

# Committees

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#### **Research References**

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7 Cannon §§ 1721–2317

4 Deschler Ch 17

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## **A. Generally; Establishing Committees**

### **§ 1. The Committee System; Standing, Select, and Joint Committees**

#### **The Role of Committees**

The committees of the House play a dominant role at every stage of the legislative process. The committee system is involved in this process from the time of the initial referral of a bill to the preparation of its final draft at a House-Senate conference. As a general rule, all proposed legislative measures are referred to committees before receiving consideration in the House itself. *Manual* § 446. A committee may approve a measure, report it with or without amendments, rewrite it entirely, report adversely, refuse to consider it, or fail to report the measure at all. (As to discharge procedures, see DISCHARGING MEASURES FROM COMMITTEES).

The role of the committee does not terminate with the reporting of the bill to the House. When a bill reaches the floor, members of the committee reporting it are entitled to prior recognition for the purpose of offering

amendments (see AMENDMENTS), and general debate is generally under the control of its chairman and ranking minority member. See CONSIDERATION AND DEBATE. Finally, members of the reporting committee are often appointed by the Speaker to serve on the conference committee to resolve differences as to the final form of the bill. See CONFERENCES BETWEEN THE HOUSES.

The committee system is as old as the House itself, having been patterned after the English House of Commons, the colonial assemblies, and the Continental Congress. Although during its first quarter century the House relied primarily upon select committees and the Committee of the Whole, the first standing committee dates from 1789. As the 19th century advanced, select committees were converted into standing committees, which grew in number until by 1905 there were no less than 61 of them. Various consolidations, culminating with the adoption of new Rule X in 1995, reduced the number to 19. See H. Res. 6, Jan. 4, 1995.

### **Standing, Select, and Joint Committees Distinguished**

House committees are of three distinct types: (1) standing committees, whose members are *elected* by the House, (2) select committees [also called special committees], whose members are *appointed* by the Speaker, and (3) joint committees, whose members are chosen according to the provisions of the statute or resolution creating them. There are variations on these three categories which are discussed in later sections.

Standing committees (created in the standing rules) routinely receive bills and other measures within their jurisdiction upon referral from the Speaker. (Referral to committees, see INTRODUCTION AND REFERENCE OF BILLS.) Select committees are separately established to consider a particular matter or subject, and may or may not have legislative jurisdiction. See § 12, *infra*. Joint committees take up matters of concern to both Houses. See § 14, *infra*.

Select committees are distinguishable from standing committees in that, unless permanently established by the House, they expire when they report finally (4 Hinds §§ 4403–4405), whereas standing committees are not discharged from consideration of a subject within their jurisdiction by reason of having reported thereon. 8 Cannon § 2311.

### **Committee of the Whole Distinguished**

The Committee of the Whole has been described as but a committee of the House (4 Hinds § 4706), although it is not a committee in the customary sense. The Committee of the Whole, unlike regular committees, does not have a fixed membership. All Members of the House may attend and

participate in its deliberations under special rules designed to encourage wide-ranging debate and to expedite legislation. The Committee of the Whole itself has no power to authorize or appoint a committee. 4 Hinds § 4710. Because of its unique role in the procedures of the House, the Committee of the Whole is taken up in a separate article of this work. See COMMITTEES OF THE WHOLE.

### **Conference Committees Distinguished**

Conference committees are used primarily to resolve differences between the House and Senate on measures that have passed the two Houses, and are likewise treated elsewhere. See CONFERENCES BETWEEN THE HOUSES.

### **Subcommittees**

Standing committees have subcommittees which study legislation, hold hearings, and make reports. Such reports are made to the full committee. Subcommittees have no power to report directly to the House, absent specific authority to do so, and are subject to the control of the full committee. *Manual* § 703a.

### **Commissions**

Commissions are analogous to select committees in that they are established to study a particular problem; but a commission is distinguishable from a select committee in that its membership may include private citizens, Members of the House and Senate, and representatives from other branches of government. See, for example, H. Res. 1368, 94–2, creating the Commission on Administrative Review.

### **Duration of Committees**

The committees of the House remain in existence only during the two-year term of the particular Congress which created them. The standing committees of the House are usually reconstituted when one Congress succeeds another, but all House committees spring into existence only after a new House has adopted rules or resolutions specifically creating them anew. Deschler Ch 17 § 1.2 (note).

Select committees expire with the term of the Congress in which they were created (Deschler Ch 17 § 1), or at such earlier date as may be specified in the resolution creating them (Deschler Ch 17 § 5.5). Unless permanently established, a select committee ceases to exist when it finally reports in full on the subject committed to it (4 Hinds § 4403), but may be revived by action of the House in referring a new matter to it (4 Hinds §§ 4404,

4405). A select committee that expires in one Congress may be reconstituted in the next. Deschler Ch 17 § 5.5.

Joint committees established by statute remain in existence beyond the Congress in which they were created unless otherwise provided, although the members thereof must be chosen anew in each Congress. Deschler Ch 17 § 1.

## **§ 2. Establishing Committees**

### **Standing Committees**

Standing committees are ordinarily established with the adoption of the standing rules on opening day for a Congress or subsequently pursuant to a simple resolution reported from the Committee on Rules (Deschler Ch 17 § 2.1), usually by way of amendment to the House rules. Deschler Ch 17 §§ 2.2, 2.3. Adopting rules of a new Congress, see ASSEMBLY OF CONGRESS.

A resolution establishing a new committee during a Congress is called up as privileged and is debatable under the hour rule in the House. Deschler Ch 17 § 2.1. Resolutions from the Committee on Rules are also used to change the name or authority of a standing committee (Deschler Ch 17 § 2.4), or to abolish a committee and transfer its jurisdiction and records to another existing committee (Deschler Ch 17 § 2.5) or to a new committee (Deschler Ch 17 § 2.6).

### **Select Committees**

Select committees are likewise established by a resolution reported from the Committee on Rules. Deschler Ch 17 §§ 5.3, 5.5. In one unusual instance, however, a select committee was created pursuant to a floor amendment (offered to the Committee Reform Amendments of 1974). 93-2, H. Res. 988, Jan. 3, 1975.

A resolution creating a select committee may specify the jurisdiction and powers of the committee (Deschler Ch 17 § 5.2) and may place it under the authority of a standing committee. Deschler Ch 17 § 5.3.

A resolution creating a select committee is reported and called up as privileged, since the Rules Committee may report at any time on rules (*Manual* § 726), and the creation of such a committee is deemed the equivalent of a new rule. Deschler Ch 17 § 5.1. If such a resolution is not reported by the Committee on Rules, it is not privileged, and unanimous consent is necessary to permit its consideration. 95-1, Jan. 4, 1977, p 72. The Rules Committee itself may not report such a resolution as privileged if it contains

provisions outside the jurisdiction of the committee. See Deschler Ch 17 § 1.1 (note).

### **Special Ad Hoc Committees**

Under the earlier practice of the House, special committees to consider a particular matter could be established by way of a motion or other proposition to refer. 4 Hinds §§ 4401, 4402; 5 Hinds §§ 6633, 6634. Thus the House could refer a message of the President to a special committee to be appointed by the Speaker, and at the same time instruct the committee and specify the number of members to be appointed. 5 Hinds § 6633. It was held in this regard that the House need not refer to a special committee already in existence, but could refer to one to be subsequently appointed. 5 Hinds § 6634. On occasion an ad hoc select committee has been established by a resolution called up as a question of privileges of the House. 102–2, Apr. 9, 1992, p \_\_\_\_.

Under the modern practice, special ad hoc committees are established pursuant to Rule X clause 5(c), adopted in 1975. Under this rule, the Speaker was given authority to refer a matter to a special ad hoc committee appointed by him to consider that matter and report thereon to the House. The appointment must be made with the approval of the House from the members of the committees having legislative jurisdiction. *Manual* § 700. Pursuant to this authority, the Speaker may with the approval of the House appoint a special ad hoc committee to consider a particular measure (94–1, Apr. 22, 1975, p 11261), or a particular bill and similar subsequent bills (95–1, Jan. 11, 1977, p 894). A resolution authorizing the Speaker to take such action is privileged when offered from the floor at the Speaker's request. 94–2, Jan. 26, 1976, p 876; 95–1, Jan. 11, 1977, pp 894–898; 95–1, Apr. 21, 1977, pp 11550–56.

### **Joint Committees**

Joint committees are created pursuant to the passage of a bill or the adoption of a resolution. Deschler Ch 17 § 7. A bill is commonly used where the creation of the committee is merely one part of a comprehensive legislative plan. Joint resolutions are used where the sole purpose of the measure is to create the committee and vest it with jurisdiction. 6 Cannon § 371; Deschler Ch 17 §§ 7.4, 7.5. A concurrent resolution may be used for this purpose (4 Hinds §§ 4409, 4410; 6 Cannon § 380; Deschler Ch 17 §§ 7.1, 7.2), but any joint committee created by concurrent resolution must expire (unless reconstituted) with the Congress in which it was created. See 4 Hinds § 4409.

A resolution establishing a joint committee, if reported by the Committee on Rules, is called up as privileged by that committee. Deschler Ch 17 § 7.1. But such a resolution may not be reported as privileged if it contains an authorization for appropriations. Deschler Ch 17 § 7.5. Debate on the resolution is under the hour rule. Deschler Ch 17 § 7.1.

### **Commissions**

Commissions are ordinarily created by statute. See, for example, the Citizens' Commission on Public Service and Salaries (2 USC § 351). The Commission on Administrative Review, created in the 94th Congress, was established by a House resolution. 94–2, July 1, 1976, p \_\_\_\_.

### **§ 3. Committee Expenses; Funding**

Authorization for the payment of committee expenses for a particular Congress is obtained pursuant to “one primary expense resolution” for each committee (the Appropriations Committee excepted). Rule XI clause 5. *Manual* § 732a. The request for such authorization is made to the Committee on House Oversight, which has jurisdiction over such expenditures. Rule X clause 1(h). The primary expense resolution is reported to the House by the committee with an accompanying report containing information as to the anticipated activities of the committee in question. Beginning in the 104th Congress, biennial funding was instituted (Rule XI clause 5(a); *Manual* § 732cc).

