

children. As a member of the next Administration in Washington, I will strive to maintain and expand that opportunity for all families, because the chance to work hard and build a better life is the principle that unites all Americans. Over the past few years, our government in Washington has lost sight of that principle by catering to the wealthiest Americans and powerful special interests—leaving middle-class Americans to struggle with rising health care costs, reduced pensions and a collapsing economy. The recent election was a clarion call for a change in direction, so we can recapture the values that have made our nation a beacon of hope and opportunity.

As I go to work everyday in the incoming Obama Administration, I will keep in mind the stories of the working families and senior citizens who I met during the past six years in grocery stores, schools and churches across the Fifth District. I will strive to make our government work for them and their children, because that is the true measure of our success as a nation.

With gratitude and best wishes,

Sincerely,

RAHM EMANUEL,  
*Member of Congress.*

### § 3. Administering the Oath

As noted in the preceding section, the Clerk's roll is called immediately after the convening of a new Congress, with the Clerk from the previous Congress presiding over the initial quorum call.<sup>(1)</sup> Those Members-elect on the Clerk's roll are entitled to participate in proceedings prior to the election of Speaker and are eligible to vote in such election.<sup>(2)</sup> Members-elect may pose parliamentary inquiries to the Clerk prior to the election of Speaker,<sup>(3)</sup> and may also appeal rulings made by the Clerk.<sup>(4)</sup> Members-elect may propound (and agree to) unanimous-consent requests, such as to permit Members-elect lacking certificates of election to be included in the Clerk's roll.<sup>(5)</sup> Members-elect may vote for Speaker even if they fail to record their presence during the initial quorum call.<sup>(6)</sup>

After the election of Speaker, the Dean of the House (traditionally the Member with the longest continuous service in the House) administers the

1. *Parliamentarian's Note*: When the House convenes for a second (or any subsequent) session, the membership of the body has already been established. Thus, the initial quorum call to begin a second session of a Congress is a regular quorum call of full Members (not Members-elect). See § 3.4, *infra*.
2. *Parliamentarian's Note*: Delegates-elect and the Resident Commissioner-elect, however, are not permitted to vote for Speaker. See *Precedents (Wickham)* Ch. 1 § 3.5.
3. See 143 CONG. REC. 114–20, 105th Cong. 1st Sess. (Jan. 7, 1997).
4. See § 3.4, *infra*.
5. See § 2.1, *supra*.
6. See 143 CONG. REC. 114–120, 105th Cong. 1st Sess. (Jan. 7, 1997).

oath of office to the Speaker-elect. The newly-elected Speaker then administers the oath of office to all other Members-elect *en masse* on the floor of the House.<sup>(7)</sup> It is at this point that Members-elect become full Members of the House, with all associated rights and privileges. Members-elect who are not present for the *en masse* swearing in are administered the oath when they arrive (either on opening day<sup>(8)</sup> or on a subsequent day).<sup>(9)</sup> Before the Speaker administers the oath of office to Members-elect, a challenge may be made to the swearing in of any individual Member-elect or group of Members-elect.<sup>(10)</sup> The Speaker may also respond to parliamentary inquiries regarding any election contests that may have been filed.<sup>(11)</sup>

Members-elect may be sworn in at times other than the beginning of a Congress. Vacancies in House seats may occur at any point during a Congress, most often due to the death or resignation of the Member holding that seat.<sup>(12)</sup> When a vacancy occurs, the state will typically hold a special election to elect another individual to serve out the remainder of the unexpired term.<sup>(13)</sup> For the winner of such special election to take a seat in the House, he or she must present valid credentials in the form of the official certificate of election. Often, there is a delay in the transmittal of the original certificate of election. Authenticated copies of original certificates of election, delivered by fax or via email to the Clerk of the House, have been treated as sufficient documentation to support administering the oath of office to Members-elect, and unanimous consent to administer the oath is not required.<sup>(14)</sup> By contrast, unauthenticated copies of certificates, unofficial vote totals, or other communications from state election officials indicating that an individual has a rightful claim to a seat have not been treated as sufficient documentary evidence. However, absent some known controversy

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7. See Deschler's Precedents Ch. 1 §7.1 and Deschler's Precedents Ch. 2 §5.1.

*Parliamentarian's Note:* The practice of swearing in Members *en masse* began in 1929 under Speaker Nicholas Longworth of Ohio, replacing the prior custom of swearing in by state delegation. Though several subsequent Speakers reverted to the older practice, Speaker William Bankhead of Alabama returned to swearing in *en masse* at the beginning of the 75th Congress (1937) and this has been the uniform practice ever since.

8. See, e.g., Deschler's Precedents Ch. 2 §5.13.

9. See, e.g., Deschler's Precedents Ch. 2 §§5.14–5.16.

10. See §4, *infra*.

11. See §2.3, *supra*.

12. See generally, Deschler's Precedents Ch. 37 and Deschler's Precedents Ch. 38. A vacancy may also arise when a Member of the House is expelled. See Deschler's Precedents Ch. 12 §13 and Precedents (Wickham) Ch. 12.

13. See, e.g., Deschler's Precedents Ch. 2 §3.6.

14. See §§3.5, 3.6, *infra*.

regarding the election, the House will often grant unanimous consent to allow the presumed winner of the election to be sworn in as a Member.<sup>(15)</sup> In special circumstances, the House may adopt a resolution authorizing the Speaker to administer the oath of office to a new Member-elect.<sup>(16)</sup> Often this will occur when there is some controversy over the election (for example, a pending election contest) and unanimous consent cannot be obtained to administer the oath.<sup>(17)</sup>

If a special election occurs between sessions of a Congress, the new Member-elect is not included in the initial quorum call at the beginning of the second (or subsequent) session. Instead, the House establishes its quorum first before the Speaker lays before the House the relevant communications indicating that a certificate of election has been received by the Clerk.<sup>(18)</sup> However, if only insufficient documentation is available, unanimous consent is required to administer the oath.<sup>(19)</sup>

While it is normally the Speaker who administers the oath of office, this duty may also be performed by a Speaker pro tempore.<sup>(20)</sup> An elected Speaker pro tempore may administer the oath without the need for any separate authorization because such individual exercises virtually all the authorities granted to the Speaker.<sup>(21)</sup> By contrast, an appointed Speaker pro tempore merely undertakes certain duties (such as presiding over the House or signing enrolled bills) and thus unanimous consent is required to allow such person to administer the oath of office to a Member-elect.<sup>(22)</sup>

The House may also authorize the Speaker to deputize another to administer the oath of office. Most often, this is done when the Member-elect cannot travel to Washington, D.C., to be present on opening day of a new Congress (due to illness, for example). For these circumstances, the House will adopt a resolution conferring on the Speaker the authority to name a deputy to administer the oath.<sup>(23)</sup> Such resolutions are privileged for consideration.<sup>(24)</sup> The Speaker may deputize anyone to administer the oath of office,

15. See §§ 3.10, 3.11, *infra*. See also Deschler's Precedents Ch. 2 §§ 3.1–3.5.

16. See Deschler's Precedents Ch. 2 §§ 5.5–5.7.

17. See §§ 3.7, 3.9, *infra*.

18. See § 3.4, *infra*. See also Deschler's Precedents Ch. 2 § 4.11. If the original certificate of election has arrived, the oath may be administered before the quorum call, as the administration of the oath of office does not require the presence of a quorum. See 6 Cannon's Precedents § 22.

19. Unanimous-consent requests are not considered business that requires a quorum. Deschler's Precedents Ch. 20 § 18.7.

20. For full treatment of the office of Speaker pro tempore, see Deschler's Precedents Ch. 6 §§ 9–14 and Precedents (Wickham) Ch. 6.

