKER PRO TEMPORE: The question is upon the preferential motion of the gentleman from North Carolina to lay the resolution on the table.

The question was taken; and there were on a division (demanded by Mr. Greenwood)—ayes 184, nays 38.

So the motion to lay the resolution on the table was agreed to.

On motion of Mr. Warren, a motion to reconsider the vote by which the resolution was tabled was laid on the table.

Offering Amendment by Direction of Committee

§ 57.2 By direction of the Committee on Rules, the Member who called up the resolution offered an amendment.

On Oct. 19, 1966,[12] by direction of the Committee on Rules, a Member called up a resolution creating a select committee and promptly offered an amendment to the resolution, also by direction of the Committee on Rules. The proceedings were as follows:

MR. [CLAUDE D.] PEPPER [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up the resolution (H. Res. 1013) creating a Select Committee on Standards and Conduct, and ask for its present consideration.

The Clerk read the resolution. . . .

MR. PEPPER: Mr. Speaker, I yield 30 minutes to the able gentleman from Tennessee [Mr. Quillen] for the purpose of debate, and to myself such time as I shall consume.

Mr. Speaker, on behalf of the Committee on Rules, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pepper: Page 2, line 24, strike out the semicolon and insert a period.

Page 2, line 24, after the word "occurred", insert "any allegation referred to in paragraph (1) shall be made under oath and shall specifically state the facts on the basis of which it is made."

Page 2, line 25, capitalize the first word "The".

THE SPEAKER PRO TEMPORE:[13] Without objection, the committee amendment is agreed to.

Parliamentarian's Note: Technical amendments to resolutions reported from the Committee on Rules are normally offered and disposed of immediately before debate proceeds under the hour rule.

12. 112 CONG. REC. 27713, 27714, 89th Cong. 2d Sess.

13. Edward P. Boland (Mass.).

Germaneness of Amendments

§ 57.3 A resolution from the Committee on Rules providing for the consideration of a measure relating to a certain subject may not be amended by a proposition providing for consideration of another nongermane subject.

On Sept. 14, 1950,[14] Speaker Sam Rayburn, of Texas, recognized Mr. Adolph J. Sabath, of Illinois, who called up House Resolution 842 from the Committee on Rules as follows:

> MR. SABATH: Mr. Speaker, I call up House Resolution 842 and ask for its immediate consideration.
>
> The Clerk read as follows:
>
> *Resolved,* That immediately upon the adoption of this resolution the bill (H.R. 8920) to reduce excise taxes, and for other purposes, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said bill be, and hereby is, agreed to; and that the Speaker shall immediately appoint conferees without intervening motion.

Following debate, Mr. Sabath moved the previous question on the resolution, which was rejected by a yea and nay vote. Thereupon, Mr. Herman P. Eberharter, of Pennsylvania, offered an amendment in the nature of a substitute:[15]

> Amendment offered by Mr. Eberharter: Strike out all after the word "*Resolved*" and insert in lieu thereof the following:
>
> "That immediately upon the adoption of this resolution, the bill H.R. 8920 with Senate amendments thereto be, and the same is hereby, taken from the Speaker's table to the end—
>
> "(1) That all Senate amendments other than amendment No. 191 be, and the same are hereby, disagreed to and the conference requested thereon by the Senate is agreed to; and
>
> "(2) That Senate amendment No. 191 be, and the same is hereby, agreed to with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate insert the following:
>
> "'TITLE VII—EXCESS-PROFITS TAX
>
> "'Sec. 701. Excess-profits tax applied to taxable years ending after June 30, 1950
>
> "'Notwithstanding section 122(a) of the Revenue Act of 1945, the provisions of subchapter E of chapter 2 of the Internal Revenue Code shall apply to taxable years ending after June 30, 1950.
>
> "'Sec. 701. Computation of tax in case of taxable year beginning before July 1, 1950, and ending after June 30, 1950
>
> "'Section 710(a) (relating to imposition of excess-profits tax) is hereby

14. 96 CONG. REC. 14832, 81st Cong. 2d Sess.

15. *Id.* at p. 14842.

amended by adding at the end thereof the following new paragraph:

"'"(8) Taxable years beginning before July 1, 1950, and ending after June 30, 1950: In the case of a taxable year beginning before July 1, 1950, and ending after June 30, 1950, the tax shall be an amount equal to that portion of a tentative tax, computed without regard to this paragraph, which the number of days in such taxable year after June 30, 1950, bears to the total number of days in such taxable year."

"'Sec. 703. Specific exemption reduced to 5,000

"'Paragraph (1) of section (b) (relating to definition of adjusted excess profits net income) is hereby amended by striking out "$10,000" and inserting in lieu thereof "$5,000."

"Sec. 704. Unused excess-profits credit

"'(a) Definition of unused excess-profits credit: Section 710(c)(2) (relating to definition of unused excess-profits credit) is hereby amended to read as follows:

"'"(2) Definition of unused excess-profits credit: The term 'unused excess-profits credit' means the excess, if any, of the excess-profits credit for any taxable year ending after June 30, 1950, over the excess-profits net income for such taxable year, computed on the basis of the excess-profits credit applicable to such taxable year. The unused excess-profits credit for a taxable year of less than 12 months shall be an amount which is such part of the unused excess-profits credit determined under the preceding sentence as the number of days in the taxable year is of the number of days in the 12 months ending with the close of the taxable year. The unused excess-profits credit for a taxable year beginning before July 1, 1950, and ending after June 30, 1950, shall be an amount which is such part of the unused excess-profits credit determined under the preceding provisions of this paragraph as the number of days in such taxable year after June 30, 1950, is of the total number of days in such taxable year."

"'(b) Computation of carry-over: Section 710(c)(4) is hereby amended to read as follows: . . .'"

Mr. Wilbur D. Mills, of Arkansas, made a point of order against the amendment and the following transpired:[16]

MR. MILLS: Mr. Speaker, I make the point of order against the amendment on the ground that the amendment is neither germane to the resolution sought to be amended, nor to the Senate amendment No. 191. The language of the Senate amendment would direct the Committee on Ways and Means of the House and the Finance Committee of the Senate to conduct a study of excess-profits-tax legislation during the Eighty-second Congress, ostensibly to report back to the House and Senate for passage with a retroactive date of July 1, 1950, or October 1, 1950.

The provision of the bill does not in any way attempt to legislate an excess-profit tax in connection with H.R. 8920. The amendment offered by the gentleman from Pennsylvania proposes an excess-profits tax in connection with

16. *Id.* at pp. 14843, 14844.

H.R. 8920. The amendment is a specific provision for an excess-profits tax. Therefore, Mr. Speaker, it seems to me that the amendment offered by the gentleman from Pennsylvania is not in order, that it is not germane either to the resolution before the House or to the section of the bill on which the instructions are sought to be given. . . .

MR. EBERHARTER: In the first place, Mr. Speaker, this amendment seeks to amend the resolution reported out by the Committee on Rules. This resolution waives points of order with respect to other rules of the House. Under the rules of the House when a bill comes from the other body with amendments containing matter which would have been subject to a point of order in the House then the amendments must be considered in the Committee of the Whole. The resolution reported out by the Committee on Rules seeks to waive that rule.

If a resolution reported out by the Committee on Rules can waive one rule of the House, why cannot the House by the adoption of a substitute resolution, which this is, waive other rules? I contend, Mr. Speaker, that this substitute for the resolution reported out by the Committee on Rules is just as germane and just as much in order as the actual resolution reported out by the Committee on Rules; they are similar.

Mr. Speaker, the main purpose of this resolution from the Committee on Rules is to waive a rule requiring that matter subject to a point of order in the first place in the House if put in the Senate shall be considered in the Committee of the Whole House on the State of the Union. The resolution of the Committee on Rules waives that. It is our contention, Mr. Speaker, that this being so the House has a right by its vote on this substitute resolution to waive the rule pertaining to germaneness, which my substitute amendment attempts to do. It refers to a specific amendment, amendment No. 191. I call the Speaker's attention to the fact that on page 252 of the bill the last heading is "Excess-profits tax."

Mr. Speaker, there is an excess-profits tax Senate amendment in the bill.

All I seek to do is to amend the provision calling for different language in respect to excess-profits taxation. I believe, Mr. Speaker, that if the point of order is sustained that in the future the Committee on Rules will be so bound by this precedent that its authority will be very, very much restricted. It seems to me, Mr. Speaker, that for years the Committee on Rules has been reporting out resolutions waiving points of order. When you come down to the last analysis this is the same thing. If the Committee on Rules can waive a point to order, a substitute amendment can waive a point of order. That is all I seek to do. I say in all fairness, Mr. Speaker, if a point of order is sustained, the authority of the Committee on Rules is going to be very, very much restricted in the future.

I hope the point of order will be overruled and that the membership of the House will be permitted to express their decision on the question of the imposition of an excess-profits tax effective July 1, 1950.

THE SPEAKER: The Chair is ready to rule.

The Chair agrees with a great deal that the gentleman from Pennsylvania

and the gentleman from Colorado say about history, but that is not the question before the Chair to decide at this time.

It is a rule long established that a resolution from the Committee on Rules providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another and not germane subject or matter.

It is true that in Senate amendment No. 191 to the bill, which came from the Senate, there is a caption "Title VII," which states "Excess Profits Tax." But in the amendment which the Senate adopted to the House bill there is no excess-profits tax.

The Chair is compelled to hold under a long line of rulings that this matter, not being germane if offered to the Senate amendment it is not germane here. The Chair sustains the point of order.

Majority Vote Required for Adoption

§ 57.4 Only a majority vote is required for the adoption of a resolution reported by the Committee on Rules whether or not such vote is taken on the same day the resolution is reported.

On Aug. 16, 1962,[17] Speaker John W. McCormack, of Massachusetts, recognized Mr. B. F. Sisk, of California, who by direction of the Committee on Rules was about to offer a privileged resolution (H. Res. 763), and to ask for its immediate consideration when the following exchange took place:

MR. [GERALD R.] Ford [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. FORD: Mr. Speaker, is my understanding correct that the gentleman from California is moving for the consideration of the rule,[18] and if this is approved by a two-thirds vote, then we will consider the rule, which also has to be approved by a two-thirds vote. Also is the rule granted by the Committee on Rules in reference to H.R. 12333 a closed rule with a motion to recommit with instructions?

THE SPEAKER: The resolution has not been reported as yet, and the gentleman from California has not yet made a motion; but, assuming the gentleman from California offers a motion for the present consideration of the resolution, the question of consideration would be submitted to the membership without debate and a two-thirds vote would be necessary to consider the resolution. If the question of consideration was decided in the af-

17. 108 CONG. REC. 16759, 87th Cong. 2d Sess.

18. Reference to "the rule," in this context, actually denotes the resolution since its purpose was to prescribe the framework within which the House would consider a bill (H.R. 12333), to amend title 38, United States Code, to permit the granting of national service life insurance to certain veterans.

firmative the resolution would then be considered under the regular rules of the House, providing 1 hour of debate, one-half of the time to be assigned to the member of the Rules Committee on the minority side in charge. At the termination of the hour, there would be a majority vote on the adoption of the rule.[19]

§ 57.5 The Speaker indicated that a majority vote and not a two-thirds vote would be required for the adoption of a resolution reported by the Committee on Rules providing a special order of business, despite provisions in that resolution which were inconsistent with the standing rules and procedure of the House.

On Oct. 27, 1971,[20] Speaker Carl Albert, of Oklahoma, recognized Mr. Richard Bolling, of Missouri, who, by direction of the Committee on Rules, called up House Resolution 661 and asked for its immediate consideration. The measure provided that upon its adoption, it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 7248), to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education. Among the provisions of the resolution was the following language:

> . . . It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections . . . and further, all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248.

As discussion on the resolution proceeded, Mr. Spark M. Matsunaga, of Hawaii, addressed the following question to Mr. Bolling:[21]

> When a bill containing matters belonging properly to the jurisdiction of two committees is referred to one of the two committees, and that committee does act upon the bill and reports such bill out on to the floor of the House, the House rules as they now exist provides that jurisdiction was properly exercised over all matter in the bill by the committee to which the bill was referred.[1]

19. For a similar instance, see 92 CONG. REC. 5924, 79th Cong. 2d Sess., May 29, 1946.

20. 117 CONG. REC. 37765, 92d Cong. 1st Sess.

21. *Id.* at p. 37767.

1. See Rule XXII clause 4, *House Rules and Manual* § 854 (1973), where the

Now, my question is: Because the rule, now being proposed by House Resolution 661, in effect contravenes that House rule and in effect is an amendment to the House rules, would it not take a two-thirds majority for the passage of the resolution,[2] in order that the section pertaining to jurisdiction might be legally effective?

Mr. Bolling yielded, at Mr. Matsunaga's request, for the following parliamentary inquiry:[3]

MR. MATSUNAGA: Mr. Speaker, at this point is it proper for the Speaker to determine whether a two-thirds veto would be required for the passage of this resolution, House Resolution 661, or merely a majority?

THE SPEAKER: The resolution from the Committee on Rules makes in order the consideration of the bill (H.R. 7248) and a majority vote is required for that purpose.

MR. MATSUNAGA: Even with the reference to the last section, Mr. Speaker, relating to the raising of a point of order on a bill which is properly reported out by a committee to which the bill was referred, which would in effect contravene an existing rule of the House?

THE SPEAKER: The Committee on Rules proposes to make in order in its resolution (H. Res. 661) the opportunity to raise points of order against the bill on committee jurisdictional grounds, but as is the case with any resolution reported by the Committee on Rules making a bill a special order of business, only a majority vote is required.[4]

Motion to Recommit

§ 57.6 A motion to recommit a resolution reported by the Committee on Rules is not in order after the previous question has been ordered.

On Feb. 2, 1955,[5] Speaker pro tempore Robert C. Byrd, of West

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commentary provides, in part, that "According to the later practice the erroneous reference of a public bill, if it remains uncorrected, in effect gives jurisdiction to the committee receiving it (4 [Hinds' Precedents] §§ 4365–4371; 7 [Cannon's Precedents] §§ 1489, 2108–2113; 8 [Cannon's Precedents] § 2312). And it is too late to move a change of reference after such committee has reported the bill (7 [Cannon's Precedents] § 2110; 8 [Cannon's Precedents] § 2312)."

2. See Rule XXVII clause 1, *House Rules and Manual* § 902 (1973) which provides, in part, that "No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present."

3. 117 CONG. REC. 37768, 92d Cong. 1st Sess.

4. It should be noted, however, that a vote of not less than two-thirds of the Members voting (a quorum being present), is required for the consideration of a resolution on the same day that it is reported by the Committee on Rules (except during the last three days of a session). See §§ 56.1, 56.2, supra, and Rule XI clause 23, *House Rules and Manual* § 729 (1973).

5. 101 CONG. REC. 1076, 84th Cong. 1st Sess.

Virginia, recognized Mr. Ray J. Madden, of Indiana, who, acting by direction of the Committee on Rules, called up a resolution (H. Res. 63), and asked for its immediate consideration. House Resolution 63 authorized the Committee on Veterans' Affairs to conduct an investigation into various programs benefiting veterans, their survivors and dependents. The proposed committee amendment to the resolution contained language intended to prevent any duplication of investigatory work undertaken by other House committees.[6]

In the course of the measure's consideration, time allocated to Mr. Madden was yielded to Mrs. Edith Nourse Rogers, of Massachusetts,[7] who sought an amendment striking out the language relating to investigatory duplication. Mr. Madden then indicated, however, that it was not his intent to yield to Mrs. Rogers for the purpose of an amendment. Debate resumed, the previous question was ordered, and the Chair put the question on the committee amendment which was agreed to. The Chair then recognized Mrs. Rogers:

> Mr. Speaker, I would like to offer a motion to recommit striking out the language on line 15 beginning with "The committee" and ending with "House."[8]
>
> THE SPEAKER:[9] Under the rules, a motion to recommit a resolution from the Committee on Rules is not in order.[10]

Parliamentarian's Note: The rules[11] provide that "It shall always be in order to call up for consideration a report from the Committee on Rules on a rule, joint rule, or the order of business . . . and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced the Speaker shall not entertain any other dilatory motion until the report shall have been fully disposed. . . ." The motion to commit or recommit after the ordering of the previous question has been excluded in the later practice, based upon the initial ruling of Speaker

6. *Id.* at p.1077.

7. *Id.* at p. 1079.

8. The language proposed to be struck was that segment of the committee amendment which stated: "The committee shall not undertake any investigation of any matter which is under investigation by another committee of the House."

9. Sam Rayburn (Tex.).

10. See 8 Cannon's Precedents § 2753. See also 97 CONG. REC. 11398, 82d Cong. 1st Sess., Sept. 14, 1951, for a similar ruling.

11. Rule XI clause 4 (b), *House Rules and Manual* § 729 (1979).

Charles F. Crisp,[12] of Georgia, to the effect that this rule requires the House to vote directly on the report of the Committee on Rules since the previous question has been ordered. But earlier rulings were to the contrary.[13]

§ 57.7 A motion to recommit a joint resolution reported by the Committee on Rules, creating a joint committee of Congress, can be made in order by a special order reported by that committee, whether or not the joint resolution is privileged under Rule XI clause 23 (prohibiting a motion to recommit).

On May 25, 1970,[14] Mr. B. F. Sisk, of California, by direction of the Committee on Rules, called up as privileged House Resolution 1021, which resolution provided as follows:

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1117) to establish a Joint Committee on Environment and Technology. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

After the House agreed to the adoption of the preceding resolution, Mr. Sisk then moved that the House resolve into the Committee of the Whole for the consideration of House Joint Resolution 1117 and the House agreed to the motion. At the conclusion of consideration and amendment in the Committee of the Whole, the Committee rose and the House agreed to the amendments and adopted the joint resolution.

Voting Down Previous Question on Privileged Resolution; Effect

§ 57.8 In response to parliamentary inquiries the Speaker advised that if the

12. 5 Hinds' Precedents § 5594, as affirmed by 5 Hinds' Precedents §§ 5597, 5601, and 8 Cannon's Precedents §§ 2750–54.
13. 5 Hinds' Precedents §§ 5593, 5595, 5596.
14. 116 CONG. REC. 16973, 16994, 16995, 91st Cong. 2d Sess.

previous question of a privileged resolution reported by the Committee on Rules were voted down: (1) the resolution would be open to further consideration, amendment, and debate; (2) a motion to table would be in order and would be preferential; and (3) the Chair, under the hour rule, would recognize the Member who appeared to be leading the opposition.

On Oct. 19, 1966,[15] by direction of the Committee on Rules, Mr. Claude D. Pepper, of Florida, called up House Resolution 1013, creating a Select Committee on Standards and Conduct. After an hour of debate on the resolution, Mr. Pepper moved the previous question. Prior to putting the question, Speaker John W. McCormack, of Massachusetts, answered several parliamentary inquiries as to the effect of defeating the motion for the previous question. The proceedings were as follows:[16]

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. HAYS: Mr. Speaker, if the previous question is refused, is it true that then amendments may be offered and further debate may be had on the resolution?

THE SPEAKER: If the previous question is defeated, then the resolution is open to further consideration and action and debate.

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WAGGONNER: Mr. Speaker, under the rules of the House, is it not equally so that a motion to table would then be in order?

THE SPEAKER: At that particular point, that would be a preferential motion.

Parliamentarian's Note: If the previous question is rejected, the motions specified in Rule XVI clause 4 are in order in the order specified.

Mr. James G. Fulton, of Pennsylvania, then sought recognition for a further parliamentary inquiry:

THE SPEAKER: The gentleman will state his parliamentary inquiry.

The Chair would suggest that parliamentary inquiries be in the nature of inquiries seeking information as to the parliamentary procedure. Of course, the statement of the Chair is not directed to the gentleman from Pennsylvania.

The gentleman from Pennsylvania [Mr. Fulton] will state his parliamentary inquiry.

MR. FULTON of Pennsylvania: Mr. Speaker, if the previous question is re-

15. 112 CONG. REC. 27713, 89th Cong. 2d Sess.

16. *Id.* at p. 27725.

fused and the resolution is then open for amendment, under what parliamentary procedure will the debate continue? Or what would be the time limit?

THE SPEAKER: The Chair would recognize whoever appeared to be the leading Member in opposition to the resolution.

MR. FULTON of Pennsylvania: What would be the time for debate?

THE SPEAKER: Under those circumstances the Member recognized in opposition would have 1 hour at his disposal, or such portion of it as he might desire to exercise.

MR. [CORNELIUS E.] GALLAGHER [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GALLAGHER: If the previous question is voted down we will have the option to reopen debate, the resolution will be open for amendment, or it can be tabled. Is that the situation as the Chair understands it?

THE SPEAKER: If the previous question is voted down on the resolution, the time will be in control of some Member in opposition to it, and itwould be open to amendment or to a motion to table.

Ultimately, the previous question was refused on House Resolution 1013, and, after an unsuccessful motion by Mr. Waggonner to lay the resolution on the table, the Speaker recognized Mr. Hays for one hour of debate on the resolution. The House subsequently agreed to an amendment offered by Mr. Hays to the resolution and adopted the resolution as Amended.[17]

§ 57.9 Where the previous question was voted down on a resolution reported by the Committee on Rules providing for an investigation of sit-down strikes, a motion to lay the resolution on the table was agreed to.

On April 8, 1937,[18] Mr. Edward E. Cox, of Georgia, called up a resolution from the Committee on Rules, which resolution provided for an investigation of an "epidemic of sit-down strikes . . . sweeping the Nation. . . ." At the conclusion of debate on the resolution, Mr. Cox moved the previous question on the resolution, but the motion was defeated. The House agreed to a subsequent preferential motion to lay the resolution on the table. The proceedings were as follows:

MR. COX: Mr. Speaker, I move the previous question on the resolution.

THE SPEAKER PRO TEMPORE:[19] The question is on ordering the previous question on the resolution.

The question was taken; and on a division (demanded by Mr. Dies) there were—ayes 117, noes 179.

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17. *Id.* at pp. 27725–29.

18. 81 CONG. REC. 3291, 3301, 75th Cong. 1st Sess.

19. Fred M. Vinson (Ky.).

MR. [DEWEY J.] SHORT [of Missouri]: Mr. Speaker, I demand the yeas and nays.

MR. [LINDSAY C.] WARREN [of North Carolina]: Mr. Speaker, I move the resolution be laid on the table.

MR. [MARTIN] DIES [Jr., of Texas]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

MR. [THOMAS] O'MALLEY [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. O'MALLEY: This vote is on ordering the previous question and not on the resolution?

THE SPEAKER PRO TEMPORE: The vote is on ordering the previous question.

The question was taken; and there were—yeas 150, nays 236, not voting 44 . . . .

So the motion to order the previous question was rejected.

The Clerk announced the following pairs: . . .

The result of the vote was announced as above recorded.

MR. WARREN: Mr. Speaker, I offer a preferential motion.

Mr. Speaker, I move to lay the resolution (H. Res. 162) upon the table.

The motion to lay the resolution (H. Res. 162) on the table was agreed to.

Use of Special Rule Following Defeat of Motion to Suspend Rules

§ 57.10 The failure of a motion to suspend the rules and pass a bill does not prejudice the status of a bill and the Committee on Rules may subsequently bring in a special rule providing for its consideration and requiring only a majority vote for its passage.

On June 5, 1933,[20] Mr. John E. Rankin, of Mississippi, moved to suspend the rules and pass the bill H.R. 5767, to authorize the appointment of the Governor of the Territory of Hawaii without regard to his residency or citizenship there. At the conclusion of 40 minutes' debate, the yeas and nays were ordered upon demand and there were less than two-thirds voting, in favor of the motion to suspend the rules and pass the bill. The motion having been rejected, Mr. Thomas L. Blanton, of Texas, then inquired as to whether the Committee on Rules could nevertheless bring in a rule to take up consideration of H.R. 5767. Speaker Henry T. Rainey, of Illinois, assured him that the Committee on Rules could report such a rule.[21]

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20. 77 CONG. REC. 5015, 5022, 5023, 73d Cong. 1st Sess.

21. *Parliamentarian's Note*: On June 6, 1933, the following day, the Committee on Rules reported out a special rule [H. Res. 176], providing for the consideration of H.R. 5767,

§ 57.11 The Committee on Rules may report a special rule making in order the consideration of a joint resolution previously defeated the same day on a motion to suspend the rules.

On Aug. 24 (legislative day of Aug. 23), 1935,[1] Speaker Joseph W. Byrns, of Tennessee, recognized Mr. Schuyler Otis Bland, of Virginia, who moved to suspend the rules and pass Senate Joint Resolution 175, which read as follows:

> *Resolved, etc.*, That section 5 of the Independent Offices Appropriation Act, 1934, as amended, be amended by striking out "October 31, 1935," and inserting in lieu thereof "March 31, 1936": *Provided* That the right of the United States to annul any fraudulent or illegal contract or to institute suit to recover sums paid thereon is in no manner affected by this joint resolution.

After debate, however, the question was taken, and on a roll call vote, the motion to suspend the rules was lost.[2] The House then moved to other business.