Authorization for the payment of additional committee expenses not covered by the primary expense resolution may be obtained pursuant to one or more additional resolutions—called supplemental expense resolutions. Rule XI clause 5(b).

The primary and supplemental expense resolutions which are used under the rules to provide funds for a single committee are subject to a one-calendar-day layover requirement. Rule XI clause 5.

Funds for the Committee on Appropriations are appropriated pursuant to statute (31 USC § 22a).

## **B. Chairmen, Members, and Staff; Elections and Appointments**

### **§ 4. In General; Membership and Seniority**

#### **Standing and Select Committees Distinguished**

Until 1911, the members and the chairmen of the standing and select committees of the House were generally appointed by the Speaker, although in rare instances a committee chose its own chairman. See 4 Hinds §§ 4524 *et seq.* Since 1911, standing committee chairmen and members have been elected by the House. The election takes place after the majority and minority party caucuses have perfected their lists and presented separate election resolutions for approval. 4 Hinds § 4513; 8 Cannon § 2201; *Manual* § 317. The Speaker has retained the authority—based on longstanding tradition and formally vested in him by the House rules in 1880—to appoint select committees. *Manual* §§ 701e, 701g.

Under the modern practice, the election of members and chairmen to standing committees is actually a three-step procedure. First, committee assignments are prepared by a selection committee—sometimes called a committee on committees—of each party caucus. Second, the recommendations of the selection committee are approved by the caucus, which may vote by secret ballot. Third, the nominations of the caucuses are subsequently brought before the House as privileged resolutions. Rule X clause 6(a)(1); *Manual* § 701a.

#### **Electing Chairman**

Pursuant to nominations submitted by the majority party caucus, one member of each standing committee is elected as its chairman at the commencement of each Congress. *Manual* § 701c. Beginning with the 104th Congress, a Member's service as chairman is limited to three consecutive Congresses. Rule X clause 6(c). Nominations for chairmen are submitted to the House for its approval in the election resolution. Deschler Ch 17 § 8.1. Such a resolution is called up as privileged by the chairman of the selection committee designated to recommend committee assignments (Deschler Ch 17 § 8.2) or, more recently, by the chairman of the majority party caucus (Deschler Ch 17 § 8.7 (note)), usually as part of a resolution electing all majority members to those committees.

In the event of a permanent vacancy in the chairmanship, the House elects a successor (*Manual* § 701c) pursuant to privileged resolution. This procedure is followed when a vacancy is created on a standing committee by the death of its chairman (Deschler Ch 17 § 8.3) or after a chairman has

resigned (Deschler Ch 17 §§ 8.5, 8.6). In the temporary absence of the chairman, the member next in rank in order named in the election of the committee acts as chairman. *Manual* § 701c.

Where the chairman is disabled and unable to carry out the responsibilities of the Chair, the House may, in the election resolution, provide for a delegation of powers and duties to a vice chairman until further ordered by the House. H. Res. 43, 102–1.

### **Election of Members**

Resolutions electing Members to standing committees have traditionally been offered from the floor (8 Cannon § 2171) and called up as privileged at the direction of the party organization. 8 Cannon §§ 2179, 2182; 97–1, Jan. 28, 1981, pp 1140, 1142. Each party's resolution, if adopted, elects *en bloc* those members from that particular party to the various standing committees. Deschler Ch 17 § 9.1. Such a resolution is not divisible. *Manual* § 791. But it is debatable and subject to amendment (8 Cannon § 2172) until such time as the previous question is ordered (8 Cannon § 2174).

Beginning in the 104th Congress, no Member may serve simultaneously as a member of more than two standing committees or four subcommittees unless approved by the House. Rule X clause 6(b)(2).

### **Seniority**

Committee seniority is shown by the order in which the Members' names are listed in the election resolution. Deschler Ch 17 § 11.1. A resolution electing a Member to a committee may include the designation of his rank on the committee (Deschler Ch 17 § 9.6), and may be made retroactively effective as of a prior date. (Deschler Ch 17 § 9.16.)

## **§ 5. Numerical Composition of Committees; Party Ratios**

### **Committee Size**

Today, the only standing committee of the House that is limited as to its size by the standing rules is the Committee on the Budget. Rule X clause 1(e). Under the modern practice, the sizes of other committees of the House (Standards Committee excepted) are negotiated by the Majority and Minority Party Leaders at the direction of their respective party organizations. Deschler Ch 17 § 9. The size of each committee is ultimately determined by the number of Members elected to each committee pursuant to Rule X clause 6(a). The size of the Committee on Standards is set by law at 7-7. See § 803(b) of the Ethics Reform Act of 1989, Pub. L. No. 101–194, *Manual* § 698.

### Party Ratios

Party ratios on committees are derived from the allocation of majority party and minority party representation on those committees. Such ratios are normally determined through negotiations between the majority and minority party leadership. Historically, the party ratios on most standing committees has tended to reflect the relative membership of the two parties in the House as a whole. Deschler Ch 17 §9.4. Sometimes, however, the membership of a committee is equally divided between the majority and minority parties where bipartisan deliberations are considered essential. See, for example, Rule X clause 6(a), requiring that one-half of the members of the Committee on Standards of Official Conduct be from the majority party and one-half from the minority party.

Disproportionate party ratios on committees may also be traced to the rules of the party caucus. Deschler Ch 3 §9. Moreover, some House committees, such as the Rules Committee, have traditionally reflected disproportionate ratios in favor of the majority party. See, for example, 8 Cannon §2184.

### § 6. The Chairman's Role

The powers and duties of the committee chairmen are derived from custom and from the rules of the House. The chairman of a committee:

- Presides over committee meetings. *Manual* § 317.
- May administer oaths to witnesses in hearings in the committee. *Manual* § 718; 2 USC § 191. (In one instance, the chairman of an investigating committee administered the oath to himself and testified. 3 Hinds § 1821.)
- May punish breaches of order and decorum by censure and exclusion from investigative hearings. *Manual* § 712.
- May authorize and issue subpoenas when the power to do so has been delegated to him by the committee. *Manual* § 718.
- Fixes, within certain guidelines, the salaries of staff. *Manual* § 735.
- Submits reports of his committee to the House, even though he may not have concurred therein. 4 Hinds §§ 4670, 4671. However, a committee may order its report to be made by some other member (4 Hinds § 4669) or even by a member of the minority party (4 Hinds §§ 4672, 4673).
- Submits privileged reports to the House from the floor. *Manual* § 418.

- Is in charge of the pending bill in the House and is entitled at all stages to prior recognition for allowable motions intended to expedite it (2 Hinds §§ 1452, 1457; 6 Cannon §§ 296, 300), unless he is opposed to the bill, in which case he must yield prior recognition to a member of his committee who favors the bill (2 Hinds § 1449).
- Is entitled to prior recognition when Senate amendments to the bill are debated. 2 Hinds § 1452.

### § 7. Committee Employees and Staff

The employment of committee staff is governed by the House rules (*Manual* §§ 733a *et seq.*) and by statute (see, for example, 5 USC §§ 5315, 5316, setting permissible rates of staff pay).

The House rules place a limit on the number of professional staff members which may be appointed to a standing committee (the Committee on Appropriations excepted), and on the number of professional staff members which may be selected by the minority. *Manual* §§ 733a–734b.

The Appropriations Committee is subject to a separate rule permitting the appointment, in addition to a clerk and assistants for the minority, of such staff as are determined by majority vote to be necessary. Rule XI clause 6(d).

## C. Committee Functions; Jurisdiction and Authority

### § 8. Legislative Jurisdiction

#### Generally; Referrals and Rereferrals

The legislative jurisdiction of each standing committee is specified and defined by Rule X. *Manual* §§ 669–691. Areas of legislative interest have been divided under Rule X into distinct subject-matter classifications, with jurisdiction over each being allocated to a standing committee. The Speaker refers bills and other matters to committees pursuant to the jurisdiction of each committee as defined by Rule X, taking into account any relevant precedents. A bill may be referred to more than one committee where its text involves subject matter assigned to different committees. *Manual* § 700. Beginning in the 104th Congress, the Speaker is required to indicate a primary committee of jurisdiction. Rule X clause 5(c); *Manual* § 700. Referrals generally, see INTRODUCTION AND REFERENCE OF BILLS.

The rule of the House which specifies and defines the jurisdiction of each standing committee is said to be mandatory on the Speaker in referring public bills and on the Members in referring private bills. *Manual* § 669. But when the House itself refers a bill, it may send it to any committee

without regard to the rules of jurisdiction (4 Hinds § 4375; 5 Hinds § 5527; 7 Cannon § 2131), and jurisdiction is thereby conferred (4 Hinds §§ 4362–4364; 7 Cannon § 2105).

The committees are the creatures of the House and exercise no authority or jurisdiction beyond that specifically conferred by the rules or by special authorization of the House itself. 7 Cannon § 780. However, the House may confer jurisdiction on a committee by the adoption of a special order from the Committee on Rules. 7 Cannon § 780. And a bill may be originated by a committee which has been given jurisdiction to do so by order or rule of the House. 4 Hinds § 3365. Jurisdictional authority, in addition to that specified in Rule X, may be vested in a committee pursuant to:

- A resolution enlarging the jurisdiction of a committee (91–2, July 8, 1970, p 32136), or authorizing it to study and report on a particular matter (3 Hinds § 1753; 86–2, Apr. 21, 1960, p 8546).
- A change in the rules of the House by adoption of a resolution from the Committee on Rules. 91–2, July 8, 1970, p 32136.
- A motion to rerefer or recommit.

The erroneous reference of a public bill, if it remains uncorrected, gives jurisdiction (4 Hinds §§ 4365–4371; 7 Cannon § 2108), but such is not the case with respect to a private bill (4 Hinds §§ 3364, 4382–4389) unless the reference is made by action of the House itself (4 Hinds §§ 4390, 4391; 7 Cannon § 2131).