21. See § 3.12, *infra*.

22. See Deschler's Precedents Ch. 2 § 5.2.

23. See § 3.13, *infra*. See also Deschler's Precedents Ch. 2 §§ 5.8–5.12.

24. See, e.g., H. Res. 8, 133 CONG. REC. 19, 100th Cong. 1st Sess. (Jan. 6, 1987) and H. Res. 25, 133 CONG. REC. 820, 821, 100th Cong. 1st Sess. (Jan. 7, 1987).

though this function is typically performed by a Federal or state judge,<sup>(25)</sup> and occasionally by another Member of the House.<sup>(26)</sup> When the oath is administered, the person deputized to administer the oath informs the Speaker, who lays such communication before the House.<sup>(27)</sup> The House formally “accepts” the oath administered by a deputy, either in the resolution authorizing the Speaker to deputize<sup>(28)</sup> or by separate resolution.<sup>(29)</sup>

The administration of the oath of office is a matter of high privilege, and takes precedence over other business, such as a motion to amend the Journal.<sup>(30)</sup> The administration of the oath may take place during a vote,<sup>(31)</sup> during a quorum call,<sup>(32)</sup> during consideration of a resolution proposing a special order of business,<sup>(33)</sup> during the consideration of a resolution adopting the standing rules of the House,<sup>(34)</sup> and during the call of committees on Calendar Wednesday.<sup>(35)</sup> The oath may be administered after the previous question has been ordered on a pending matter,<sup>(36)</sup> and also pending the question of engrossment and third reading of a bill (with the previous question operating to final passage).<sup>(37)</sup> As noted earlier, the administration of the oath does not require the presence of a quorum.<sup>(38)</sup> Where the House adopts a resolution authorizing the Speaker to administer the oath, the oath cannot be deferred, even by a motion to adjourn.<sup>(39)</sup> However, where the Member-elect is not present in the Chamber to take the oath, the Speaker may recognize for a motion to adjourn.<sup>(40)</sup>

### ***Opening Day—First Session***

**§ 3.1 Where no challenge is made to the seating of any Member-elect, the Speaker administers the oath of office to Members-elect *en masse*.**

25. See § 3.13, *infra*.

26. See 129 CONG. REC. 52, 98th Cong. 1st Sess. (Jan. 3, 1983).

27. See § 3.14, *infra*.

28. See § 3.13, *infra*.

29. See § 3.15, *infra*.

30. See 1 Hinds' Precedents § 171.

31. See §§ 3.18, 3.21, *infra*.

32. See § 3.16, *infra*.

33. See Deschler's Precedents Ch. 2 § 5.18.

34. See § 3.20, *infra*.

35. See § 3.22, *infra*.

36. See Deschler's Precedents Ch. 2 § 5.17.

37. See § 3.19, *infra*.

38. See 6 Cannon's Precedents § 22.

39. See 1 Hinds' Precedents § 622.

40. See § 3.17, *infra*.

On January 3, 2013,<sup>(41)</sup> opening day of the first session of the 113th Congress, Members-elect were administered the oath of office *en masse* as follows:

#### SWEARING IN OF MEMBERS

The SPEAKER.<sup>(42)</sup> According to precedent, the Chair will swear in the Members-elect *en masse*.

The Members-elect will rise and raise their right hands.

The Members-elect rose, and the Speaker administered the oath of office to them as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations, you are now Members of the 113th Congress.

### § 3.2 The Speaker administered the oath of office to twelve Members-elect.<sup>(43)</sup>

On January 7, 2015,<sup>(44)</sup> the following occurred:

#### SWEARING IN OF MEMBERS-ELECT

The SPEAKER.<sup>(45)</sup> Will the Representatives-elect please present themselves in the well.

Mr. CROWLEY of New York, Mr. ENGEL of New York, Mr. HIGGINS of New York, Mrs. LOWEY of New York, Mrs. CAROLYN B. MALONEY of New York, Mr. SEAN PATRICK MALONEY of New York, Mr. MEEKS of New York, Ms. MENG of New York, Mr. NADLER of New York, Mr. RANGEL of New York, Mr. TONKO of New York, and Ms. VELÁZQUEZ of New York appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations. You are now Members of the 114th Congress.

41. 159 CONG. REC. H5 [Daily Ed.], 113th Cong. 1st Sess.

42. John Boehner (OH).

43. *Parliamentarian's Note*: This group swearing in immediately following the pledge was the result of the absence of many Members-elect of the New York delegation on opening day due to their attendance at a memorial service. Due to the large number, the Chair's announcement was generic ("Representatives-elect") rather than specific. When the number is three or fewer, the Chair lists each Member-elect and state.

44. 161 CONG. REC. H55 [Daily Ed.], 114th Cong. 1st Sess.

45. John Boehner (OH).

**§ 3.3 Where two Members-elect participated in various House and committee business before taking the oath of office, the House adopted a resolution correcting the results of record votes to remove mention of such Members-elect and ratifying numerous legislative activities involving one or both of such Members-elect.**<sup>(46)</sup>

On January 7, 2011,<sup>(47)</sup> where two Members-elect had mistakenly engaged in legislative activity prior to being sworn, the House adopted a resolution correcting the results of record votes (to remove the names of such Members-elect) and ratifying *post facto* various other actions taken by such Members-elect:

RELATING TO THE STATUS OF CERTAIN ACTIONS TAKEN BY MEMBERS-ELECT

Mr. [David] DREIER [of California]. Madam Speaker, pursuant to House Resolution 26, I send to the desk as the designee of the majority leader a resolution and ask for its immediate consideration. . . .

The Clerk read as follows:

H. RES. 27

Whereas, Representative-elect Sessions and Representative-elect Fitzpatrick were not administered the oath of office pursuant to the third clause in article VI of the Constitution until after the completion of legislative business on January 6, 2011; and

Whereas, the votes cast by Representative-elect Sessions and Representative-elect Fitzpatrick on rollcalls 3 through 8 therefore were nullities; Now, therefore, be it

*Resolved, That—*

(1) the votes recorded for Representative-elect Sessions and Representative-elect Fitzpatrick on rollcalls 3 through 8 be deleted and the vote-totals for each of those rollcalls be adjusted accordingly, both in the Journal and in the Congressional Record;

(2) the election of Representative-elect Sessions to a standing committee and his participation in its proceedings be ratified;

(3) the measures delivered to the Speaker for referral by Representative-elect Sessions be considered as introduced and retain the numbers assigned;

(4) any submissions to the Congressional Record by Representative-elect Sessions or Representative-elect Fitzpatrick be considered as valid;

(5) any cosponsor lists naming Representative-elect Sessions or Representative-elect Fitzpatrick be considered as valid; and

(6) any non-voting participation by Representative-elect Sessions or Representative-elect Fitzpatrick in proceedings on the floor be ratified. . . .

The SPEAKER pro tempore.<sup>(48)</sup> . . .

**46.** *Parliamentarian's Note:* Reps. Pete Sessions of Texas and Michael Fitzpatrick of Pennsylvania were mistakenly presumed to have taken the oath of office with the other Members-elect *en masse* on opening day on January 5, 2011. The House proceeded to elect Rep. Sessions to a committee, and one or both of them introduced measures, were named as cosponsors of measures, submitted statements for the *Congressional Record*, participated in the reading on the floor of the Constitution on January 6, 2011, and participated in various quorum calls and electronic votes. Reps. Sessions and Fitzpatrick finally took the oath of office on January 6, 2011. See 155 CONG. REC. 164, 112th Cong. 1st Sess.

**47.** 157 CONG. REC. 227–29, 112th Cong. 1st Sess.

**48.** Candice Miller (MI).

Pursuant to section 3 of House Resolution 26, the previous question is ordered on the resolution.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

#### RECORDED VOTE

Mr. [Anthony] WEINER [of New York]. Madam Speaker, I demand a recorded vote. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 159, answered “present” 3, not voting 15, as follows:

### *Opening Day—Second Session*

**§ 3.4 Members—elect, elected to fill vacancies occurring in the first session, are not included on the roll call to ascertain the presence of a quorum when the second session convenes, and their names are included on the roll only after their certificates of election have been laid before the House and after the oath has been administered to them.**

On January 25, 1988,<sup>(49)</sup> after the initial quorum call for the second session of the 100th Congress had taken place, the following communications were laid before the House:

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,  
*January 25, 1988.*

Hon. JIM WRIGHT,  
*The Speaker, House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER: I have the honor to transmit herewith a telegram received from the Honorable Gentry Crowell, Secretary of State, State of Tennessee, advising that based upon the unofficial returns the apparent winner of the special election for the Fifth Congressional District of the State of Tennessee held on January 19, 1988, was the Honorable Bob Clement. An official election certificate will be issued by the Secretary of State on January 26, 1988, and transmitted to the House of Representatives.

With great respect, I am,

Sincerely yours,

DONNALD K. ANDERSON,  
*Clerk, House of Representatives.*

<sup>49</sup>. 134 CONG. REC. 38–39, 100th Cong. 2d Sess. See also 128 CONG. REC. 61, 62, 97th Cong. 2d Sess. (Jan. 25, 1982).