Later in the day, the Speaker recognized Mr. John J. O'Connor, of New York, who by direction of the Committee on Rules, presented a privileged report on House Resolution 372 and asked for its immediate consideration. The resolution read as follows:[3]

> *Resolved*, That immediately upon the adoption of this resolution the House shall proceed to the consideration of (S.J. Res. 175), a joint resolution to extend the time within which contracts may be modified or canceled under the provisions of section 5 of the Independent Offices Appropriation Act 1935, and all points of order against said joint resolution are hereby waived.

Mr. O'Connor then proceeded to explain the measure, leading to the following discussion and resultant response from the Speaker:

> MR. O'CONNOR: Mr. Speaker, this is a matter which was considered today under suspension of the rules but failed of passage. It is a matter about which there was some confusion. It is a very simple matter and has nothing to do with ship subsidies. It merely extends the time within which the President can determine whether or not to cancel or modify the contracts. The President has before him this important situation: Many of these contracts will expire between October of this year and January of next year. I am authorized to say that the President feels he needs this authority.
>
> Mr. Speaker, I move the previous question on the resolution.

which was adopted by the House. The bill itself was passed by a majority of the House on June 7, 1933.

1. 1. 79 CONG. REC. 14593, 74th Cong. 1st Sess.

2. *Id*. at p. 14600.

3. *Id*. at p. 14652.

MR. [MAURY] MAVERICK [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MAVERICK: After a bill has been passed on, can it be brought up again the same day? What about the Puerto Rico bill, which failed? If we can again bring up the bill made in order by this resolution, we can do it with the Puerto Rico bill, or with any other bill that has been defeated once duringthe day. This bill was defeated a few hours ago.

THE SPEAKER: The Chair will answer the gentleman's parliamentary inquiry. This is an effort on the part of the gentleman from New York, Chairman of the Rules Committee, to bring this bill up under a special rule.

The question is up to the House as to whether or not that can be done.

MR. MAVERICK: I did not hear the Chair.

THE SPEAKER: This is a special rule which is under consideration and is in order.

Parliamenitarian's Note: Under Rule XI clause 4, the two Houses having agreed to a sine die adjournment resolution and the last three days of the session being in effect, the requirement of a two-thirds vote to consider the rule the same day reported was inapplicable.

F. COMMITTEE REPORTS

§ 58. In General

This division takes up the subject of committee reports as used in the reporting of bills and resolutions to the House for floor consideration.[4]

The House rules provide that ". . . [A]ll bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing. . . ."[5] It is the duty of each committee chairman to promptly report approved measures to the House.[6] Moreover, by virtue of a change brought about by the 1970 Legislative Reorganization Act,[7] if the report is not filed by the chairman of the committee, the report may be filed by special direction of the committee. The rules provide that a majority of the members of a committee may sign a written request for the filing of a report on a measure it has approved. This request is filed with the committee clerk, who then imme-

4. Commentary and editing by John T. Fee, J.D.

5. Rule XVIII clause 2, *House Rules and Manual* § 821 (1979).

6. Rule XI clause 2(l)(1)(A), *House Rules and Manual* § 713a (1979).

7. Pub. L. No. 91–510, 84 Stat. 1140 (Oct. 26, 1970).

diately notifies the committee chairman of the request. Within seven calendar days (exclusive of days on which the House is not in session) after the filing of the request, the committee report itself is to be filed.[8]

Where a record vote is taken in committee on a motion to report a public bill or resolution, the total number of votes cast for and against the reporting of such bill or resolution is to be included in the committee report.[9]

A change brought about by the 1970 Legislative Reorganization Act is the requirement that reports accompanying a public bill or joint resolution contain an estimate, made by the committee, of the costs anticipated in carrying out the measure, over a specified time, and a comparison of this estimate with that submitted by a government agency.[10] However, a bill may be reported without specific recommendations on the part of the reporting committee as to the passage or defeat of the proposed bill.

The 1970 Legislative Reorganization Act also added the requirement that the committee report include supplemental, additional or minority views of any committee member who gives notice, at the time of the committee approval of the report, of his intent to file such views within three days.[11] Previously, such views were published either through informal agreements within the committee or by obtaining the unanimous consent of the House to have them included after the report was filed.[12]

A further requirement for committee reports is that they comply with the Ramseyer rule, which provides that changes in existing law that would be brought about by the proposed measure are to be printed or shown in the report in distinctive typography.[13]

8. Rule XI clause 2(l)(1)(B), *House Rules and Manual* § 713a (1979). The rule also provides that it does not apply to a report of the Committee on Rules, whose reports are to be presented to the House within three legislative days after being ordered reported by the committee, under Rule XI clause 4(c), *House Rules and Manual* § 730 (1979).

9. This requirement was added by the 1970 Legislative Reorganization Act, Pub. L. No. 91–510, 84 Stat. 1140 (Oct. 26, 1970). It is incorporated in Rule XI clause 2(l)(2)(B), *House Rules and Manual* § 713d (1979).

10. Rule XIII clause 7(a), *House Rules and Manual* § 748(b) (1979). See § 61, infra.

11. Rule XI clause 2(l)(5), *House Rules and Manual* § 714 (1979). This provision does not apply to the Committee on Rules.

12. See §§ 64.1–64.4, infra.

13. See § 60, infra.

Unless a report is privileged for immediate consideration,[14] it is delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker. Privileged reports are filed from the floor while the House is in session (unless filed by unanimous consent while the House is not in session), and referred to the appropriate calendar and ordered printed by the Speaker.[15] Assuming that the report is apparently valid and shows nothing on its face to impeach its authenticity,[16] the Speaker assigns the report, with its accompanying bill, to one of three calendars, for consideration in the future.[17]

The Chair does not rule on the sufficiency, insufficiency, or legal effect of reports.[18] However, the Chair does rule on points of order against consideration of a measure based on an alleged failure of a committee report to comply with the Ramseyer rule, the cost estimate requirement, or raising some question as to the alleged privileged status of the report. Even if it appears that a point of order would lie, defects in the reporting of a bill by a standing committee may be remedied in a proper case by adoption of a special rule from the Committee on Rules waiving that point of order.[19] Alternatively, the House may grant unanimous consent for the consideration of a bill and thereby waive all points of order against consideration of the bill and its

The Committee Reform Amendments of 1974 imposed, effective Jan. 3, 1975, several new requirements for inclusion of matter in committee reports [Rule XI clause 2(l)(3), *House Rules and Manual* § 713(e) (1975); Rule XI clause 2(l)(4), *House Rules and Manual* § 713(f) (1975)]:[20]

> (3) The report of any committee on a measure which has been approved by the committee (A) shall include the oversight findings and recommenda-

14. Privileged reports are discussed in § 63, infra.

15. Rule XIII clause 2, *House Rules and Manual* § 743 (1979).

16. See 111 CONG. REC. 27407, 27481, 89th Cong. 1st Sess., Oct. 19, 1965, where a report on a bill (S. 1698), was referred to the Union Calendar, although the Chairman of the Committee on Banking and Currency, Wright Patman (Tex.), later expressed reservations about irregularities in the manner in which the committee had considered and filed a report on the bill

17. Rule XIII clause 1, *House Rules and Manual* § 742 (1979). See Ch. 22 (calendars), infra.

18. §§ 58.3, 58.4, infra.

19. § 58.6, infra. report or consider the bill under suspension of the rules.

20. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

tions required pursuant to clause 2(b)(1) of Rule X separately set out and clearly identified; (B) the statement required by section 308(a) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority or new or increased tax expenditures; (C) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and (D) a summary of the oversight findings and recommendations made by the Committee on Government Operations under clause 4(c)(2) of Rule X separately set out and clearly identified whenever such findings and recommendations have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

(4) Each report of a committee on each bill or joint resolution of a public character reported by such committee shall contain a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national] economy.

Furthermore, Rule XI clause 2(l)(5) [*House Rules and Manual* § 714 (1979)], as amended by the Committee Reform Amendments requires that a report bear upon its cover a recital that any supplemental, minority, or additional views, and any material submitted pursuant to Rule XI clause 2(l)(3)(C) from the Congressional Budget Office and (D) from the Committee on Government Operations, are included as part of the report.

Form and Content of Report

§ 58.1 The form and content of a committee report is governed by the rules of the House and not by a law requiring the submission of certain reports by executive agencies. Thus, a point of order will not lie against a committee report on the ground that an executive agency has failed to report to Congress in accordance with law.

On July 12, 1967,[1] following a motion by Mr. Harold T. Johnson, of California, that the House resolve itself into the Committee of the Whole for the consideration of a bill establishing a commission, Mr. H. R. Gross, of Iowa, made a point of order against consideration of the bill. Mr. Gross con-

1. 113 CONG. REC. 18558, 18559, 90th Cong. 1st Sess. Under consideration was S. 20, to establish a National Water Commission.

tended that an executive communication found in the report failed to comply with executive agency reporting requirements with respect to the legislation. Thereupon Mr. Wayne N. Aspinall, of Colorado, sought recognition to be heard on the point of order:

Mr. Speaker, I would like to be heard on the point of order made by the gentleman from Iowa.

The point of order, if it is a point of order at all, should have come at the time the Executive communication was received. It should not be made against the report which is now before the Congress. The bill which we are considering is a bill from the other body, received by this body in due course, and referred to the committee which has jurisdiction over these matters, and it was properly before the committee. It is now here in conformity with the rules of the House.

MR. GROSS: Mr. Speaker, may I be heard further on the point of order?

THE SPEAKER:[2] The Chair will hear the gentleman.

MR. GROSS: Mr. Speaker, it seems to me that the issue is plain.

That is the issue in the point of order. No report accompanying the bill conforms to the requirement of Public Law 801.

Mr. Speaker, I do not know how, as suggested by the gentleman from Colorado, a point of order could be made against a committee.

THE SPEAKER: The Chair is prepared to rule.

The law referred to by the gentleman from Iowa places the obligation upon the executive departments or agencies or independent offices to prepare their recommendations with respect to the information contained in the law referred to. However, this does not change any rule of the House of Representatives, and this matter is before the House in accordance with the Rules of the House of Representatives.

Therefore, the Chair overrules the point of order.

Filing of Multiple Reports

§ 58.2 Two reports may not be filed from the Committee on Rules on the same resolution.

On Jan. 17, 1950,[3] Mr. Edward E. Cox, of Georgia, attempted to report a resolution proposing an amendment to Rule XI to repeal the 21-day rule, which resolution had just been filed by the Chairman of the Committee on Rules, Adolph J. Sabath, of Illinois. However, Speaker Sam Rayburn, of Texas, indicated that the second report was not necessary, and said that two reports could not be filed on the same resolution at the same time.

AMENDMENT OF PARAGRAPH (2)(c) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

Mr. Sabath, from the Committee on Rules, reported the following privileged resolution (H. Res. 133, Rept. No. 1477), which was referred to the House Calendar and ordered to be printed:

2. John W. McCormack (Mass.).

3. 96 CONG. REC. 499–501, 81st Cong. 2d Sess.

Resolved, That paragraph (2)(c) of Rule XI of the Rules of the House of Representatives is hereby amended to read as follows:

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

MR. COX: Mr. Speaker, this is a resolution concerning which instructions were given by the Rules Committee this morning to the effect that I should file it. I am stepping aside with the understanding that the chairman file it and that he will ask the Speaker to recognize him on Thursday to call it up, and in the event he the gentleman from Illinois [Mr. Sabath] is not present that I may call it up or some member of the committee favorable to the resolution shall call it up. Is that correct, Mr. Chairman?

MR. SABATH: To be candid, I did not hear the statement. I did not hear the gentleman's statement.

MR. COX: I said that the understanding between the chairman and the committee is that I am stepping aside as the member designated to file the report, leaving it to the chairman to file it and he files it with the understanding that he will ask the Speaker to recognize him on Thursday to call it up; and in the event the chairman is not present, the understanding is that I shall call it up or some other member of the committee favorable to the resolution.

MR. SABATH: Mr. Speaker, the Committee on Rules has considered the rule on the fair employment practices bill today. The committee ordered reported the resolution, House Resolution 133, introduced by the gentleman from Georgia [Mr. Cox], on Friday, January 13, which would eliminate the procedure under the rule which we adopted on the first day of this Congress giving the committees the right, when the Committee on Rules fails to act within 21 days, to file a resolution to discharge the Committee on Rules.

Today we were considering a rule for the FEPC bill, this being the third day of its deliberations on this measure. The rule on the Cox resolution was granted, over my protest, of course, last Friday. Under the rules of the House, the chairman of the Committee on Rules has 3 days within which to file a report on a rule. I intended to file the report within this time because I have never violated the rules of the

House in my 44 years of service and 20 years as a member of the Committee on Rules.

But today some members of the Committee on Rules thought the report on the Cox resolution should be filed immediately and that the right to file should be taken away from the chairman, and that the rule should be called up by the gentleman who introduced it, the gentleman from Georgia [Mr. Cox]. I felt that that was a violation of the rules of the House, because the Rules of the House plainly state as follows:

> It shall be the duty of the chairman of each such committee to report or cause to be reported promptly to the Senate or House of Representatives, as the case may be, any measure approved by such committee—

The word "promptly" means within the rules—within 3 days—which I did intend to do. I thought originally that the motion of the gentleman from Georgia was out of order and so ruled, but it being 12 o'clock we adjourned, but nevertheless some of the members remained and wanted to act upon it.

In order to avoid any controversy that might develop I agreed to file it today instead of tomorrow, and I am filing the report today on the resolution.

The gentleman from Mississippi [Mr. Colmer] approached me on the floor and wanted to know if I was not present Thursday, whether the gentleman from Georgia [Mr. Cox] could call up the resolution. I said if I were not here Thursday, I would have no objection to Mr. Cox calling it up.

MR. COX: Mr. Speaker, will the gentleman yield?

MR. SABATH: I yield.

MR. COX: I have no desire to air publicly what took place in the Rules Committee this morning. It is the understanding that the gentleman will file the rule today and will ask the Speaker to recognize him on Thursday to call it up, and, in the event he is not here, it is agreeable that some other member of the committee do so.

MR. SABATH: That was an afterthought. I do not know. I know that the committee agreed and the House agreed to take up another bill in which I and the House are very much interested. I have filed my report. As to the other procedure, I do not know whether it would be in order for me to agree to call it up Thursday, because I do not know whether that will give time enough for Members to be here on this important question.

MR. COX: Mr. Speaker, that is not in accord with the agreement. . . .

Mr. Speaker, if the gentleman will yield to me, by direction of the Committee on Rules I file a privileged resolution; and permit me to make this statement; these differences may be ironed out later.

THE SPEAKER: The Chair will ask the gentleman from Georgia if it is the same resolution that has already been reported to the House.

MR. COX: I presume it is the same resolution.

THE SPEAKER: The Chair doubts very seriously whether two reports on the same resolution can be filed at the same time.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I make a point of order against the filing of this rule at this time.

THE SPEAKER: Permit the Chair to handle this matter.

MR. MARCANTONIO: But I am making a point of order.

THE SPEAKER: The Chair was clarifying the situation. The Chair is of opinion that two reports cannot be filed on the same resolution at the same time. . . .

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. EBERHARTER: Mr. Speaker, I do not think the Members are fully informed as to the rule governing the calling up of resolutions reported by the Rules Committee. Am I correct in my understanding that the gentleman from the Rules Committee who files a rule is the only one permitted to call up the resolution for a period of seven legislative days?

THE SPEAKER: That is true unless the committee directs otherwise.

MR. EBERHARTER: Mr. Speaker, do not the rules of the House provide that the gentleman who files a resolution with the Speaker is the only one permitted to call up the resolution and does the Speaker mean that the Committee on Rules can by a majority vote override what is provided in the rules of the House?

THE SPEAKER: Of course, the chairman could request another member of the committee to call up a resolution in his absence. That certainly could be done. Otherwise, if the chairman of the Rules Committee were out of town continuously the Committee on Rules could not offer a resolution and, as a matter of fact, the House could not function either.

MR. EBERHARTER: I beg the Chair's pardon?

THE SPEAKER: If it were otherwise, and if the chairman of the committee were out of town the whole session, the Committee on Rules could not operate, neither could the House.

MR. EBERHARTER: Mr. Speaker, my point is that the gentleman who files a petition has the privilege for seven legislative days to call up the resolution and failing to call it up within that time, after the 7 days any member of the Rules Committee can call it up; is that correct?

THE SPEAKER: That is what the rule says but that is not what we have been talking about for the last half hour. The Chair trusts no more parliamentary inquiries will be addressed to the Chair for the simple reason that he would like to see these misunderstandings composed.

Parliamentarian's Note: In this case, Mr. Cox was authorized to file the report because it was evidently feared that the Chairman of the Rules Committee, Mr. Sabath, would not immediately do so, and, if he did file it, would not call it up within the seven days allowed him under the rule. Mr. Cox stepped aside to permit Mr. Sabath to file the rule under an alleged understanding that the chairman would call it up on a specified day. During discussion of the matter, Mr. Cox attempted to file a report on the same resolution and the Speaker expressed serious doubt whether two reports

on the same resolution could be filed at the same time and declined to recognize Mr. Cox. The question then arose as to whether the resolution could be called up in the seven-day period in the absence of the chairman by any other member of the committee. The Speaker stated that in this event the chairman could designate another member of the committee to call it up or the Committee on Rules could otherwise provide.

Sufficiency of Report

§ 58.3 The sufficiency of a report of the Committee on Un-American Activities relating the contempt of a witness was for the House and not the Speaker to decide.

On June 26, 1946,[4] after Mr. John S. Wood, of Georgia, by direction of the Committee on Un-American Activities, presented a privileged report declaring that a witness, Corliss G. Lamont, was in contempt of the House of Representatives. Mr. Vito Marcantonio, of New York, made a point of order against the report on the ground that it did not contain all of the transcript of what transpired before the committee with respect to the witness, but only what the committee determined to be material. Speaker Sam Rayburn, of Texas, ruled that it was for the House to determine the sufficiency, not the Speaker, and overruled the point of order.

MR. MARCANTONIO: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, I make the point of order against the report on the ground that it does not contain all of the transcript of what transpired before the committee with respect to this witness. On page 2 of the report, at the end of the first paragraph, the committee concedes that this is not a full transcript. It states: "The material parts of his testimony follow." In other words, the House has before it only that portion of the testimony which the committee conceives to be material. This deprives the House of having the full proceedings before it; consequently, the House will be asked to vote on whether or not this witness is to be cited for contempt and whether or not the House is to recommend prosecution of this witness, without having the full story before it, without having all of the testimony before it. All that is given is part of the testimony which the committee describes as material.

I respectfully submit in support of my point of order, Mr. Speaker, that what is material and what is not material should be determined by the House, because the House has to pass on this question and the majority of the Members of this House must vote in the affirmative in order to rec-

4. 92 CONG. REC. 7589–91, 79th Cong. 2d Sess.

ommend these contempt proceedings. To do so it must have the entire transcript before it. Consequently I submit that the report is defective and that the report should be referred back to the committee by the Speaker, directing it to produce the full transcript of what transpired so that the House may have the entire proceedings before it before the House Members cast their votes.

THE SPEAKER: The Chair thinks that the gentleman from New York [Mr. Marcantonio] has stated the point exactly, and that is that this is not a matter for the Chair to pass upon but is a matter for the House to pass upon. The Chair overrules the point of order.

Construing Restrictions in Report

§ 58.4 The Chair does not pass on the legal effect of restrictions set forth in a report on an appropriations bill, but not spelled out in the bill itself. This is a matter for the Committee of the Whole to decide in its considerations of the bill.

On Apr. 14, 1955,[5] Mr. Robert C. Wilson, of California, questioned certain limitations on spending for various programs, which limitations were contained in the report on an appropriation bill but not in the bill itself. Mr. Wilson questioned whether such limitations would be legally effective.

After Mr. John J. Rooney, of New York, replied that the omission of the limitations from the bill was unimportant because the limitations were expected to become law, Mr. Wilson inquired of Chairman Jere Cooper, of Tennessee, whether the limitations were binding. As the following exchange shows, Chairman Cooper was of the opinion that the question was one to be resolved by the Committee of the Whole.

MR. WILSON of California: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WILSON of California: Are limitations written in a committee report such as this, but not written into the wording of the legislation, binding?

THE CHAIRMAN: That is not a parliamentary inquiry. That is a matter to be settled by the members of the Committee of the Whole.

MR. WILSON of California: I merely wanted it for my own understanding and information, for I am fairly new here. It seems to me rather unusual to

5. 101 CONG. REC. 4463, 4464, 84th Cong. 1st Sess. Under consideration was H.R. 5502, an appropriations bill for the Department of State and certain other agencies for fiscal 1956. The committee report contained recommendations as to maximum amounts to be available to the U.S. Information Agency for certain specified functions, as, for example, not to exceed $200,000 for exhibits for which $334,000 was requested.

consider matter written into a report of the same finding effect on an administrator as though written into the law itself.

THE CHAIRMAN: It is not the prerogative of the Chair to pass upon the sufficiency or insufficiency of a committee report.

Separate Committee Approval of Report

§ 58.5 A point of order that a committee did not vote to approve a report accompanying a bill as required by its rules is properlymade in the committee and not in the House, since no rule of the House requires committees to separately approve legislative reports, and because such reports are in the nature of argument and are not directly acted upon by the House.

On Oct. 12, 1971,[6] after Mr. Chet Holifield, of California, moved that the House resolve itself into the Committee of the Whole for the consideration of a bill to establish an office of consumer affairs, Mr. Benjamin S. Rosenthal, of New York, made a point of order against the consideration of the bill. Speaker pro tempore Hale Boggs, of Louisiana, heard the point of order, which Mr. Rosenthal stated was based on a rule of the Committee on Government Operations providing that every committee report be approved by majority vote of the committee at a meeting at which a quorum is present. Mr. Rosenthal stated that the accompanying report was not approved by a majority vote of the committee.

MR. ROSENTHAL: . . . Mr. Speaker, it is my humble view that implicit in that House rule is the requirement that the report accompanying the legislation be a valid report and if that report is in violation of the rules of the committee and, thus, invalid, the report being deficient, the entire legislative package is deficient and thus cannot be considered by the House. . . .

Mr. Speaker, to restate my point as concisely and clearly as I can, the Committee on Government Operations has a specific rule requiring specific approval of every report. This legislative package is deficient by virtue of the powers of that rule, and I raise a point of order against the consideration of this legislation.

THE SPEAKER PRO TEMPORE: Does the gentleman from California desire to be heard?

MR. HOLIFIELD: Yes, Mr. Speaker, I desire to be heard on the point of order.

THE SPEARER PRO TEMPORE: The gentleman is recognized.

MR. HOLIFIELD: Mr. Speaker, I believe the gentleman from New York (Mr. Rosenthal) has no valid basis for his argument. I shall make my points briefly:

6. 117 CONG. REC. 35820–24, 92d Cong. 1st Sess. Under consideration was H.R. 10835, the Consumer Protection Act of 1971.

First. The gentleman from New York does not validly interpret the committee rule in question. . . .

Second. The action of the committee in approving H.R. 10835 and directing the chairman to bring it to the floor governs in the present situation. The motion to approve and report H.R. 10835 occurred as follows:

> MR. HORTON: Mr. Chairman, I move that the bill H.R. 10835, as amended, be reported to the House and that the Chairman take the necessary steps to bring it to the floor.
>
> CHAIRMAN HOLIFIELD: Is there a second?
>
> MR. ERLENBORN: Second.
>
> THE CHAIRMAN: It has been moved and seconded that the bill be approved and that the Chairman take the usual steps to bring it up for consideration on the floor. We will have a roll call vote on this.

The motion was made and voted upon without objection and thereafter arrangements were made to allow Members 3 calendar days to file additional views, again without objection.

The motion and the other arrangements reflect the committee's longstanding understanding that House Rule XI, 27(d)(1) governs the reporting of legislation rather than Committee Rule 4.

In any event, the motion was accepted and voted upon without any objection having been made and with a quorum present and voting. Every provision of the House rules was complied with. The chairman is bound by the terms of the motion adopted by the committee. Even if a timely point of order on the failure to vote on the report under the committee rule would have been in order, it was not raised until 3 days after the committee accepted and adopted the motion without objection.

The precedents of the House hold that where a motion not in order under the rules is made without objection and agreed to by the House by majority vote, the action is binding on the House and the Speaker and is no longer subject to a point of order. In fact, it is the duty of the Speaker to proceed to the business as indicated by the House—IV Hinds' sec. 3177; V Hinds' sec. 6917.

These precedents are applicable to the committee action on H.R. 10835.

Third. Where a committee action violates certain rules of the House, for example-voting to report a measure without a quorum being present, Rule XI, 27(e)—a point of order may be made at an appropriate time on the House floor. In some situations such as violation of a House rule governing the conduct of hearings, the rules specifically require that the point of order be first made in the committee (House Rule XI, 27(f)(5)).

In the present instance, if any rule was violated—and we believe this did not occur—it was a committee rule and not a House rule. Under these circumstances the point of order should have been made before and decided upon by the committee. All House rules having been met, the forum for deciding the issue is the committee, not the House.

The Speaker has repeatedly ruled against points of order based upon alleged irregularities in Committee procedures which did not violate a rule of the House. See IV Hinds' Precedents sections 4592, 4593, and 4594.