### **Informal Agreements**

Questions relating to the jurisdiction over a subject by two or more committees are sometimes resolved pursuant to an informal agreement or a memoranda of understanding between the committees involved. Typically, the legislative initiative is assumed by the committee having the primary concern over the subject, with the understanding that the other committee(s) involved will have an opportunity to consider that portion of the legislation within its cognizance. 91–1, June 18, 1969, p 16301. (See also 96–2, Mar. 25, 1980, pp 6405, 6406, 6408–10, where a memoranda of understanding—on energy measures—was entered into by the chairmen and members of six different committees.) Pursuant to such an agreement, a committee may waive its claim to review a particular bill with the understanding that it will not constitute a permanent surrender of jurisdiction over the matter. 86–1, Aug. 14, 1959, p 15895; 88–1, July 15, 1963, p 12525.

### **Points of Order**

The Speaker's referral of a bill is not subject to a point of order. In a committee, points of order based on the lack of jurisdiction of a committee

over a particular measure must be timely raised. Once a committee has reported a bill and it has been placed on the appropriate calendar, a point of order that the bill was improperly referred comes too late. Deschler Ch 17 § 26; *Manual* § 854. Likewise, a point of order against specific language of a paragraph in a bill, on the grounds that its subject is within the jurisdiction of another committee, does not lie once the bill has been reported. Deschler Ch 17 § 27.9. That point of order would lie in committee during a markup if that portion of the bill is read for amendment. Where a reported bill is under consideration in Committee of the Whole, questions relating to the jurisdiction of the reporting committee may not then be considered. 4 Hinds § 4372.

The Speaker may decline to speculate as to what committee will have jurisdiction over a particular bill until it has been examined. Deschler Ch 17 § 27.2.

## **§ 9. Oversight Jurisdiction**

### **Generally**

The oversight function of the House arises from its duty to exercise continuous watchfulness over the administration and execution of the laws by the departments and agencies of the federal government. Legislative oversight as a continuing function was given to all standing committees by the Legislative Reorganization Act of 1946 (60 Stat. 812), which provided that each standing committee “shall exercise continuous watchfulness” over administrative agencies, and by the Legislative Reorganization Act of 1970 (84 Stat. 1140), which required periodic reports by committees on their oversight activities. The general requirement (Rule X clause 2) that House standing committees exercise oversight functions was made part of the House rules in 1971 (H. Res. 5, Jan. 22, 1971).

### **General and Special Oversight Distinguished**

The House rules impose both general and special oversight responsibilities on its standing committees. General legislative oversight is performed by all standing committees (except for Budget). *Manual* § 692a. Special oversight functions are given to certain standing committees. *Manual* § 693.

### **Role of Committee on Government Reform and Oversight**

The Committee on Government Reform and Oversight is directed by House rule to review and study, on a continuing basis, the operation of government activities at all levels with a view to determining their economy and efficiency. *Manual* § 692b. This committee, previously named the Committee on Government Operations, is the investigative committee of the

House with respect to general oversight of the federal government. The committee can investigate matters within the jurisdiction of other standing committees.

## § 10. Investigative Jurisdiction and Authority

### Standing Committees

Prior to 1975, it was the practice of the House to authorize committee investigations pursuant to the adoption of resolutions reported from the Committee on Rules. With certain exceptions, each committee had to obtain such authorization in each Congress. Deschler Ch 15 § 1. Today, each standing committee is authorized, under the standing rules of the House, to conduct such investigations as it considers necessary or appropriate in carrying out the jurisdictional responsibilities given to it under Rule X. *Manual* § 703b. And in carrying out its duties, each committee and subcommittee is authorized by Rule XI to hold hearings and to subpoena witnesses or compel the production of documents. *Manual* § 718. As to the issuance and enforcement of subpoenas, see § 24, *infra*.

### Select or Joint Committees

Although, as noted above, standing committees and their subcommittees have general authority under the rules of the House to conduct investigations on subjects within their jurisdiction under Rule X, a select or joint committee must be given specific authority to undertake an investigation. Such authority may be given pursuant to:

- A statute conferring investigative powers (see, for example, 26 USC § 8022, conferring investigative duties on the Joint Committee on Internal Revenue Taxation).
- A joint or concurrent resolution (see 79–1, Jan. 18, 1945, H. Con. Res. 18, and 90–2, July 12, 1968, H.J. Res. 1, establishing a joint committee to investigate crime).
- A standing rule of the House. (See, for example, Rule XLVIII clause 7(d), *Manual* § 944a, relating to the investigative authority of the Select Committee on Intelligence).
- A resolution creating an investigatory committee. (See, e.g., the Select Committee on Assassinations, 94–2, Sept. 17, 1976).

### Scope; Limitations

The investigative power that is exercised by the House through its committees is inherent in the power to make laws. *Watkins v United States*, 354 US 178 (1957). “A legislative body cannot legislate wisely or effectively,” it is reasoned, “in the absence of information respecting the conditions

which the legislation is intended to affect or change.” *McGrain Daugherty*, 273 US 135 (1927). *Eastland v United States Servicemen’s Fund*, 421 US 491 (1975).

This investigative power is very broad, encompassing inquiries concerning the administration of existing laws as well as the need for proposed legislation. It extends to studies of social, economic, or political problems, as well as probes into departmental corruption, inefficiency, or waste at the federal level. *Watkins v United States*, 354 US 178 (1957). Although broad, this power of investigation is not unlimited. It may be exercised only in aid of the “legislative function.” *Kilbourn v Thompson*, 103 US 168 (1881). It is said that Congress has no “general” power to inquire into private affairs, and that the subject of inquiry must be one “on which legislation could be had.” *McGrain v Daugherty*, 273 US 135 (1927).

Since 1952, the courts have declined to presume the existence of a legislative purpose, and have narrowly construed resolutions granting authority to committees to conduct investigations. *United States v Rumely*, 345 US 41 (1952). The investigative power cannot be used to expose merely for the sake of exposure, nor to inquire into matters which are within the exclusive province of one of the other branches of government or which are reserved to the states. Deschler Ch 15 § 1.

A further requirement for the validity of a committee investigation is that it must have been expressly or impliedly authorized in accordance with congressional procedures. Deschler Ch 15 § 1. Thus, the courts have refused to convict a witness for contempt arising out of a subcommittee investigation where that inquiry had not been approved by a majority of the parent committee, as was required by the committee rule. *Gojack v United States*, 384 US 702 (1966).

The courts will not look to the motives which may have prompted a congressional investigation (*Watkins v United States*, 354 US 178 [1957]) nor will it question the wisdom of the investigation or its methodology. *Doe v McMillan*, 412 US 306 (1973). The very nature of the investigative function is such that it may take the searchers up some “blind alleys” and into nonproductive enterprises. To be a valid legislative inquiry, there need be no predictable end result. *Eastland v United States Servicemen’s Fund*, 421 US 491 (1975).

### **Obstructing Committee Investigation**

A federal statute provides criminal penalties for those who corruptly influence, obstruct, or impede “due and proper” congressional inquiry. 18 USC § 1505. Indictments under § 1505 have been upheld despite contentions that the committee violated its own rules and those of the House. *U.S. v*

*Poindexter*, D.D.C. 1989, 725 F Supp 13. *U.S. v Mitchell*, C.A. 4 (Md.) 1989, 877 F2d 294.

**§ 11. Standing Committees**

Standing committees were not used extensively during the earliest Congresses. It was the general practice of the House to refer matters to a Committee of the Whole to develop the primary objectives of a proposal, and then to commit such matters to select committees to draft specific bills.

With the beginning of the 19th century, standing committees began to proliferate. By mid-century, the House had 34 standing committees and by 1900 it had 58. Still more standing committees were added during the early 1900's, but in the 1920's the House consolidated numerous committees and again vested in the Committee on Appropriations jurisdiction over all general appropriation bills. 7 Cannon § 1741. Further reductions in the number of committees in the House were made by the Legislative Reorganization Act of 1946 (60 Stat. 812), referred to hereinafter as simply "60 Stat. 812." By dropping relatively inactive committees and by merging those with similar functions and jurisdiction, the Act reduced the total number of standing committees in the House from 44 to 19.

In 1995, the House again reorganized its committee system, abolishing three committees and altering the jurisdiction of several others. H. Res. 6, Jan. 3, 1995. At that time the House also adopted a rule requiring that, with certain exceptions, no standing committee may have more than five subcommittees. Rule X clause 6(d).

The standing committees of the House, with their antecedent committees, are shown in the table below. This table provides citations to relevant statutes or precedents and to the authority for legislative jurisdiction and/or oversight functions, where applicable.