[Western Union Telegram]

STATE OF TENNESSEE,  
Nashville, TN, January 21, 1988.DONNALD K. ANDERSON,  
Clerk, U.S. House of Representatives,  
Washington, DC.

DEAR SIR: This is to advise that a special election to fill the vacant seat from, Tennessee's Fifth Congressional District was held on January 19, 1988. The apparent winner of the election is Bob Clement, Democrat. The unofficial returns are as follows: Bob Clement, 56,090, Terry Holcomb, Republican, 32,765, Joe Driscoll, Independent, 604, Suzanne Stewart, Independent, 678. Official election certification will be completed January 26, certified duplicate original will be sent to you upon completion. Facsimile copy will be sent as well. Thank you for your assistance.

GENTRY CROWELL,  
Secretary of State.

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SWEARING IN OF HON. BOB CLEMENT OF TENNESSEE AS A MEMBER OF THE  
HOUSE

Mr. [Ed] JONES of Tennessee. Mr. Speaker, I ask unanimous consent<sup>(50)</sup> that the gentleman from Tennessee, Mr. BOB CLEMENT, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.

The SPEAKER.<sup>(51)</sup> Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER. Will the Honorable BOB CLEMENT of Tennessee kindly step forward and take the oath of office.

Mr. CLEMENT appeared at the bar of the House and took the oath of office.

The SPEAKER. The gentleman from Tennessee is a Member of the House of Representatives.

### ***Administration of the Oath Mid-Congress***

**§ 3.5 An authenticated fax of the original certificate of election has been accepted as sufficient documentation to permit the administration of the oath of office to a Member-elect, and unanimous consent is not required.**<sup>(52)</sup>

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50. *Parliamentarian's Note*: If the certificate of election had arrived prior to the convening of the second session, the oath could have been administered prior to the quorum call (such action requiring neither unanimous consent nor a quorum). However, because the certificate of election had not arrived, unanimous consent was required to administer the oath, and such business is not in order prior to the establishment of a quorum. For an older contrary precedent, see 1 Hinds' Precedents § 176 (unanimous consent request to administer the oath entertained prior to the quorum call).

51. James Wright (TX).

52. For a discussion of when unanimous consent *is* required, see § 3.10, *infra*.



On July 25, 2007,<sup>(53)</sup> the following communications (supporting the administration of the oath of office to a Member-elect) were laid before the House:

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, July 24, 2007.*

Hon. NANCY PELOSI,  
*Speaker, House of Representatives,*  
*Washington, DC.*

DEAR MADAM SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from the Honorable Sonny Perdue, Governor, State of Georgia, indicating that, according to the official returns of the Special Election held July 17, 2007, the Honorable Paul Broun was elected Representative to Congress for the Tenth Congressional District, State of Georgia.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
*Clerk.*

STATE OF GEORGIA,  
OFFICE OF THE GOVERNOR,  
*Atlanta, GA, July 24, 2007.*

Hon. LORRAINE C. MILLER,  
*Clerk, House of Representatives,*  
*Washington, DC.*

DEAR MS. MILLER: This is to advise you that the Honorable Karen Handel, Secretary of State of Georgia, has certified the results of the Special Election held on Tuesday, July 17, 2007, for Representative in Congress from the Tenth Congressional District of Georgia. The results show that Paul C. Broun, Jr. received 23,529 or 50.42 percent of the total number of votes cast for that office. The Certification of Election is enclosed.

I have issued Dr. Broun's commission to serve as the Representative in Congress from Georgia's Tenth Congressional District of Georgia. There appears to be no contest to this election.

Sincerely,

SONNY PERDUE,  
*Governor.*

**53.** 153 CONG. REC. 20611, 110th Cong. 1st Sess. For similar examples, see, *e.g.*, 140 CONG. REC. 11980, 11981 (May 26, 1994); 143 CONG. REC. 5883, 5834 (Apr. 17, 1997); 145 CONG. REC. 11929 (June 8, 1999); 147 CONG. REC. 10105 (June 7, 2001); and 151 CONG. REC. 4178, 4239 (Mar. 10, 2005).

SWEARING IN OF THE HONORABLE PAUL C. BROWN, OF GEORGIA, AS A  
MEMBER OF THE HOUSE

The SPEAKER.<sup>(54)</sup> Will the Representative-elect and the Members of the Georgia delegation present themselves in the well.

Mr. BROWN appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations, you are now a Member of the 110th Congress.

**§ 3.6 An authenticated scanned image of the original certificate of election has been accepted as sufficient documentation to permit the administration of the oath of office to a Member-elect, and unanimous consent is not required.**<sup>(55)</sup>

On September 4, 2007,<sup>(56)</sup> the following communications (supporting the administration of the oath of office to a Member-elect) were laid before the House:

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,  
*Washington, DC, August 31, 2007.*

Hon. NANCY PELOSI,  
*Speaker, House of Representatives,*  
*Washington, DC.*

DEAR MADAM SPEAKER: I have the honor to transmit herewith a scanned copy of a Certificate of Election received from the Honorable Debra Bowen, Secretary of State of California, indicating that, at the Special Election held on August 21, 2007, the Honorable Laura Richardson was duly elected Representative in Congress for the Thirty-Seventh Congressional District, State of California.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

Enclosure.

CERTIFICATE OF ELECTION

I, Debra Bowen, Secretary of State of the State of California, hereby certify: That according to the official canvass of votes cast in the Special General Election held on the

**54.** Nancy Pelosi (CA).

**55.** *Parliamentarian's Note:* This was the first instance of an emailed scan of a certificate of election supporting the administration of the oath of office.

**56.** 153 CONG. REC. 23452, 23453, 110th Cong. 1st Sess.

21st day of August, 2007 in the 37th Congressional District, Laura Richardson was elected to the office of United States Representative, District 37 for the term prescribed by law.

SWEARING IN OF THE HONORABLE LAURA RICHARDSON, OF CALIFORNIA, AS  
A MEMBER OF THE HOUSE

The SPEAKER.<sup>(57)</sup> Will Representative-elect RICHARDSON and the Members of the California delegation present themselves in the well.

Ms. RICHARDSON appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations. You are now a Member of the 110th Congress.

*Authorizing the Administration of the Oath by Resolution*

**§ 3.7 The Committee on House Administration reported a privileged resolution authorizing the Speaker to administer the oath of office to a Member-elect and referring the question of final right to the seat to that committee for further investigation.**

On February 20, 1974,<sup>(58)</sup> the House adopted the following privileged resolution to administer the oath of office to John Murtha of Pennsylvania (whose certificate of election had not yet arrived due to a continuing vote recount mandated by state law):

AUTHORIZING THE SPEAKER TO ADMINISTER THE OATH OF OFFICE TO  
JOHN P. MURTHA

Mr. HAYS, from the Committee on House Administration, reported the following privileged resolution (H. Res. 871), Report No. 93-801, which was referred to the House Calendar and ordered to be printed. . . .

The Clerk read as follows:

H. RES. 871

*Resolved*, That the Speaker is hereby authorized and directed to administer the oath of office to the gentleman from Pennsylvania, John P. Murtha; and be it further

*Resolved*, That the question of the final right of John P. Murtha to a seat in the Ninety-third Congress be referred to the Committee on House Administration, and said committee shall have the power to send for persons and papers and examine witnesses on oath in relation to the subject matter of this resolution.

**57.** Nancy Pelosi (CA).

**58.** 120 CONG. REC. 3516, 93d Cong. 2d Sess.

**§ 3.8 The House adopted a privileged resolution reported from the Committee on House Administration, to which the House had referred the question of final seating of two candidates (and pending which neither candidate had been temporarily seated), determining on the basis of a complete committee recount that one candidate (not the certified Member-elect) should be finally seated.**

On May 1, 1985,<sup>(59)</sup> the following privileged resolution resolving an election contest<sup>(60)</sup> was adopted:

RELATING TO ELECTION OF A REPRESENTATIVE FROM THE EIGHTH  
CONGRESSIONAL DISTRICT OF INDIANA

Mr. [Leon] PANETTA [of California]. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 146) relating to election of a Representative from the Eighth Congressional District of Indiana, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 146

*Resolved*, That, based on a recount of votes in the election of November 6, 1984, conducted pursuant to House Resolution 1, Ninety-ninth Congress, agreed to January 3, 1985, the House of Representatives determines that Frank McCloskey was duly elected to the office of Representative from the Eighth Congressional District of Indiana and is entitled to a seat in the Ninety-ninth Congress.