Fourth. Finally, I would not want it to be thought that the desires of the

committee members are ignored in the preparation of the chairman's report. The suggestions of at least four Members, including the gentleman from New York, were taken into account and included in the report. Very often points to be included in the report are discussed at the subcommittee and full committee meetings and almost always the suggestions are adopted. I note that other committees of the House have various types of procedures to allow members to make similar suggestions. In no case, however, have I found that the committees actually vote on the reports themselves. As the precedents point out—IV Hinds' sec. 4674—the report of a committee is in the nature of an argument or explanation and does not come before the House for amendment or other action. There is wisdom behind the rule and precedents here, because if the committee had to come to agreement on every word in the legislative report, very little business would get done. . . .

THE SPEAKER PRO TEMPORE: Does the gentleman from New York (Mr. Rosenthal) care to be heard further?

MR. ROSENTHAL: Yes, Mr. Speaker, I would like to be heard further on this, briefly.

Mr. Speaker, I just want to say that as I interpret the rules, there is no burden on me, on this Member or any other Member, to see to it that the rules are appropriately enforced. It would seem to me that that burden rightfully is placed on the chairman of the respective committee and it is his obligation to abide by the rules.

Second, my distinguished chairman said that this rule has been in existence since 1953 and we have been violating it since 1953—we have never complied with it since 1953. So far as I am concerned that is most regrettable.

The chairman went on to say that what the committee rule means is that only investigative reports should be voted on by the committee. . . .

Mr. Speaker, I again assert the position I have stated that the rule is precise and clear and that no Member of the Congress has the right to waive that rule.

If the rule needs to be changed, then the change ought to have been made at the appropriate time and place.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from New York has raised a point of order against the consideration of H.R. 10835 on the ground that the Committee on Government Operations did not meet to approve the report on that bill, House Report No. 92–542, as allegedly required by rule 4 of that committee.

The Chair has listened carefully to the arguments on this point of order and has referred to the committee rule cited by the gentleman from New York. The Chair has also reexamined the provisions of rule XI of the rules of the House with respect to the procedures for reporting bills to the House. He has also examined the precedents cited in the argument. The ruling of the Chair is in three parts:

First, the right of members of the Committee on Government Operations to file minority views, as guaranteed by clause 27(d)(4) of rule XI, was protected in this instance. The bill was ordered reported on Monday, September

27. The chairman did not file the report until late on Thursday, September 30. Those members wishing to file minority views were afforded the opportunity to do so.

Second, the gentleman from California has stated that in the more than 18 years since this rule was first adopted in the Committee on Government Operations, the consistent interpretation of the committee has been that while investigative reports require committee approval, legislative reports on bills or resolutions do not. This interpretation conforms with that of the House, where the report accompanying a bill or resolutions is in the nature of an argument or explanation of the reported measure, the committee report itself is not brought before the House for action or amendment.

The Chair might also add that even if the committee wishes to put a different interpretation of its rule, it is a matter which should be decided in the committee. The record seems clear that the point was not raised at the time this bill was ordered reported. Finally, the Chair would like to point out that even if the committee rule were to be construed as applicable to reports on legislative matters, the motion directing the chairman of the committee to report the bill to the House was a later expression of the committee's will. The chairman of the Committee on Government Operations before submitting the motion to the committee, stated the question as follows:

> It has been moved and seconded that the bill be approved and that the Chairman *take the usual steps* to bring it up for consideration on the floor.

This motion carried in the committee by a vote of 24 to 4. Subsequently, the Chair did, in fact, take the usual steps to bring the matter to the floor. His actions were in accord with the established practices of the committee and were taken in compliance with the rules of this House.

The Chair, therefore, overrules the point of order.

Remedying Defects in Reporting of Bill

§ 58.6 Defects in reporting a bill by a standing committee may be remedied by adoption of a special rule from the Committee on Rules making in order consideration of such bill and waiving appropriate points of order.

On May 2, 1939,[7] Mr. Samuel Dickstein, of New York, made a point of order against House Resolution 175, which provided that the House resolve itself into the Committee of the Whole House for consideration of H.R. 5643 (a bill giving federal circuit courts jurisdiction over orders of deportation of aliens). Mr. Dickstein contended that the bill did not have a hearing before the appropriate legislative committee, and that there was no proper report from the committee authorized to conduct the hearings. Mr. Dickstein argued that although the bill was

7. 84 CONG. REC. 5052-55, 76th Cong. 1st Sess

"100 percent immigration," it was referred to the Committee on the Judiciary instead of the Committee on Immigration.

Following debate on the point of order, Speaker William B. Bankhead, of Alabama, overruled the point of order on the ground that Mr. Dickstein had "slept upon his rights" and should have provoked a motion to rerefer the bill from the Committee on the Judiciary to the Committee on Immigration before it was reported. An additional basis for overruling the point of order was then suggested by Mr. Carl E. Mapes, of Michigan, who stated:

> Mr. Speaker, in order to protect the rights of the Committee on Rules, will the Chair permit this observation? The gentleman from New York slept on his rights further until the Committee on Rules reported a rule making the consideration of this measure in order. Even though the reference had been erroneous and the point of order had been otherwise made in time, the Committee on Rules has the right to change the rules and report a rule making the legislation in order. This point also might be taken into consideration by the Speaker, if necessary.
>
> THE SPEAKER: The Chair is of the opinion that the statement made by the gentleman from Michigan, although not necessary to a decision of the instant question, is sustained by a particular and special decision rendered by Mr. Speaker Garner on a similar question. The decision may be found in the Record of February 28, 1933. In that decision it is held, in effect, that despite certain defects in the consideration or the reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules making in order a motion to consider such bill. The Chair thinks that that decision by Mr. Speaker Garner clearly sustains the contention made by the gentleman from Michigan.[8]

Waivers of Points of Order

§ 58.7 Where the House grants unanimous consent for consideration of a bill and provides that all points of order against the bill shall be considered as waived, such waiver applies also to the committee report on the bill.

On July 19, 1947,[9] after Mr. Clare E. Hoffman, of Michigan, moved that the House resolve itself into the Committee of the Whole for the consideration of H.R. 4214, providing for a Secretary of Defense and other national defense measures, Mr. W. Sterling Cole, of New York, made a point of order against consideration of the bill on the ground that at least 24 hours had not intervened between the time the bill

8. For a full discussion of special rules, see Ch. 21, infra.

9. 93 CONG. REC. 9396, 80th Cong. 1st Sess.

was available and the time the bill was called up.

Speaker Joseph W. Martin, Jr., of Massachusetts, overruled the point of order, noting that all points of order against the bill had been waived by a unanimous-consent agreement by the House.[10] Mr. Cole then raised several parliamentary inquiries as to whether a point of order would lie against the committee report:

> Mr. Speaker, a further parliamentary inquiry. I am further advised that although the bill is available this morning, the report accompanying the bill is not. Would it be in order to raise a point of order against the motion of the gentleman from Michigan [Mr. Hoffman] upon the ground that the report is not now available?
>
> THE SPEAKER: It would not be in order because the same ruling would apply. All points of order were waived under the unanimous-consent agreement.
>
> MR. COLE of New York: Mr. Speaker a further parliamentary inquiry. I am informed that the report does not comply with the rules of the House in that it does not set forth alterations proposed by the bill to existing law. My inquiry is whether the request of the gentleman from Indiana, the majority leader, that points of order against the bill be waived also carried with it the waiving of points of order against the report which is supposed to accompany the bill.
>
> THE SPEAKER: The Chair is compelled to make the same ruling in this instance also. All points of order were waived under the unanimous-consent agreement and, therefore, the raising of that point of order at this time would not be in order.
>
> MR. COLE of New York: Mr. Speaker without undertaking to dispute the decision, I call your attention to the fact that the request for waiving points of order was directed to the bill itself. Does the Speaker rule that the waiving of points of order against the bill carried with it the waiving of points of order against the report?
>
> THE SPEAKER: Yes.

10. See 93 CONG. REC. 9095, 80th Cong. 1st Sess., July 16, 1947, where Mr. Charles A. Halleck (Ind.), asked unanimous consent, in pertinent part, as follows: "Mr. Speaker, I ask unanimous consent that it may be in order on Friday next and thereafter to consider the bill H.R. 4214, that all points of order against the said bill be considered as waived."

Improper Action in Committee as Affecting Reporting

§ 58.8 The Chair has overruled, on the ground that the Chair had no information as to what occurred in a committee, a point of order alleging that a bill was not properly before the House because it had not been read for amendment in committee prior to reporting.

On Apr. 23, 1934,[11] the Committee on Banking and Currency

11. 78 CONG. REC. 7151–61, 73d Cong. 2d Sess.

reported a bill, H.R. 7908,[12] which was on the Calendar of Motions to Discharge Committees. Despite the reporting of the measure by the Committee on Banking and Currency, Mr. Clarence J. McLeod, of Michigan, attempted to call up the motion to discharge the committee of H.R. 7908. It developed in the debate that Mr. McLeod and Mr. Jesse P. Wolcott, of Michigan, viewed the reporting of the bill by the committee as void ab initio on the grounds that the committee ordered the reporting of the measure at a time when it sat during a session of the House without the permission of the House and also because the measure reported was not read before the committee. In fact, argued the proponents of the discharge motion, the bill that was reported by the committee was a committee substitute, the former H.R. 9175, which the committee had inserted after striking all but the enacting clause of the original bill that had been the subject of the discharge petition signed by the requisite number of Members.[13] After Speaker Henry T. Rainey, of Illinois, sustained a point of order against the calling up of the motion to discharge the committee, on the basis that "inasmuch as the Committee on Banking and Currency has reported the bill, that the effect of that action nullifies the motion to discharge and makes it inoperative,[14] Mr. Carroll L. Beedy, of Maine, then raised a point of order against the bill as reported by the committee because it had never been read for amendment in the committee and was, he argued, not regularly before the House. Mr. Beedy stated:

> Mr. Speaker, I make the point of order that the amendment to the McLeod bill, so called, was not introduced in the House until the 17th of April subsequent to the time when any bill of the kind was ever read for amendment in the committee. This fact is undenied.
>
> The bill that was reported never was read for amendment in the committee. It is not legally or validly upon the calendar of the House. While the decision of the Chair well presents the fact, assuming that the bill were legally before the House, the Chair has not touched upon the question as to whether it may be in order to call up the discharge rule if the bill attempted to be reported by the committee concerned was not regularly before the House, not having been considered according to the rules of the House.

12. The bill concerned payments of assets in closed banks.

13. At that time, only 145 signatures were required on a discharge petition. Rule XXVII clause 4, *House Rules and Manual* (1934). See also Ch. 18, infra.

14. 78 CONG. REC. 7161, 73d Cong. 2d Sess., Apr. 23, 1934.

> Mr. Speaker, I make the point of order, therefore, that the bill alleged to have been reported is not legally reported, is in violation of the rules of the House and of the committees of the House and has no valid standing in the House.[15]

In overruling the point of order, the Speaker advised that he had no knowledge as to what had occurred in committee, stating:

> The House passed on that question a few moments ago in a resolution raising the question of the privileges of the House, and passed upon the question adversely to the position taken by the gentleman from Maine.
>
> The Chair has no information as to what occurred in the committee. The only thing the Chair knows is that the McLeod bill, bearing the number it has always borne and with the same title, and with some amendments in which the Chair is not interested, has been reported out, is on the calendar, and can be taken up under the general rules of the House when an opportunity presents itself.
>
> The Chair overrules the point of order.[16]

An appeal from the Speaker's ruling was laid on the table.

Parliamentarian's Note: Mr. Beedy's contention that the bill was not properly before the House, since it had not been read for amendment in committee prior to reporting, had been raised on the resolution referred to by the Speaker (see H. Res. 349, 73d Cong. 2d Sess., Apr. 23, 1934, H. Jour. 429). The contention was based on the requirement of Jefferson's Manual (see *House Rules and Manual* § 412 [1979]) that, in the case of bills originating with or referred to committees, "in every case the whole paper is read . . . by paragraphs, pausing at the end of each paragraph, and putting questions for amending, if proposed."

A point of order based on this requirement, however, lies only in committee, not in the House, in accordance with the general principle that a point of order does not ordinarily lie in the House against consideration of a bill by reason of defective committee procedures occurring prior to the time the bill was ordered reported to the House. Determinations as to proper committee procedure are for the committee to make, except where the House rules specifically permit such objections to consideration.

§ 59. Form; Printing

The rules of the House require that measures reported to the House by committees be accompanied by reports in writing and that such reports be printed. This

15. *Id.*

16. *Id.*

rule is strictly observed, and verbal reports on bills are not accepted by the House.[17]

A committee report is ordinarily delivered to the Clerk for printing at the time that it is filed, but reports on resolutions adversely reported are not printed, under the rules, unless a request is made that they be referred to a calendar.[18]

To remedy waste or inefficiencies in public printing, the Joint Committee on Printing, pursuant to its authorized powers, adopted a rule prohibiting the duplicate printing of committee reports in both the *Congressional Record* and as a separate House report.[19]

One question which has recently arisen with respect to the printing and distribution of committee reports is the scope of congressional immunity under the Speech or Debate Clause of the U.S. Constitution, article I, section 6, clause 1, as it concerns potentially tortious material published in committee reports. In a 1973 decision by the U.S. Supreme Court in *Doe* v *McMillan*[1] the court held that the members and staff of an investigative committee, a consultant, and a committee investigator, were absolutely immune under the Speech or Debate Clause insofar as they engaged in the legislative acts of compiling the report, referring it to the House, or voting for its publication.[2] The Court also held that the Public Printer and the Superintendent of Documents were protected by the doctrine of legislative immunity for publishing and distributing the report to the extent that they served a legitimate legislative function in so doing.[3]

Reports on Resolutions Adversely Reported

§ 59.1 Reports of committees are ordinarily delivered to

17. Rule XVIII clause 2, *House Rules and Manual* § 821 (1979).

The form for conference reports is discussed in Ch. 33, infra.

18. § 59.1, infra.

19. § 59.3, infra.

1. 412 U.S. 306, wherein the parents of certain District of Columbia schoolchildren brought an action seeking damages and declaratory and injunctive relief for an invasion of privacy that they claimed resulted from the dissemination of a congressional report on the District of Columbia school system that included derogatory information on students. The defendants included the members of a House investigatory committee, committee employees, a committee investigator, a consultant, the Public Printer, the Superintendent of Documents, and various school officials.

2. *Id.* at pp. 311–13.

3. *Id.* at pp. 318–24.

the Clerk for printing, but reports on resolutions adversely reported under the rules are not printed unless a request is made that they be referred to a calendar.

On July 15, 1959,[4] Speaker Sam Rayburn, of Texas, recognized Mr. William H. Meyer, of Vermont, relative to certain concurrent resolutions:

> Mr. MEYER: Mr. Speaker, pursuant to Rule XIII, I request that the following concurrent resolutions, House Concurrent Resolutions 245, 246, 247, 248, 249, 251, and 254, which have been reported adversely, be referred to the calendar.
>
> THE SPEAKER: The resolutions will be referred to the Union Calendar and the reports printed.

Parliamentarian's Note: These resolutions were referred and printed pursuant to Rule XIII clause 2, which provided:

> All reports of committees, except as provided in clause 21 of rule XI, together with the views of the minority, shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker, in accordance with the foregoing clause, and the titles or subject thereof shall be entered on the Journal and printed in the Record: *Provided, That bills reported adversely shall be laid on the table, unless the committee reporting a bill, at the time, or any Member within three days thereafter, shall request its reference to the calendar,* when it shall be referred as provided in clause 1 of this rule. [Emphasis supplied.]

References in Report to Amendments by Page and Line

§ 59.2 Where a joint resolution is reported from a committee with amendments, the committee report identifies the amendments by page and line references to the resolution as printed when referred; and such references do not always correspond to the pages and lines of the reported print of the resolution.

On June 30, 1970,[5] following the Clerk's reading of a Senate joint resolution, Chairman John A. Young, of Texas, ordered the Clerk to report the amendments made by the Committee on the Judiciary. The committee amendments were agreed to. Mr. Byron G. Rogers, of Colorado, then offered two amendments, with respect to which Mr. Charles E. Wiggins, of California, raised a parliamentary inquiry. Mr. Wiggins stated that he had before

4. 105 CONG. REC. 13493, 86th Cong. 1st Sess.

5. 116 CONG. REC. 22115–17, 91st Cong. 2d Sess. Under consideration was S.J. Res. 88, creating a commission to study U.S. bankruptcy laws.

him a copy of the bill and that he was unable to find the page and line references to the amendments offered by Mr. Rogers. After Mr. Rogers cited the page and line numbers, the committee agreed on the amendments offered by Mr. Rogers. Confusion continued however, as to which page and lines were being referred to because of variations in the House prints of the Senate joint resolution as referred and as reported with committee amendments therein. The amendments submitted by Mr. Rogers referred to the print of the Senate joint resolution as it passed the Senate, whereas the report made reference to the resolution as originally referred to the committee:

Mr. WIGGINS: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

Mr. WIGGINS: Since the committee amendments, which were taken from the first page of the report, do not correlate with respect to page and line in Senate Joint Resolution 88, I am fearful that the record is going to be confused. For example, in the report the second committee amendment is shown as page 2, line 20, when there is no line 20 on page 2. It is on page 3.

MR. ROGERS of Colorado: These are amendments to the original Senate joint resolution.

MR. WIGGINS: If the gentleman will assure me that there is no confusion——

MR. ROGERS of Colorado: There is no intent to confuse. The page and line numbers refer to the print of the Senate joint resolution as it passed the Senate.

MR. WIGGINS: And this is a House print of that Senate joint resolution, is that correct?

MR. ROGERS of Colorado: That is correct.

MR. WIGGINS: I thank the gentleman from Colorado.

THE CHAIRMAN: The Clerk wild report the preamble of the Senate Joint Resolution.

The Clerk read as follows: . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, with what resolution are we dealing? Are we dealing with Senate Joint Resolution 88, Union Calendar No. 430, Report No. 91–927? What are we here dealing with?

MR. ROGERS of Colorado: The gentleman is correct. That is the Senate joint resolution that we are considering.

MR. GROSS: How can we amend a line in a joint resolution that does not exist? How can we amend a line in a joint resolution that is not before the House?

MR. ROGERS of Colorado: Our answer to that inquiry is simply this. The joint resolution was referred to us by the House, and it is the original Senate joint resolution as reported that we are considering.

MR. GROSS: I do not understand the procedure at all.

MR. ROGERS of Colorado: It is the reported Senate joint resolution that we are considering.

MR. GROSS: Yes, but you cannot amend line 20 on page 2 when there is no line 20 on page 2 of the Senate joint resolution.

THE CHAIRMAN: The Chair will state that, when the report was filed, the committee amendments refer to the original Senate joint resolution as it was referred to the committee. The amendments as offered are applicable to Senate Joint Resolution 88 as referred to the Committee on the Judiciary.

MR. GROSS: Mr. Chairman, with all deference to the Chair, I am still confused, and I am sure other Members are confused.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Chairman, will the gentleman yield?

MR. GROSS: I yield to the gentleman from Missouri.

MR. HALL: Mr. Chairman, I appreciate the gentleman yielding.

I wish to propound a parliamentary inquiry. Mr. Chairman, would it be in order and appropriate for a unanimous consent request to be made in order by all Members of the House that the technical corrections of Senate Joint Resolution 88 insofar as correlation between the report and the bill before us is concerned, and would this help the situation in engrossing and final drafting of the bill?

THE CHAIRMAN: The Chair will advise the gentleman from Missouri that the report applies to the resolution as originally referred to the committee.

The Chair further advises that the unanimous consent request the gentleman suggested would not be in order at this time.

The Chair also advises that such a request could be in order in the House.

Duplicate Printing

§ 59.3 The rule of the Joint Committee on Printing against duplicate printing permits printing of committee activity reports either in the Congressional Record or in pamphlet form as a "committee print" but not in both forms.

On Oct. 13, 1962,[6] the House by unanimous consent permitted Mr. Omar T. Burleson, of Texas, to extend his remarks in the Record relative to the publication of committee reports:

> Mr. Speaker, with reference to the printing of committee activity reports for the session, as vice chairman of the Joint Committee on Printing, I wish to remind the chairmen of all committees that the Joint Committee on Printing had properly ruled that the printing of such reports, both as committee prints and in the Record, is duplication, the cost of which cannot be justified.

6. 108 CONG. REC. 23516, 87th Cong. 2d Sess.; see also 111 CONG. REC. 27801, 89th Cong. 1st Sess., Oct. 21, 1965. Compare 106 CONG. REC. 19133, 19139, 86th Cong. 2d Sess., Sept. 1, 1960 (Calendar Day), where, notwithstanding the rule of the Joint Committee on Printing against duplicate printing, the chairman of a committee was, by unanimous consent, granted permission to have printed in the *Congressional Record* and in pamphlet form the activity report of that committee.

It is requested that committee chairmen decide whether they wish these reports printed as committee prints or in the Record, since the Government Printing Office will be directed not to print them both ways.

Parliamentarian's Note: The pertinent rule of the Joint Committee on Printing is as follows:

CODE OF LAWS OF THE UNITED STATES

Title 44, Section 901. Congressional Record: Arrangement, Style, Contents, and Indexes.—The Joint Committee on Printing shall control the arrangement and style of the Congressional Record, and while providing that it shall be substantially a verbatim report of proceedings, shall take all needed action for the reduction of unnecessary bulk. It shall provide for the publication of an index of the Congressional Record semimonthly during and at the close of sessions of Congress. (Oct. 22, 1968, c. 9, 82 Stat. 1255.)

Title 44, Section 904. Congressional Record: Maps; diagrams; illustrations.—Maps, diagrams, or illustrations may not be inserted in the Record without the approval of the Joint Committee on Printing. (Oct. 22, 1968, c. 9, 82 Stat. 1256.)

To provide for the prompt publication and delivery of the Congressional Record the Joint Committee on Printing has adopted the following rules, to which the attention of Senators, Representatives, and Delegates is respectfully invited: . . .

The Public Printer shall not publish in the Congressional Record the full report or print of any committee or subcommittee when the report or print has been previously printed. This rule shall not be construed to apply to conference reports. However, inasmuch as House of Representatives Rule XXVIII, Section 912, provides that conference reports be printed in the daily edition of the Congressional Record, they shall not be printed therein a second time.

Filing After Adjournment Sine Die

§ 59.4 The House normally authorizes investigative reports filed with the Clerk by committees following adjournment of Congress sine die to be printed as reports of that Congress.

On Dec. 17, 1971,[7] the House considered a unanimous-consent request by Mr. Hale Boggs, of Louisiana, relative to the printing of certain reports:

> Mr. Speaker, I ask unanimous consent that reports filed with the clerk following the sine die adjournment by committees authorized by the House to conduct investigations may be printed by the clerk as reports of the 92d Congress.

There was no objection to Mr. Boggs' request.

Filing During Adjournment to a Day Certain

§ 59.5 By unanimous consent, committee investigative re-

7. **117** CONG. REC. 47676, 92d Cong. 1st Sess. See also 118 CONG REC. 37062, 92d Cong. 2d Sess. Oct. 18, 1972.

ports filed with the Clerk during an adjournment to a day certain were authorized to be printed.

On Aug. 18, 1972,[8] Mr. Thomas P. O'Neill, Jr., of Massachusetts, made the following unanimous-consent request:

> Mr. Speaker, I ask unanimous consent that reports filed with the House following the adjournment of the House until September 5, 1972, by committees authorized by the House to conduct investigations, may be printed by the Clerk as reports of the 92d Congress.
>
> THE SPEAKER:[9] Is there objection to the request of the gentleman from Massachusetts?
>
> There was no objection.

Effect of Court Order Restraining Printing

§ 59.6 The Chairman of the Committee on Internal Security announced to the House that the U.S. District Court for the District of Columbia had issued an order temporarily restraining the Public Printer from printing a report to be submitted to the House, pending a hearing on a preliminary injunction against its publication. The chairman also announced his intention to distribute the report to Members despite the court order. The House adopted a resolution directing the Public Printer and the Superintendent of Documents to distribute this report.

On Oct. 14, 1970,[10] Mr. Richard H. Ichord, of Missouri, asked and was given permission to address the House. In his remarks, Mr. Ichord related that the House Committee on Internal Security had authorized a limited voluntary study of educational institutions to obtain information on the extent to which honoraria was being used to finance revolutionary activities. Mr. Ichord said that a suit had been filed in the U.S. District Court for the District of Columbia to enjoin the committee from publishing its report on the subject. Mr. Ichord stated that such an order, if issued and permitted to stand, would be in disregard of the "speech and debate" clause of the Constitution—article I, section 6. He went on to state that regardless of what hap-

8. 118 CONG. REC. 29136, 92d Cong. 2d Sess.

9. Carl Albert (Okla.).

10. 116 CONG. REC. 36680, 36770, 91st Cong. 2d Sess. Under consideration was H. Rept. No. 91–1607, which included a survey of honoraria given guest speakers for engagements at colleges and universities.

pened in the suit, there would be copies furnished the Members of the House because the proposed court order did not preclude reproduction of the report for Members of the House but only enjoined the Public Printer from printing the report.