<b>Standing Committees (104th Cong.)</b>	
JURISDICTION, OVERSIGHT FUNCTION, AND ANTECEDENTS	
STANDING COMMITTEES (104TH CONG.)	ANTECEDENT COMMITTEES
<b>Agriculture</b>	
Est. 1820; 4 Hinds § 4149	
Continued, 1947, 60 Stat. 812	
Legislative jurisdiction, <i>Manual</i> § 670	
Oversight functions, <i>Manual</i> § 692b	

**Standing Committees (104th Cong.)—Continued**  
 JURISDICTION, OVERSIGHT FUNCTION, AND ANTECEDENTS

STANDING COMMITTEES (104TH CONG.)	ANTECEDENT COMMITTEES
<b>Appropriations</b>	
Est. 1865; 4 Hinds § 4032	Ways and Means (in part), 1802
Legislative jurisdiction, <i>Manual</i> § 671a	
Oversight functions, <i>Manual</i> § 692a	
<b>Banking and Financial Services</b>	
Est. 1995; H. Res. 6	Ways and Means (in part), 1802
Legislative jurisdiction, <i>Manual</i> § 672	Banking and Currency, 1865
Oversight functions, <i>Manual</i> § 692a	Coinage, Weights and Measures, 1867
	Banking, Currency and Housing, 1974
	Banking, Finance and Urban Affairs, 1977
<b>Budget</b>	
Est. 1974; 88 Stat. 299	
Legislative jurisdiction, <i>Manual</i> § 673a	
Oversight functions, <i>Manual</i> §§ 693, 695	
<b>Commerce</b>	
Est. 1995; H. Res. 6	Commerce and Manufacturers, 1795
Legislative jurisdiction, <i>Manual</i> § 674	Coinage, Weights and Measures, 1867
Oversight functions, <i>Manual</i> §§ 692a, 693	Interstate and Foreign Commerce, 1892
	Commerce and Health, 1975
	Interstate and Foreign Commerce, 1975
	Energy and Commerce, 1980
<b>Economic and Educational Opportuni- ties</b>	
Est. 1995; H. Res. 6	Education, 1867
Legislative jurisdiction, <i>Manual</i> § 675	Labor, 1883
Oversight functions, <i>Manual</i> §§ 692a, 693	Education and Labor, 1947
<b>Government Reform and Oversight</b>	
Est. 1995; H. Res. 6	Ways and Means, 1802
Legislative jurisdiction, <i>Manual</i> § 676	District of Columbia, 1808

**Standing Committees (104th Cong.)—Continued**  
**JURISDICTION, OVERSIGHT FUNCTION, AND ANTECEDENTS**

STANDING COMMITTEES (104TH CONG.)	ANTECEDENT COMMITTEES
Oversight functions, <i>Manual</i> §§ 692a, 692b	Public Expenditures, 1814 State, Treasury, War, Navy, and Post Office, 1816 Justice, 1874 Agriculture, 1889 Commerce and Labor, 1905 Expenditures in the Executive Departments, 1927 Post Office and Civil Service, 1947 Government Operations, 1952
<b>House Oversight</b> Est. 1995; H. Res. 6 Legislative jurisdiction, <i>Manual</i> § 677a Oversight functions, <i>Manual</i> §§ 692a, 697a	Enrolled Bills, 1789 Elections, 1794, 1895 Accounts, 1805 Mileage, 1837 Disposition of Executive Papers, 1889 Ventilation and Acoustics, 1893 Memorials, 1929 House Administration, 1947
<b>International Relations</b> Est. 1995; H. Res. 6 Legislative jurisdiction, <i>Manual</i> § 678 Oversight functions, <i>Manual</i> § 693	Foreign Affairs, 1822, 1979 International Relations, 1975
<b>Judiciary</b> Est. 1813; 4 Hinds § 4054 Continued, 1947, 60 Stat. 812 Legislative jurisdiction, <i>Manual</i> § 679a Oversight functions, <i>Manual</i> § 692a	Claims, 1794 Patents, 1837 Revision of the Laws, 1868 War Claims, 1883 Immigration and Naturalization, 1893 Internal Security, 1969
<b>National Security</b> Est. 1995; H. Res. 6 Legislative jurisdiction, <i>Manual</i> § 680 Oversight functions, <i>Manual</i> §§ 692a, 693	Military Affairs, 1822 Naval Affairs, 1822 Militia, 1835 Armed Services, 1947
<b>Resources</b> Est. 1995; H. Res. 6	Public Lands, 1805

**Standing Committees (104th Cong.)—Continued**  
 JURISDICTION, OVERSIGHT FUNCTION, AND ANTECEDENTS

STANDING COMMITTEES (104TH CONG.)	ANTECEDENT COMMITTEES
Legislative jurisdiction, <i>Manual</i> § 681 Oversight functions, <i>Manual</i> §§ 692a, 693	Private Land Claims, 1816 Indian Affairs, 1821 Territories, 1825 Mines and Mining, 1865 Irrigation of Arid Lands, 1893 Insular Affairs, 1899 Interior and Insular Affairs, 1951 Natural Resources, 1993
<b>Rules</b> Est. 1880; 4 Hinds § 4321 Mandated by law, 1947, 60 Stat. 812 Legislative jurisdiction, <i>Manual</i> §§ 682a Oversight functions, <i>Manual</i> § 693	Rules (select committee), 1789
<b>Science</b> Est. 1995; H. Res. 6 Legislative jurisdiction, <i>Manual</i> § 683 Oversight functions, <i>Manual</i> § 692a	Merchant Marine and Fisheries, 1887 Astronautics and Space Exploration (select Committee), 1958 Science and Astronautics, 1958 Science and Technology, 1985 Science, Space, and Technology, 1987
<b>Small Business</b> Est. 1975; 93-2, H. Res. 988 Legislative jurisdiction, <i>Manual</i> § 684 Oversight functions, <i>Manual</i> §§ 692a, 693	Small Business (permanent select com- mittee), 1971 Small Business (select committee), 1941
<b>Standards of Official Conduct</b> Est. 1967; H. Res. 418 Legislative jurisdiction, <i>Manual</i> § 685 Oversight functions, <i>Manual</i> § 692a	Standards and Conduct (select commit- tee), 1966
<b>Transportation and Infrastructure</b> Est. 1995; H. Res. 6 Legislative jurisdiction, <i>Manual</i> § 686	Public Buildings and Grounds, 1837 Mississippi Levies, 1875

**Standing Committees (104th Cong.)—Continued**  
 JURISDICTION, OVERSIGHT FUNCTION, AND ANTECEDENTS

STANDING COMMITTEES (104TH CONG.)	ANTECEDENT COMMITTEES
Oversight functions, <i>Manual</i> § 692a	Rivers and Harbors, 1883 Merchant Marine and Fisheries, 1887 Roads, 1913 Flood Control, 1916 Public Works and Transportation, 1975
<b>Veterans' Affairs</b> Est. 1947; 60 Stat. 812 Legislative jurisdiction, <i>Manual</i> § 687 Oversight functions, <i>Manual</i> § 692a	Pensions and Revolutionary Claims 1813 Revolutionary Pensions, 1825 Invalid Pensions, 1831 World War Veterans' Legislation, 1924
<b>Ways and Means</b> Est. 1802; 4 Hinds § 4020 Continued, 1947, 60 Stat. 812 Legislative jurisdiction, <i>Manual</i> § 688 Oversight functions, <i>Manual</i> § 692a	Ways and Means (select committee), 1789

## § 12. Select Committees

### Generally

Select committees were used extensively by the House during the early Congresses. In the Jeffersonian era, it was a common practice to refer each proposal to a select committee created to draft the appropriate legislative language for the measure. *Manual* § 401. By the Third Congress, 350 select committees had been named. But as standing committees came to be recognized as the most appropriate forum for the development of legislation, the use of select committees declined steadily. By the 23d Congress, the number of select committees had been reduced to 35. By the 104th Congress, only the Permanent Select Committee on Intelligence remained. See Rule XLVIII.

Select committees identified as “permanent” are reconstituted in each Congress on adoption of the rules of the House.

Select committees have been created primarily: (1) to investigate conditions or events; (2) to study and report on matters with a view toward subsequent legislative action; (3) to report specific legislative proposals to the

House; and (4) to supervise certain routine housekeeping functions. Deschler Ch 17 § 6. See also Guidelines for the Establishment of Select Committees, Committee on Rules, 98–1, Feb. 1983.

### **Investigative Committees**

In the modern era of the House, select committees have been used primarily to investigate and report on a particular subject. During the 82d Congress, for example, a select committee was established to explore the activities of tax-exempt foundations, and to determine whether such foundations had been subsidizing un-American activities. 82–2, H. Res. 561. During the same Congress, a select committee was appointed to investigate the circumstances surrounding the Katyn Forest massacre of more than 15,000 Polish officers during World War II. 92–1, H. Res. 390. More recently, select investigative committees have inquired into the status of Americans missing in action in Southeast Asia (94–1, H. Res. 335), into the assassinations of President Kennedy and Dr. Martin Luther King, Jr. (94–2, H. Res. 1540; 95–1, H. Res. 222), and into covert arms transactions with Iran (100–1, H. Res. 12, Jan. 7, 1987).

These precedents suggest that a select committee may be created for purely investigative purposes. However, as is pointed out elsewhere, all committee investigations must be undertaken in furtherance of a constitutionally assigned function of Congress; the congressional inquiry must be related to and in furtherance of a legislative function of Congress. Deschler Ch 15 § 1. Generally, see § 10, *supra*.

### **Committees to Study and Report Recommendations**

Select committees have been established to study a particular subject and report its recommendations as a basis for further action by the House or by standing committees. For example, in recent years, select committees have been established to study and report on export controls (87–1, H. Res. 403), government research programs (88–1, H. Res. 504), and on professional sports (92–2, H. Res. 1186). Although without authority to report legislation, these committees have often been directed to assess the adequacy of existing laws, and, if necessary, to make legislative recommendations.

### **Committees With Legislative Authority**

Although most select committees have been authorized to make legislative recommendations, few have been empowered, until recent years, to report legislation directly to the House. Deschler Ch 17 § 6. In 1955, a select committee was created to study and report on the benefits provided to dependents of deceased and former members of the armed services, and “to

prepare such legislation as it may consider appropriate to carry out such recommendations.’’ 84–1, H. Res. 35. Similarly, in the 93d Congress, the House established the Select Committee on Committees to study the committee system of the House, and to report to the House ‘‘by bill, resolution, or otherwise.’’ 93–1, H. Res. 132. In the 95th Congress, a Select Committee on Ethics was created and authorized to report certain measures. 95–1, H. Res. 383. The House has also established a Permanent Select Committee on Intelligence with legislative authority over the CIA and other intelligence agencies. 95–1, H. Res. 658.

**Committees With Housekeeping Functions**

Select committees have been established to supervise certain routine service functions of the House such as the Select Committee on the House Beauty Shop (95–1, H. Res. 1000), the Select Committee on the House Recording Studio (Pub. L. No. 84–624, 1956), the Select Committee on the House Restaurant (95–1, H. Res. 472), and the Select Committee to Regulate Parking on the House Side of the Capitol (95–1, H. Res. 282).