Mr. [Joe] BARTON of Texas. Mr. Speaker, I raise a question of consideration and demand that the Chair put the question.

The SPEAKER pro tempore [Mr. [James] WRIGHT [of Texas]]. The question is, Will the House now consider House Resolution 146?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 242, nays 185, not voting 6, as follows:

[Roll No. 89] . . .

So the House agreed to consider House Resolution 146.

The result of the vote was announced as above recorded. . . .

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- 59.** 131 CONG. REC. 9998, 9999, 10003, 10017–20, 99th Cong. 1st Sess. For more on election contests generally, see Deschler's Precedents Ch. 9 and Precedents (Wickham) Ch. 9. For challenging the right to be sworn, see § 4, *infra*. See also § 3.17, *infra*.
- 60.** *Parliamentarian's Note*: The election contest for Indiana's Eighth Congressional District involved a referral of the contest to the Committee on House Administration and a vote recount conducted by the committee. For the initial challenge to the right to be sworn (and subsequent committee referral), see § 4.1, *infra*. For more details on this contested election, see Precedents (Wickham) Ch. 9.

SWEARING IN OF THE HONORABLE FRANK McCLOSKEY OF INDIANA AS A  
MEMBER OF THE HOUSE

The SPEAKER. It is the intention at this particular time to have the Indiana delegation present to the House the elected candidate.

Mr. McCLOSKEY appeared at the bar of the House and took the oath of office.

The SPEAKER. The gentleman is a Member of the Congress of the United States.

**§ 3.9 Because state law required the Governor to “appoint” a Member-elect to a vacant seat, and such appointment was considered an election to such vacant seat (even though the vacancy was created after the date of election), the House adopted a privileged resolution authorizing the administration of the oath of office to the Member-elect with those credentials and referring the question of final right to the seat to the Committee on House Administration.<sup>(61)</sup>**

On November 29, 1994,<sup>(62)</sup> the following communications regarding an individual’s election to the 103d Congress were laid before the House, and a privileged resolution adopted permitting the individual to take the oath of office:

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,  
*Washington, DC, November 15, 1994.*

Hon. TOM FOLEY,

**61.** *Parliamentarian’s Note:* The House will generally defer to a state Governor’s interpretation of state law. 1 Hinds’ Precedents § 525. In this instance, Oklahoma law provided that if a vacancy in a congressional seat occurred after March 1 of an even-numbered year, the winner of the general election is to be “appointed” by the Governor to fill the remainder of the unexpired term. Here, the vacancy in the 103d Congress occurred on November 15, when Rep. James Inhofe resigned his seat for the First Congressional District of Oklahoma to serve in the Senate. At that time, Steve Largent had already been elected to that seat for the 104th Congress. Under the terms of the Oklahoma statute, the Governor was then required to “appoint” Mr. Largent to the fill the unexpired term for the 103d. The Governor interpreted the requirement to provide this “Order of Appointment” as a mere ministerial duty (since the Governor had no discretion to act otherwise) and thus that it should be treated as an election under Oklahoma law. The House, by adopting a resolution that permitted Member-elect Largent to be sworn, deferred to the Governor’s interpretation, in order to avoid a possible challenge that an “appointment” would violate article I, section 2, of the Constitution (providing that all Members be elected, not appointed) (*House Rules and Manual* § 5 (2017)). See also Deschler’s Precedents Ch. 37 § 5.1.

**62.** 140 CONG. REC. 29585, 29586, 103d Cong. 2d Sess.

*Speaker of the House, House of Representatives,  
Washington, DC.*

DEAR MR. SPEAKER: Attached is the letter I have sent to the Honorable David L. Walters, Governor of the State of Oklahoma, notifying him of my resignation from the House of Representatives effective today, November 15, 1994 at twelve midnight.

Sincerely,

JAMES M. INHOFE,  
*Member of Congress.*

Enclosure: letter.

HOUSE OF REPRESENTATIVES,  
*Washington, DC, November 15, 1994.*

Hon. DAVID WALTERS,  
*Governor, State of Oklahoma,  
Oklahoma City, OK.*

DEAR GOVERNOR WALTERS: Pursuant to the November 8, 1994 special election, at which time I was elected to serve the vacancy in the United States Senate created by the resignation of Senator David L. Boren, I hereby submit to you my letter of resignation effective twelve midnight, today, November 15, 1994.

Sincerely,

JAMES M. INHOFE,  
*Member of Congress.*

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, November 22, 1994.*

Hon. THOMAS S. FOLEY,  
*The Speaker, House of Representatives,  
Washington, DC.*

DEAR MR. SPEAKER: I have the honor to transmit herewith a certification from the Governor of Oklahoma, Honorable David Walters indicating that, Steve Largent of the First Congressional District, is elected to fill the vacancy in the 103d Congress created by the resignation of the Honorable James M. Inhofe at midnight on November 15, 1994.

This certification has been submitted under the laws of Oklahoma as stated in the accompanying documents. An election certification of Steve Largent to the 104th Congress has also been received in my office.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON,  
*Clerk, House of Representatives.*

STATE OF OKLAHOMA,  
*November 17, 1994.*

Hon. DONNALD K. ANDERSON,  
*Clerk of the House of Representatives,*  
*Washington, DC.*

DEAR MR. ANDERSON: The provisions of 26 Okla. Stat., Section 12–101(B), require the election held November 8, 1994, for the seat to which Steve Largent was elected, be treated as election, within the meaning of Oklahoma law, to fill the vacancy of the unexpired term of James M. Inhofe, Member of Congress, who resigned effective November 15, 1994, at twelve midnight. Accordingly, pursuant to that statute, my appointment, as Governor of the State of Oklahoma, is the ministerial act incident to that election.

Sincerely,

DAVID WALTERS,  
*Governor.*

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ORDER OF APPOINTMENT

To: Secretary of State, Oklahoma State Capitol, Oklahoma City, Oklahoma

Please file for record the following executive order. By virtue of the authority vested in me as Governor of the State of Oklahoma, under 26 Okla. Stat., Section 12–101(B), I hereby appoint: Steve Largent, 124 E. 4th Street, Tulsa, Oklahoma 74103 as Member of the United States House of Representatives representing Oklahoma Congressional District 1, to serve the remainder of an unexpired term ending January 3, 1995. Mr. Largent will be succeeding the Honorable James Inhofe (resigned).

In witness whereof, I have hereunto set my hand and caused the seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma this 17th day of November 1994.

By the Governor of the State of Oklahoma: David Walters.

Attest: Glo Henley, Secretary of State.

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AUTHORIZING AND DIRECTING THE SPEAKER TO ADMINISTER THE OATH OF  
 OFFICE TO MR. STEVE LARGENT OF OKLAHOMA

Mr. [Robert] MICHEL [of Illinois]. Mr. Speaker, I offer a privileged resolution (H. Res. 585), and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 585

*Resolved*, That the Speaker is hereby authorized and directed to administer the oath of office to the gentleman from Oklahoma, Mr. Steve Largent.

*Resolved*, that the question of the final right of Mr. Steve Largent to a seat in the One Hundred Third Congress be referred to the Committee on House Administration.

The SPEAKER.<sup>(63)</sup> The gentleman from Illinois [Mr. MICHEL] is recognized for 1 hour.

Mr. MICHEL. Mr. Speaker, I shall not take the hour, but I offer this resolution to clarify the situation surrounding the seating of Congressman–elect STEVE LARGENT to the 103d Congress.

As my colleagues know, the gentleman from Oklahoma [Mr. INHOFE] won the special election to fill the vacant Senate seat from Oklahoma and has resigned from the House, thereby creating a vacancy.

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63. Thomas Foley (WA).

Mr. Largent was elected on November 8 to represent the First District of Oklahoma. The credentials, forwarded from the State, include a letter from Governor Walters indicating that the provisions of Oklahoma law require that the November 8 election, "be treated as election within the meaning of Oklahoma law to fill the vacancy of the unexpired term of JAMES M. INHOFE." The Governor also forwarded an order of appointment for Mr. LARGENT to the 103d Congress as, "the ministerial act incident to that election," because the Governor, under Oklahoma law, has no discretion to act otherwise.

Let me cite from the relevant Oklahoma statute, 26 Oklahoma Statute, section 12-101, paragraph B:

No special election shall be called if the vacancy occurs after March 1 of any even-numbered year if the term of said office expires the following year. In such case, the candidate elected to said office at the regular General Election shall be appointed by the Governor to fill the unexpired term.