On Dec. 14, 1970,[11] Mr. Ichord rose to a question of the privileges of the House and submitted a resolution (H. Res. 1306), setting out the subsequent history of the litigation and resolving that the Public Printer and the Superintendent of Documents should forthwith print and distribute the committee report and ordering all persons, whether or not acting under color of office, to refrain from punishing any person because of his participation in or performance of such work. The resolution, as shown below in part, in the *Congressional Record* provided:

> Whereas, the Constitution of the United States vests all legislative powers in a Congress of the United States, consisting of a Senate and House of Representatives (Article I, Section 1);
>
> And whereas, the said Constitution authorizes the House to determine the rules of its proceedings (Article I, Section 5); . . .
>
> *Resolved,* That—
>
> (1) In accordance with the Rules of the House of Representatives and the acts of Congress made and provided, the Public Printer and the Superintendent of Documents shall forthwith print, publish, and distribute, and they are hereby ordered forthwith to print, publish, and distribute to and for the use of the House of Representatives, the Committee on Internal Security of said House, and those entitled to receive them, the usual number of copies of the report (No. 91–1732) of said Committee on Internal Security titled, "Report of Inquiry Concerning Speakers' Honoraria at Colleges and Universities," which has this day been duly reported to the House.
>
> (2) All persons, whether or not acting under color of office, are hereby advised, ordered, and enjoined to refrain from doing any act, or causing any act to be done, which restrains, delays, interferes with, obstructs, or prevents the performance of the work ordered to be done by paragraph numbered (1) hereof; and all such persons are further advised, ordered, and enjoined to refrain from molesting, intimidating, damaging, arresting, imprisoning, or punishing any person because of his participation in, or performance of, such work.
>
> (3) Copies of this resolution shall be forthwith furnished by the Clerk of the House to the Public Printer, Superintendent of Documents, and the clerks of the United States District Court and of the United States Court of Appeals for the District of Columbia.

On Dec. 16, 1970, Speaker John W. McCormack, of Massachusetts, laid before the House a communication from the Public Printer[12] advising that he had pub-

11. 116 CONG. REC. 41355–57, 91st Cong. 2d Sess.

12. *Id.* at p. 41940.

lished and distributed the report from the Committee on Internal Security pursuant to the resolution adopted by the House and served upon him.

§ 60. Comparative Prints; The Ramseyer Rule

The Ramseyer rule provides that whenever a committee reports a bill or joint resolution repealing or amending any statute or part thereof, the committee report is to include the text of the statute or part thereof to be repealed, as well as a comparative print showing the proposed omissions and insertions by stricken-through type and italics, parallel columns, or other appropriate typographical devices.(13)

The purpose of the Ramseyer rule is to inform Members of any changes in existing law to occur through proposed legislation. The rule was adopted by the House on Jan. 28, 1929, at which time Mr. Ramseyer explained its import and meaning as follows:

> The proposal in this new rule is simply this: Many bills which are introduced are to amend statutes. Such bills are reported back to the House, and there is nothing either in the bill or in the report accompanying the bill to advise Members of the House just what specific changes the bill proposes to make in the statute under consideration. If this amendment to Rule XIII is adopted, then hereafter a committee which reports a bill to amend an existing statute must show in the report just what changes are proposed. Suppose a bill is to amend a statute—we will just call it section 100—by omitting some words and adding thereto other words. The proposal is that the report shall show by stricken-through type the words to be omitted and by italics the words that are added, so that a Member who is interested in knowing just what changes it is proposed to make in the statute under consideration can get the report, read it, and have before him exactly the changes which are proposed to be made.

Despite some criticism of the resolution on the basis that it did not go far enough,(14) the House adopted the measure and it has survived with only one change in the succeeding decades. That

13. Rule XIII clause 3, *House Rules and Manual* § 745 (1979). The rule dates from Jan. 28, 1929, when the House passed H. Res. 278, 70 CONG. REC. 2371–74, 70th Cong. 2d Sess.

The rule is commonly known as the "Ramseyer rule" in honor of its sponsor, Mr. Christian W. Ramseyer, of Iowa, who served in the House from 1915 to 1933.

14. Mr. Henry Allen Cooper (Wisc.), preferred passing a bill that would have amended the United States Code to require a comparative printing of all bills and resolutions introduced in both the House and Senate.

change, added Sept. 22, 1961,[15] provides that "[I]f a committee reports such a bill or joint resolution with amendments or an amendment in the nature of a substitute for the entire bill, such report shall include a comparative print showing any changes in existing law proposed by the amendments or substitute instead of as in the bill as introduced."[16]

Under the doctrine of "substantial compliance," the Speaker has overruled points of order against committee reports, based on the Ramseyer rule, on the rationale that the committee had substantially complied with the requirements of the rule and the deviations were minor and inconsequential.[17] Also, the rules now provide that committees may submit supplemental reports to correct technical errors in a previous report.[18]

Points of order based on the Ramseyer rule must be raised at the proper time. A point of order based on the rule must be made when the bill is called up in the House and before the House resolves itself into the Committee of the Whole.[19] The point of order comes too late after the House has resolved itself into the Committee of the Whole for the purpose of consideration of the measure and debate has begun.[20] Compliance with the Ramseyer rule may be waived by unanimous consent or by special rule. This can be accomplished either by a general waiver of all points of order against consideration of the bill, or by an express waiver of the provisions of the Ramseyer rule.[1]

Application of Ramseyer Rule Generally

§ 60.1 The Ramseyer rule requires that when reporting a bill repealing or amending existing law, the committee must include a comparative print showing, by italic or other typographical device, the changes proposed; but if the reported measure does not specifically amend existing law, a point of order based on the Ramseyer rule will not lie.

15. 107 CONG. REC. 20823, 87th Cong. 1st Sess.

16. See Rule XIII clause 3, *House Rules and Manual* § 745 (1979).

17. §§ 60.11–60.14, infra.

18. Rule XI clause 2(1)(5), *House Rules and Manual* § 714 (1979). This change in the rules was brought about by the 1970 Legislative Reorganization Act; see Pub. L. No. 91–510, 84 Stat. 1140 (Oct. 26, 1970).

19. § 60.16, infra.

20. § 60.18, infra.

1. §§ 60.19, 60.20, infra.

On Oct. 1, 1963,[2] after Mr. Armistead I. Selden, Jr., of Alabama, moved the House resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 7044), Mr. Frank T. Bow, of Ohio, raised a point of order that the report on the bill violated the Ramseyer rule. Mr. Bow stated that section 2 of the bill provided "The Corregidor-Bataan Memorial Commission shall cease to exist upon completion of the construction authorized by this act, or on May 6, 1967, whichever shall first occur." Mr. Bow stated that this language was not contained in the italic required under the Ramseyer rule, and did not show a change in the existing law. Mr. Bow further stated that the same language was in a 1958 law giving the time as to when the commission was to cease to exist, and that the present bill amended that law by setting a different date for the expiration of the commission. In response, Mr. Selden contended that section 2 did not make a specific change in the provisions of the law. The proceedings were as follows:

> THE SPEAKER:[3] The gentleman will state the point of order.
>
> MR. BOW: Mr. Speaker, the report on this bill violates rule XIII, the so called Ramseyer rule. I shall not read the rule as I know the Speaker is familiar with it.
>
> Mr. Speaker, I would point out that the bill, H.R. 7044, is a bill to amend Public Law 193, 83d Congress, relating to the Corregidor-Bataan Memorial Commission.
>
> I further point out in the bill under section (i) there is a change in the plans for the memorial, changing it into the type that is set forth in the bill; and that in the report under changes in existing law made by the bill, as reported, the report does show in italic that portion of the amendment.
>
> I further call the Chair's attention to the fact that section 2 of the bill now pending provides "The Corregidor-Bataan Memorial Commission shall cease to exist upon completion of the construction authorized by this act, or on May 6, 1967, whichever shall first occur."
>
> I further call attention to the report of the committee in which they attempt to comply with the Ramseyer rule and in that, although they do comply in the one instance with the italics on the construction, later, in the next paragraph of the report, is this language: "and the Commission shall cease to exist 90 days after such submission of such final report." This is contained in roman printing. It is not

2. 109 CONG. REC. 18412, 88th Cong.1st Sess. For other illustrations, see 103 CONG. REC. 8484, 85th Cong. 1st Sess., June 6, 1957 [H.R. 6127]; and 79 CONG. REC. 11051, 74th Cong. 1st Sess., July 11, 1935 [H. Res. 240].

3. John W. McCormack (Mass.).

in the italic required under the Ramseyer rule. It does not show that this is a change in existing law and, inasmuch as section 2 says that the Commission shall cease to exist upon the completion of the construction authorized, the Speaker will find the same language in the bill of 1958 giving the time as to when the Commission will cease to exist. This bill does amend that law by setting a different date for the expiration of the Commission and it does not comply with the Ramseyer rule.

I desire, if I may, to point out the precedents of the House appearing in volume 8 from page 2236 on, and particularly that precedent that says, "Although a bill proposed one minor and obvious change in existing law, the failure to indicate this change" is "in violation of the law." Admittedly this is in a minor and rather obvious position. Nevertheless the report of the committee does not show in italic and it is a change in existing law, and I submit it is a violation of the Ramseyer rule.

MR. SELDEN: Mr. Speaker, I contend that section 2 does not make a specific change in the provisions of the law. Therefore the report of the committee does comply with the Ramseyer rule....

MR. BOW: Mr. Speaker, may I reply to the gentleman from Alabama?

THE SPEAKER: The gentleman from Ohio is recognized.

MR. BOW: . . . I further point out that there is a complete change in the law as to the time of the expiration of the Bataan-Corregidor Commission.

THE SPEAKER: The Chair is prepared to rule. In connection with section 2 that the gentleman from Ohio referred to, that is, section 2 of the pending bill, the Chair will state that this section does not amend existing law specifically and applies only to this bill. Therefore, the report does not, in that respect, have to meet the requirements of the Ramseyer rule. The portion of the bill which specifically amends existing law, as the Chair sees it, is paragraph (i) starting on page 1 and finishing on line 19 of page 2 of that section, and it is very clear that the committee has complied with the Ramseyer rule in connection with that paragraph. So, for the reason stated, the Chair overrules the point of order.

Effect of Noncompliance With Rule

§ 60.2 Where a report failed to comply with the provisions of the Ramseyer rule and a point of order is sustained on that ground, the bill is recommitted to the committee reporting it.

On May 3, 1937,[4] after the Clerk read the title of a bill about to be considered, Mr. Jesse P. Wolcott, of Michigan, raised a point of order against the consideration of the bill on the ground that the report did not comply with the Ramseyer rule. When Speaker William B. Bankhead, of Alabama, sustained the point of

4. 81 CONG. REC. 4123, 4124, 75th Cong. 1st Sess. Under consideration was S. 709, a bill to incorporate the National Education Association of the United States.

order, the bill was recommitted to the Committee on Education, which had reported it.

The Clerk called the next bill, S. 709, to amend the act entitled "An act to incorporate the National Education Association of the United States", approved June 30, 1906, as amended.

MR. WOLCOTT: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. WOLCOTT: Mr. Speaker, if it appears from the report that subsection 2 (a) of rule XXIII, commonly known as the Ramseyer rule, has not been complied with, is the bill automatically recommitted to the committee from which it was reported?

THE SPEAKER: If the point of order should be sustained, under the provision governing such cases the bill would automatically be recommitted to the committee from which it was reported.

MR. WOLCOTT: Mr. Speaker, I make the point of order against the consideration of the bill (S. 709) that the so-called Ramseyer rule has not been complied with.

THE SPEAKER: A very casual reading of the report on the bill indicates the Ramseyer rule has not been complied with. .

Does the gentleman from Michigan insist on the point of order?

MR. WOLCOTT: I insist on the point of order, Mr. Speaker.

THE SPEAKER: The point of order is sustained, and the bill is recommitted to the Committee on Education.

Purpose of Rule

§ 60.3 The purpose of the Ramseyer rule is to require that committee reports furnish information relating to changes the bill proposes to make in existing law.

On Dec. 3, 1963,[5] following a motion by Mr. Harold D. Cooley, of North Carolina, that the House resolve itself into the Committee of the Whole for consideration of a bill (H.R. 6196), Mr. H. R. Gross, of Iowa, raised a point of order against consideration of the bill. Mr. Gross' point of order was that House Report No. 88–336 accompanying the bill did not comply with the requirements of Rule XIII clause 3, the Ramseyer rule. Following debate on the point of order, Speaker John W. McCormack, of Massachusetts, ruled on the point of order and commented on the purpose of the Ramseyer rule:

It is the opinion of the Chair that the report of the committee complies with the Ramseyer rule, the purpose of which is to give Members information in relation to any change in existing law.

If a report includes some other references to other laws which in a sense would be surplusage or unnecessary, it is the Chair's opinion that the committee was attempting to give to the

5. 109 CONG. REC. 23038, 88th Cong. 1st Sess. Under consideration was H.R. 6196, to encourage increased consumption of cotton; see H. Rept. No. 88–366.

Members of the House as full information as was possible.

The Chair rules that the report does comply with the Ramseyer rule, and the point of order is overruled.

Showing Changes Proposed by Bill as Amended

§ 60.4 In the 87th Congress, the Ramseyer rule was amended to provide that where a committee reports a bill with amendments the comparative print required by the rule must show the changes in existing law proposed by the bill, as amended, instead of by the bill as introduced.

On Sept. 22, 1961,[6] the Chairman of the Committee on Rules, Howard W. Smith, of Virginia, called up House Resolution 407, amending Rule XIII clause 3. Following the Clerk's reading of the resolution Mr. Smith and Mr. Clarence J. Brown, of Ohio, explained the purpose of the resolution.

The Clerk read the resolution as follows:

Resolved, That the Rules of the House of Representatives are hereby amended as follows: In rule XIII, clause 3, strike out the period at the end thereof, insert a colon, and add "*Provided, however*, That if a committee reports such a bill or joint resolution with amendments or an amendment in the nature of a substitute for the entire bill, such report shall include a comparative print showing any changes in existing law proposed by the amendments or substitute instead of as in the bill as introduced."

MR. SMITH of Virginia: Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. Brown] and at this time yield myself such time as I may consume.

Mr. Speaker, this resolution provides for a change in the so-called Ramseyer rule of the House of Representatives. The Ramseyer rule provides that when a bill is reported by a legislative committee, the committee report on the bill shall contain a statement in comparative print, setting forth the changes in existing law that are supposed to be made by the new bill. The way that that rule has been construed and the way it has operated in the past has been that if a bill is introduced and referred to a legislative committee, then when the bill is reported by that committee, the changes in the law are pointed not at the bill which is reported, but are pointed at the original bill, as introduced. It, therefore, causes confusion and is not of any use to the Members who are trying to find out what the changes are because, as I said, the comparative print explaining the changes are not pointed toward the bill you are really going to consider. So this change which has been worked out by the Parliamentarian in connection with the Committee on Rules and which has the unanimous approval of the Committee on Rules would make it so that in order to comply with the Ramseyer

6. 107 CONG. REC. 20823, 87th Cong. 1st Sess.

rule, the report would have to print in comparative columns or italic or other distinguishing symbols the changes in existing law which would be made by the bill which is under consideration and not by the bill which was originally introduced

Mr. Speaker, I hope that explanation is clear to the Members, but if it is not, I will be glad to yield or any questions to any Member who may wish to ask about it.

If there are no questions, Mr. Speaker, I yield now to my colleague, the gentleman from Ohio [Mr. Brown].

MR. BROWN: Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, as the gentleman from Virginia, the chairman of the Committee on Rules, Mr. Smith, has explained, this resolution provides for an amendment to rule XIII, clause 3, through an amendment which I believe is very much needed, has been requested by many Members of the House, and which, as the gentleman from Virginia has stated, would simply provide, instead of following the present procedure of printing in a committee report the original bill and the changes in the present law made by the original bill, the report would carry the bill, as amended, and the differences between the present law as provided in the final bill as presented.

In other words, the adoption of this resolution making this change in the rules will eliminate a great deal of confusion and make it much easier for all Members of Congress, even members of the Committee on Rules itself, in considering legislation to understand just exactly what is in the bill that may be before them and what changes are made by such legislation from existing law. This has been long needed. It is a very good amendment of the rule.

This resolution was reported unanimously from the Committee on Rules, and I hope it will have the unanimous support of the House.

Mr. Speaker, I yield back the balance of my time.

MR. SMITH of Virginia: Mr. Speaker, 1 have no further requests for time.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

Supplemental Reports Complying With Rule

§ 60.5 By unanimous consent, a committee may be permitted to file a supplemental report on a bill so as to conform to the Ramseyer rule and show the changes in existing law proposed by the committee amendments as well as by the provisions of the bill as introduced.

On Jan. 11, 1962,[7] Mr. Adam C. Powell, of New York, sought and obtained unanimous consent that the Committee on Education and Labor be permitted to file a supplemental report on a bill (H. R. 8890). Mr. Powell stated to Speaker John W. McCormack, of

7. 108 CONG. REC. 67, 87th Cong. 2d Sess.

Massachusetts, that he was making the request so that the committee report would comply with the Ramseyer rule, which Mr. Powell noted had been amended by the House since the filing of the original report on the bill.[8]

Application of Rule to Subsections

§ 60.6 Where a bill amends one subsection of existing law but does not affect other parts of the section, a comparative print which shows only the affected subsection is in substantial compliance with the Ramseyer rule.

On July 25, 1966,[9] Mr. John Bell Williams, of Mississippi, made a point of order against consideration of H.R. 14765, on the ground that the report of the Committee on the Judiciary accompanying the bill did not comply with the requirements of the Ramseyer rule. In response to the point of order, Mr. Emanuel Celler, of New York, stated that the report disclosed no information with respect to certain sections of the bill. Mr. Celler explained that there were no changes in or amendments to those provisions, so that there was no need to set forth explanatory material on them:

> . . . Since there were no changes, there was no need to make any comment. There was no ambiguity there. There was no misinformation. There is nothing that is misleading. There is no confusion. It is . . . substantial compliance.

As debate on the point of order continued, Mr. Joe D. Waggonner, Jr., of Louisiana, questioned whether substantial compliance was sufficient to meet the requirements of the rule, stating:

> Mr. Speaker, under the rules of the House of Representatives no provision is made for use of the word "substantial" is it deemed sufficient in this case that compliance is only substantial and not technically complete?

After studying the precedents of the House, Speaker John W. McCormack, of Massachusetts, ruled that there was substantial compliance, stating:

> Well, as the Chair states . . . the Chair cannot analyze every word, but there are parts here apparent to the Chair that, of course, are not only substantial compliance but which are cer-

8. *Parliamentarian's Note:* Today, unanimous consent is not required to file a supplemental report correcting a technical error, such as a violation of the Ramseyer rule, in a previous report. See Rule XI clause 2(l)(5), *House Rules and Manual* § 714 (1979).

9. 112 CONG. REC. 16840–42, 89th Cong. 2d Sess. Under consideration was H.R. 14765 (H. Rept. No. 89–1678), the Civil Rights Act of 1966.

tainly over compliance, which is not violative of the rule, as has been advanced.

The Chair therefore overruled the point of order.

On a parliamentary inquiry following the Chair's ruling, Mr. Waggonner asked:

Do I correctly understand the ruling of the Speaker that in this instance . . . "substantial compliance" is all that is necessary and technicalities are irrelevant? Is compliance in fact with the rules to be ignored?

The Speaker replied:

The Chair will state that substantial compliance, as the Chair is not in a position to analyze every word, would comply with and be in conformance with the rule.

Showing Statutory Waivers and Exemptions

§ 60.7 Provisions in a bill, merely waiving certain statutory requirements, were held not to be specially amendatory of existing law and the Ramseyer rule did not apply to language in a bill merely exempting personnel of a proposed agency from conflict of interest statutes.

On June 6, 1957,[10] after Mr. Emanuel Celler, of New York, moved that the House resolve itself into the Committee of the Whole for the consideration of H.R. 6127, a civil rights bill, Mr. Howard W. Smith, of Virginia, made a point of order against the bill on the basis of noncompliance with the Ramseyer rule.

The initial exchange went as follows:

MR. CELLER: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

MR. SMITH of Virginia: Mr. Speaker, I make a point of order against the bill.

THE SPEAKER:[11] The gentleman will state his point of order.

MR. SMITH of Virginia: Mr. Speaker, I make the point of order that the report on the bill does not comply with the provisions of the Ramseyer rule, which is rule XIII, clause 3.

I call the Speaker's attention to the provision of the bill appearing on page 7, line 12, which reads as follows:

Members of the Commission, voluntary and uncompensated personnel whose services are accepted pursuant to subsection (b) of this section, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes.

10. 103 CONG. REC. 8484–88, 85th Cong. 1st Sess.

11. Sam Rayburn (Tex.)

Now, Mr. Speaker, I also call attention to the provision of the bill providing on page 9, line 8, for the appointment of another and additional Assistant Attorney General, which changes existing law and which fixes the number of Assistant Attorneys General and which changes the provision of existing law that fixes the qualification of Assistant Attorneys General in that it omits the requirement that an Assistant Attorney General must be a member of the legal profession.

Mr. Speaker, I am prepared to discuss the matter in some detail unless the gentleman from New York is prepared to concede the point of order.

MR. CELLER: Mr. Speaker, the gentleman is not prepared to concede anything.

The point of order is not well taken. With reference to the statement referring to the members of the Commission, the gentleman called attention to page 7, lines 12 to 19. That is a waiver of the conflict-of-interest statutes which involves no change whatsoever in those statutes. It simply provides for the waiver of the statutes. That is very frequently done. The Committee on the Judiciary has jurisdiction over matters of that sort; namely, waiver of conflict-of-interest statutes.

With reference to the gentleman's opinion concerning the part II provision for an additional Assistant Attorney General, lines 6 to 14 on page 9, I wish to state that no law is amended. We simply provide for an additional Assistant Attorney General.

While Mr. Smith and proponents of his view contended that any technical defect in the committee report for failure to comply with the Ramseyer rule was fatal to the bill, Mr. Celler responded that a waiver of conflict of interest statutes did not fall within the requirements of the Ramseyer rule. Mr. Celler stated: "[W]hen you waive the provisions of a statute, you do not change the provisions of that statute and you do not amend the provisions of that statute."[12] Mr. Celler further stated that language in the bill adding a new assistant attorney general merely created a new position and did not amend a statute.

After continued debate on the point of order, Speaker Rayburn overruled the point of order as follows:[13]

The Chair is prepared to rule.

This question, or parallel questions, has been raised many times. The rulings of the Chair have been uniform. . . .

Turning to the first part of the bill on page 7, paragraph (d), which reads as follows: "(d) Members of the Commission, voluntary and uncompensated personnel whose services are accepted pursuant to subsection (b) of this section, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United

12. 103 CONG. REC. 8486, 85th Cong. 1st Sess.

13. *Id.* at pp. 8487, 8488.

States Code, and section 190 of the Revised Statutes (5 U.S.C. 99)," the Chair holds that that is simply a waiver of the statute and not a specific amendment to any existing law. Therefore, the Chair overrules the point of order with respect to that.

Section 111, page 9, which reads as follows: "Sec. 111. There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General," does not amend any specific law, because it does not refer to any. Congress has the right at any time it pleases, the Chair thinks, to provide for an additional Assistant Attorney General or an additional assistant in any other department.

Now then, we come to the part of the bill where specific statutes are amended. And, the Chair might say here that Mr. Snell, Speaker pro tem on February 7, 1931—Cannon's Precedents, volume VIII, section 2235—made this ruling: In order to fall within the purview of the rule requiring indication of proposed changes in existing law by a typographical device, a bill must repeal or amend the statute in terms, and general reference to the subject treated in a statute without proposing specific amendment is not sufficient.

Mr. O'Connor of New York on April 13, 1932—Cannon's Precedents, Volume VIII, section 2240—made a ruling on this specific question, and the gist of that is that the bill is not subject to the rule requiring comparative prints unless it specifically amends existing law.

Now, the gentleman from Tennessee [Mr. Cooper] on April 15, 1940, as Speaker pro tempore, went just a little further than that. The substance of his ruling was: In determining whether or not a committee in reporting a bill has complied with the Ramseyer rule, the duty does not devolve upon the Chair of analyzing every word of existing law and the changes sought to be made. Hence, Mr. Cooper held that an effort to substantially comply with the rule only was necessary.

Now, let the Chair read portions of part III and part IV of the bill, where specific law is specifically amended: . . .

Remembering what has gone before, the Chair finds on page 16 of the committee report changes in existing law set forth as follows:

> In compliance with clause 3 of rule XIII of the House of Representatives, there is printed below in roman existing law in which no change is proposed by enactment of the bill as here reported; matter proposed to be stricken by the bill as here reported is here enclosed in black brackets: new language proposed by the bill as here reported is printed in italic.

And there follows then the existing law proposed to be amended.

The Chair has examined this bill carefully and has examined this committee report very carefully, and must hold that the committee did comply in substance and in fact with clause 3 of rule XIII.

Therefore, the Chair overrules the point of order.

Changes in Court Rules

§ 60.8 The Ramseyer rule requirement that a compara-

tive print be provided in reports on bills reported by a committee is not applicable to a bill changing the rules of evidence for District of Columbia courts.