**§ 13. — Particular Uses of Select Committees**

The House has established more than 20 select committees since passage of the Legislative Reorganization Act of 1946. The table below identifies some of these committees for purposes of illustration. The table shows these committees by name (or paraphrase thereof), dates of creation and termination, and authority, including legislative authority. With the two exceptions noted—Campaign Expenditures and Small Business—the table excludes those committees existing prior to 1947 which were subsequently reconstituted.

**Select Committees**

COMMITTEE	JURISDICTION—INVESTIGATIVE AUTHORITY	REPORTING AUTHORITY
<b>Aging</b> Est. Jan. 3, 1975; 93–2, H. Res. 988 Termination: Jan. 5, 1993 ( <i>Manual</i> § 702)	Problems of the older American; income maintenance, housing, and health; welfare programs	To report annually to the House; no legislative authority

## Select Committees—Continued

COMMITTEE	JURISDICTION—INVESTIGATIVE AUTHORITY	REPORTING AUTHORITY
<b>Astronautics and Space Exploration</b> Est. Mar. 25, 1958; 85–2, H. Res. 496 Termination: July 21, 1958; became standing Committee on Science and Astronautics	All aspects and problems relating to the exploration of outer space; resources, personnel, equipment, and facilities; legislation	To report to the House, by bill or otherwise
<b>Assassinations</b> Est. Sept. 17, 1976; 94–2, H. Res. 1540 Termination: Jan. 3, 1979	Circumstances surrounding the death of John F. Kennedy and the death of Martin Luther King, Jr.	To report to the House on the result of its investigation (see H. Rept. No. 95–1828); no legislative authority
<b>Campaign Expenditures</b> Est. May 29, 1928; 70–1, H. Res. 232 Termination: Reconstituted by each Congress until 1973	Election disputes; electoral fraud; excessive campaign expenditures of presidential and/or congressional candidates	Reporting authority varied from Congress to Congress
<b>Chemicals, Pesticides, and Insecticides Affecting Foods</b> Est. June 20, 1950; 81–2, H. Res. 323 Termination: Jan. 3, 1953	Chemicals, compounds, and synthetics in the production of food products; health factors; the agricultural economy; toxic residues; effect on soil and vegetation	To report to the House on its investigation with recommendations for legislation (see H. Rept. No. 82–2182); no legislative authority
<b>Children, Youth and Families</b> Est. Sept. 29, 1982, 97–2, H. Res. 421 Reestablished by each Congress through 102–2.	Income maintainance; health; nutrition; education; welfare; employment	To report to the House on the results of its investigations; no legislative authority

## Select Committees—Continued

COMMITTEE	JURISDICTION—INVESTIGATIVE AUTHORITY	REPORTING AUTHORITY
<b>Committees</b>		
Est. Jan. 31, 1973; 93–1, H. Res. 132 Termination: Dec. 20, 1974; reestablished 1979 (H. Res. 118); records transferred to Committee on Rules, Apr. 1, 1980	Rules X and XI of the rules of the House; committee structure; number and size of committees; jurisdiction; committee procedure; meetings, staffing, and facilities	To report to the House by bill, resolution, or otherwise (see H. Rept. No. 96–866)
<b>Communist Aggression</b>		
Est. July 27, 1953; 83–1, H. Res. 346 Termination: Dec. 31, 1954	Seizure of Latvia and Estonia by the U.S.S.R.; treatment of the Baltic peoples during this period	To report to the House on its study together with recommendations (see H. Rept. No. 83–2650); no legislative authority
<b>Congressional Operations</b>		
Est. Mar. 28, 1977; 95–1, H. Res. 420 Termination: Jan. 3, 1979	Organization and operation of the U.S. Congress; cooperation between the Houses; relationship with other branches of government	To report recommendations on subjects specified (see H. Rept. No. 95–1843); no legislative authority
<b>Congressional Pages</b>		
Est. Sept. 30, 1964; 88–2, H. Res. 847 Termination: Jan. 4, 1965	General welfare and education of congressional pages	To report on the results of its investigations (see H. Rept. No. 88–1945); to make recommendations
<b>Crime</b>		
Est. May 1, 1969; 91–1, H. Res. 17 Termination: June 30, 1973	All aspects of crime in the United States; its elements, causes, and extent; reciprocity of information; urban crime	To report on its investigation with recommendations (see H. Rept. No. 93–358); no legislative authority

## Select Committees—Continued

COMMITTEE	JURISDICTION—INVESTIGATIVE AUTHORITY	REPORTING AUTHORITY
<p><b>Energy</b> Est. Apr. 21, 1977; 95–1, H. Res. 508 Termination: Jan. 3, 1979; jurisdiction transferred to Energy and Commerce, 97th Cong.</p>	<p>Message of the President dated Apr. 20, 1977, and other communications relating thereto; bills or resolutions sequentially referred thereto</p>	<p>To report to the House by bill or otherwise (see H. Rept. No. 95–543)</p>
<p><b>Ethics</b> Est. Mar. 9, 1977; 95–1, H. Res. 383 Termination: Jan. 3, 1979</p>	<p>Certain bills and resolutions relating to Rules XLIII–XLVII of the House; regulations relating thereto; advisory opinions</p>	<p>To report to the House on the measure specified (see H. Rept. No. 95–1837); to report regulations; to recommend legislation</p>
<p><b>Export Controls</b> Est. Sept. 7, 1961; 87–1, H. Res. 403 Termination: May 31, 1962</p>	<p>The Export Control Act of 1949; assessment of accomplishments under that Act; improvements in administration and enforcement; congressional oversight</p>	<p>To report on its investigation together with any recommendations (see H. Rept. No. 87–1753); no legislative authority</p>
<p><b>Foreign Aid</b> Est. July 22, 1947; 80–1, H. Res. 296 Termination: May 3, 1948</p>	<p>Basic needs of foreign nations and peoples; relief in terms of food and clothing; resources and facilities; agencies</p>	<p>To report to the House as deemed appropriate; no legislative authority</p>
<p><b>Government Research</b> Est. Sept. 11, 1963; 88–1, H. Res. 504 Termination: Jan. 3, 1965</p>	<p>Research programs of federal agencies; expenditures for research programs; costs of government research</p>	<p>To report its findings to the House with recommended legislation (see H. Rept. No. 88–1143)</p>

## Select Committees—Continued

COMMITTEE	JURISDICTION—INVESTIGATIVE AUTHORITY	REPORTING AUTHORITY
<b>Hunger</b> Est. Feb. 22, 1984; 98–2, H. Res. 15 Reestablished each Congress through 102–2	International programs; world food security; malnutrition; food production and distribution; agribusiness role	To conduct studies and make recommendations as to possible legislation
<b>Intelligence</b> Est. Feb. 19, 1975; 94–1, H. Res. 138 Termination: Feb. 11, 1976; became permanent select committee, July 14, 1977, H. Res. 658 ( <i>Manual</i> § 944a)	Proposals concerning the intelligence and intelligence-related programs and activities of the U.S. Government; oversight; proposed legislation and other matters relating to the CIA	To report to the House on the nature and extent of intelligence activities of U.S. departments and agencies by legislation or otherwise (see H. Rept. No. 94–833)
<b>Katyn Forest Massacre</b> Est. Sept. 18, 1951; 82–1, H. Res. 390 Termination: Dec. 22, 1952	The massacre of thousands of Polish officers in the Katyn Forest in territory then under the control of the U.S.S.R.	To report to the House on completion of its hearings (see H. Rept. No. 82–2505); no legislative authority
<b>Lobbying Activities</b> Est. Aug. 12, 1949; 81–1, H. Res. 298 Termination: end of the 81st Cong.	Lobbying activities intended to influence legislation; activities of federal agencies intended to influence legislation	To submit reports on the results of its study (see H. Rept. No. 81–3239); no legislative authority
<b>Narcotics Abuse and Control</b> Est. July 29, 1976; 94–2, H. Res. 1350 Reestablished each Congress through 102–2	International traffic in narcotics; prevention; enforcement; organized crime; drug abuse; treatment; rehabilitation	To report to the House on its investigations; no legislative authority
<b>Newsprint</b> Est. Feb. 26, 1947; 80–1, H. Res. 58 Termination: Dec. 31, 1948	Need for adequate supplies of newsprint and related products; production possibilities and prospects	To submit reports with recommendations (see H. Rept. No. 80–2471); no legislative authority

**Select Committees—Continued**

COMMITTEE	JURISDICTION—INVESTIGATIVE AUTHORITY	REPORTING AUTHORITY
<p><b>Offensive and Undesirable Literature</b>            Est. May 12, 1952;            82–2, H. Res. 596            Termination: Dec. 31, 1952</p>	<p>The extent to which books, magazines, and comic books contain immoral, obscene, or otherwise offensive matter; availability through the U.S. mails; adequacy of existing laws</p>	<p>To report to the House with recommendations, including recommendations for legislation (see H. Rept. No. 82–2510); no legislative authority</p>
<p><b>Outer Continental Shelf</b>            Est. Apr. 12, 1975;            94–1, H. Res. 412            Termination: Jan. 3, 1979; succeeded by another select committee on the same subject (96–1, H. Res. 53), which terminated July 31, 1980</p>	<p>A bill relating to the management of oil and natural gas in the Outer Continental Shelf; marine and coastal environments; certain related matters on this subject on referral to it by the Speaker</p>	<p>To report the bill and other legislation referred to it; transmit its findings and make a full report to the House (see H. Rept. No. 96–1214)</p>
<p><b>Population</b>            Est. Sept. 28, 1977;            95–1, H. Res. 70            Termination: end of the 95th Cong.</p>	<p>Causes of changing population conditions; population characteristics relative to limited resources; population planning; global population-related issues</p>	<p>To report on the results of its investigation (see H. Rept. No. 95–1842); no legislative authority</p>
<p><b>Professional Sports</b>            Est. May 18, 1976;            94–2, H. Res. 1186            Termination: Jan. 3, 1977</p>	<p>Need for legislation with respect to professional sports</p>	<p>To report to the House on the results of its inquiry (see H. Rept. No. 94–1786); no legislative authority</p>
<p><b>Right of Member To Be Sworn In</b>            Est. Jan. 10, 1967; 90–1, H. Res. 1            Termination: Feb. 23, 1967</p>	<p>The right of Adam Clayton Powell (N.Y.) to be sworn in in the 90th Congress and to a seat therein</p>	<p>To report to the House within five weeks (see H. Rept. No. 90–27); no legislative authority</p>