Now, Mr. Speaker, under article I, section 2, of the Constitution, when vacancies occur in the House the executive authority of the State shall issue writs of election to fill such vacancies. Members of the House must be elected, and not appointed, and if the Oklahoma law is construed as an appointment, it likely is unconstitutional. The House has, however, historically given great weight to a State's construction of its laws. This is the first time, as far as I am aware, that the statute has been applicable and, therefore, never came to our attention before.

I know of no objection to the seating of Mr. LARGENT. The Speaker and I have discussed this matter and believe the issue raises enough of a constitutional issue that it ought to be brought to the House's attention, but that we also should seat Mr. LARGENT. My resolution allows for the seating of Mr. LARGENT, but also directs the Committee of House Administration to review the issue for final determination, and I would urge the adoption of the resolution, Mr. Speaker.

Mr. [William] THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I thank my leader for yielding, I think the point needs to be understood that Mr. LARGENT is being asked to be sworn in as a Member of the House of Representatives because the people in the First District of Oklahoma elected him, notwithstanding a Oklahoma law that says the Governor can appoint. The reason it is being referred to the Committee on House Administration is because in fact the Governor has forwarded the document which says that it was a ministerial duty to appoint him. This raises constitutional questions. Nevertheless the Oklahoma statute says the Governor can appoint.

Mr. Speaker, I am very pleased and proud to say the people of the First District of Oklahoma have sent us a new Congressman being sworn in today.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman from California [Mr. THOMAS] for his contribution, and again I urge adoption of the resolution.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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#### SWEARING IN OF THE HONORABLE STEVE LARGENT AS A MEMBER OF THE HOUSE OF REPRESENTATIVES

The SPEAKER. Will the Member-elect from Oklahoma, the Honorable STEVE LARGENT, please come forward?



Mr. LARGENT appeared at the bar of the House, and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are now a Member of the House of Representatives.

***Authorizing the Administration of the Oath by Unanimous Consent***

**§ 3.10 The House by unanimous consent permitted a Member-elect to be sworn prior to the receipt of the official certificate of election, where no question or contest existed and the Clerk had received a scanned image of a letter from a state official conveying the unofficial returns of a special election.**

The proceedings of November 15, 2012,<sup>(64)</sup> typify the procedure by which the House by unanimous consent authorizes a Member-elect to take the oath of office where the certificate of election has not yet arrived:

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, November 8, 2012.

Hon. JOHN BOEHNER,  
*The Speaker, House of Representatives,*  
Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a scanned copy of a letter received from The Honorable Kimberly M. Guadagno, Lieutenant Governor/Secretary of State, State of New Jersey, indicating that, according to the unofficial returns of the Special Election held November 6, 2012, the Honorable Donald M. Payne, Jr. was elected Representative to Congress for the Tenth Congressional District, State of New Jersey.

With best wishes, I am

Sincerely,

KAREN L. HAAS,  
*Clerk.*

Enclosure.

STATE OF NEW JERSEY,  
DEPARTMENT OF STATE,  
Trenton, NJ, November 8, 2012.

<sup>64</sup>. 158 CONG. REC. 15319, 112th Cong. 2d Sess.

Hon. KAREN L. HAAS,  
*Clerk, House of Representatives,*  
*The Capitol, Washington, DC.*

DEAR MS. HAAS: This is to advise you that the unofficial results of the Special Election held on Tuesday, November 6, 2012, for Representative in Congress from the Tenth Congressional District of New Jersey, show that Donald M. Payne, Jr. received 141,714 of the total number of voters cast for that office.

It would appear from these unofficial results that Donald M. Payne, Jr. was elected as Representative in Congress from the Tenth Congressional District of New Jersey.

To the best of our knowledge and belief at this time, there is no contest to this election.

As soon as the official results are certified, to this office by the Essex, Hudson and Union County Clerks involved, an official Certificate of Election will be prepared for transmittal as required by law.

Sincerely,

KIMBERLY M. GUADAGNO,  
*Lieutenant Governor /*  
*Secretary of State.*

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SWEARING IN OF THE HONORABLE DONALD M. PAYNE, JR., OF NEW JERSEY,  
 AS A MEMBER OF THE HOUSE

Mr. [Christopher] SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey, the Honorable DONALD M. PAYNE, Jr., be permitted to take the oath of office today.

His certificate of election has not arrived, but there is no contest and no question has been raised with regard to his election.

The SPEAKER.<sup>(65)</sup> Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. Will Representative-elect PAYNE and the members of the New Jersey delegation present themselves in the well.

All Members will rise and the Representative-elect will please raise his right hand.

Mr. PAYNE appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations, you are now a Member of the 112th Congress.

**§ 3.11 The Chair may take under advisement a parliamentary inquiry regarding recognition for a unanimous-consent request to permit a Member-elect to take the oath of office, notwithstanding the fact that the certificate of election had not yet arrived.**

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65. John Boehner (OH).

On May 26, 1993,<sup>(66)</sup> the Chair responded to a parliamentary inquiry regarding the right of a Member-elect to take the oath of office as follows:

PARLIAMENTARY INQUIRY

Mr. [Frank] SENSENBRENNER [of Wisconsin]. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. [James] McDERMOTT [of Washington]). The gentleman will state it.

Mr. SENSENBRENNER. Mr. Speaker, would it be in order for me to ask unanimous consent that the gentleman from Wisconsin [Mr. BARCA] who has been elected to fill the vacant First District seat, be allowed to take the oath of office, notwithstanding the fact that a certificate of election for him has not arrived? The Republican candidate has conceded and, to my knowledge, there is no objection to Mr. BARCA taking the oath of office from this side of the aisle.

The SPEAKER pro tempore. The Chair would have to take that under advisement with the Speaker of the House.

*Administration of the Oath by a Speaker Pro Tempore*

**§ 3.12 An elected Speaker pro tempore may administer the oath of office to a Member-elect.**

On March 17, 1998,<sup>(67)</sup> the following communications were laid before the House (allowing the administration of the oath of office to a Member-elect by the Speaker pro tempore):<sup>(68)</sup>

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. [Richard] ARMEY [of Texas]) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, March 17, 1998.

Hon. NEWT GINGRICH,  
*The Speaker, House of Representatives,*  
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the original Certificate of Election received from the Honorable Bill Jones, Secretary of State, State of

66. 139 CONG. REC. 11251, 103d Cong. 1st Sess.

67. 144 CONG. REC. 3835, 3836, 105th Cong. 2d Sess.

68. *Parliamentarian's Note*: An elected Speaker pro tempore exercises virtually all of the same authorities as the Speaker. As such, unanimous consent is not required to allow an elected Speaker pro tempore to administer the oath of office to a Member-elect. An appointed Speaker pro tempore, by contrast, cannot administer the oath of office absent unanimous consent. For more on the distinction between elected and appointed Speakers pro tempore, see Deschler's Precedents Ch. 6 §§ 12–14 and Precedents (Wickham) Ch. 6.

California, indicating that, according to the semi-official canvass of votes cast in the Special Election held March 10, 1998, the Honorable Lois Capps was elected Representative in Congress for the Twenty-second Congressional District, State of California.

With warm regards,

ROBIN H. CARLE,  
*Clerk.*

STATE OF CALIFORNIA—SECRETARY OF STATE

CERTIFICATE OF ELECTION

I, Bill Jones, the Secretary of State of the State of California, hereby certify:

That according to the semi-official canvass of votes cast in the Special Election held on the 10th day of March, 1998 in the 22d Congressional District,

Lois Capps was elected to the office of United States Representative—District 22, for the term prescribed by law.

In witness whereof, I hereunto set my hand and affix the Great Seal of the State of California at Sacramento, this 11th day of March 1998.

BILL JONES,  
*Secretary of State.*

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SWEARING IN OF THE HONORABLE LOIS CAPPS, OF CALIFORNIA, AS A  
MEMBER OF THE HOUSE

The SPEAKER pro tempore. Will the Members of the California delegation escort the gentlewoman from California, the Member-elect, to the rostrum to receive the oath of office.

Mrs. CAPPS appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely and without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God?

The SPEAKER pro tempore. Congratulations, you are now a Member of the Congress of the United States.