On June 12, 1961,[14] Mr. John L. McMillan, of South Carolina, called up the bill (H.R. 7053), providing for the admission of certain evidence in the courts of the District of Columbia, and asked unanimous consent that the bill be considered in the House as in the Committee of the Whole. Mr. Byron G. Rogers, of Colorado, objected to the consideration of the bill on the ground that it did not comply with the Ramseyer rule, and said that in the report of the committee no reference was made to the law which was being amended. In the debate on the point of order, Mr. Howard W. Smith, of Virginia, argued that the change was directed at court rules, not a statute. Speaker Sam Rayburn, of Texas, then overruled the point of order, stating:

> The Chair in examining this bill cannot see where it amends any law or repeals any law specifically, and therefore does not think the report is in violation of the Ramseyer rule, and therefore overrules the point of order.

References to Laws Unaffected by Bill

§ 60.9 A point of order will not lie against a committee report merely because the comparative print required by the Ramseyer rule incorporates laws which are not affected by the reported bill but which are included to give full information to the Members.

On Dec. 3, 1963,[15] Mr. H. R. Gross, of Iowa, raised a point of order against the consideration of H.R. 6196, alleging that House Report No. 88–366 accompanying the bill did not comply with the requirements of the Ramseyer rule. In debate on the point of order Mr. Harold D. Cooley, of North Carolina, acknowledged that there was extraneous and unneeded material in the report but this did not constitute a violation of the Ramseyer rule. Mr. Cooley stated:

> I want to make just one additional observation. I think the Speaker of the House and the Parliamentarian will find that all changes in existing law

14. 107 CONG. REC. 10068, 87th Cong. 1st Sess.

For a similar ruling see also 83 CONG. REC. 1147, 75th Cong. 3d Sess., Jan. 26, 1938, involving H.R. 2890, fixing annual compensation for postmasters of the fourth class.

15. 109 CONG. REC. 23036–38, 88th Cong. 1st Sess.

have been shown in our report under the Ramseyer rule. The rule does not say that you cannot have something else in the report which might be surplus and which might not be needed. But if you will look at section 104 on page 25 that is a strict compliance with the Ramseyer rule insofar as this legislation is concerned.

The reference to section 330, I think, is irrelevant and immaterial and is not even needed, perhaps, in this report. But we believe this is a meticulous compliance with the Ramseyer rule and we ask that the point of order be overruled.

Speaker John W. McCormack, of Massachusetts, then overruled the point of order. The Speaker stated:

It is the opinion of the Chair that the report of the committee complies with the Ramseyer rule, the purpose of which is to give Members information in relation to any change in existing law.

If a report includes some other references to other laws which in a sense would be surplusage or unnecessary, it is the Chair's opinion that the committee was attempting to give to the Members of the House as full information as was possible.

Application of Rule to Discharged Bills

§ 60.10 The Ramseyer rule applies only when a committee reports a bill. Hence, a point of order alleging noncompliance with the rule will not lie where a committee is discharged from consideration of a bill.

On Aug. 19, 1964,[16] Mr. James G. O'Hara, of Michigan, made a point of order against the consideration of a bill on the ground it had not been properly reported and that it purported to amend title 28 of the United States Code. He contended that there was no comparative print of the bill amending the statute. Speaker John W. McCormack, of Massachusetts, overruled the point of order, noting that the Ramseyer rule applied only when a committee reports a bill. In this case, the Committee on the Judiciary, having been discharged from consideration of the bill, did not file a report, and a comparative print was not required.

"Substantial Compliance" With Rule

§ 60.11 A point of order raised against a committee report alleged to be in violation of the Ramseyer rule will not lie where there is substantial compliance with the require-

16. 110 Cong. Rec. 20221, 20222, 88th Cong. 2d Sess. Under consideration was H.R. 11926, limiting the jurisdiction of federal courts in apportionment cases, considered pursuant to H. Res. 845.

ment that the report disclose changes in existing law. Thus, a letter from the head of an agency in a committee report, setting out proposed changes in existing law, was held to be a substantial compliance with the Ramseyer rule.

On Jan. 26, 1938,[17] Mr. Wright Patman, of Texas, made a point of order against H.R. 8176, a bill dealing with retirement pay for military officers, based on alleged violation of the Ramseyer rule.

Speaker William B. Bankhead, of Alabama, overruled the point of order, finding that the report was in substantial compliance with the rule. It appeared that a letter to the committee from an Army General, explaining certain changes that the bill would make in existing law, substantially satisfied the requirement, although Mr. Patman pointed out that the letter had been written a month before the committee reported the bill and that some changes in the bill had been made subsequent to the date of the letter.

MR. PATMAN: Mr. Speaker, I have a further point of order.

THE SPEAKER: The gentleman will state it.

MR. PATMAN: That is, that the Ramseyer rule is not complied with in the report of the committee in reporting the bill. Section 3 of the bill undertakes to amend existing law. The Ramseyer rule requires that a committee report shall disclose where there is an effort made specifically to change existing law and shall set out in parallel columns or in some way make it clear and plain to the Members of the House just exactly how the proposed amendment will affect existing law. I know that rule does not require any particular method to be used. I am aware of the fact that in the committee's report, although the committee's report says nothing about this amendment—that is, it is not set out specifically in italics, brackets, or otherwise—but in the letter from General Hines to the Honorable Lister Hill, commencing on page 4 of the report, there is mention, on page 5 of the report, in that letter, that a certain amendment is proposed but it does not say that that is the only amendment in that particular section. I do not know; I am unable to find out whether or not that is all or just a part that General Hines happens to be discussing. He does not say that is the only way that section is amended. He is just saying that it is amended to that extent. I submit that is not a compliance with the letter and spirit of the Ramseyer rule, which is part of the parliamentary rules of this House, and I make the point of order against the report on that ground.

THE SPEAKER: The Chair is prepared to rule on the point of order. The gentleman from Texas makes the point of order that the report of the committee does not conform to the provisions of the Ramseyer rule. . . .

With reference to the particular point of order made by the gentleman

17. 83 CONG. REC. 1143–46, 75th Cong. 3d Sess.

from Texas, the Chair has examined with some care the report of the committee which accompanies this bill, and, indeed, the gentleman from Texas has referred to the matter occurring in the letter on page 4 of the report, the letter from General Hines to the then chairman of the Military Affairs Committee, in which upon page 5 of the report in subsection (b) of section 212, there is set out in italics the only amendment to the existing law that is proposed in the bill, as the Chair understands it. The Chair is of opinion that if the rule itself had not provided that those changes might be incorporated in the report by citing an accompanying document, very probably the point of order made by the gentleman from Texas would be good, but the Chair feels, upon examination of this matter, inasmuch as the only amendment to existing law is set out in italics in an accompanying document to the report of the committee, that a substantial compliance with the rule has been made. . . .

The Chair will state—and this is the final statement of the Chair upon this matter—that the Chair has examined the bill with considerable care. The Chair feels justified in saying that section 3 of the bill is, as a matter of fact, the only specific change in existing law proposed by the bill.

The Chair, therefore, overrules the point of order made by the gentleman from Texas.

§ 60.12 A point of order will not lie against a committee report on the ground that the comparative print required by the Ramseyer rule contains a minor typographical error, where the committee has made a substantial effort to comply with the rule.

On July 26, 1965,[18] after Mr. Adam C. Powell, of New York, moved that the House resolve itself into the Committee of the Whole for the consideration of a bill, Mr. Robert P. Griffin, of Michigan, made a point of order against the motion on the ground that the report (H. Rept. No. 89–540), on the bill failed to comply with the provisions of the Ramseyer rule (Rule XIII clause 3), in that it did not correctly indicate the changes proposed in the first proviso of section 8(a)(3) of the National Labor Relations Act. Mr. Griffin called attention to the fact that the matter in italics on page 5 of the report read "or in any constitution of [*sic*] law of any State or political subdivision thereof," whereas the same language in the bill read "or in any constitution or law of any State or political subdivision thereof." The difference was that the report showed the word "of," where the bill used the word "or." Mr. Griffin argued that the failure to re-

18. 111 CONG. REC. 18100, 89th Cong. 1st Sess. Under consideration was H.R. 77, a bill to repeal § 14(b) of the National Labor Relations Act.

port on the bill to indicate this change was in violation of the rule, and that the bill should therefore be recommitted to the Committee on Education and Labor.

Speaker John W. McCormack, of Massachusetts overruled the point of order, stating:

> The Chair is prepared to rule.
>
> The Chair will state that this situation has arisen on several occasions in the past.
>
> Speaker pro tempore Cooper, on April 15, 1940, having a similar question presented to him on a point of order, ruled that "it is the opinion of the Chair that the duty does not devolve upon the Chair to analyze every word of existing law or to pass upon the sufficiency or compliance with the provisions of the so-called Ramseyer rule." The Chair then was of the opinion that the committee reporting the bill had made an effort to comply with the provisions of the Ramseyer rule, and the present occupant of the Chair expresses the same opinion and makes the same ruling, that is, that the committee made a substantial effort to comply with the requirements of the rule.
>
> Therefore, the Chair overrules the point of order.

§ 60.13 Where a point of order is raised against consideration of a bill on the ground that the report thereon does not adequately reflect all the changes in existing law as required by the Ramseyer rule, the Speaker may overrule the point of order on the ground that the committee has "substantially complied" with the rule.

On July 30, 1968,[19] Mr. Paul Findley, of Illinois, raised a point of order against a motion by Mr. William R. Poage, of Texas, that the House resolve itself into the Committee of the Whole for the consideration of a bill. Mr. Findley's point of order against consideration of the bill was based on the grounds the committee report failed to comply with the provisions of the Ramseyer rule in that the comparative print required thereby contained errors of four types. He stated the report failed to show by "stars" the omission of certain sections not carried in the Ramseyer print, typographical errors, errors of punctuation, and a failure to indicate one out of 28 date changes.

Speaker John W. McCormack, of Massachusetts, in overruling the point of order, stated:

> There appear to be 22 pages in the committee report referring to changes in existing law.

19. 114 Cong. Rec. 24245, 24252–54, 90th Cong. 2d Sess. Under consideration was H.R. 17126, with its accompanying committee report, H. Rept. No. 90–1374, the Extension of Food and Agriculture Act of 1965.

A few years ago the Chair passed on the basic question of substantial compliance in connection with another bill. It seems to the Chair that the committee has substantially complied with the requirements of the Ramseyer rule. I have used the words "at least." If a higher test was called for, I could probably say the committee has complied with the requirements of the Ramseyer rule. In any event, it is the opinion of the Chair that the report of the committee at least shows substantial compliance with the provisions of the Ramseyer rule, and accordingly, the Chair overrules the point of order.

§ 60.14 Where the comparative print required by the Ramseyer rule contained errors of three types (1) punctuation at variance with that in the bill, (2) capitalization of certain words not capitalized in the bill, and (3) abbreviations which did not appear in the bill—the Speaker held that there was substantial compliance with the provisions of the rule and overruled a point of order against the report.

On July 25, 1966,[20] Mr. John Bell Williams, of Mississippi, made a point of order against consideration of a bill (H.R. 14765), on the ground that the report of the Committee on the Judiciary accompanying the bill did not comply with the requirements of the Ramseyer rule. Mr. Williams stated, in part:

The first error I would like to call to the attention of the Chair is set forth on page 49 of the committee report, at the bottom of the page, purporting to show amendments made to section 16–1312 of the District of Columbia Code. The bill, in section 103(e), found on page 52, lines 1 through 5, states as follows:

> Section 16–1312 of the District of Columbia Code is amended—

And so on—yet the report does not set out the section amended—it merely sets out selected excerpts from the sections.

I cannot tell from looking at the material on page 49 of the report just what the amendments to the section accomplish, and I defy any other Member to do so. Subsection (a) of that section sets out the duties of the jury commission, but the matter printed in the report fails to set out all the duties as prescribed by the section. Then the printed matter completely omits subsection (b) of the amended section, and subsection (c) as printed in the report states:

> (c) Except as provided by this section, Chapter 121 of title 28, U.S.C., insofar as it may be applicable, governs qualifications of jurors.

But how can a Member tell what is provided by the section, when the section is not set out for him to see?

This section 16–1312 which is amended by the bill also contains a

20. 112 CONG. REC. 16840–42, 89th Cong. 2d Sess. Under consideration was H.R. 14765 and its accompanying report, H. Rept. No. 89–1678, the Civil Rights Acts of 1966.

subsection (d), which is not printed in the report.

Mr. Speaker, this failure of the report to show the law which is changed by the bill makes it impossible for Members to be able to determine just what changes are actually being made in the section, and therefore fails to comply with either the spirit or the letter of the Ramseyer rule. Of course, for that matter, even the material printed in the subsection (c) at the bottom of page 49 of the report fails to comply literally with the rule, since the material in italic is not literally the same as the material proposed to be inserted by the bill—the Ramseyer abbreviates to "U.S.C." the words "United States Code" appearing in the bill. The same erroneous abbreviation also appears in the amendment made to subsection (a) of that section.

Another failure to follow the literal text of the bill can also be found on page 52 of the report, Mr. Speaker, where the text of the proposed new section 303 of the Civil Rights Act of 1964 differs substantially in form from the section 303 added to that act by the bill, on page 79, lines 10 through 19.

Most serious of the deficiencies in this report, however, Mr. Speaker, is the matter appearing on page 53 of the report, where the report purports to show changes in title III of the Civil Rights Act of 1960 made by section 701 of the bill, which appears on page 80, line 9. Section 701 states "Title III of the Civil Rights Act of 1960 is amended" and so on—yet the report does not even purport to show title III of that act or any part thereof—all that Members have to guide them as to the provisions of title III is a row of asterisks, which I must confess I do not find very helpful—especially since the proposed new section 307 of the Civil Rights Act of 1960 refers back to section 301 of the Civil Rights Act of 1960 stating—page 80 lines 12 and 13 of the bill—"Any officer of election or custodian required under section 301 of this Act to retain and preserve records and papers may" and so forth. This portion of the committee's report is completely worthless, in my judgment, in helping Members to understand the changes made in existing law made by the bill.

The Ramseyer rule requires that the report show, and I quote:

> That part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended.

I submit, most respectfully, Mr. Speaker, that with respect to title III of the Civil Rights Act of 1960, there has been a complete failure to comply with the portion of the Ramseyer rule requiring that the statute proposed to be amended be shown. The report does not show the statute, and it does not even show any part of the statute—not even the part of the statute most necessary to understand what the proposed section 307 is all about; namely, section 301 which is cross-referenced to in the proposed section 307.

Mr. Speaker, on page 43 of the report, sections 1873 and 1874 of title 18 of the United States Code are shown as repealed, and new language added in their place; also the Ramseyer on the same page shows two new sections added—sections 1875 and 1876. I have not been able to find any place in the bill which repeals any of these sections, or which adds new text as sec-

tions 1875 and 1876, although the explanatory matter on page 35 of the report, under the heading "Changes in existing law" states as follows:

> Matter proposed to be stricken by the bill as reported is enclosed in black brackets. New language proposed by the bill as reported is printed in italic.

I, for one, find this very confusing, if the intent is to show the changes in section numbers made by section 103 of the bill, especially since the language preceding the Ramseyer states that "there is printed below in roman existing law in which no change is proposed."

This is, at best, a very odd way to show a renumbering of sections—so odd, in fact, that I think its potential for confusion is such as to render it a violation of the Ramseyer rule.

In summary, Mr. Speaker, the committee report fails to comply with the Ramseyer rule by showing language in the report as a purported change in existing law which is not the same as language contained in the bill; the report fails to show the entire text of a section which is proposed to be amended by the bill, but leaves Members to guess as to what the amendment actually does; the report fails to show any part whatsoever of a provision of law amended by the bill, even where the setting forth of such provision is essential to understanding of the changes made; and shows nonexistence repeals and amendments as a means of showing renumbering of sections.

I respectfully submit that this point of order should be sustained and the bill recommitted to the Committee on the Judiciary in accordance with the rules of the House.

Mr. Emanuel Celler, of New York, citing the technical and insubstantial nature of Mr. Williams' objections, stated with respect to sections of title III of the statute not quoted in the report, that no changes in those sections were proposed by the bill. Speaker John W. McCormack, of Massachusetts, then overruled the point of order. Implicitly adopting the view that only those portions of existing law directly affected by a bill need be shown in a comparative print (see § 60.6, supra), the Speaker indicated that there had been substantial compliance with the Ramseyer rule in the report in question, and that substantial compliance was a sufficient basis for overruling the point of order under that rule. Citing as a precedent a ruling on the same subject on Apr. 15, 1940, by Speaker pro tempore Jere Cooper, of Tennessee, Speaker McCormack stated:

> Now, on the pending point of order, the Chair calls attention to the fact that there are approximately 18 pages in the committee report which relate to complying with the Ramseyer rule.
>
> It is the opinion of the Chair that the committee has substantially complied with the Ramseyer rule, and follows the decision which I have referred to, and which was made in 1940 by Speaker pro tempore Cooper, and reaffirms that decision.
>
> The Chair therefore overrules the point of order.

Timeliness in Invoking Rule

§ 60.15 The proper time to raise a point of order that a committee report fails to comply with the Ramseyer rule is when the motion is made to resolve into the Committee of the Whole to consider the bill.

On July 30, 1968,[1] during debate on House Resolution 1218, which provided that it should be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill, Mr. Paul Findley, of Illinois, unsuccessfully attempted to raise a point of order against further consideration of the motion on the ground that the committee report accompanying the bill did not comply with the provisions of the Ramseyer rule.

Speaker pro tempore John J. Rooney, of New York, ruled that a point of order on that ground was not appropriate at that time. Mr. Findley then inquired as to when the point would be in order. The Speaker pro tempore replied that it could be raised when the motion was made to resolve into the Committee of the Whole. After the previous question was ordered on the resolution and the resolution was agreed to, Mr. William R. Poage, of Texas, moved that the House resolve itself into the Committee of the Whole for the consideration of the bill. Speaker John W. McCormack, of Massachusetts, then heard Mr. Findley on his point of order.

§ 60.16 A point of order that a committee report fails to comply with the Ramseyer rule will not lie in the Committee of the Whole.

On July 25, 1966,[2] in the Committee of the Whole, Chairman Richard Bolling, of Missouri, ruled untimely a point of order raised by Mr. John Bell Williams, of Mississippi, against consideration of a civil rights bill on the ground that the report of the Committee on the Judiciary accompanying the bill did not comply with requirements of the Ramseyer rule. On appeal, the Chair's ruling was upheld by a division vote of 139–101. Mr. Williams had attempted to raise the point of order prior to the House's resolving itself into the Committee of the Whole, but, as Speaker John W. McCormack,

1. 114 Cong. Rec. 24245, 24252, 90th Cong. 2d Sess. Under consideration was H.R. 17126, the extension of the 1965 Food and Agriculture Act.

2. 112 Cong. Rec. 16840, 89th Cong. 2d Sess. Under consideration was H.R. 14765, the Civil Rights Act of 1966.

of Massachusetts, later acknowledged, the Chair did not hear Mr. Williams make his point of order. After the Committee rose on motion of Mr. Williams before general debate had commenced, the Speaker stated that under the circumstances Mr. Williams could make his point of order at that time.

The proceedings were as follows:

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service, to facilitate the desegregation of public education and other public facilities, to provide judicial relief against discriminatory housing practices, to prescribe penalties for certain acts of violence or intimidation. and for other purposes.

Mr. WILLIAMS: Mr. Speaker, a point of order.

THE SPEAKER: The question is on the motion offered by the gentleman from New York [Mr. Celler].

Mr. WILLIAMS: Mr. Speaker, a point of order.

THE SPEAKER: All those in favor of the motion will let it be known by saying "aye." All those opposed by saying "no."

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 14765, with Mr. Bolling in the chair.

Mr. WILLIAMS: Mr. Chairman, a point of order. Mr. Chairman, I have a point of order. I was on my feet——

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Chairman.

THE CHAIRMAN: Under the rule, the gentleman from New York [Mr. Celler) will be recognized for 5 hours and the gentleman from Ohio [Mr. McCulloch] will be recognized for 5 hours.

Mr. WILLIAMS: Mr. Chairman.

Mr. WAGGONNER: Mr. Chairman.

MR. [WILLIAM M.] MCCULLOCH: Mr. Chairman.

THE CHAIRMAN: For what purpose does the gentleman from Ohio rise?

Mr. MCCULLOCH: Mr. Chairman, I rise for a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

Mr. MCCULLOCH: I would like to know if the resolution unqualifiedly guarantees the minority one-half of the time during general debate and nothing untoward will happen so that it will be diminished or denied contrary to gentlemen's agreements.

THE CHAIRMAN: The Chairman will reply by rereading that portion of his opening statement. Under the rule, the gentleman from New York [Mr. Celler], will be recognized for 5 hours, the gentleman from Ohio [Mr. McCulloch] will be recognized for 5 hours. The Chair will follow the rules.

Mr. MCCULLOCH: I thank you, Mr. Chairman.

Mr. WILLIAMS: Mr. Chairman.

Mr. CELLER: Mr. Chairman, I yield myself such time as I may care to use. Mr. Chairman, Negroes propose to be

free. Many rights have been denied and withheld from them. The right to be equally educated with whites. The right to equal housing with whites. The right to equal recreation with whites.

Mr. WILLIAMS: Mr. Chairman, a point of order.

Mr. CELLER: Regular order, Mr. Chairman.

THE CHAIRMAN: The gentleman will state his point of order.

Mr. WILLIAMS: Mr. Chairman, immediately before the House resolved itself into the Committee of the Whole House I was on my feet on the floor seeking recognition for the purpose of making a point of order against consideration of H.R. 14765 on the ground that the report of the Judiciary Committee accompanying the bill does not comply with all the requirements of clause 3 of rule XIII of the rules of the House known as the Ramseyer rule and intended to request I be heard in support of that point of order. I was not recognized by the Chair. I realize technically under the rules of the House at this point, my point of order may come too late, after the House resolved itself into the Committee of the Whole House on the State of the Union.

MR. CELLER: Mr. Chairman.

MR. WILLIAMS: But I may say, Mr. Chairman, that I sought to raise the point of order before the House went into session. May I ask this question? Is there any way that this point of order can lie at this time?

THE CHAIRMAN: Not at this time. It lies only in the House, the Chair must inform the gentleman from Mississippi.

MR. WILLIAMS: May I say that the Parliamentarian and the Speaker were notified in advance and given copies of the point of order that I desired to raise, and I was refused recognition although I was on my feet seeking recognition at the time.

MR. [JOHN J.] FLYNT [JR., OF GEORGIA]: I APPEAL THE RULING OF THE CHAIR.

THE CHAIRMAN: The Chair will have to repeat that the gentleman from Mississippi is well aware that this present occupant of the chair is powerless to do other than he has stated.

MR. WAGGONNER: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair stand as rendered?

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 139, noes 101.

The decision of the Chair was sustained.

MR. WILLIAMS: Mr. Chairman, I move that the Committee do now rise, and on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Celler and Mr. Williams.

The Committee again divided, and the tellers reported that there were—ayes 168, noes 144.

So the motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service, to facilitate the desegregation of public education and other public facilities, to provide

judicial relief against discriminatory housing practices, to prescribe penalties for certain acts of violence or intimidation, and for other purposes, had come to no resolution thereon.

THE SPEAKER: The Chair recognizes the gentleman from Mississippi.

MR. WILLIAMS: Mr. Speaker, the House resolved itself into the Committee of the Whole House on the State of the Union a moment ago. When the question was put by the Chair, I was on my feet seeking recognition for the purpose of offering a point of order against consideration of the legislation. Although I shouted rather loudly, apparently the Chair did not hear me. Since the Committee proceeded to go into the Committee of the Whole, I would like to know, Mr. Speaker, if the point of order which I had intended to offer can be offered now in the House against the consideration of the bill; and, Mr. Speaker, I make such a point of order and ask that I be heard on the point of order.

THE SPEAKER: The Chair will state that the Chair did not hear the gentleman make his point of order. There was too much noise. Under the circumstances the Chair will entertain the point of order.

§ 60.17 A point of order that a report fails to comply with the requirement that proposed changes in law be indicated typographically, as required by the Ramseyer rule, is properly made when the bill is called up in the House and before the House resolves into the Committee of the Whole.

On July 13, 1959,[3] immediately after Mr. Thomas G. Abernethy, of Mississippi, moved that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, Mr. H. R. Gross, of Iowa, inquired of the Speaker:

Mr. Speaker, I desire to make a point of order against the consideration of the bill and the report. When is the proper time to seek recognition for this purpose?

THE SPEAKER PRO TEMPORE:[4] This is the proper time for the gentleman to make his point of order.

Thereupon, Mr. Gross made a point of order against language found in the bill which, under the Ramseyer rule, was not stated in the accompanying report in italicized or other distinctive print. Mr. Abernethy then withdrew the motion and obtained unanimous consent that the bill be recommitted to the committee.

§ 60.18 A point of order that a committee report on a measure does not comply with the Ramseyer rule comes too late

3. 105 CONG. REC. 13226, 13227, 86th Cong. 1st Sess. Under consideration was H.R. 6893, a bill to amend the District of Columbia Stadium Act of 1957 with respect to motor vehicle parking areas.

4. John W. McCormack (Mass.).

after the House has resolved itself into the Committee of the Whole to consider the measure and debate has begun.