## Select Committees—Continued

COMMITTEE	JURISDICTION—INVESTIGATIVE AUTHORITY	REPORTING AUTHORITY
<b>Small Business</b>		
Est. Dec. 4, 1941; 77–1, H. Res. 294 Reconstituted each Congress until 1970; became a standing committee (H. Res. 988), 1975	Assistance to small business; small business protection; financial aid; small business participation in federal procurement	Reported to the House on results of its investigations; had no legislative authority prior to becoming a standing committee
<b>Standards and Conduct of Members</b>		
Est. Oct. 19, 1966; 89–2, H. Res. 1013 Termination: Dec. 27, 1966; standing Committee on Standards of Official Conduct created Apr. 13, 1967	Rules or regulations necessary or desirable to ensure proper standards of conduct by Members and by officers or employees of the House; reporting of statutory violations	To make recommendations to the House by report or resolution
<b>Survivors' Benefits</b>		
Est. Aug. 4, 1954; 83–2, H. Res. 549 Termination: Jan. 15, 1956	Benefits provided under federal law for surviving dependents of deceased members and former members of the armed forces	To prepare such legislation; to report on the results of its investigation (see H. Rept. No. 83–9282)
<b>Tax-exempt Foundations and Organizations</b>		
Est. Apr. 4, 1952; 82–2, H. Res. 561 Termination: Dec. 16, 1954	Educational and philanthropic foundations and related organizations exempt from federal income taxation; use of foundations	To report to the House on the result of its investigation (see H. Rept. No. 82–2681); no legislative authority
<b>Transactions on Commodity Exchanges</b>		
Est. Dec. 18, 1947; 80–1, H. Res. 404 Termination: Dec. 31, 1948	Purchases and sales of commodities; commodities for future delivery; activities of federal agencies and individuals therein as affecting the price of commodities	To report to the House on completion of its investigation (see H. Rept. No. 80–2472); no legislative authority

**Select Committees—Continued**

COMMITTEE	JURISDICTION—INVESTIGATIVE AUTHORITY	REPORTING AUTHORITY
<b>U.S. Military Involvement in Southeast Asia</b> Est. June 8, 1970; 91–2, H. Res. 976 Termination: July 6, 1970	All aspects of U.S. military involvement in Southeast Asia	To report on its investigation (see H. Rept. No. 91–1276); no legislative authority
<b>U.S. Servicemen Missing in Action in Southeast Asia</b> Est. Sept. 11, 1975; 94–1, H. Res. 335 Termination: Mar. 13, 1977	U.S. servicemen identified as missing in action; recovery of bodies of known dead; international inspection teams	To report to the House on its investigation (see H. Rept. No. 94–178); no legislative authority
<b>White County Bridge Commission</b> Est. May 25, 1955; 84–1, H. Res. 244 Termination: Apr. 25, 1956	Financial position of the White County Bridge Commission; monies received and expenditures made; anticipated toll-free use	To report to the House with recommendations (see H. Rept. No. 84–2052); no legislative authority
<b>World War II Veterans</b> Est. Aug. 28, 1950; 81–2, H. Res. 474 Termination: Feb. 2, 1951	Abuses in education, training and loan guarantee programs of World War II veterans	To report on the results of its investigation (see H. Rept. No. 2501); no legislative authority

**§ 14. Joint Committees****Generally**

Joint committees are composed of Members from both Houses. They have been in use since the earliest days of the Republic. Jefferson notes that joint committees were used by the two Houses of the English Parliament. *Manual* § 325. In the First Congress, a joint committee was used to make arrangements for the inauguration of President Washington. 3 Hinds § 1986. Joint standing committees were soon formed on the Library (4 Hinds

§ 4337) and Printing (4 Hinds § 4347), and these committees exist to this day. *Manual* §§ 985, 986.

Joint committees, or committees of the House and Senate acting jointly, have been used to investigate problems relating to immigration (4 Hinds § 4415), to resolve a dispute relating to the electoral count (3 Hinds § 1953), to investigate the revision and codification of the laws (4 Hinds § 4410), and to study the organization and operation of the Congress (2 USC §§ 411–417).

**Jurisdiction, Functions, and Duties**

Joint committees are used for study and investigation, supervision and oversight, and sometimes for purely ceremonial activities. They are primarily advisory in nature. They seldom have legislative jurisdiction, and do not ordinarily have the power to report legislative measures for consideration. They generally function in areas beyond the jurisdiction of any particular committee of either House. Deschler Ch 17 § 7. Joint committees may report to both Houses if so directed (4 Hinds §§ 4421, 4422), or to either House (4 Hinds § 4432; 7 Cannon § 2167).

A joint committee created by concurrent resolution may be instructed by the two Houses acting concurrently or by either House acting independently. 4 Hinds § 4421. However, a joint committee created by statute is not susceptible to control by one House and its duties may not be enlarged or diminished by either House acting independently. 7 Cannon § 2164.

**Composition; Voting**

Recent joint committees have featured an equal number of Members from both Houses, with the chairmanship alternating between the House and Senate, and with each member having one vote. Deschler Ch 17 § 7.

The table below shows the major joint committees that were established during the post-1946 era, their composition, and their jurisdiction and functions:

**Joint Committees**

Committees	Jurisdiction and Functions
<p><b>Atomic Energy (18 mbrs)</b>                      Est. 1946; 42 USC § 2251                      House mbrs: 9                      Senate mbrs: 9                      Termination: Jan. 4, 1977</p>	<p>Development, use, and control of atomic energy; to report legislation and make recommendations within its jurisdiction; legislative jurisdiction abolished, H. Res. 5, 95–1, 1977</p>

## Joint Committees—Continued

Committees	Jurisdiction and Functions
<p><b>Congressional Operations (10 mbrs)</b>            Est. 1970; 2 USC §§ 411–417            House mbrs: 5            Senate mbrs: 5            Inactive since 94th Cong. Select Committee on Congressional Operations created, 95–1, H. Res. 420</p>	<p>Identification of court proceedings affecting Congress; organization and operation of the Congress; supervision of the Office of Placement and Management; no legislative jurisdiction</p>
<p><b>Defense Production (10 mbrs)</b>            Est. 1950; 50 USC App § 2161            House mbrs: 5            Senate mbrs: 5            Termination: No appointments after Sept. 30, 1978</p>	<p>Review of programs established by the Defense Production Act of 1950; federal emergency preparedness and mobilization policy; integrity of defense contracts and the procurement process; to report to the House and Senate on its studies, with recommendations</p>
<p><b>Economic (20 mbrs)</b>            Est. 1946; 15 USC § 1021            House mbrs: 10            Senate mbrs: 10  <i>(Manual § 983)</i></p>	<p>Economic Report by the President; means of promoting national policy on employment; short-term and medium-term economic goals; to report to Budget Committees and to House and Senate</p>
<p><b>Housing (14 mbrs)</b>            Est. 1947; H. Con. Res. 104            House mbrs: 7            Senate mbrs: 7            Termination: 80th Cong.</p>	<p>Housing needs in U.S.; building material shortages; building costs; building codes and zoning laws; housing loans and insurance; veterans' preferences; findings to be reported to the House and Senate</p>
<p><b>Internal Revenue Taxation (10 mbrs)</b>            Est. 1926; 26 USC § 8002            House mbrs: 5            Senate mbrs: 5  <i>(Manual § 984)</i></p>	<p>Operation and effects of federal system of internal revenue taxation; reports to the Committee on Ways and Means, and, in its discretion, directly to the House</p>
<p><b>Library (10 mbrs)</b>            Est. 1806; 2 USC § 132b            House mbrs: 5            Senate mbrs: 5  <i>(Manual § 985)</i></p>	<p>Management and expansion of the Library of Congress; rules and regulations for the government of the Library; development of Botanic Gardens; gifts for the benefit of the Library; statues and other works of art in the Capitol</p>

**Joint Committees—Continued**

Committees	Jurisdiction and Functions
<b>Organization of the Congress (24 mbrs)</b> Est. 1965; S. Con. Res. 2 1992; H. Con. Res. 192 House mbrs: 12 Senate mbrs: 12 ( <i>Manual</i> § 986a)	Organization and operation of Congress; relationship between the two Houses and between the Congress and other branches of government; committees; reports to the House and Senate
<b>Printing (10 mbrs)</b> Est. 1846 House mbrs: 5 Senate mbrs: 5 ( <i>Manual</i> § 986)	Inefficiencies or waste in the printing, binding, and distribution of government publications; arrangement and style of the Record; printing of the legislative program for each day; listing of committee meetings and hearings
<b>Washington Metropolitan Problems</b> Est. 1957; H. Con. Res. 172 Termination: 86th Cong.	Growth and expansion of the District of Columbia and its metropolitan area; effectiveness of agencies and instrumentalities concerned therewith; to report to the House and Senate

**D. Procedure in Committees****§ 15. Committee Rules; Applicable House Rules****Generally**

The procedures which House committees are required to follow are prescribed by the rules of the House (*Manual* § 703a), by Jefferson's Manual §§ 704b, 938, and by the written rules which are adopted by each standing committee (*Manual* § 704a). Standing committees and subcommittees are expressly made subject to the rules of the House "so far as applicable" (*Manual* § 703a), and each standing committee must adopt written rules not inconsistent therewith (*Manual* § 704a).

Committees have historically adopted rules under which they function for each Congress. 1 Hinds § 707; 3 Hinds §§ 1841, 1842; 8 Cannon § 2214. The adoption of such rules by each committee was made mandatory in 1971. Such rules must be published in the *Congressional Record* within 30 days after the committee is elected. *Manual* § 704a. If a committee meets pursuant to a rule which has not been published, the proceedings may be

held insufficient to support a perjury conviction for alleged false testimony given to that committee. *U.S. v Reinecke*, 524 F2d 435, 1975.