***Deputizing Others to Administer the Oath***

**§ 3.13 The House may adopt privileged resolutions authorizing the Speaker or a deputy to administer the oath of office to named Members-elect convalescing in their districts, following which the Speaker pro tempore may deputize Federal judges to administer the oaths.**

On January 7, 2015,<sup>(69)</sup> the following occurred;

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**69.** 161 CONG. REC. H95 [Daily Ed.], 114th Cong. 1st Sess. See also *e.g.*, 145 CONG. REC. 246, 106th Cong. 1st Sess. (Jan. 6, 1999) (deputizing state judge).

## AUTHORIZING THE SPEAKER TO ADMINISTER THE OATH OF OFFICE

Ms. [Virginia] FOXX [of North Carolina]. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 20

*Resolved*, Whereas, Alan Nunnelee, a Representative-elect from the First District of the State of Mississippi, has been unable from illness to appear in person to be sworn as a Member of the House, and there being no contest or question as to his election; Now, therefore, be it

*Resolved*, That the Speaker, or deputy named by him, is hereby authorized to administer the oath of office to the Honorable Alan Nunnelee at Tupelo, Mississippi and that such oath be accepted and received by the House as the oath of office of the Honorable Alan Nunnelee.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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 APPOINTMENT OF HON. MICHAEL MILLS TO ADMINISTER OATH OF OFFICE  
TO HON. ALAN NUNNELEE

The SPEAKER pro tempore.<sup>(70)</sup> Pursuant to the provisions of House Resolution 20, 114th Congress, the Chair appoints the Honorable Judge Michael Mills of the Northern District of Mississippi, United States District Court, to administer the oath of office to the Honorable ALAN NUNNELEE.

**§ 3.14 When the Speaker is authorized to deputize an individual to administer the oath of office to a Member-elect, the Speaker lays before the House communications from such individual confirming that the oath was administered.**

On January 19, 1999,<sup>(71)</sup> the following correspondence was laid before the House for the information of Members:

## COMMUNICATION FROM THE HONORABLE ELLEN SICKLES JAMES

The SPEAKER laid before the House the following communication from the Honorable Ellen Sickles James:

*Martinez, CA, January 7, 1999.*

Hon. J. DENNIS HASTERT,  
*Speaker, U.S. House of Representatives,*  
*The Capitol, Washington, DC.*

DEAR MR. SPEAKER: On January 6, 1999 you designated me to administer the oath of office to Representative-elect George Miller of the Seventh District of the State of California under House Resolution 12, One Hundred Sixth Congress.

**70.** Ted Poe (TX).

**71.** 145 CONG. REC. 602, 106th Cong. 1st Sess.

Under such designation, I have the honor to report that on January 7, 1999 at Martinez I administered the oath of office to Mr. Miller. Mr. Miller took the oath prescribed by 5 U.S.C. 3331. I have sent two copies of the oath, signed by Mr. Miller, to the Clerk of the House.

Sincerely,

Judge ELLEN SICKLES JAMES, Ret.

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COMMUNICATION FROM THE HONORABLE MARC B. POCHÉ

The SPEAKER laid before the House the following communication from the Honorable Marc B. Poché:

COURT OF APPEAL,  
*San Francisco, CA, January 8, 1999.*

Hon. J. DENNIS HASTERT,  
*Speaker, U.S. House of Representatives,*  
*The Capitol, Washington, DC.*

DEAR MR. SPEAKER: On January 6, 1999, you designated me to administer the oath of office to Representative-elect Sam Farr of the Seventeenth District of the State of California under House Resolution 13, One Hundred Sixth Congress.

Under such designation, I have the honor to report that on January 8, 1999, at Carmel, California, I administered the oath of office to Mr. Farr. Mr. Farr took the oath prescribed by 5 U.S.C. section 3331. I have sent two copies of the oath, signed by Mr. Farr, to the Clerk of the House.

Sincerely,

MARC B. POCHÉ.

**§ 3.15 The House adopted a privileged resolution formally accepting the oath of office administered by a state judge who had been deputized to administer the oath, following confirmation that the Member-elect had been sworn.**

On January 15, 1973,<sup>(72)</sup> following confirmation that the oath of office had been administered to a Member-elect by a state judge appointed by the Speaker, the House adopted a privileged resolution formally accepting<sup>(73)</sup> said oath:

The SPEAKER laid before the House the following communication:

PORTLAND, OREG.,  
*January 8, 1973.*

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**72.** 119 CONG. REC. 1054–55, 93d Cong. 1st Sess.

**73.** *Parliamentarian's Note:* This resolution was arguably unnecessary, as the resolution authorizing the Speaker to deputize another to administer the oath (House Resolution 11) already contained language to the effect that the oath (when administered) “be accepted and received by the House.” No similar resolution has been adopted since the 93d Congress.

Hon. CARL ALBERT,  
*Speaker, House of Representatives,*  
*Washington, D.C.*

SIR: In accordance with your designation of me, pursuant to House Resolution 11, Ninety-third Congress, adopted by the House of Representatives, to administer the oath of office to Representative-elect Edith Green of the Third District of Oregon, I have the honor to report that on the 3d day of January, 1973, at Multnomah County, State of Oregon, I administered the oath of office to Mrs. Edith Green, form prescribed by section 1757 of the Revised Statutes of the United States, being the form of oath administered to Members of the House of Representatives, to which Mrs. Green subscribed.

I have the honor to be,

Yours respectfully,

JOHN C. BEATTY, JR.

Mr. [Albert] ULLMAN [of Oregon]. Mr. Speaker, I offer a privileged resolution (H. Res. 129) and ask for its immediate consideration.

The clerk read the resolution as follows:

H. RES. 129

Whereas Edith Green, a Representative from the State of Oregon, from the Third District thereof, has been unable from sickness to appear in person to be sworn as a Member of this House, but has sworn to and subscribed to the oath of office before the Honorable John C. Beatty, Jr., Judge, Circuit Court of Oregon, Fourth Judicial District, authorized by resolution of this House to administer the oath, and the said oath of office has been presented in her behalf to the House, and there being no contest or question as to her election: Therefore be it

*Resolved*, That the said oath be accepted and received by the House as the oath of office of the said Edith Green as a Member of this House.

The resolution was agreed to.

A motion to reconsider was laid on the table.

### ***Privilege and Precedence***

#### **§ 3.16 The Speaker may interrupt a call of the House ordered pursuant to clause 6(e)(2) of rule XV (now clause 7(b) of rule XX),<sup>(74)</sup> to administer the oath of office to a Member-elect.<sup>(75)</sup>**

On January 22, 1981, a Member-elect was administered the oath of office during a call of the House as follows:<sup>(76)</sup>

<sup>74.</sup> *House Rules and Manual* § 1028 (2017).

<sup>75.</sup> *Parliamentarian's Note*: Under former clause 6(a)(2) of rule XV, a point of order of no quorum was not in order during the administration of the oath, and under the precedents, the oath may be administered even in the absence of a quorum (1 Hinds' Precedents § 170; 6 Cannon's Precedents §§ 21, 22). However, in the 106th Congress, the specific exceptions from the normal quorum requirements were eliminated in favor of a clarification of the proscription against entertaining points of no quorum where no question has been put before the House. Thus, during a motion for a call of the House, whether or not a quorum has yet responded, the oath may be administered to a Member-elect.

<sup>76.</sup> 127 CONG. REC. 693, 97th Cong. 1st Sess.; *House Rules and Manual* §§ 200, 204 (2017).

## CALL OF THE HOUSE

Mr. [Thomas] FOLEY [of Washington]. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 6] . . .

## SWEARING IN OF MEMBER-ELECT

The SPEAKER<sup>(77)</sup> (during the call of the House). Will the gentleman from Pennsylvania (Mr. ERTEL) present himself in the well of the House for the purpose of taking the oath of office?

Mr. ERTEL appeared at the bar of the House and took the oath of office.

**§ 3.17 If a Member-elect whose right to a seat has been determined by the House is present to take the oath, the right to be sworn cannot be deferred even by a motion to adjourn,<sup>(78)</sup> but the Speaker has entertained the motion to adjourn after adoption of a seating resolution.<sup>(79)</sup>**

On May 1, 1985,<sup>(80)</sup> the following occurred:

## RELATING TO ELECTION OF A REPRESENTATIVE FROM THE EIGHTH CONGRESSIONAL DISTRICT OF INDIANA

Mr. [Leon] PANETTA [of California]. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 146) relating to election of a Representative from the Eighth Congressional District of Indiana, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 146

*Resolved*, That, based on a recount of votes in the election of November 6, 1984, conducted pursuant to House Resolution 1, Ninety-ninth Congress, agreed to January 3, 1985, the House of Representatives determines that Frank McCloskey was duly elected to the office of Representative from the Eighth Congressional District of Indiana and is entitled to a seat in the Ninety-ninth Congress. . . .