On Apr. 29, 1941,[5] after the House had resolved itself into the Committee of the Whole, Mr. John Taber, of New York, made a point of order against a measure on the basis that it apparently amended an earlier 1938 agriculture act, a change not disclosed in the committee report. After some substantiation of Mr. Taber's point of order, Mr. Hampton P. Fulmer, of South Carolina, in turn made a point of order against the prior point of order, on the ground that it came too late and should have been made before the House resolved itself into the Committee of the Whole. Chairman Harry P. Beam, of Illinois, then sustained Mr. Fulmer's point of order.

The proceedings were as follows:

THE CHAIRMAN: All time has expired. The Clerk will read.

MR. TABER: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. TABER: Mr. Chairman, I make the point of order against the bill and the report of the committee that the report does not comply with the Ramseyer rule.

THE CHAIRMAN: The Chair will be glad to hear the gentleman on the point of order. . . .

Mr. Fulmer rose.

THE CHAIRMAN: For what purpose does the gentleman from South Carolina rise?

MR. FULMER: Mr. Chairman, I make the point of order that the point of order of the gentleman from New York comes too late. The point of order should have been made in the House instead of in the Committee of the Whole.

THE CHAIRMAN: The Chairman will be glad to hear the gentleman from South Carolina on the point of order.

MR. FULMER: I do not care to say anything further on the point of order, Mr. Chairman.

THE CHAIRMAN: The gentleman from New York has made a point of order that the report on the joint resolution does not comply with the Ramseyer rule. The gentleman referred first to subparagraph 11 on page 7 of the joint resolution, which reads as follows:

> The provisions of this resolution are amendatory of and supplementary to the act, and all provisions of law applicable in respect of marketing quotas and loans under such act as so amended and supplemented shall be applicable, but nothing in this resolution shall be construed to amend or repeal section 301(b)(6), 323(b) (except as provided in par. (7)), or 335(d) of the act.

The gentleman from New York has pointed out various other paragraphs

5. 87 CONG. REC. 3421, 77th Cong. 1st Sess. Under consideration was H.J. Res. 149, concerning corn and wheat quotas and loans. See also 87 CONG. REC. 3585, 77th Cong. 1st Sess., May 5, 1941.

of the joint resolution to substantiate his statement that there has been no compliance with the Ramseyer rule.

Cannon's Precedents of the House of Representatives, volume 8, page 51, section 2243, reads as follows:

> The point of order that a report fails to comply with the requirement that proposed changes in law be indicated typographically is properly made when the bill is called up in the House and it comes too late after the House has resolved into the Committee of the Whole for the consideration of the hill.

Again, the Chair points out that on February 10, 1937, the Chairman [Mr. Lanham], while proceeding in the Committee of the Whole House on the State of the Union, substantiating the language the Chair has just read, held, in effect, that:

> A point of order that a committee report does not comply with the Ramseyer rule comes too late after the House has resolved itself into the Committee of the Whole for the purpose of considering the bill and debate thereon has begun. Points of order against the consideration of bills on the ground that the reports accompanying said bills do not conform to the Ramseyer rule come too late after the House has resolved itself into the Committee of the Whole and consideration has begun.

In view of the circumstances of the case and under the precedents and rules of the House, the Chair is of the opinion that the point of order which the gentleman from New York [Mr. Taber] has stated comes too late. The point of order should have been made in the House and for these reasons the Chair overrules the point of order.

Waiver of Rule by Unanimous Consent

§ 60.19 The House granted unanimous consent for the waiving of the provisions of the Ramseyer rule relative to a report to be submitted subsequently by a committee of the House.

On Mar. 8, 1945,[6] Mr. John J. Cochran, of Missouri, by direction of the Committee on Expenditures in the Executive Departments, reported on H.R. 2504, to repeal certain laws requiring reports to be made to Congress. Mr. Cochran explained that the bill would repeal a total of 64 reports required by law. In order to save money, manpower, and paper, Mr. Cochran requested unanimous consent that the requirements of the Ramseyer rule be waived, or else all 64 laws would have to be printed. Mr. Cochran gave assurances that the report would fully explain the bill and all items therein. There was no objection to the request.

Waiver of Rule by Resolution

§ 60.20 Where the House adopts a resolution providing for the consideration

6. 91 CONG. REC. 1922, 1923, 79th Cong. 1st Sess.

of a bill, any rule of the House to the contrary notwithstanding, such action waives the requirement of compliance with the Ramseyer rule.

On Feb. 15, 1949,[7] after the House had voted to adopt House Resolution 99, which provided in part "That, notwithstanding any rule of the House to the contrary, it shall be in order on Tuesday, February 15, 1949, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill" [H.R. 2632, a deficiency appropriation bill for 1949]. Mr. Francis H. Case, of South Dakota, made a point of order based on the Ramseyer rule against consideration of the bill. Citing the above language, Speaker Sam Rayburn, of Texas, overruled the point of order. The proceedings were as follows:[8]

MR. CASE of South Dakota: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. CASE of South Dakota: Mr. Speaker, I make the point of order that the report accompanying the bill, H.R. 2632, does not comply with the so-called Ramseyer rule.

I call the attention of the Chair to the fact that although the resolution which has been adopted waives points of order against the bill by the provisions contained therein it does not specifically waive or exempt the so-called Ramseyer rule which requires that a report accompanying a bill, including appropriation bills, shall set forth in appropriate type the text of the statute it is proposed to repeal.

In this connection I invite the Chair's attention to the fact that on page 8 of the proposed bill, line 6, it is proposed to repeal a title in a previous act of Congress, and again on page 16, lines 15 and 16, the bill carries this language: "and the first, fourth, and fifth provisos under said head are hereby repealed."

I have diligently searched the entire report on the bill and can find no citation of the statute to be repealed in order to comply with the Ramseyer rule.

I make the point of order which, if sustained, as I understand it, would automatically recommit the bill to the committee.

THE SPEAKER: The Chair will read the rule:

> Notwithstanding any rule of the House to the contrary, it shall be in order—

And so forth—

> and all points of order against the bill or any of the provisions contained therein are hereby waived.

The Chair overrules the point of order.

MR. CASE of South Dakota: Mr. Speaker, will the Chair indulge me for a moment?

THE SPEAKER: The Chair will indulge the gentleman.

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7. 95 CONG. REC. 1214, 81st Cong. 1st Sess.

8. *Id.* at pp. 1218, 1219.

MR. CASE of South Dakota: Under the rule in the House Manual, a citation is made to a precedent in the Congressional Record of the Seventy-first Congress, second session, page 10595. This citation reads:

> Special orders providing for consideration of bills, unless making specific exemption, do not preclude the point of order that reports on such bills fail to indicate proposed changes in existing law. (Cannon's, sec. 9220a; 71st Cong., 2d sees., Congressional Record, p. 10595.)

I fail to see any provision in the rule adopted which specifically exempts clause 2a of rule XIII, the Ramseyer rule.

THE SPEAKER: The Ramseyer rule is a rule of the House, and this resolution states "all rules to the contrary notwithstanding," it shall be in order to consider the bill.

The Chair overrules the point of order.

§ 61. Cost-estimate Requirement

A House rule requires that each public bill or joint resolution reported by a committee must contain certain estimates of the costs which would be incurred in carrying out such bill or joint resolution. The requirement is set forth in Rule XIII clause 7: [9]

> The report accompanying each bill or joint resolution of a public character reported by any committee shall contain—
>
> (1) an estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years), except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period; and
>
> (2) a comparison of the estimate of costs described in subparagraph (1) of this paragraph made by such committee with any estimate of such costs made by any Government agency and submitted to such committee. . . .
>
> (e) The preceding provisions of this clause do not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct.

The requirement is of recent origin, brought about by the Legislative Reorganization Act of 1970,[10] and became effective on the adoption of the rules by the 92d Congress on Jan. 22, 1971.[11]

As evidenced by the following excerpt from the report of the Committee on Rules,[12] the pur-

9. *House Rules and Manual §748(b) (1979).*

10. Pub. L. No. 91–510, 84 Stat. 1140. § 252(b) (Oct. 26, 1970).

11. 11. 117 CONG. REC. 134–144, 92d Cong. 1st Sess.

12. H. Rept. No. 91–1215, 116 CONG. REC. 20276, 91st Cong. 2d Sess., June 17, 1970.

pose of the rule is to inform Members of the costs of programs recommended by House legislative committees and thus exercise greater control over the fiscal operations of government. The report states:

> The responsibility for developing and disseminating fiscal information does not, and should not, rest solely with the revenue-raising and Appropriations Committees. Programs and their costs are inextricably interrelated. If Congress is to exercise rational control over the Government's fiscal operations, its Members must be made fully aware of the financial consequences of programs they are considering.
>
> Here the legislative committees of Congress can play an important role. With the aid of the supplementary staff resources provided for elsewhere in this bill, they should be better able to analyze and evaluate the cost estimates submitted by executive agencies.
>
> Section 252 [Rule XIII clause 7] places that responsibility upon the legislative committees by requiring that their reports on public bills and joint resolutions shall contain 5-year projections of the estimated costs that would be incurred by adoption of the measures at issue. The committees are further directed to present a comparison of their cost estimates with those submitted by the executive branch.
>
> Revenue measures are exempted from this requirement, but reports on such proposals will be required to contain an estimate of its impact, in terms of revenue loss or gain, for 1 year.

Under section 403 of the Congressional Budget Act of 1974, each committee was required to include in any report accompanying a bill or resolution a cost-estimate prepared by the Congressional Budget Office, if the estimate was timely submitted before the report was filed.[13] This requirement was incorporated into the rules [Rule XI clause 2(l)(3)(C), House Rules and Manual § 713 (e) (1979)], by the Committee Reform Amendments of 1974.[14] Even if such a cost-estimate is included in the report, the committee must still prepare its own cost-estimate pursuant to Rule XIII clause 7[15] (or adopt as the committee-estimate the Congressional Budget Office estimate).

In the case of legislation providing new budget authority or tax expenditures, the Congressional Budget Act required certain statements in committee reports, prepared after consultation with the Congressional Budget Office, providing projections and comparisons relative to concurrent resolu-

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13. Pub. L. No. 93–344, July 12, 1974; § 403 was made effective on the first day on which the first Director of the Congressional Budget Office was appointed.

14. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

15 *House Rules and Manual* § 748(b) (1979).

tions on the budget;[16] this requirement was also incorporated into the rules [Rule XI clause 2(l)(3)(B), *House Rules and Manual* § 713(e) (1979)].[17]

Waiver of Cost-of-estimate Requirement

§ 61.1 Although the House rules require that each public bill or joint resolution reported by a committee contain certain estimates of the costs which would be incurred in carrying it out, a bill or joint resolution may be called up under a special rule that permits consideration thereof notwithstanding a failure to comply with the cost-estimate requirement, or which waives points of order based thereon.

On Aug. 18, 1972,[18] Speaker Carl Albert, of Oklahoma, recognized Mr. Claude D. Pepper, of Florida, who, by direction of the Committee on Rules, called up a resolution and asked for its immediate consideration. The Clerk then read the resolution, as follows:

H. RES. 1097

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 7, rule XIII, to the contrary notwithstanding,[19] that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1227) approving the acceptance by the President for the United States of the interim agreement between the United States of America and the Union of Soviet Socialist Republics on certain measures with respect to the limitation of strategic offensive arms.

In the course of the ensuing discussion, Mr. Pepper yielded 30 minutes of time to Mr. H. Allen Smith, of California, who observed:[20]

16. Pub. L. No. 93–344, July 12, 1974; title III of the law, including § 308 (a), became effective for the fiscal year beginning Oct. 1, 1976.

17. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

18. 118 CONG. REC. 29093, 92d Cong.2d Sess.

19. Other examples of resolutions couched in the identical language (i.e. "clause 7 of Rule XIII to the contrary notwithstanding,") may be found at 118 CONG. REC. 26584, 92d Cong. 2d Sess., Aug. 3, 1972 [H. Res. 1071, providing for consideration of H.R. 15989, to establish a Council on International Economic Policy and to extend the Export Administration Act]; and 118 CONG. REC. 24100, 92d Cong. 2d Sess., July 18, 1972 [H. Res. 1012, providing for consideration of H.R. 14424, establishing a National Institute on Aging].

20. 118 CONG. REC. 29094, 92d Cong. 2d Sess.

. . . House Resolution 1097 provides an open rule with 1 hour of general debate for consideration of House Joint Resolution 1227, the Agreement on Limitation of Strategic Offensive Weapons. We waived points of order so far as failure to comply with the provisions of clause 7, rule XIII, because it was impossible to make a cost estimate on House Joint Resolution 1227.

Special Rule Waiving Points of Order for Failure to Comply

§ 61.2 A special rule waiving points of order against consideration of bills for failure of the accompanying report to comply with the cost-estimate rule is sometimes provided even though the report states that no additional costs were anticipated.

On Apr. 11, 1973,[1] Mr. Speedy O. Long, of Louisiana, called up for immediate consideration a House resolution which provided in part that on the adoption of the resolution it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill to amend a provision of the United States Code relative to the proper use of franking privileges by Members of Congress. The resolution provided for a waiver of points of order against consideration of the bill for failure to comply with the cost-estimate rule.

Parliamentarian's Note: The committee report had stated merely that no additional costs were anticipated by the enactment of the bill. But since the bill repealed existing provisions of laws relating to the franking privilege, and the proposed bill differed in several respects from existing law, the cost of reenactment of the law with those changes should have been estimated in the report.

The House agreed to the resolution and went on to consider the bill, which the House subsequently passed.

§ 62. Time for Filing Report

Under the rules, committee reports on a bill or other measure reported to the House by a committee must accompany the reported measure.[2] However, Members may obtain unanimous consent to file their minority or separate views as part II of a report.[3]

1. 119 CONG. REC. 11785, 93d Cong. 1st Sess. Under consideration was H. Res. 349, providing for consideration of H.R. 3180, to amend title 39 of the United States Code relative to franking privileges for Members of Congress.

2. Rule XVIII clause 2, *House Rules and Manual* § 821 (1979).

3. § 64.4, infra (late filing of minority report).

Unanimous consent of the House may also be obtained to file a committee report after adjournment.[4]

Filing After Sine Die Adjournment

§ 62.1 A standing committee may be authorized, by unanimous consent, to have its investigative reports printed if filed after the sine die adjournment.

On Oct. 5, 1962,[5] Speaker John W. McCormack, of Massachusetts, recognized Mr. Chet Holifield, of California, who made the following request:

> Mr. Speaker, I ask unanimous consent that reports filed with the Clerk, following the sine die adjournment,[6] by the Committee on Government Operations or its subcommittees may be printed by the Clerk as reports of the 87th Congress.

Unanimous consent was granted.

Parliamentarian's Note: In recent Congresses, the form of this request has been expanded to permit all committees authorized by the House to conduct investigations to file reports with the Clerk following *sine die* adjournment and to print those reports. Such general form was also used in some past Congresses, as indicated in § 62.14, infra.

§ 62.2 A select committee may be authorized, by unanimous consent, to have its investigative reports printed if filed after the sine die adjournment.

On Oct. 5, 1962,[7] Mr. Chet Holifield, of California, sought and obtained unanimous consent that reports filed after *sine die* adjournment with the Clerk by the Committee on Government Operations or its subcommittees could be printed by the Clerk as reports of the 87th Congress. Then Mr. A. Paul Kitchin, of North Carolina, obtained unanimous consent that reports filed with the Clerk following the adjournment by the Select Committee on Export Control could likewise be printed by the Clerk as records of the 87th Congress.

§ 62.3 By unanimous consent, the Committee on Govern-

4. § 62.3, infra.
5. 5 108 CONG. REC. 22618, 87th Cong. 2d Sess.

   For other examples, see 104 CONG. REC. 19699, 85th Cong. 2d Sess., Aug. 23, 1958; 103 CONG. REC. 16759, 85th Cong. 1st Sess., Aug. 30, 1957; 102 CONG. REC. 15268, 84th Cong. 2d Sess., July 27, 1956; and 94 CONG. REC. 9348. 80th Cong. 2d Sess., June 19, 1948.
6. For the rules pertaining to adjournment in general, see Ch. 40, infra.
7. 108 CONG. REC. 22618, 22619, 87th Cong. 2d Sess.

ment Operations was permitted to file a report on a bill subsequent to a projected sine die adjournment but on a day prior to expiration of the first session of the 93d Congress under the 20th amendment (Jan. 3).

On Dec. 20, 1973,[8] the day before the expiration of the first session of the 93d Congress, Mr. Chet Holifield, of California, obtained unanimous consent that the House Committee on Government Operations have until midnight, Jan. 2, 1974, to file a report on H.R. 11793, a bill to create a new Federal Energy Administration.

Leave to File Before Midnight

§ 62.4 Leave was granted to a committee to file a privileged report, on a bill for admission of a new state, after adjournment for the day but before midnight.

On Feb. 11, 1959,[9] Mr. Wayne N. Aspinall, of Colorado, obtained unanimous consent that the Committee on Interior and Insular Affairs have until midnight of that day to file a privileged report on the bill H.R. 4221, providing for the admission of the State of Hawaii into the Union.

Parliamentarian's Note: The authority conferred upon the Committee on Interior and Insular Affairs to report statehood bills as privileged was removed from the rules effective Jan. 3 1975.

§ 62.5 The Committee on Banking and Currency was granted permission by unanimous consent to have until midnight to file a report and an accompanying document showing changes in existing law as required by the Ramseyer rule.

On July 13, 1966,[10] Mr. Wright Patman, of Texas, obtained unanimous consent that the Committee on Banking and Currency have until midnight to file an accompanying document to the report on the bill H.R. 15890, a housing bill, in order to comply with the requirements of the Ramseyer rule. Later that same day, Mr. Carl Albert, of Oklahoma, stated that some of the material which should have been in the report accompanying the housing bill was still not available. Therefore, Mr. Albert sought and obtained unanimous consent that the Committee

8. 119 Cong. Rec. 42916, 93d Cong. 1st Sess.

9. 105 Cong. Rec. 2178, 86th Cong. 1st Sess.

10. 112 Cong. Rec. 15403, 15476, 89th Cong. 2d Sess.

on Banking and Currency have until midnight on Friday, July 15, 1966, to file the supplemental report.

§ 62.6 The Committee on Appropriations was given until midnight to file a privileged report.

On June 3, 1963,[11] Mr. William H. Natcher, of Kentucky, sought and obtained unanimous consent that the Committee on Appropriations have until midnight of that day to file the report on the bill making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1964.

Parliamentarian's Note: Where such permission is granted on a general appropriation bill, points of order under Rule XXI clause 2 must be reserved at that time, before the bill is placed on the Union Calendar, to permit points of order under that clause to be later made against provisions in the bill during consideration in Committee of the Whole. Absent such a reservation, the Committee of the Whole would have no authority to remove provisions from bills referred to it by the House other than by amendment.

§ 62.7 A Member from the minority party, acting at the behest of a committee chairman, asked and secured unanimous consent that the committee have until midnight to file a report.

On June 2, 1966,[12] Mr. Howard H. Callaway, of Georgia, a member from the minority party, acting at the behest of the committee chairman, obtained unanimous consent that the Committee on Agriculture have until midnight of that day to file a report on H.R. 15089, an agriculture bill.

Filing After Expiration of Select Committee

§ 62.8 Where a special investigating committee expires on a specified date, it is not in order seven months later to file a report as a matter of privilege.

In the 76th Congress, on July 19, 1939,[13] Mr. Ralph E. Church, of Illinois, objected to a unanimous-consent request by Mr. Adolph J. Sabath, of Illinois, to file the report of the Select Committee to Investigate Bondholders' Reorganizations, which had been established by House Resolution 412 of the 73d Congress. In response

11. 109 Cong. Rec. 9916, 88th Cong. 1st Sess.

12. 112 Cong. Rec. 12191, 89th Cong. 2d Sess.

13. 84 Cong. Rec. 9531, 76th Cong. 1st Sess.

to an inquiry submitted by Mr. Everett M. Dirksen, of Illinois, as to whether the report could be filed by a committee which had ceased to exist several months previously, Speaker William B. Bankhead, of Alabama, declared that such filing would be unauthorized. The Speaker stated:

> The Chair is of the opinion that the gentleman [Mr. Sabath] would not have the legal authority to file this as a report of the committee because, as the Chair understands, the functions of the committee expired on January 1, 1939.

Mr. Sabath withdrew his request to file the report.

Where Filing Date Falls on Non-legislative Day

§ 62.9 Where an investigative report from a joint committee was due to be filed on a date that fell on a Saturday when the House was not in session, the report was filed on the following Monday with the Clerk.

On Apr. 3, 1939,[14] Mr. R. Ewing Thomason, of Texas, called to the attention of the House the fact that the report of the joint committee appointed to investigate the Tennessee Valley Authority had been due on a day [Saturday, Apr. 1] when Congress was not in session. Mr. Thomason stated that the report was therefore filed with the Clerk on Apr. 3, and that there would also be minority views. Mr. Thomason explained that his remarks were intended to inform the Members why the report had not been filed earlier.

Joint Economic Committee

§ 62.10 The Joint Economic Committee may be granted additional time in which to file a report.

On Feb. 26, 1959,[15] Mr. Wright Patman, of Texas, sought unanimous consent that the Joint Economic Committee be given eight additional days to file its report. Under the Employment Act of 1946 [15 USC §§ 1021 et seq.; 60 Stat. 23 (1946)], the Joint Economic Committee was required to file its report on the economic re-

14. 84 Cong. Rec. 3727, 3728, 76th Cong. 1st Sess.

15. 105 Cong. Rec. 3049, 86th Cong. 1st Sess. For other extensions, see 109 Cong. Rec. 3231, 88th Cong. 1st Sess., Feb. 28, 1963 [two additional weeks]; 108 Cong. Rec. 2948, 87th Cong. 2d Sess., Feb. 26, 1962 [one additional week]; 107 Cong. Rec. 2935, 87th Cong. 1st Sess., Mar. 1, 1961 [two additional months]; and 101 Cong. Rec. 2029, 84th Cong. 1st Sess., Feb. 24, 1955 [115 additional days].

port of the President on Mar. 1. The committee had voted unanimously to request that it be given until Mar. 9 to file its report. Without objection, the House granted the additional time.

§ 62.11 Instance where the House, by unanimous consent, considered and passed a Senate joint resolution extending the date for transmission to Congress of the report of the Joint Economic Committee.

On Feb. 7, 1972,[16] Mr. Wright Patman, of Texas, sought and obtained unanimous consent for the immediate consideration of Senate Joint Resolution 196, extending the date for the transmission to the Congress of the report of the Joint Economic Committee. The Clerk read the Senate joint resolution, which provided that the dates for the transmission of the economic report of the Joint Economic Committee, approved Dec. 22, 1971 (Pub. L. No. 92–216; 85 Stat. 778), be extended from Mar. 10, 1972, to Mar. 28, 1972. The Senate joint resolution was then read a third time and passed, and a motion to reconsider was laid on the table.

Parliamentarian's Note: Since this reporting requirement is, in effect, a joint rule of the House and Senate, unanimous consent of both Houses for an extension of time is all that is required and not the enactment of a law.

Form of Resolution Authorizing Filing During Adjournment

§ 62.12 The House has by resolution authorized a committee to conduct an investigation and to submit a report to the Clerk if the House is not in session.

On June 20, 1936,[17] Mr. James M. Mead, of New York, sought and obtained unanimous consent for the immediate consideration of House Resolution 551, which provided that the Committee on the Post Office and Post Roads could conduct an investigation and submit its report to the Clerk if the House were not in session. The resolution was agreed to. It provided:

> *Resolved,* That the Committee on the Post Office and Post Roads, as a whole or by subcommittee, is authorized and directed to conduct an investigation to determine (1) the fair and proper basis of compensation for postmasters of the fourth class, and (2) the fair and proper basis of compensation for carrying mail on star routes. . . .

16. 118 CONG. REC. 2915, 92d Cong. 2d Sess.

17. 80 CONG. REC. 10619, 74th Cong. 2d Sess.

The committee shall report to the House (or to the Clerk of the House if the House is not in session) as soon as practicable the results of its investigation, together with such recommendations for legislation as it deems advisable.

§ 62.13 A resolution authorized the appointment of a special committee to investigate old-age pension plans and empowered the committee, in the event the House was not in session, to file its report with the Speaker.

On Mar. 10, 1936,[18] Mr. C. Jasper Bell, of Missouri, sought and obtained unanimous consent for the immediate consideration of House Resolution 443, which provided for establishment of a select committee to investigate pension plans and authorized the committee to submit its report after the adjournment. Specifically, the resolution provided:

Resolved, That the Speaker appoint a select committee of eight Members of the House and that such committee be instructed to inquire into old-age-pension plans with respect to which legislation has been submitted to the House of Representatives, and particularly that embodied in H.R. 7154. . . . And the committee shall have the right to report to the House at any time the results of its investigations and recommendations for other or additional legislation upon said bill or any other proposed legislation relative to old-age pensions. . . .

Resolved further, That in the event the committee transmits its report to the Speaker at a time when the House is not in session, as authorized in House Resolution No. 418, current session, a record of such transmittal shall be entered in the proceedings of the Journal and *Congressional Record* of the House on the opening day of the next session of Congress and shall be numbered and printed as a report of such Congress.