### **Points of Order**

A point of order does not ordinarily lie in the House against consideration of a bill by reason of defective committee procedures occurring prior to the time the bill is ordered reported to the House. *Manual* § 704b. Thus, a point of order that a measure was ordered reported in violation of a committee rule requiring advance notice of the committee meeting will not lie in the House—the interpretation of committee rules being within the cognizance of the committee and not the House. 93–2, July 22, 1974, p 24437; 95–2, Oct. 12, 1978, p 36382.

On the other hand, if the procedure objected to was one which is in direct violation of the rules of the House (see *Manual* § 713c), or where those rules specifically permit the raising of the objection, a point of order may lie in the House, resulting in the recommitment of the bill. *Manual* § 704b. For example, a point of order against a measure on the ground that the hearings on such measure were not conducted in an open meeting as required by the rules may be raised in the House by a committee member if the point of order was timely made and improperly overruled or not properly considered in committee. *Manual* § 708.

A deficiency in a reporting requirement may also be the subject of a point of order in the House. (*Manual* § 713 c, d, e, f, g). A committee report that erroneously reflects the information required under Rule XI—that committee reports reflect the total number of votes cast for and against any public measure or matter and any amendment thereto and the names of those voting for and against (*Manual* § 713d)—may be subject to a point of order. 104–1, Jan. 19, 1995, p \_\_\_\_.

## **§ 16. Records, Files, and Transcripts; Disclosure and Disposition; Member Access**

### **Generally; Voting Records**

Each committee must keep a complete record of all committee action. *Manual* § 706a. A meeting or hearing transcript must include, under new Rule XI clause 2(e)(1), a substantially verbatim account of remarks actually made. All committee records and files must be kept separate from the office records of the member serving as chairman. *Manual* § 706c.

The record of committee action must include a record of the votes on any question on which a roll call vote is demanded, and the result of each such vote must be made available by the committee for inspection by the

public. *Manual* § 706a. In addition, committee reports must include all record votes on motions to report and on amendments offered during mark-up. *Manual* § 713d.

### **Members' Right of Access; Disclosure**

The records and files of a committee are considered the property of the House, to which all House Members have access, although exceptions are made for certain records of the Committee on Standards of Official Conduct (*Manual* § 706c) and of the Select Committee on Intelligence (*Manual* § 944a). However, such files may not be brought into the well of the House if the committee has not authorized such action. 86–2, June 3, 1960, p 11820. Moreover, a Member's right of access to committee files does not entitle him to make photostat copies of such files. 85–1, Aug. 14, 1957, p 14737. The clause allowing access to committee records does not necessarily apply to records within the possession of the executive branch which the members of the committee have been allowed to examine under limited conditions at the discretion of the agency. 96–2, July 31, 1980, p 20765. In implementing the House rule permitting access by Members to committee files, committees may prescribe regulations to govern the manner of access, such as requiring examination of files only in committee rooms. *Manual* § 706c.

### **Use of Information Obtained in Executive Session**

While all Members have access to committee records under the rule, testimony or evidence taken in an executive session of a committee is under the control and subject to the regulation of the committee and, under a separate provision of the rules (*Manual* § 712), cannot be released or made public without the consent of the committee. 87–1, June 26, 1961, p 11233. Thus, while a Member's right of access may allow him to examine executive session materials in committee rooms, it does not permit him to copy or take personal notes from such materials, to keep such notes in his personal office files, or to release such materials to the public without the consent of the committee or subcommittee. 95–1, Dec. 6, 1977, p 38470. Evidence taken in executive session of a committee may later be made public by vote of the committee. Deschler Ch 17 § 22.2. This action may be taken by the committee even with respect to evidence or testimony taken in executive session because it tended to degrade, defame, or incriminate. A committee has the right to make such information public at a later time and may, by vote of the committee, do so. Deschler Ch 17 § 22.3.

Evidence received in executive session by vote of a quorum should be presumed to remain as executive session records until a quorum at a valid

meeting votes to release them or to make the evidence public; the chairman has no unilateral authority, not possessed by any other member, to release such material. The rule that a majority of the committee shall constitute a quorum for closing a meeting has been construed to require that a majority be present to release or make public evidence received in a closed meeting. *Manual* § 712.

The rules prohibit the public disclosure of complaints or information received by the Committee on Standards of Official Conduct except as authorized by that committee. *Manual* § 698.

#### **Disposition of Committee Records**

The House may adopt a resolution providing for the disposition of the records and files of a select or other committee. It may require that the files be held intact and turned over to a newly created committee with similar jurisdiction. Deschler Ch 17 § 19.3. In the absence of such disposition by the House, all documents referred to a committee, together with evidence taken by the committee, must under the House rules be delivered to the Clerk of the House within three days after the final adjournment of Congress. *Manual* § 932.

Under Rule XXXVI, an order of the House is required for the release of noncurrent records of the House. 102–1, Mar. 22, 1991, p \_\_\_\_.

#### **Reference in Debate to Transcripts or Minutes**

Under early decisions of the House, it was not in order in debate to refer to the proceedings of a committee except as had been formally reported to the House. 5 Hinds §§ 5080–5083; 8 Cannon §§ 2485–2493; Deschler Ch 17 § 20.1. It had been held that a Member might not use a transcript of an open committee meeting in debate in the House where the matter had not been reported to the House. Deschler Ch 17 § 20.2. The rationale for the early decisions was to protect the confidentiality and independence of committee proceedings, and to permit flexibility and compromise in committee deliberations. 8 Cannon § 2491. Today, however, the rules require that committee meetings be open to the public unless properly closed by vote of the committee, and transcripts of committee proceedings are widely available; these considerations mitigate against the application of the rule of nondisclosure to meetings and hearings which are open to the public. Deschler Ch 17 § 20.1; *Manual* § 360. On the other hand, it is clear that the rule protecting committee proceedings from disclosure in House debate is applicable to executive session proceedings. 8 Cannon § 2493; Deschler Ch 17 § 20. Thus, it has been held not in order in debate in the House to refer to or quote from the minutes of an executive session of a

committee, unless the committee has voted to make such proceedings public. 90–1, Apr. 5, 1967, p 8411. And the precedents clearly prevent reference in debate to committee actions which impugn the motives of committee members, whether or not by name. 77–1, Feb. 11, 1941, p 894.

## § 17. Meetings

### Regular Meetings; Calling Additional Meetings

Standing committees must fix regular meeting days. *Manual* § 705. These meeting days may be either on a weekly, biweekly, or monthly basis (*Manual* § 407) and standing committees must meet at least once a month. Additional meetings may be called by the chairman as he may deem necessary, and a mechanism exists which allows a majority of the committee to require that a special meeting be held to consider a particular measure or matter. *Manual* § 705. Where a committee has a fixed date to meet, a quorum of the committee may convene on that date without call of the chairman and transact business regardless of his absence. 8 Cannon § 2214. In the absence of the chairman, the ranking majority member presides at the meeting. *Manual* § 705.

### Open or Closed Meetings

All committee or subcommittee meetings of a business nature, including those for the markup of legislation, must be open to the public, including the media, unless the committee, in open session with a majority present, votes to close all or part of the remainder of the meeting on that day pursuant to Rule XI clause 2(g)(1). If the meeting is closed, no person other than members of the committee and such staff and departmental representatives as they may authorize may be present. *Manual* § 708.

## § 18. — Consideration and Debate; Voting

### Generally; Motion Practice

Committees generally conduct their business under the five-minute rule and may employ the ordinary motions and procedures which are in order in the House under Rule XVI clause 4, as well as those procedures which are in order in the House as in the Committee of the Whole. *Manual* §§ 704b, 782. These include:

- The reading for amendment by section as in the Committee of the Whole and the reading of the measure and amendments thereto in full. *Manual* § 704b.
- Limiting the time for debate (4 Hinds § 4573) and the motion to limit debate under the five-minute rule (*Manual* § 704b).

- The motion for the previous question. See *Manual* § 804.
- Voting by the yeas and nays. 4 Hinds § 4572.
- The motion to refer. See *Manual* § 787.
- The motion to lay on the table (3 Hinds § 1737; 4 Hinds § 4568); but tabling an amendment also carries the bill to the table.
- The motion to reconsider. 4 Hinds §§ 4570, 4571.
- The taking of an appeal from a decision of the Chair. 4 Hinds § 4569.
- The motion to recess from day to day. *Manual* § 703a.

### **Proxy Voting**

Proxy voting in committees, once permitted under certain conditions, was banned in the 104th Congress under House rules. Rule XI clause 2(f).

## **§ 19. Hearings**

### **Generally; Types of Hearings**

The three most common types of hearings held by the committees of the House are: (1) legislative hearings, which are held to consider the enactment of a measure into law, and which provide a forum where information and opinions on the measure can be presented; (2) investigative hearings, designed to inform the House as to activities which may call for legislation; and (3) oversight hearings, which are inquiries that invoke the investigative powers of the House as overseer of federal programs and operations. (Nomination hearings are heard before the Committee on the Judiciary. See *Manual* § 256.)

Investigative or oversight hearings have included such well-known historical landmarks as the Credit Mobilier Corporation bribery charge investigation of 1872 (2 Hinds § 1286), the Un-American activities investigations beginning in the 1930's (Deschler Ch 15 § 1.32), and the investigation of covert arms transactions with Iran in 1988 (100-1, H. Res. 12).

Although all three types of hearings share certain common characteristics, the House rules contain procedures which are unique to each category. See, for example, *Manual* § 712, setting forth rules governing procedures at investigative hearings.

### **Announcement of Hearings**

As of the 104th Congress, chairmen of committees must announce a hearing at least one week in advance, although the chairman and ranking minority member acting jointly, or the committee by majority vote with a meeting quorum present, may determine that there is good cause to begin the hearing sooner, in which case it must make the announcement at the earliest possible date. The announcement must be published in the *Daily Di-*

*gest* and entered into the committee scheduling service of the House Information Systems. *Manual* § 708. The Committee on Rules is exempted from this requirement.