Mr. Speaker, I move the previous question on the resolution.

77. Thomas O'Neill (MA).

78. 1 Hinds' Precedents § 622.

79. *Parliamentarian's Note*: In this instance, the Member-elect was not present in the Chamber at the time the motion to adjourn was offered. Thus, the Chair entertained a motion to adjourn between the adoption of the resolution authorizing the administration of the oath and the appearance of the Member-elect in the Chamber.

80. 131 CONG. REC. 9998, 9999, 10003, 10017-20, 99th Cong. 1st Sess. See also § 3.17, *supra*.



## MOTION TO RECOMMIT OFFERED BY MR. FRENZEL

Mr. [William] FRENZEL [of Minnesota]. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore.<sup>(81)</sup> Is the gentleman opposed to the resolution?

Mr. FRENZEL. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. FRENZEL moves to recommit H. Res. 146 to the Committee on House Administration with instructions that the Committee be directed to count the otherwise valid unnotorized absentee ballots identified by the Task Force on the Indiana Eighth Congressional District in Orange, Lawrence, Daviess and Greene Counties and when that count is completed the Committee will certify the winner and report their findings immediately to the House.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 183, nays 246, not voting 4, as follows:

[Roll No. 90] . . .

## MOTION TO ADJOURN

The SPEAKER.<sup>(82)</sup> For what purpose does the gentleman from Illinois Mr. MICHEL rise?

Mr. [Robert] MICHEL [of Illinois]. Mr. Speaker, in view of that vote, the last vote, I move that we adjourn.

The SPEAKER. Would the gentleman withhold until the Chair has had an opportunity to swear in Mr. McCloskey?

Mr. MICHEL. No, Mr. Speaker. Our purpose is to adjourn immediately in keeping with the precedent of the Democratic Party back in 1890.

The SPEAKER. The gentleman appreciates the fact that the motion is not debatable.

Mr. MICHEL. I understand, Mr. Speaker.

The SPEAKER. The question is on the motion to adjourn offered by the gentleman from Illinois [Mr. MICHEL].

The question was taken; and the Speaker announced that the noes appeared to have it.

81. James Wright (TX).

82. Thomas O'Neill (MA).

Mr. MICHEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 179, nays 248, not voting 6, as follows:

[Roll No. 92] . . .

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SWEARING IN OF THE HONORABLE FRANK McCLOSKEY OF INDIANA AS A  
MEMBER OF THE HOUSE

The SPEAKER. It is the intention at this particular time to have the Indiana delegation present to the House the elected candidate.

Mr. McCLOSKEY appeared at the bar of the House and took the oath of office.

The SPEAKER. The gentleman is a Member of the Congress of the United States.

**§ 3.18 The oath of office may be administered to Members-elect during a vote by electronic device.<sup>(83)</sup>**

On January 4, 2007,<sup>(84)</sup> during an electronic vote, the Speaker administered the oath of office to Members-elect as follows:

SWEARING IN OF MEMBERS-ELECT

The SPEAKER (during the vote).<sup>(85)</sup> Will the gentleman from Texas (Mr. GOHMERT), the gentleman from Kansas (Mr. MORAN), and the gentleman from Michigan (Mr. ROGERS) kindly come to the well of the House and take the oath of office.

Messrs. GOHMERT, MORAN of Kansas, and Rogers of Michigan appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will, well and faithfully, discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations.

**§ 3.19 A Member-elect was permitted to take the oath of office pending the question of engrossment and third reading of a bill where the previous question was ordered to final passage without intervening motion, except one motion to recommit.<sup>(86)</sup>**

<sup>83.</sup> See 1 Hinds' Precedents § 173 and 6 Cannon's Precedents § 22.

<sup>84.</sup> 153 CONG. REC. 17, 18, 110th Cong. 1st Sess. See also 145 CONG. REC. 233–35, 106th Cong. 1st Sess (Jan. 6, 1999) and 151 CONG. REC. 749, 109th Cong. 1st Sess. (Jan. 25, 2005).

<sup>85.</sup> Nancy Pelosi (CA).

<sup>86.</sup> *Parliamentarian's Note*: The Speaker has also administered the oath of office to a Member-elect between the question of engrossment and third reading and the vote on final

On June 19, 2008,<sup>(87)</sup> the following occurred:

So the amendment was agreed to.

The result of the vote was announced as above recorded.

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COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, June 18, 2008.*

Hon. NANCY PELOSI,  
*The Speaker, House of Representatives,*  
*Washington, DC.*

DEAR MADAM SPEAKER: I have the honor to transmit herewith a scanned copy of a letter received from Ms. Linda H. Lamone, Administrator, Maryland State Board of Elections, indicating that, according to the unofficial returns of the Special Election held June 17, 2008, the Honorable Donna Edwards was elected Representative to Congress for the Fourth Congressional District, State of Maryland.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
*Clerk.*

Enclosure.

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MARYLAND  
STATE BOARD OF ELECTIONS,  
*Annapolis, MD, June 18, 2008.*

Hon. LORRAINE C. MILLER  
*Clerk, House of Representatives,*  
*The Capitol, Washington, DC.*

DEAR MS. MILLER: This letter is to advise you that the unofficial results of the Special Election held on Tuesday, June 17, 2008, for Representative in Congress from the Fourth Congressional District of Maryland show that Donna Edwards received 15,381 votes or 80 percent of the total number of votes cast for that office on election day excluding absentee and provisional ballots.

It would appear from these unofficial results that Donna Edwards will be certified as the Representative in Congress from Fourth Congressional District of Maryland.

As of the date of this letter, there is no contest to this election.

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passage, where the previous question was operating pursuant to a special order of business, but where the Speaker had postponed proceedings under clause 1(c) of rule XIX. See *House Rules and Manual* §1000a (2017). See 158 CONG. REC. 1081, 112th Cong. 2d Sess. (Feb. 7, 2012).

87. 154 CONG. REC. 13047–49, 110th Cong. 2d Sess.

As soon as the official results are certified, an official Certificate of Election will be prepared for transmittal as required by law.

Sincerely,

LINDA H. LAMONE,  
*Administrator.*

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SWEARING IN OF THE HONORABLE DONNA EDWARDS, OF MARYLAND, AS A  
MEMBER OF THE HOUSE

Mr. [Steny] HOYER [of Maryland]. Madam Speaker, I ask unanimous consent that the gentlewoman from Maryland, the Honorable DONNA EDWARDS, be permitted to take the oath of office today.

Her certificate of election has not arrived, but there is no contest and no question has been raised with regard to her election.

The SPEAKER.<sup>(88)</sup> Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER. Will Representative-elect EDWARDS and the members of the Maryland delegation present themselves in the well.

Ms. EDWARDS of Maryland appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations. You are now a Member of the 110th Congress.

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ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the administration of the oath of office to the gentlewoman from Maryland (Ms. EDWARDS), the whole number of the House is 435.

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FEDERAL EMPLOYEES PAID PARENTAL LEAVE ACT OF 2008

The SPEAKER pro tempore (Mr. [Earl] BLUMENAUER [of Oregon]). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

**§ 3.20 The oath of office may be administered to Members-elect pending consideration of the resolution adopting the standing**

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88. Nancy Pelosi (CA).

**rules of the House or during a recorded vote on the question of consideration of that resolution.**

On January 4, 2005,<sup>(89)</sup> a Member raised a question of consideration with regard to the resolution adopting the standing rules. During debate on the question (and subsequently during the vote on the question), Members-elect were administered the oath of office as follows:

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER.<sup>(90)</sup> Before the gentleman proceeds, the Chair would like to announce that any Member-elect who failed to take the oath of office may present himself or herself in the well of the House prior to any vote.

SWEARING IN OF MEMBERS-ELECT

The SPEAKER. Will the gentlewoman from New York (Ms. SLAUGHTER), the gentlewoman from New York (Mrs. MALONEY) and the gentlewoman from Florida (Ms. CORRINE BROWN), kindly come to the well of the House and take the oath of office at this time.

Ms. SLAUGHTER, Mrs. MALONEY and Ms. CORRINE BROWN of Florida appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office upon which you are about to enter. So help you God. . . .

Mr. [Brian] BAIRD [of Washington]. Mr. Speaker, consistent with the oath of office that I just took, I would request that the question of consideration be put to the body.