Form of Request Authorizing Filing and Printing After Sine Die Adjournment

§ 62.14 By unanimous consent, special and standing committees may be authorized, notwithstanding sine die adjournment, to file their reports with the Speaker for printing as public documents.

On Dec. 15, 1942[1] the following exchange took place:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the House, special and standing Committees of the House authorized to make investigations may file their reports with the Speaker not later than noon, January

18. 80 CONG. REC. 3506, 3507, 74th Cong. 2d Sess.

1. 88 CONG. REC. 9602, 77th Cong. 2d Sess.

3, 1943, for printing as public documents.

The SPEAKER:[2] Is there objection to the request of the gentleman from Massachusetts?

There was no objection

§ 63. Status as Privileged; Calling Up

Several types of committee reports are accorded privileged status. That is, they may be filed from the floor in the House at any time and their consideration is preferential and does not depend upon adoption of a special order reported from the Committee on Rules. One basis for this privilege of reporting at any time arises upon the precedents based upon the essential role imposed upon the Congress by the Constitution, as in the case of reports on Presidential vetoes or reports on impeachment proceedings.[3] Another basis for the privileged status of committee reports arise under the rules of the House. Such reports are of two types: (1) those raising questions of the privilege of the House under Rule IX such as reports on contempts of witnesses before committees, and (2) the reports of certain committees on matters specified in the applicable House rule which may be brought up at any time subject to the three-day rule on availability of reports [Rule XI clause 2(1)(6)] or the one-day rule applicable to certain funding resolutions from the Committee on House Administration (Rule XI clause 5). Under Rule XI, the Committees on Appropriations, House Administration, Interior and Insular Affairs, Public Works, Rules, Standards of Official Conduct, Veterans' Affairs, and Ways and Means have had leave to report at any time although only on those matters specified in the rules of the House.[4] For example, the Committee on Veterans' Affairs has had leave to report at any time only on general pension bills.[5]

The right of reporting at any time under Rule XI clause 4 no longer-grants the right of immediate consideration on the floor. Rules changes adopted since 1971, designed to give Members advance notice of floor consideration of measures, have restricted the right of immediate consideration. Now only privileged reports from

2. Sam Rayburn (Tex.).

3. See Ch. 14 (impeachment), supra, and Ch. 24 (vetoes), infra.

4. See the commentary following Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

5. See the commentary following Rule XI clause 4(a), House Rules and Manual § 726 (1979).

the Committee on Rules are granted the right of immediate consideration subject to the two-thirds vote required by the rules.[6]

The Committee Reform Amendments of 1974[7] incorporated into the rules the privileged status of matters reported under the Congressional Budget Act by the Committee on the Budget, but removed from the rules the privilege of measures reported by the Committee on Interior and Insular Affairs, the Committee on Public Works, the Committee on Veterans' Affairs, and the Committee on Ways and Means.[8]

Reports Recommending Passage of Bill Over Veto

§ 63.1 Reports from committees, to which vetoed bills have been referred, recommending passage of such bills over a veto, are privileged.

On Aug. 17, 1951,[9] Mr. John E. Rankin, of Mississippi, submitted a privileged report from the Committee on Veterans' Affairs on H.R. 3193, involving augmented pension benefits for veterans. The committee report recommended that the bill be enacted into law, the objections of the President (who had vetoed the measure) notwithstanding. The House then passed the bill by the necessary two-thirds majority.

The exchange went as follows:

> Mr. RANKIN: Mr. Speaker, I submit a privileged report from the Committee on Veterans' Affairs on the bill (H.R. 3193) to establish a rate of pension for aid and attendance under part III of Veterans' Regulation No. 1 (a), as amended.
>
> The Clerk read as follows: . . .
>
> The SPEAKER:[10] The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?
>
> Under the Constitution, this vote must be determined by the yeas and nays. . . .
>
> So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

On Sept. 25, 1940,[11] Mr. Andrew J. May, of Kentucky, by di-

6. Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979). See also the commentary following Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).
7. H. Res. 988, 120 CONG. REC. 34447–70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.
8. See Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).
9. 97 CONG. REC. 10197, 10202, 82d Cong. 1st Sess.
10. Sam Rayburn (Tex.).
11. 86 CONG. REC. 12615–23, 76th Cong. 3d Sess.

rection of the Committee on Military Affairs, called up a privileged report on H.R. 3840, which had been referred to the committee after a Presidential veto. The House ultimately failed to override the veto on the bill, which involved the status of bandmasters in the U.S. Army.

§ 63.2 A privileged report submitted by the Committee on the Judiciary on a vetoed bill referred to it recommended passage of the bill, the objections of the President to the contrary notwithstanding.

On Aug. 5, 1940,[12] Mr. Hatton W. Sumners, of Texas, submitted a privileged report on H.R. 3233, entitled "An act to repeal certain acts of Congress (pocket vetoed)". The report recommended the passage of the bill over the President's veto. The bill in question proposed the repeal of pocket-vetoed bills. Mr. Sumners explained that the committee desired to prevent certain bills from becoming law in the event that the Supreme Court determined that the President's use of the pocket veto in a number of instances had been invalid.

The bill did not receive the two-thirds vote required for passage.

12. 86 Cong. Rec. 9885–90, 76th Cong. 3d Sess.

Reports on Impeachment

§ 63.3 Adverse reports from the Committee on the Judiciary on impeachment proceedings are privileged.

On Mar. 24, 1939,[13] Mr. Sam Hobbs, of Alabama, by direction of the Committee on the Judiciary presented a privileged report on House Resolution 67, dealing with impeachment proceedings against Secretary of Labor Frances Perkins. Mr. Hobbs stated that the committee had been unanimously adverse to the resolution, as reflected in the report. He then moved that the resolution be laid on the table and the House agreed to the motion.

Questions Involving the Privilege of the House

§ 63.4 A committee report is privileged where it takes up a question involving the privileges of the House. Thus, a committee report relating to the refusal of a witness to produce certain documents, as ordered, is privileged.

On Feb. 2, 1966,[14] shortly after the House convened, Speaker

13. 84 Cong. Rec. 3273, 76th Cong. 1st Sess.

14. 112 Cong. Rec. 1742, 89th Cong. 2d Sess.

John W. McCormack, of Massachusetts, recognized Edwin E. Willis, of Louisiana, Chairman of the House Committee on Un-American Activities, who stated:

> Mr. Speaker, I rise to a question of the privilege of the House and by direction of the Committee on Un-American Activities, I submit a privileged report (Reps. No. 1214).

The Clerk then proceeded to read the report which was one of seven similar reports[15] to be considered that day. Each report documented the failure of an alleged member of the Ku Klux Klan to comply with a subpena duces tecum issued by the Committee on Un-American Activities which required the production of books, documents, correspondence, and memoranda relating to the organization. Each report was, in turn, followed by the submission of a privileged resolution directing the Speaker of the House to certify the report of the committee to the U.S. Attorney for the District of Columbia so that each individual could be "proceeded against in the manner and form provided by law."[16]

Report on Refusal of Witness to Testify

§ 63.5 Reports of the standing Committee on Un-American Activities as to the refusal of certain witnesses to produce books and papers under a subpena duces tecum were privileged.

On Mar. 28, 1946,[17] Mr. John S. Wood, of Georgia, by direction of the Committee on Un-American Activities, presented a privileged report which recited that Dr. Edward Barksy and other named members of the executive board of the Joint Anti-Fascist Refugee Committee had deprived the Committee on Un-American Activities of the opportunity to inspect books, papers, and other materials requested in a subpena duces tecum, which actions constituted contempt of the House of Rep-

15. The committee also submitted H. Rept. No. 89–1242 (*id.* at p. 1763), H. Rept. No. 89–1243 (*id.* at p. 1770), H. Rept. No. 89–1244 (*id.* at p. 1784), H. Rept. No. 89–1245 (*id.* at p. 1793), H. Rept. No. 89–1246 (id. at p. 1801), and H. Rept. No. 89–1247 (*id.* at p. 1808).

16. For a discussion of the subject of privilege, generally, see Ch. 11, supra.

17. 92 CONG. REC. 2743–53, 79th Cong. 2d Sess.

See also 100 CONG. REC. 12825–38, 83d Cong. 2d Sess., July 30, 1954; 98 CONG. REC. 3756–73, 82d Cong. 2d Sess., Apr. 8, 1952; 96 CONG. REC. 12284–86, 81st Cong. 2d Sess., Aug. 11, 1950; 96 CONG. REC. 12234–48, 81st Cong. 2d Sess., Aug. 10, 1950; and 93 CONG. REC. 1127–37, 80th Cong. 1st Sess., Feb. 18, 1947.

Contempt proceedings instituted against recalcitrant witnesses are discussed in Ch. 15, supra.

resentatives. After the Clerk read the report, Mr. Wood offered a privileged resolution, House Resolution 573, that provided that the report be certified to the U.S. Attorney for the District of Columbia to the end that the named persons be prosecuted. After argument, the resolution was amended so as to describe only the individual who had appeared before the House committee and refused to respond in the manner directed. The resolution was then agreed to.

§ 63.6 A committee report from the Committee on Interstate and Foreign Commerce relating to the refusal of a witness to testify was privileged.

On Aug. 13, 1958,[1] Mr. Oren Harris, of Arkansas, by direction of the Committee on Interstate and Foreign Commerce, submitted a privileged report, House Report No. 85–2580, recommending that a contempt citation be issued against Bernard Goldfine. Shortly afterward, Mr. Harris offered a resolution, House Resolution 684, that certified the committee report to the U.S. Attorney for appropriate contempt proceedings. The House subsequently agreed to the resolution.

§ 63.7 Report by a special committee authorized to make an investigation stating that a witness had refused to testify before the committee was privileged.

On Mar. 29, 1940,[2] Mr. Martin Dies, Jr., of Texas, by direction of the Special Committee to Investigate Un-American Activities, presented a privileged report, House Report No. 76–1900, stating that the committee had caused to be issued a subpena directing James H. Dolsen to appear and testify before the committee with records regarding the Communist Party and its activities, and that Mr. Dolsen had refused to testify as directed, such refusal being a willful and deliberate violation of the subpena. The report stated that the witness was in contempt of the House of Representatives.

Speaker William B. Bankhead, of Alabama, ordered the report to be printed and directed the Clerk to report the resolution, House Resolution 446, certifying the report, together with all of the facts in connection with it, under the seal of the House of Representa-

1. 104 CONG. REC. 17361–86, 85th Cong 2d Sess.

2. 86 CONG. REC. 3694, 3695, 76th Cong. 3d Sess.

tives, to the U.S. Attorney for the District of Columbia, for appropriate proceedings. The resolution was agreed to.

§ 63.8 Reports from committees on the refusal of witnesses to testify, if not called up immediately, are referred to the House Calendar and ordered printed.

On Apr. 8, 1952,[3] Mr. Robert L. Doughton, of North Carolina, by direction of the Committee on Ways and Means, submitted a privileged report, Honse Report No. 82–1748, which was referred to the House Calendar and ordered printed. The report cited Henry W. Grunewald for failing and refusing to answer pertinent questions propounded to him and produce papers, books, and other documents requested by committee subpena. The committee had been investigating allegations that Mr. Grunewald wrongfully intervened in tax cases and maintained close personal relations with several Internal Revenue Service officials.

Reports Privileged Under Specific Provisions of House Rules

§ 63.9 Privileged reports have been made from the floor on bills providing for statehood; and where the Committee on Interior and Insular Affairs reported a privileged bill favoring the admission of a new state [Alaska] and the bill contained matter incidental to its main purpose, the privileged status was not destroyed.

On June 25, 1957,[4] Mr. Leo W. O'Brien, of New York, submitted a privileged report providing for the admission of a new state into the Union. It was reported in the following manner:

> Mr. O'Brien of New York from the Committee on Interior and Insular Affairs submitted a privileged report (Reps. No. 624) on the bill (H.R.7999) to provide for the admission of the State of Alaska into the Union, which was referred to the Union Calendar and ordered to be printed.

On May 21, 1958,[5] Mr. Wayne N. Aspinall, of Colorado, by direction of the Committee on Interior and Insular Affairs, moved that the House resolve itself into the Committee of the Whole for the consideration of H.R. 7999, providing for the admission of Alaska into the Union. Mr. Clarence Cannon, of Missouri, then made a

3. 98 Cong. Rec. 3756–73, 82d Cong. 2d Sess.

4. 103 Cong. Rec. 10200, 85th Cong. 1st Sess.

5. 104. Cong. Rec. 9212–17, 85th Cong. 2d Sess.

point of order that the bill was not privileged and that accordingly, the motion was not in order at that time. Mr. Cannon argued that, if the bill was privileged at all, it was privileged under Rule XI,[6] authorizing the Committee on Interior and Insular Affairs to report a bill for admission of a new state. Mr. Cannon argued that the bill had to conform in every respect with the rule or the privilege was destroyed. Mr. Cannon, Mr. John Taber, of New York, and Mr. Howard W. Smith, of Virginia, all argued against the privileged status of the bill on the basis of early precedents expressing the principle that "the presence of matter not privileged with privileged matter destroys the privileged character of the bill."[7] In response, Mr. Arthur L. Miller, of Nebraska, and Mr. Leo W. O'Brien, of New York, argued that the other matters contained in the bill were necessarily incidental to the main purpose of the bill and that, were the rule given the narrow construction urged by Mr. Cannon and the others, it would be impossible in modern times to bring a statehood bill to the floor under the rule.

In overruling the point of order, Speaker Sam Rayburn, of Texas, observed that some of the precedents cited by the Members in support of their arguments did not apply to statehood bills. He further stated:

> The bill before us is one to provide for the admission of the State of Alaska into the Union. Upon a close examination of the bill it will be found that all of the provisions contained therein are necessary for the accomplishment of that objective. It may be argued that some of them are incidental to the main purpose, but as long as they tend toward the accomplishment of that end, such incidental purposes do not destroy the privilege of the Committee on Interior and Insular Affairs to report and call up the pending bill.
>
> It may be said, therefore, that where the major feature—and the Chair hopes the Members will listen to this—that where the major feature of the bill relates to the admission of a new State, lesser provisions incidental thereto do not destroy its privilege when reported by the Committee on Interior and Insular Affairs, and, therefore, for these and many other reasons, the Chair overrules the point of order.

Parliamentarian's Note: Generally, the inclusion of nonprivileged matter in a bill otherwise privileged destroys the privileged status of the bill, as where provisions of a bill relate to subjects other than the subject which is specifically accorded privileged status under House rules. But seemingly nonprivileged provi-

6. See Rule XI clause 22, *House Rules and Manual* § 726 (1973).

7. 4 Hinds' Precedents §§ 4622, 4624, 4633, 4640, 4643; 8 Cannon's Precedents § 2289.

sions do not destroy the privileged status of the bill if they are incidental and necessary to the accomplishment of a privileged purpose of the bill. See the discussion in § 63.13, infra.

Doctrine of Privileged Reports May Extend to Senate Bills

§ 63.10 A special committee having been given the power to study a subject and report to the House, and authorized to report certain bills and resolutions as privileged, may report Senate bills as well as House bills under the privileged status given. Moreover, where a Senate bill is reported by such committee with a committee amendment containing language of House bills previously passed by the House (a motion to reconsider having been tabled), the committee amendment does not comprise such unprivileged matter as would destroy the privileged status given the Senate bill.

On Mar. 31, 1938,[8] points of order were made against consideration of a Senate bill[9] respecting governmental reorganization. The bill had been reported by a special committee which, under House Resolution 60, was given the privilege of reporting at any time with respect to certain matters. A point of order by Mr. Samuel B. Pettengill, of Indiana, was based in part on a contention that the Senate bill contained unprivileged matter and that therefore the bill's privileged status was destroyed. In a subsequent point of order against the Senate bill, Mr. Gerald J. Boileau, of Wisconsin, raised a question as to whether the authorizing resolution had given privileged status only to House bills reported by the committee, and not to Senate bills. The proceedings were as follows:

> MR. PETTENGILL: Mr. Speaker, I make a point of order against S. 3331, Union Calendar 739, Report 2033, reported March 30, 1938, from the Select Committee on Government Organization.
>
> The point of order is that the bill includes matters not privileged and the inclusion of such nonprivileged matters destroys the privilege of the whole. . . .
>
> This House passed H.R. 7730 July 27, 1937, during the present Congress. The Record and the Journal of the House show that a motion was made to reconsider the vote by which the House passed H.R. 7730, and that said motion to reconsider was laid upon the table. . . .
>
> Despite this action finally disposing of the subject matter of H.R. 7730, S.

8. 83 CONG. REC. 4474–77, 75th Cong. 3d Sess.
9. S. 3331.

3331, reported by the Select Committee on Government Organization yesterday, is again reported in haec verba in the form in which it passed the House on July 27, 1937, under title 2, section 201, of S. 3331.

For this reason, title 2, section 201, is nonprivileged matter, and the inclusion thereof under the rules of the House destroys the privilege of the whole of S. 3331 as reported.

Similarly, the House on August 13, 1937, during the present Congress, passed H.R. 8202, and the Record and Journal of the House show that on August 13 last a motion was made to reconsider the vote by which said H.R. 8202 passed the House, and that said motion to reconsider was laid on the table. . . .

An examination of S. 3331 will show that despite this action taken by the House on August 13, 1937, the same subject matter as included in H.R. 8202 in haec verba is contained in S. 3331. . . .

The matter thus described in S. 3331 having heretofore been finally disposed of by the House, at least pending a conference with the Senate, it is not within the privilege of the Select Committee on Government Organization to include the same in S. 3331, and that the inclusion of the same destroys the privilege of all of S. 3331. . . .

Putting aside, for the moment, the technical question of privilege, I make a further point of order that S. 3331 with reference to the matters therein set forth which I have above described contains matter which it is not within the power of the Select Committee on Government Organization, or any committee of the House, or any member thereof, or the House itself, to report or to receive or to take any committee or legislative action thereon. . . .

. . . For the reason as above stated, that by taking the action to which I have referred with reference to H.R. 7730 on July 27, 1937, and H.R. 8202 on August 13, 1937, this House has divested itself of any further authority, at least at the present time, to take any legislative action whatsoever with respect to the subject matter therein set forth. . . .

THE SPEAKER:[10] The Chair is ready to rule on the points of order raised by the gentleman from Indiana.

The gentleman from Indiana makes two points of order against the consideration of Senate bill 3331. The first point of order is based upon the ground that the select committee of the House of Representatives appointed to deal with this matter does not have authority to report a bill of this character. Under these circumstances, in order that the whole situation may be presented to the House, in the opinion of the Chair, it is necessary to incorporate in the ruling at least a part of House Resolution 60 specifically setting up this select committee and designating certain powers that it might have the right to exercise. The Chair quotes from that resolution the following language:

> *Resolved*, That the Speaker of the House of Representatives be, and he is hereby, authorized to appoint a select committee of seven Members of the House to be known as the Select Committee on Government Organization, for the purpose of considering and reporting upon the subject matter contained in the message of the

10. William B. Bankhead (Ala.).

President of the United States of January 12, 1937. All bills and resolutions introduced in the House proposing legislation concerning reorganization, coordination, consolidation, or abolition of, or reduction of personnel in, organizations or units in the Government shall be referred by the Speaker to the said Select Committee on Government Organization. The said Select Committee on Government Organization is hereby authorized to report to the House at any time by bill or otherwise with recommendations upon any matters covered by this resolution; and any bill or resolution so reported shall be placed upon the calendar and have a privileged status. . . .

So it appears clear to the Chair that under the special authority granted by the House itself to this select committee they were given the privilege to report at any time, either by bill or otherwise, any matters covered by the recommendations of the President of the United States in the message referred to in the resolution. While it is true that at a former session of the Seventy-fifth Congress two separate bills were passed by the House and sent over to the Senate for the consideration of that body, yet that, in the opinion of the Chair, is not the direct parliamentary problem here presented.

Assuming, and the Chair thinks it is clear, that the committee had the right to make any report that it saw fit upon these problems, the question here is whether or not the select committee had the right under this power delegated by the House and under general parliamentary practice in addition to these powers to report a bill passed by the Senate and to which the House committee has stricken out all after the enacting clause and submitted, as is the case here, an amendment in the nature of a substitute for the Senate bill. The Chair is clearly of the opinion that the committee had that authority. Here is a bill sent over by the Senate and referred to this select committee, and under the jurisdiction conferred they have reported back to this House a Senate bill with one amendment. The whole action of the select committee constitutes an amendment and only one amendment to a Senate bill; and despite the fact that the House may have heretofore passed in a former session two bills touching upon certain phases of the President's recommendation, the Chair is of the opinion that this would not prevent the select committee from reporting an amendment to a Senate bill. . . .

The Chair, therefore, overrules the points of order.

Subsequently, a point of order was made by Mr. Boileau, as follows:

MR. BOILEAU: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. BOILEAU: Mr. Speaker, I make a point of order against the consideration of this bill at the present time. I grant, Mr. Speaker, that the committee has jurisdiction of the subject matter contained in the Senate bill.

I make the point of order, however, that the resolution setting up this committee and giving the committee privileged status gave privileged status only to House bills and not to Senate bills, and therefore the bill cannot be brought up in this manner.

THE SPEAKER: The Chair just a few moments ago read into the Record the

comprehensive powers of the select committee. The Chair is of the opinion that the point of order is not well taken, and, therefore, overrules the point of order.

Reports on Resolution of Disapproval

§ 63.11 A report from the Committee on Government Operations on a resolution disapproving a reorganization plan is filed through the hopper and not from the floor as privileged.

On Feb. 15, 1962,[11] pursuant to Rule XIII clause 2, Mr. William L. Dawson, of Illinois, delivered to the Clerk the report of the Committee on Government Operations, House Report No. 87–1360, on House Resolution 530, which resolution disapproved of Reorganization Plan No. 1 of 1962, relating to the establishment of a Department of Urban Affairs.

Parliamentarian's Note: The privileged consideration of similar resolutions of disapproval which is explicitly provided by law is to be distinguished from privileged reports filed pursuant to the standing rules of the House. In the former case, privilege for consideration derives directly from law and the reports need not be filed from the floor to preserve that privilege. In the latter case, privileged reports must be filed from the floor in order to preserve their privileged consideration, since House rules do not explicitly permit privileged consideration regardless of the mode of filing.

Reports on Nomination of Vice President

§ 63.12 The report of the Committee on the Judiciary on the nomination of Gerald R. Ford to be Vice President was filed through the hopper and not from the floor as privileged.

On Dec. 4, 1973,[12] Mr. Peter W. Rodino, Jr., of New Jersey, Chairman of the Committee on the Judiciary, delivered House Report No. 93–695 on House Resolution 735 as a nonprivileged matter, pursuant to House Rule XIII clause 2. The resolution confirmed the nomination of Gerald R. Ford, of Michigan, to be Vice President of the United States. The report was delivered to the Clerk for

11. 108 CONG. REC. 2263, 87th Cong. 2d Sess.

12. 119 CONG. REC. 39419, 93d Cong. 1st Sess.

See also 120 CONG. REC. 40587, 93d Cong. 2d Sess., Dec. 17, 1974, where Mr. Rodino filed H. Rept. No. 93–1609 on H. Res. 1511, confirming Nelson A. Rockefeller as Vice President of the United States.

printing and reference to the House Calendar.

Effect of Inclusion of Nonprivileged Matter

§ 63.13 The inclusion of nonprivileged matter in a bill otherwise privileged under the rules destroys the privileged status of the entire bill.

On Apr. 8, 1935,[13] after Mr. Joseph J. Mansfield, of Texas, moved that the House resolve itself into the Committee of the Whole for the consideration of H.R. 6732, authorizing the construction of certain public works on rivers and harbors, Mr. Bertrand H. Snell, of New York, made a point of order against the motion. Mr. Snell contended that the motion was not in order because the bill was not privileged.

Mr. John J. O'Connor, of New York, in response to the point of order, conceded that the bill should have contained only matters relating to rivers and harbors, and not matters relating to canals and artificial waterways, to be in strict compliance with the privilege. He also acknowledged that there were precedents that held that "the presence in a bill, otherwise privileged, of matters not privileged destroys the privileged status of the whole bill."[14]

Upon Mr. Mansfield's insistence that the Speaker rule on the point of order, Speaker Joseph W. Byrns, of Tennessee, held that the motion was not in order, as the bill contained matters exceeding the scope of the privilege. The Speaker also noted that the bill had not been reported as privileged from the floor of the House, but rather through the hopper as an ordinary bill.

The proceedings were as follows:

> MR. SNELL: Mr. Speaker, I desire to make a point of order against the motion.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. SNELL: I make the point of order against the motion of the gentleman from Texas [Mr. Mansfield] on the ground that this is not a privileged bill, and therefore the motion is not in order. I do this not because I am opposed to the bill, because I am for it, but in order to keep the Record and the precedents of the House intact relative to the consideration of a river and harbor bill.
>
> As a matter of fact, the Chairman of the Rules Committee and I had a word or two about this bill Saturday night. Originally, river and harbor bills were privileged bills, but in those days they were confined to river and harbor projects alone. In later years all of

13. 79 CONG. REC. 5250, 5251, 74th Cong. 1st Sess.

