

## **PRESIDENT PRO TEMPORE**

*See also* "Presiding Officer," pp. 1025-1033.

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In the absence of the Vice President, the President pro tempore presides over the Senate, or in his absence, he appoints someone as Acting President pro tempore for not to extend beyond a legislative day. This appointment, which under the Standing Rules is to be made in open session or in writing, usually occurs at the beginning of a day's session, after the Chaplain's prayer. The Acting President pro tempore is also authorized to name another Senator to perform the duties of the Chair, and such designation in practice is implicit, although the rules state that it too will be made in open session or in writing.

In the absence of the Vice President, the President pro tempore or the Acting President pro tempore acts in his stead by presiding over the Senate, making references of bills and resolutions and all communications to committees, and signing duly enrolled bills. The President pro tempore in a prolonged absence of the Vice President takes over his role as well as to administer oaths, make appointments to committees and commissions, and receive communications from the President and Departments to be laid before the Senate for appropriate reference.

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### **Article I, Section 3 of Constitution**

#### **[Senate Shall Elect]**

The Senate shall choose their other Officers, and also President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

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### **Rule I**

#### **[Presiding Officers of the Senate]**

1. In the absence of the Vice President, the Senate shall choose a President pro tempore, who shall hold the office and execute the duties thereof during the pleasure of the Senate and until another is elected or his term of office as a Senator expires.

2. In the absence of the Vice President, and pending the election of a President pro tempore, the Acting President pro tempore or the Secretary of the Senate, or in his absence the Assistant Secretary, shall perform the duties of the Chair.

3. The President pro tempore shall have the right to name in open Senate, or, if absent, in writing, a Senator to perform the duties of the Chair, including the signing of duly enrolled bills and joint resolutions but such substitution shall not extend beyond an adjournment, except by unanimous consent; and the Senator so named shall have the right to name in open session, or, if absent, in writing, a Senator to perform the duties of the Chair, but not to extend beyond an adjournment, except by unanimous consent.

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### Appointments Made by:

*See also* "Appointive Power of the Vice President," p. 1390.

The President pro tempore may be authorized, by the adoption of an order of the Senate to that effect, to make appointments after the final adjournment of a session, to commissions or committees as may be authorized by law, by an order adopted by the Senate, or pursuant to concurrent action taken by the two Houses.<sup>1</sup>

Under a public law, which incorporated an amendment agreed to on the Senate floor, appointments by the President pro tempore of the Senate are now restricted.<sup>2</sup>

### Appointment of Acting President Pro Tempore:

Under Rule I the President pro tempore has the right to name in open session, or, if absent, in writing, a Senator to perform the duties of the Chair, not to extend beyond an adjournment, except by unanimous consent.<sup>3</sup> In 1886, the office of Vice President being vacant, the President pro tempore by unanimous consent, designated a Senator to serve as Presiding Officer during his absence of several days.<sup>4</sup> In 1896 a Senator designated under the rule as acting President pro tempore was authorized, by unanimous consent, to serve in that capacity until adjournment on the following day.<sup>5</sup>

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<sup>1</sup> Aug. 2, 1946, 79-2, *Journal*, p. 552; July 26, 1947, 80-1, *Record*, p. 10409.

<sup>2</sup> Dec. 9, 1980, 96-2, *Record*, p. 33089. During the consideration of H.R. 8345, a bill to name the United States Customs House in Ogdensburg, New York, the "Robert C. McEwen United States Custom House", the Senator from West Virginia (Mr. Robert C. Byrd), who was the Majority Leader, proposed for himself and the Senator from Tennessee (Mr. Baker) an amendment which said in part that "Any provision of law which provides . . . (for appointments) by the President Pro Tempore of the Senate shall be construed to require that the Leader of each party shall recommend to the President Pro Tempore appointments made on the basis of their respective political affiliation, and absent this requirement, that a joint recommendation of the Majority Leader and Minority Leader for such appointments is required."

<sup>3</sup> See Dec. 18, 1883, 48-1, *Journal*, p. 98; Jan. 15, 1884, 48-1, *Journal*, p. 172.

<sup>4</sup> Jan. 12, 1886, 49-1, *Record*, p. 602.

<sup>5</sup> June 4, 1896, 54-1, *Record*, p. 6104.