The SPEAKER. The question is, Will the House now consider House Resolution 5.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAIRD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Without objection, this will be an electronic vote on the question of consideration.

There was no objection.

The vote was taken by electronic device, and there were—yeas 224, nays 192, answered “present” 1, not voting 11, as follows:

[Roll No. 3]. . .

SWEARING IN OF MEMBER-ELECT

The SPEAKER (during the vote). Will the gentleman from California (Mr. COX) kindly come to the well of the House and take the oath of office at this time.

Mr. COX appeared at the bar of the House and took the oath of office, as follows:

89. 151 CONG. REC. 46, 47, 109th Cong. 1st Sess.

90. Dennis Hastert (IL).

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office upon which you are about to enter, so help you God.

**§ 3.21 Where the two Houses divide to consider an objection to the counting of certain electoral votes for President and Vice President, the oath of office may be administered in the separate House session to a Member-elect during an electronic vote on the question of agreeing to said objection.**

On January 6, 2005,<sup>(91)</sup> the House and Senate met in joint session to count the electoral votes for President and Vice President.<sup>(92)</sup> An objection was made to the counting of certain electoral votes, and, pursuant to law,<sup>(93)</sup> the Houses divided into separate sessions to consider the objection. During the separate House session, the oath of office was administered to a Member-elect during the vote on agreeing to the objection as follows:

The SPEAKER.<sup>(94)</sup> Pursuant to Senate Concurrent Resolution 1 and section 17 of title 3, the United States Code, when two Houses withdraw from the joint session to count the electoral vote for separate consideration of objection, a Representative may speak to the objection for 5 minutes and not more than once. Debate shall not exceed 2 hours, after which the Chair will put the question, “Shall the objection be agreed to?”

The Clerk will report the objection made in the joint session.

The Clerk read the objection as follows:

We, a Member of the House of Representatives and a United States Senator, object to the counting of the electoral votes of the State of Ohio on the ground that they were not, under all of the known circumstances, regularly given.

STEPHANIE TUBBS JONES,  
*Representative, State of Ohio.*

BARBARA Boxer,  
*Senator, State of California.*

The SPEAKER. The Chair will endeavor to alternate recognition between Members speaking in support of the objection and Members speaking in opposition to the objection.

The Chair recognizes the gentlewoman from Ohio (Mrs. JONES) for 5 minutes.

Mrs. [Stephanie Tubbs] JONES of Ohio. Mr. Speaker, I, STEPHANIE TUBBS JONES, and BARBARA BOXER, a Senator from California, have objected to the counting of the electoral

91. 151 CONG. REC. 199, 242, 243, 109th Cong. 1st Sess.

92. For more on the joint session to count electoral votes, see Deschler’s Precedents Ch. 10 and Precedents (Wickham) Ch. 10.

93. 3 U.S.C. § 15.

94. Dennis Hastert (IL).

votes of the State of Ohio on the ground that they were not, under all of the known circumstances, regularly given.

I, thank God, have a Senator joining me in this objection, and I appreciate Senator BOXER's willingness to listen to the plight of hundreds, and even thousands of Ohio voters, that for a variety of reasons were denied the right to vote. . . .

The SPEAKER. In the tradition of the House, the gentleman from Texas will be heard for such time as he may consume. . . .

#### SWEARING IN OF MEMBER-ELECT

The SPEAKER (during the vote). Will the gentleman from Georgia (Mr. NORWOOD) please come to the well of the House and take the oath of office at this time.

Mr. NORWOOD appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you will take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office upon which you are about to enter, so help you God.

#### § 3.22 The administration of the oath to a Member-elect may interrupt the call of the roll of committees on Calendar Wednesday.<sup>(95)</sup>

On May 7, 2008,<sup>(96)</sup> the following proceedings occurred during Calendar Wednesday:

#### CALENDAR WEDNESDAY

The SPEAKER pro tempore.<sup>(97)</sup> Today is the day of Calendar Wednesday. The Clerk will call the roll of committees.

The Clerk called the committees. . . .

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

95. *Parliamentarian's Note*: Calendar Wednesday procedures were used in prior Congresses to expedite consideration of nonprivileged measures reported by committees and the administration of the oath of office was one of the few items of business that could interrupt the call of committees under the rule. Clause 6 of rule XV was amended in the 110th Congress to eliminate the automatic call of committees and instead impose a notification requirement (absent which the call does not occur). As such, Calendar Wednesday procedures are rarely used in modern practice. See *House Rules and Manual* § 900 (2017). For more on Calendar Wednesday, see Deschler's Precedents Ch. 21 § 4 and Precedents (Wickham) Ch. 21.

96. 154 CONG. REC. 7993, 7997, 7998, 8001, 110th Cong. 2d Sess. See also 6 Cannon's Precedents § 22.

97. Michael McNulty (NY).

Hon. NANCY PELOSI,  
*The Speaker, House of Representatives,*  
*Washington, DC.*

DEAR MADAM SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from the Honorable Jay Dardenne, Secretary of State, State of Louisiana, indicating that, according to the unofficial returns of the Special Election held May 3, 2008, the Honorable STEVE SCALISE was elected Representative to Congress for the First Congressional District, State of Louisiana.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
*Clerk.*

Enclosure.

Hon. LORRAINE C. MILLER,  
*Clerk, House of Representatives,*  
*The Capitol, Washington, DC.*

DEAR MS. MILLER: This is to advise you that the unofficial results of the Special Election held on Saturday, May 3, 2008, for Representative in Congress from the First Congressional District of Louisiana, show that "STEVE" SCALISE received 33,867 or 75.13% of the total number of votes cast for that office.

It would appear from these unofficial results that "STEVE" SCALISE was elected as Representative in Congress from the First Congressional District of Louisiana.

To the best of our knowledge and belief at this time, there is no contest to this election.

As soon as the official results are certified to this office by all Parishes involved, an official Certificate of Election will be prepared for transmittal as required by law.

If I can ever be of any assistance to you, please do not hesitate contacting me.

With best wishes,

JAY DARDENNE,  
*Secretary of State, State of Louisiana . . .*

#### SWEARING IN OF THE HONORABLE STEVE SCALISE, OF LOUISIANA, AS A MEMBER OF THE HOUSE

Mr. [James] McCRERY [of Louisiana]. Madam Speaker, I ask unanimous consent that the gentleman from Louisiana, the Honorable Steve Scalise, be permitted to take the oath of office today.

His certificate of election has not arrived, but there is no contest and no question has been raised with regard to his election.

The SPEAKER.<sup>(98)</sup> Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER. Will the Representative-elect and the members of the Louisiana delegation present themselves in the well.

98. Nancy Pelosi (CA).



Mr. SCALISE appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations. You are now a Member of the 110th Congress.

#### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the administration of the oath to the gentleman from Louisiana, the whole number of the House is 434. . . .

#### CALENDAR WEDNESDAY—CONTINUED

The SPEAKER pro tempore (Mr. [Earl] POMEROY [of North Dakota]). The Clerk will resume the call of the roll of committees.

The Clerk called the committees.

### § 4. Challenging the Right to be Sworn

When the Speaker directs Members-elect to take the oath of office *en masse*, any Member-elect may challenge the right of another Member-elect to be sworn.<sup>(1)</sup> This authority derives from the Constitution, which provides that “Each House shall be the Judge of the Elections, Returns, and Qualifications of its own Members.”<sup>(2)</sup> The challenging Member-elect must base the challenge on either specific information or on his or her own responsibility as a Member-elect.<sup>(3)</sup> A challenge may be directed at an individual Member-elect, or at an entire state delegation.<sup>(4)</sup>

When a challenge is made, the Speaker requests that the challenged Member(s)-elect not rise to take the oath with the rest of the membership. The Speaker does not rule on the challenge but awaits a decision of the

1. See, *e.g.*, Deschler’s Precedents Ch. 2 §6.1.

2. U.S. Const. art. I, §5, cl. 1; *House Rules and Manual* §46 (2017).

3. See Deschler’s Precedents Ch. 2 §6.2. If the Member-elect does not state a sufficient basis for the challenge, the House may decline to entertain it. See 1 Hinds’ Precedents §455.

4. See, *e.g.*, Deschler’s Precedents Ch. 2 §§6.4, 6.5. Instances of challenges being made to entire state delegations are found primarily in the Civil War-era, where the issue was the status of the constituency rather than the qualifications or elections of the individual Members. See 1 Hinds’ Precedents §§457, 460–462.