14. See 4 Hinds' Precedents § 4622.

these river and harbor bills have contained various other matters, such as channels, canals, and artificial waterways, which are not privileged matter. Of course, the presence of unprivileged matter in a bill makes the bill itself unprivileged. If I remember correctly, the present distinguished Speaker made a ruling on this very same proposition some 12 or 15 years ago when he was acting as Chairman of Committee of the Whole, and as a further argument to sustain my position, I respectfully call attention of the Speaker to that decision.

I would like to say further that as far as I am concerned, if the Speaker sustains the point of order, which I believe he will, if the gentleman from Texas will ask unanimous consent to call up this bill, I doubt if there will be any opposition to considering it at this time. The point I am making now is simply for the purpose of maintaining the rules of the House, and not because I have any opposition to the bill.

MR. O'CONNOR: Mr. Speaker, I should like to reply to the point of order, in order to keep the record clear. . . .

Now, under clause 45 of rule XI of the House, bills reported by the Committee on Rivers and Harbors for "the improvement of rivers and harbors" are privileged, along with reports from the Rules Committee, reports of the Elections Committees, general appropriation bills, bills from the Public Lands Committee relating to forfeiture of land grants to railroads, and so forth, reports from the Accounts Committee pertaining to the contingent fund of the House, reports on enrolled bills, reports from the Committee on Territories admitting new Territories as States to the Union, reports from the Invalid Pensions Committee reporting general pension bills, and reports from the Joint Committee on Printing. I think I have covered all the privileged reports. If not, I shall include them later in my remarks.

Under the rule, the gentleman from New York is correct in the strict sense, in that the bill reported from the Committee on Rivers and Harbors must relate only to rivers and harbors. This ruling is sustained by the following precedent: On January 11, 1919, at page 1263 of the Record, the present distinguished Speaker, then presiding as Chairman of the Committee of the Whole House on the state of the Union, ruled that a Rivers and Harbors Committee report was not privileged because it contained canals and artificial waterways. It has also been held that the presence in a bill, otherwise privileged, of matters not privileged destroys the privileged status of the whole bill (Hinds' Precedents, vol. IV, sec. 4622, etc.).

I am willing to concede to the gentleman from New York [Mr. Snell] that this bill does in fact contain provisions relating to canals and creeks and artificial, and perhaps undiscovered, waterways, so if the gentleman should press his point of order, the bill would not be privileged. In view of that situation, however, if the point of order is pressed, the Rules Committee is prepared with a rule to meet the situation. . . .

THE SPEAKER: Clause 45 of rule XI, as it relates to the Committee on Rivers and Harbors, reads as follows, under the heading of Privileged Reports.

> The Committee on Rivers and Harbors, bills authorizing the improvement of rivers and harbors.

The bill which has been presented to the House not only relates to rivers and harbors but provides for other waterways.

There are quite a number of provisions in the bill, which it is unnecessary to point out, providing for inland waterways; for instance, from the Delaware River to the Chesapeake Bay, the improvement of the Cape Cod Canal, and other provisions quite numerous which, in the opinion of the Chair, takes the bill from under the privilege provided in the rules.

The Chair feels constrained to follow the precedents heretofore established and the plain letter of the rule the Chair has read, which applies only to bills relating to rivers and harbors exclusively. In addition to this, the Chair will state that the Chair is informed that this bill was not presented to the House as privileged bills are, but was reported through the basket, rather than from the floor of the House.

The Chair therefore sustains the point of order.

Mr. Mansfield then sought and obtained unanimous consent for the immediate consideration of the bill.

Parliamertariar's Note: In this instance, provisions of the bill related to subjects other than the subjects specifically accorded privileged status by rule, and therefore were clearly outside the scope of the privilege. This should be distinguished from the situation in which a bill contains seemingly nonprivileged provisions which are incidental to the main purpose of the bill, but which are necessary to or tend substantially toward the accomplishment of such purpose. It has been held, for example, under a rule that gave privilege to reports from the Committee on Interior and Insular Affairs relating to admission of new states, that the rule permitted inclusion in a bill of matters incidental to the bill's privileged purpose so long as "they tend toward the accomplishment of that end." In such a case, the incidental matter does not destroy the privilege. [See the ruling of Speaker Sam Rayburn (Tex.) with respect to H.R. 7999, a bill to provide for the admission of Alaska into the Union at § 63.9, supra.]

Calling Up Privileged Resolution on Same Day Reported

§ 63.14 Prior to the adoption of the present "three-day layover rule," a report from a committee entitled to make privileged reports under the rules could be called up for consideration on the same day reported, and unanimous consent was not required.

On June 16, 1965,[15] Mr. Samuel N. Friedel, of Maryland, by di-

15. 111 CONG. REC. 13799, 89th Cong. 1st Sess. Under consideration was H. Res. 416, which authorized payment

rection of the Committee on House Administration, called up House Resolution 416, and asked for its immediate consideration. Mr. H. R. Gross, of Iowa, then made a parliamentary inquiry of Speaker John W. McCormack, of Massachusetts. The following exchange took place.

> MR. GROSS: Does the immediate consideration of this resolution require unanimous consent?
>
> THE SPEAKER: The Chair will advise the gentleman from Iowa that this is a privileged report from the Committee on House Administration.
>
> The question is on the committee amendments.

However, in 1970 the House adopted the so-called "three-day layover rule.[16] This rule essentially limits the right of immediate consideration by providing that, although privileged reports can still be reported at any time, the measure or matter reported cannot be considered until three days, exclusive of Saturdays, Sundays, or legal holidays, have passed, except for resolutions reported by the Committee on Rules making in order the consideration of a bill, resolution, or other order of business, and except for committee funding resolutions reported by the Committee on House Administration subject to the one-day layover requirement of Rule XI clause 5. This rule change, brought about by the Legislative Reorganization Act of 1970,[17] affords Members a period of time to analyze and evaluate the matter before consideration thereof on the floor of the House. The three-day period begins to run when the printed report is available to Members after filed, and follows the separate three-day period of time granted Members to prepare and file supplemental, additional, and minority views for inclusion with the committee report.[18]

§ 63.15 A two-thirds vote is required to call up for consideration a resolution with its report from the Committee on Rules on the same day it is reported.

On July 2, 1960,[19] Mr. Richard Bolling, of Missouri, from the

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from the contingent fund for employment of student congressional interns.

16. See the present Rule XI clause 2(l)(6), *House Rules and Manual* § 715 (1979).

For general discussion, see Ch. 21, infra.

17. Pub. L. No. 91–510, 84 Stat. 1140 (Oct. 26, 1970).

18. H. Rept. No. 91–1215, 116 CONG. REC. 20276, 91st Cong. 2d Sess., June 17, 1970.

19. 106 CONG. REC. 15775–90, 86th Cong. 2d Sess. See also 112 CONG.

Committee on Rules, reported a privileged resolution (H. Res. 596 with accompanying House Report No. 862085), which resolution and report were referred to the House Calender and ordered to be printed. Mr. Bolling then called up the resolution and asked for its immediate consideration. The resolution provided that immediately upon its adoption, the bill, H.R. 12740, making supplemental appropriations for the fiscal year ending June 30, 1961, and for other purposes, with the Senate amendments thereto, be taken from the Speaker's table and the Senate amendments be considered in the House.

Speaker Sam Rayburn, of Texas, then put the question as to whether the House would then consider the resolution and the Speaker announced that the yeas had it. Mr. H. R. Gross, of Iowa, then made a parliamentary inquiry as to whether consideration of the resolution required unanimous consent. The Speaker responded that a two-thirds vote was required.[20]

REC. 10021, 10022, 89th Cong. 2d Sess., May 9, 1966, where the House, by a two-thirds vote, agreed to consider a report from the Committee on Rules on the same day it was reported [H. Res. 846]; and 106 CONG. REC. 17673, 86th Cong. 2d Sess., Aug. 25, 1960 [H. Res. 624].

20. For precedents involving the privileged status of reports from the Committee on Rules, see § 55, supra.

§ 63.16 Since a report on the contemptuous conduct of a witness before a House committee involves the implied constitutional power of the House and its authority under Rule IX to dispose directly of questions affecting the dignity and integrity of House proceedings, such report is privileged for consideration immediately upon presentation to the House; a resolution directing the Speaker to certify to the U.S. Attorney the refusal of the witness to respond to a subpena issued by a House committee may be offered from the floor as privileged, and the accompanying committee report may be presented to the House without regard to the three-day availability requirement for other reports.

On July 13, 1971,[21] Speaker Carl Albert, of Oklahoma, made a ruling that a report relating to the refusal of a witness to respond to a subpena duces tecum issued by a committee gives rise to a question of the privileges of the House and, under Rule IX, may be considered on the same day reported notwithstanding the requirement of then clause 27(d)(4) of Rule XI

21. 117 CONG. REC. 24720–23, 92d Cong. 1st Sess.

[see Rule XI clause 2(l)(6), *House Rules and Manual* § 715 (1979)] that reports from committees be available to Members for at least three calendar days prior to their consideration.

The proceedings were as follows:

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I rise to a question of the privilege of the House, and I submit a privileged report (Report No. 92–349). . . .

MR. [SAM M.] GIBBONS (of Florida): Mr. Speaker, I rise to object to the consideration of this matter at this time in that I believe that it violates clause 27, subparagraph (d)(4) of rule XI of the Rules of the House of Representatives. . . .

Mr. Speaker, I think it would be best if I read just a portion of the rule, and this rule reads as follows:

> A measure or matter reported by any committee (except the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct) shall not be considered in the House unless the report of that committee upon that measure or matter has been available to the Members of the House for at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of that measure or matter in the House. . . .
>
> This subparagraph shall not apply to—
>
> (A) Any measure for the declaration of war, or the declaration of a national emergency, by the Congress; and
>
> (B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress. . . .

Mr. Speaker, I realize that some may say a matter of this sort is a matter of privilege and, therefore, is excepted from the rule. It is my contention, Mr. Speaker, that the matter of privilege was specifically not excluded from the requirement of a 3-day layover for the printing of the report but that the Committees on Appropriations, House Administration, Rules, and Standards of Official Conduct—those being the committees that generally deal with matters of privilege—were set down under specific exception and that it was never intended that citations such as this could be considered in such a preemptive type of procedure as is now about to take place. . . .

MR. STAGGERS: Mr. Speaker, rule IX provides that "Questions of privilege shall be, first, those affecting the rights of the House collectively"—as the gentleman from New York has just read—"its safety, dignity and the integrity of its proceedings."

Privileges of the House includes questions relating to those powers to punish for contempt witnesses who are summoned to give information.

House Rule 27(d) of rule XI, the so-called 3-day rule, clearly does not apply to questions relating to privileges of the House. The rule applies only to simple measures or matters reported by any committee. It excludes matters arising from the Committees on Appropriations, House Administration, Rules, and Standards of Official Conduct.

It is clear that the terms "measure" or "matter" as used in rule 27(d) do not apply to questions of privilege.

To apply it in such a way would utterly defeat the whole concept of the question of privilege.

Too, a privileged motion takes precedence over all other questions except the motion to adjourn.

The fact that the 3-day rule excludes routine matters from the Appropriations, Administration, Rules, and Standards of Official Conduct Committees clearly shows that the 3-day rule does not apply to privileged questions.

If the rule were meant to apply to questions of privilege, it surely would not make exceptions for routine business coming from regular standing committees.

THE SPEAKER: . . . The Chair has studied clause 27(d)(4) of rule XI and the legislative history in connection with its inclusion in the Legislative Reorganization Act of 1970. That clause provides that "a matter shall not be considered in the House unless the report has been available for at least 3 calendar days."

The Chair has also examined rule IX, which provides that:

> Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings . . .; and shall have precedence of all other questions, except motions to adjourn.

Under the precedents, a resolution raising a question of the privileges of the House does not necessarily require a report from a committee. Immediate consideration of a question of privilege of the House is inherent in the whole concept of privilege. When a resolution is presented, the House may then make a determination regarding its disposition.

When a question is raised that a witness before a House committee has been contemptuous, it has always been recognized that the House has the implied power under the Constitution to deal directly with such conduct so far as is necessary to preserve and exercise its legislative authority. However, punishment for contemptuous conduct involving the refusal of a witness to testify or produce documents is now generally governed by law—Title II, United States Code, sections 192–194—which provides that whenever a witness fails or refuses to appear in response to a committee subpena, or fails or refuses to testify or produce documents in response thereto, such fact may be reported to the House. Those reports are of high privilege.

When a resolution raising a question of privilege of the House is submitted by a Member and called up as privileged, that resolution is also subject to immediate disposition as the House shall determine.

The implied power under the Constitution for the House to deal directly with matters necessary to preserve and exercise its legislative authority; the provision in rule IX that questions of privilege of the House shall have precedence of all other questions; and the fact that the report of the committee has been filed by the gentleman from West Virginia as privileged—all refute the argument that the 3-day layover requirement of clause 27(d)(4) applies in this situation.

The Chair holds that the report is of such high privilege under the inherent constitutional powers of the House and under rule IX that the provisions of clause 27(d)(4) of rule XI are not applicable.

Therefore, the Chair overrules the point of order.

§ 64. Supplemental, Minority, and Additional Views

The procedure for the filing of supplemental and other views was substantially revised by the Legislative Reorganization Act of 1970.[22] As stated in the report [23] of the Committee on Rules on H.R. 17654 (which became the Legislative Reorganization Act of 1970), the act amended House Rule XI clause 27(d) by adding to that clause a new subparagraph (3),[24] which specifically provided for the filing of supplemental, minority, and additional views for inclusion in reports of standing, select, and special committees of the House. The report states:

> The proposed new subparagraph (3) provides that, if, at the time any measure or matter is approved and ordered reported by any standing, select, or special committee of the House, any member of the committee gives notice of his intent to file supplemental, minority, or additional views with respect to that measure or matter for inclusion in the committee report, that committee member is entitled to at least three calendar days, before the day on which the committee report is filed, to file those views, in writing, with the committee clerk. When those views are timely filed, it is required that those views be included within and constitute a part of the report of that House committee on the measure or matter being reported.
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> The proposed new subparagraph (3) further provides that such report shall be printed in a single volume.
>
> This single volume must include all supplemental, minority, and additional views which have been *submitted by the time of the filing of the report*, irrespective of whether any member of such House committee has given timely notice of his intent to file any such views with the committee clerk and thus, under the proposed new subparagraph (3), is entitled to three calendar days (or shorter period of time if he specifically requests a shorter period) in which to file those views.
>
> It is further required that the single volume containing the report of the House committee shall have on its front cover a statement that supplemental, minority, or additional views, as the case may be, are included as a part of that report.
>
> The proposed new subparagraph (3) of clause 27(d) of House Rule XI also contains a provision to the effect that if a member of a House committee, who intends to file supplemental, minority, or additional views with respect to a measure or matter approved and ordered reported by his committee, does

22. Pub. L. No. 91–510, 84 Stat. 1140 (Oct. 26, 1970).

23. H. Rept. No. 91–1215, 116 CONG. REC. 20276, 91st Cong. 2d Sess., June 17, 1970.

24. See Rule XI clause 2(l)(5), *House Rules and Manual* § 714 (1979).

not give *timely notice of his intent to file—that is, notice given by or at the time the measure or matter is approved and ordered reported by the committee*—then the proposed new subparagraph (3) does not prevent the *immediate* filing and printing of the report of the House committee on the measure or matter concerned. Further, the proposed subparagraph does not preclude the filing of supplemental reports to correct technical errors in previous reports.

The effect of the new subparagraph is to formalize the previously existing policy of many standing committees under which committee members could file supplemental, minority, or additional views as a matter of courtesy. Under the former practice, committee members could, under certain circumstances, obtain unanimous consent to file such views. Under the rule, committee members may now file their views as a matter of right and if one member makes a timely request for filing views, all other members of the committee may submit views for inclusion in the report up to the time that member submits his views. Furthermore, the right is extended to members of select and special committees as well as standing committees.

Supplemental Reports Correcting Technical Errors

§ 64.1 The chairman of a committee will sometimes obtain unanimous consent to file a supplemental report on a bill in order to correct a technical error in the original report. However, the rules permit the filing of a supplemental report to correct a technical error in a previous report, and unanimous consent is not required.

On Jan. 27, 1972,[1] Speaker Carl Albert, of Oklahoma, recognized Wayne N. Aspinall, of Colorado, Chairman of the Committee on Interior and Insular Affairs, who made the following request:

> Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs have until midnight tonight to file a supplemental report on H.R. 10086, a bill to provide increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

The request was granted, and the supplemental report was filed.

As a discussion four days later [2] revealed, the supplemental report was filed in order to correct a technical error in the previous report. Mr. H. Allen Smith, of California, pointed this out, stating:

> . . . [T]he committee in making some 22 changes that had to comply

1. 118 Cong. Rec. 1527, 1528, 92d Cong. 2d Sess. See also 104 Cong. Rec. 5693, 85th Cong. 2d Sess., Mar. 28, 1958 [H.R. 2767].
2. 118 Cong. Rec. 1707, 92d Cong. 2d Sess., Jan. 31, 1972.

with the Ramseyer rule inadvertently missed one of them. Rather than request the waiver of points of order, the distinguished chairman had a supplemental report prepared to cover that instance.

Parliamentarian's Note: The rules permit the filing of a supplemental report to correct a technical error in a previous report without the requirement of unanimous consent but the three-day rule (Rule XI clause 2(l)(6), *House Rules and Manual* § 715 [1979]) runs anew from the availability of the supplemental report. The applicable provision in the then-prevailing rules (i.e., in the 92d Cong. 2d Sess.), was found in Rule XI clause 27(d)(3)(ii) [H. Jour. 1603, 92d Cong. 2d Sess. (1972)]. Such authority does not include the filing of a supplemental report to change statements of the legislative intent contained in the initial report.

Rule XI clause 27(d)(3) noted, in pertinent part, that:

If, at the time of approval of any measure or matter by any committee (except the Committee on Rules) any member of the committee, gives notice of intention to file supplemental . . . views, that member [would have not less than three calendar days (excluding Saturdays, Sundays, and legal holidays), in which to file such views, in writing and signed by that member, with the clerk of the committee.

It [clause 27(d)(3), Rule XI] further provided that:

All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

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

The clause [27(d)(3)] additionally stated, however, that the aforementioned subparagraph did not preclude:

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

§ 64.2 By unanimous consent, the Committee on the Judiciary was permitted to file a supplemental report on a bill proposing changes in existing law, in order to comply with the Ramseyer rule.

On Sept. 30, 1970,[3] Mr. Robert W. Kastenmeier, of Wisconsin, sought and obtained unanimous consent to file a supplemental report on H.R. 2175, a bill dealing with residential community treatment centers, in order to comply with the Ramseyer rule.

§ 64.3 By unanimous consent, the Committee on Interstate

3. 116 CONG. REC. 34302, 91st Cong. 2d Sess.

and Foreign Commerce was given permission to file a supplemental report on a bill previously reported.

On Sept. 24, 1962,[4] Mr. Oren Harris, of Arkansas, sought and obtained unanimous consent that the Committee on Interstate and Foreign Commerce have permission to file a supplemental report on H.R. 11581, dealing with drug amendments of 1962.

Subsequent Filing of Minority Views Accompanying Reports

§ 64.4 The minority members of a committee may, by unanimous consent, be permitted to file minority views, to accompany a House report previously filed and printed, as part 2 of such report.

On May 3, 1962,[5] Charles S. Gubser, of California, a member of the Committee on Armed Services, sought and obtained unanimous consent to file minority views on the bill, H.R. 5532, and that these minority views be printed as part 2 of the committee report on that bill.[6]

Erroneous Signatures

§ 64.5 A Member announced to the House that, through error, he had been listed as one of the signers of the minority views accompanying a committee report.

On June 5, 1959,[7] after being given permission to extend his remarks in the Record, Mr. Thomas J. Lane, of Massachusetts, called to the attention of the House that on June 2, 1959, his name was erroneously listed in House Report No. 86–422 accompanying H.R. 3 from the Committee on the Judiciary, as a signatory to the minority views. Mr. Lane stated that he was in favor of the legislation in question, a bill to establish rules for federal courts in cases involving the doctrine of federal preemption.

Adding Signatures

§ 64.6 Where certain Members have obtained permission of the House to file minority views, additional signatures may be appended at a later

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4. 108 Cong. Rec. 20522, 87th Cong. 2d Sess.

5. 108 Conc. Rec. 7747, 87th Cong. 2d Sess. See also 108 Cong. Rec. 5376, 87th Cong. 2d Sess., Mar. 29, 1962 [H. Rept. No. 87–1471].

6. Compare Rule XI clause 2(l)(5), *House Rules and Manual* § 714 (1979) which provides, in relevant part, that the "report of the committee upon that measure or matter shall be printed in a *single volume*" (emphasis added).

7. 105 Cong. Rec. 10014, 86th Cong. 1st Sess.

time only by unanimous consent.

On Dec. 2, 1963,[8] Mr. Clark MacGregor, of Minnesota, sought and obtained unanimous consent that Mr. William M. McCulloch, of Ohio, and Mr. Garner E. Shriver, of Kansas, have permission to add their names to the additional views filed that day by minority members of the Committee on the Judiciary pursuant to the unanimous-consent agreement obtained by Mr. John V. Lindsay, of New York, on Nov. 26, 1963.

§ 64.7 Leave to file minority views while the House is not in session is granted by unanimous consent.

On Dec. 2, 1963, Mr. Clark MacGregor, of Minnesota, sought and obtained unanimous consent that "the report referred to directly above may be filed at any time up until midnight tonight.[9]

Effect of Reporting of Rule for Consideration

§ 64.8 The filing (by unanimous consent) of a supplemental report on a bill previously reported, does not prevent consideration of the bill even though the rule providing for consideration of the bill was reported before the filing of the report.

On Feb. 29, 1940,[10] Mr. Earl C. Michener, of Michigan, raised a point of order against consideration of a bill on the ground that the bill had been so amended that it was no longer the same bill which the Committee on Rules had studied when it recommended adoption of a special rule making in order the consideration of the bill. Speaker Sam Rayburn, of Texas, ultimately decided that the rule recommended by the Committee on Rules providing for consideration of the bill was broad enough to permit consideration of the bill even though the legislative committee's supplemental report, filed after the Committee on Rules had recommended approval

8. 109 CONO. REC. 23008, 88th Cong. 1st Sess.

9. See the proceedings at 109 CONG. REC. 23008, 88th Cong. 1st Sess., discussed further in § 64.6, supra.

10. 86 CONG. REC. 2178–87, 76th Cong. 3d Sess. Under consideration was H. Res. 249 (which involved the calling up of S. 685, a water pollution control bill) which was reported from the Committee on Rules on July 10, 1939. Subsequently, on Feb. 20, 1940, the Committee on Rivers and Harbors offered, with permission of the House, a supplemental report which recommended amendments not included in the original committee report. The rule was called up in the House on Feb. 29, 1940.

of the special rule, suggested major amendments to the bill

The situation on the floor was described in the following manner by Mr. Michener:[11]

> What I am getting at is this: A bill was introduced in the House. The committee introducing the bill asked for a rule reporting that bill. The Rules Committee granted a rule reporting a specific bill. Later the legislative committee came in and asked unanimous consent that a supplementary report might befiled on the original bill. That consent was granted. A supplementary report was filed, which includes the Senate bill, which is an entirely different bill than the Rules Committee authorized a rule for.
>
> Therefore, if you consider the Senate bill in connection with the report, there will be before the House a piece of legislation on which a rule was never granted, about which the Rules Committee knew nothing. The point of the whole thing is this: If that can be done, then, by subterfuge, a committee may bring a perfectly harmless bill before the Rules Committee and get a rule, and then by a later supplemental report absolutely change the bill and still have a place on the legislative program.

Following a parliamentary inquiry by Mr. Michener as to whether this procedure was valid under the House rules, Speaker Rayburn responded:

> The gentleman from Michigan [Mr. Michener], who raises this question by parliamentary inquiry, of course, is familiar with the general principle that all proposed action touching the rules, joint rules, and orders of business shall be referred to the Committee on Rules. Under a broad, uniform construction of that jurisdiction, the Rules Committee, as the Chair understands it, has practically plenary power, unreserved and unrestricted power, to submit for the consideration of the House any order of business it sees fit to submit, subject, of course, to the approval of the House.
>
> The Chair, of course, knows nothing about what was in the minds of the committee in reference to this legislation. The Chair can only look at the face of the record as it is presented from a parliamentary standpoint. As the Chair construes the resolution now pending, it is very broad in its terms. It provides for the consideration of a Senate bill pending on the Union Calendar and the Chair assumes that the Committee on Rules was requested to give a rule for the consideration of that bill, which was the original basis for any legislation that may be passed touching this subject of stream pollution.
>
> In conformance with the general power and jurisdiction of the Rules Committee, it did report a resolution providing that in the consideration of the Senate bill any germane amendments may be offered; and, of course, it is not the province of the Chair, presiding over the House, to determine the relevancy or germaneness of any amendment that may be submitted in the Committee of the Whole, whether by way of a substitute or by way of amendment.
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> The Chair is clearly of the opinion that the Rules Committee had a per-

11. *Id.* at pp. 2183–85.

fect right under the general authority conferred upon it to report this resolution providing for this method of consideration of the bill.