In 1918 the Senate gave the President pro tempore authority to designate a certain Senator to preside in his absence covering a period of 3-day adjournments.<sup>6</sup>

In one instance the authority of a Senator named by the President pro tempore to perform the duties of the Chair for a legislative day was extended to include the period of the absence of the President pro tempore and in 1943 a Senator named as acting President pro tempore was authorized by the Senate to serve during the further absence of the Vice President.<sup>7</sup>

### **Committee To Escort to Chair for Oath:**

A committee is appointed to escort the President pro tempore elect to the desk to be sworn in.<sup>8</sup>

### **Decisions by the Chair:**

*See* "Appeals," pp. 145-149.

### **Decorum:**

*See* "Decorum," pp. 798-799; "Floor Privileges," pp. 844-848; "Galleries," pp. 850-853.

### **Election of:**

Pursuant to a resolution adopted in 1890, and now as provided in Rule I, the Senate elects its President pro tempore, even if the Vice President is present, to hold "the office during the pleasure of the Senate and until another is elected," and who "shall execute the duties and office during all future absences of the Vice President" until the Senate otherwise orders.<sup>9</sup> A majority, and not a plurality, vote is required to elect a President pro tempore and other officers of the Senate.<sup>10</sup>

On a rollcall for an election of a President pro tempore, a Senator may vote for any Member he prefers.<sup>11</sup> No

<sup>6</sup> July 13, 1918, 65-2, *Record*, p. 9096.

<sup>7</sup> Mar. 23, 1943, 78-1, *Record*, p. 2314; Mar. 27 and 29, 1920, 66-2, *Journal*, p. 190, *Record*, pp. 4906, 4943. This order was rescinded on Apr. 14 of the same year; Apr. 14, 1943, 78-1, *Record*, p. 3350.

<sup>8</sup> *See* Jan. 3, 1953, 83-1, *Journal*, p. 5; Jan. 5, 1955, 84-1, *Journal*, p. 5; Jan. 3, 1957, 85-1, *Record*, p. 9; Jan. 9, 1963, 88-1, *Record*, p. 9.

<sup>9</sup> Dec. 15, 1931, 72-1, *Journal*, p. 83, *Record*, p. 544; *see also* Dec. 14, 1916, 64-2, *Record*, pp. 317-19.

<sup>10</sup> *See* May 11, 1911, 62-1, *Journal*, p. 62, *Record*, pp. 1183, 1188.

<sup>11</sup> Dec. 8, 1931, 72-1, *Record*, p. 69.

method being prescribed by the Constitution or the Senate rules for choosing a President pro tempore, the Senate may choose him by ballot, by rollcall, or by resolution, but the Senate usually follows the course of electing him by resolution.<sup>12</sup> In 1913 the President pro tempore was elected by ballot.<sup>13</sup> Where a Senator is nominated for the office of President pro tempore, and a substitute proposed therefor, a vote on the substitute was held to be in order.<sup>14</sup>

At the beginning of the 79th Congress a new President pro tempore was elected but the other officers were held over.<sup>15</sup> There is precedent for a Senator being elected President pro tempore and declining the position.<sup>16</sup> In 1884, a Senator was chosen President pro tempore of the Senate while there was an incumbent and he declined to accept the office, after which the incumbent was again chosen by the Senate.<sup>17</sup>

### Election Privileged:

The election of the President pro tempore of the Senate is a privileged matter, and has precedence over the unfinished business,<sup>18</sup> but that matter may be displaced by a majority vote to proceed to the consideration of a nonprivileged matter.<sup>19</sup> Also, a motion to adjourn to a day certain is in order pending the election of a President pro tempore of the Senate.<sup>20</sup>

### Interpretations by Chair Not Allowed:

See "Interpretation of Amendments," p. 64; "Interpretation of Bills," p. 235; "Interpretation of Legislation," pp. 1029-1030; "Chair Cannot Interpret Vote," p. 1400; "Interpretation of Vote," p. 1411.

<sup>12</sup> Dec. 14, 1912, 62-3, *Journal*, p. 34, *Record*, p. 628; Dec. 16, 1912, 62-3, *Record*, p. 695.

<sup>13</sup> Mar. 13, 1913, 63-Special Session, *Record*, pp. 8-9.

<sup>14</sup> Dec. 14, 1916, 64-2, *Record*, pp. 317-19.

<sup>15</sup> Jan. 6, 1945, 79-1, *Record*, p. 65.

<sup>16</sup> Jan. 14, 1884, 48-1, *Record*, p. 373.

<sup>17</sup> Jan. 14, 1884, 48-1, *Record*, pp. 373-74.

<sup>18</sup> May 11, 1911, 62-1, *Journal*, p. 62, *Record*, pp. 1188-89; see also Jan. 14, 1943, 78-1, *Record*, p. 144.

<sup>19</sup> Jan. 6, 1932, 72-1, *Journal*, p. 126, *Record*, pp. 1369-72.

<sup>20</sup> May 11, 1911, 62-1, *Journal*, p. 62, *Record*, p. 1189.

### Oath of Office:

A committee is appointed to escort the President pro tempore-elect to the desk to take his oath of office.<sup>21</sup>

The oath of office, in the absence of the Vice President, pursuant to a Senate resolution, is administered by a Senator.<sup>22</sup> In 1889 the oath of office having been administered by the Secretary, the action was subsequently challenged as being in contravention of law, and, by unanimous consent the oath was again administered to him by a Senator.<sup>23</sup>

### Puts Question:

See "Pending Question," p. 984.

### Seal:

On August 14, 1954, the Senate adopted a resolution to authorize an official seal for the President pro tempore.<sup>24</sup>

### Signs Bills:

The Presiding Officer of the Senate signs enrolled bills usually in open session of the Senate, and pursuant to a resolution adopted in 1905, any Senator designated by the President pro tempore to perform the duties of the Chair during his temporary absence is empowered to sign, as acting President pro tempore, duly enrolled bills and joint resolutions for presentation to the President of the United States.<sup>25</sup> The Senate may authorize the Presiding Officer, including the President pro tempore or acting President pro tempore, to sign enrolled bills after an adjournment sine die, during a recess, or during an adjournment to a day certain.<sup>26</sup>

<sup>21</sup> Jan. 6, 1945, 79-1, *Record*, pp. 64-65; Jan. 4, 1947, 80-1, *Record*, pp. 110-11; Jan. 3, 1949, 81-1, *Record*, pp. 5-6.

<sup>22</sup> Mar. 7, 1889, 51-Special Session, *Record*, p. 6.

<sup>23</sup> Apr. 2, 1889, 51-Special Session, *Record*, p. 72.

<sup>24</sup> See S. Res. 314 of 83d Congress, 2d session.

<sup>25</sup> Jan. 4, 1905, 58-3, *Record*, p. 440; July 7, 1952, 82-2, *Record*, p. 9727; Jan. 13, 1955, 84-1, *Record*, p. 10414; Mar. 11, 1943, 78-1, *Journal*, p. 103.

<sup>26</sup> June 30, 1955, 84-1, *Record*, p. 9597; May 11, 1933, 73-1, *Journal*, p. 159, *Record*, p. 3207; June 15, 1933, 73-1, *Journal*, p. 302, *Record*, p. 6093; July 26, 1947, 80-1, *Record*, p. 10401; Aug. 24, 1935, 74-1, *Journal*, p. 696, *Record*, p. 14486; see also 286 U. S. 482.

**Tenure of Office:**

The tenure of an incumbent is at the pleasure of the Senate,<sup>27</sup> and continues until his successor is elected by the Senate.<sup>28</sup>

The tenure of office of the President pro tempore, under the precedents of the Senate, is terminated by the expiration of the term for which he was elected as Senator.<sup>29</sup> If the term of service of a Senator who is President pro tempore expires, his tenure as President pro tempore also expires, and it is necessary again to elect a Senator to that position.<sup>30</sup>

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<sup>27</sup> See Mar. 27, 1889, 51-Special Session, *Record*, p. 43.

<sup>28</sup> Jan. 6, 1932, 72-1, *Journal*, p. 126, *Record*, pp. 1369-72; see also Feb. 10, 1890, 51-1, *Record*, p. 1154.

<sup>29</sup> Jan. 3, 1935, 74-1, *Journal*, p. 4, *Record*, p. 7; Jan. 7, 1935, 74-1, *Journal*, p. 18, *Record*, p. 128.

<sup>30</sup> Dec. 6, 1915, 64-1, *Journal*, p. 3; Jan. 14, 1943, 78-1, *Record*, p. 144; Jan. 3, 1935, 74-1, *Journal*, p. 18.