## § 20. — Hearings as Open or Closed

### Closing Hearings

Committee hearings must be open to the public unless the committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the hearing on that day should be closed because of one of the permissible reasons for closing stated in Rule XI clause 2(g)(2). Permissible reasons include national security, the compromise of sensitive law enforcement information, or where testimony might incriminate, defame or degrade a person. Certain committees may close pursuant to this rule for one additional day of hearings; specified committees may close for up to five days. *Manual* § 708.

### Evidence Tending to Defame, Degrade, or Incriminate

The House rules require that certain procedural steps be taken whenever it is asserted that evidence before a committee at an investigative hearing may tend to defame, degrade, or incriminate. While two members may constitute a quorum for the taking of testimony, more members may be present. A majority of those present may vote to continue the testimony in executive session. If the hearing is to continue as open, a quorum of the committee or subcommittee must be present to entertain a motion that the evidence is in fact not defamatory, incriminating or degrading. Such a motion requires a majority for adoption. An opportunity to appear voluntarily must be afforded to the witness in either case. *Manual* § 712. If a witness appears in response to a subpoena and, when called, asks on proper grounds for an executive session, the committee must determine whether the testimony will tend to defame, degrade, or incriminate, even though the witness may have ignored a previous opportunity to appear voluntarily to testify. See 89–2, Oct. 18, 1966, pp 27439–95. But the proper assertion must be made by the witness to the committee. If he leaves the hearing room without making any statement other than that he refuses to testify, the committee is not obligated to go into executive session, since the proceedings have not reached the point where the witness has demanded that the committee determine whether the testimony would tend to degrade, defame, or incriminate. 89–2, Oct. 18, 1966, pp 27439–48, 27481–85. The determination that evidence or testimony may tend to degrade, defame, or incriminate a person lies with the

committee and not with the witness. See 89–2, Oct. 18, 1966, pp 27439–48, 27481 *et seq.*

A point of order may be raised against a privileged report of a committee relating to the refusal of a witness to testify on the ground that the committee had violated the rule relating to the receiving of degrading or incriminating testimony in executive session. 89–2, Oct. 18, 1966, pp 27486 *et seq.*

## § 21. Quorum Requirements

### Generally; Meetings

It is a routine practice of the committees of the House to ascertain the presence of the appropriate quorum before proceeding to business. 8 Cannon § 2222. Historically, a majority of a committee constituted a quorum for the transaction of business. *Manual* § 409; 4 Hinds §§ 4540, 4552.

In the 84th Congress, the House gave its committees the right to set the number of Members required to be present for the taking of testimony at a hearing, but mandated the presence of at least two Members. H. Res. 151, Mar. 23, 1955. In the 95th Congress, committees (except for Appropriations, Budget and Ways and Means) were allowed to fix the quorum for the conduct of business, other than the reporting of a measure, at not less than one-third of a committee's membership. H. Res. 5, Jan. 4, 1977.

Current minimum quorum requirements for committees of the House are as follows:

ACTION	MINIMUM QUORUM	RULE XI CLAUSE 2
To report a measure or recommendation	A majority of committee, "actually present"	(l)(2) <i>Manual</i> § 713c
To authorize and issue a subpoena	A majority of the committee	(m)(2) <i>Manual</i> § 718
To close a meeting or hearing	A majority of the committee	(g)(1) <i>Manual</i> § 708
To make public evidence taken in executive session	A majority of the committee	(k)(5) <i>Manual</i> § 712
To take evidence or testimony in open session after assertion that it defames, degrades or incriminates	A majority of the committee	(k)(5) <i>Manual</i> § 712

ACTION	MINIMUM QUORUM	RULE XI CLAUSE 2
To take testimony or receive evidence at hearing	Two members	(h)(1) <i>Manual</i> § 709
To close a hearing where assertion of defamatory testimony or evidence is made	Two members	(k)(5) <i>Manual</i> § 712
To take any action “other than reporting”	One-third of membership	(h)(2) <i>Manual</i> § 709

## § 22. — In Ordering a Report to the House

### Generally; “Rolling” Quorums

A standing committee cannot validly report a measure unless the report was authorized at a formal meeting of the committee with a quorum present. 8 Cannon §§ 2220–2222; Deschler Ch 17 § 23.2. The report is not valid unless authorized with a quorum of the committee actually present at the time the vote is taken. *Manual* § 713d. A poll of committee members by telephone will not suffice. Deschler Ch 17 § 23.2.

In 103d Congress, the rules were amended to permit a so-called “rolling quorum” by allowing a majority to be deemed present if the committee records showed that a majority responded on a roll call vote on the motion to report in question. H. Res. 5, Jan. 5, 1993, p \_\_\_\_\_. This language was dropped from the rules in 1995, thus restoring the previous requirement that a “majority of the committee be actually present” at the time a measure is ordered reported. The requirement that a majority be actually present at the time the measure is reported from a committee means that a majority must be contemporaneously assembled when the question is put or at some point while the vote is taken. Unlike a House floor vote during which Members may come and go during the course of a vote, the committee quorum rule, absent the old “rolling quorum” latitude, means a committee can no longer simply leave a vote open until a sufficient number of Members have responded to their names. See 104–1, Jan. 5, 1995, p \_\_\_\_\_.

While Speakers have indicated that committee members may come and go during the course of the vote if the roll call indicates that a quorum was present (8 Cannon § 2222), where it is admitted that a quorum was not in the room at any time during the vote and the committee transcript does not

show a quorum acting as a quorum, the Chair will sustain the point of order. 8 Cannon § 2212).

A point of no quorum pending a committee vote on ordering a measure reported may provoke a quorum call to obtain the presence of a majority of the committee in the committee room. *Manual* § 713d.

The absence of a quorum at the time a “clean” bill is ordered reported gives rise to a point of order even though the chairman had been previously instructed by the committee to report the bill. See 93–1, July 23, 1973, pp 25476 *et seq.*

### **Suspension of Quorum Requirement**

Where a bill is being considered under suspension of the rules, a point of order will not lie against the bill on the ground that a quorum was not present when the bill was reported from committee. Deschler Ch 17 § 24.8.

## **§ 23. — — Points of Order**

### **Generally**

Unless a point of order is raised, the House assumes that reports from committees are authorized with a quorum present. Deschler Ch 17 § 23. Quorum issues raised by a point of order are often determined on the basis of information in the report or supplied by the chairman of the committee in question (84–2, July 9, 1956, p 12199; 95–2, Oct. 12, 1978, p 36382) and the Speaker may question him as to the circumstances of the meeting and the number of committee members present at that meeting. Deschler Ch 17 § 23.5. Where the chairman admits that the bill was reported when a quorum was not present the point of order against the bill on that ground will be sustained. Deschler Ch 17 § 25.2. If the point of order is sustained, the bill is automatically recommitted. Deschler Ch 17 §§ 23.2, 25.2.

### **Timeliness**

A point of order that a bill was reported from a committee in the absence of a quorum is properly raised in the House when the bill is called up for consideration (Deschler Ch 17 § 24.2) or pending a vote on a motion that the House resolve itself into the Committee of the Whole for the consideration of the bill. Deschler Ch 17 § 24.4. It has been ruled that such a point of order comes too late if raised:

- After consideration of the bill has begun in the House. 8 Cannon § 2223.
- After the House has resolved into the Committee of the Whole for the consideration of the measure. Deschler Ch 17 § 24.5.

## § 24

### HOUSE PRACTICE

- After debate on the measure has started in the House. Deschler Ch 17 § 24.6.
- After adoption of the measure. Deschler Ch 17 § 24.7.  
The point of order is premature and will not be entertained:
- Where a resolution providing for the consideration of the bill is before the House. Deschler Ch 17 § 24.2.
- Pending a unanimous-consent request to consider the measure otherwise not privileged for consideration. 90–2, Oct. 11, 1968, p 30751.

## § 24. Witnesses

### Summoning Witnesses; Subpenas

Witnesses are summoned before a committee pursuant to authority conferred on it by the House to send for persons or papers. 3 Hinds § 1750. In Rule XI (*Manual* § 718) the House has empowered its committees and subcommittees to issue a subpoena when authorized by a majority of the members voting, a majority being present. Full committee chairpersons may authorize and issue subpoenas when that authority is delegated by the full committee. Such subpoenas must be signed by the chairman of the committee or by a member designated by the committee.

Under clause 2(m) of Rule XI, compliance with a committee subpoena may be enforced only as authorized by the House. *Manual* § 718. This clause has been interpreted to require authorization by the full House before a subcommittee chairman may intervene in a law suit in order to gain access to documents subpoenaed by the subcommittee. *In re Beef Industry Antitrust Litigation*, 589 F2d 786 (5th Cir. 1979). Enforcement procedures, see § 26, *infra*.

### Interrogation of Witnesses

The questioning of witnesses appearing before a committee proceeds under the five-minute rule. Under this rule, committee members may take up to five minutes initially to question a witness until each member has had an opportunity to question the witness. *Manual* § 711.

### Witnesses Called by the Minority

When a hearing is held on a measure or matter, the minority members on the committee have the right to call witnesses of their own choosing to testify on the subject of the hearing for one day. Such a request must be supported by a majority of the minority members and submitted to the chairman before the completion of the hearing. *Manual* § 711.

**Perjury**

Under federal statutes (18 USC § 1621), it is a felony to give perjurious testimony before a congressional committee. It is clear from court rulings however that the facts sought must be in aid of the committee's legislative purpose. The committee may recall a witness for additional testimony on a point already testified to, or question him about a prior denial, or address questions to him which are not clearly in aid of legislation, but a perjury indictment may not be found on false testimony in response to questions which are not asked for the purpose of eliciting facts material to the committee's investigation. *U.S. v Cross*, D.C.D.C. (1959), 170 F Supp 303.

A quorum of a committee must be present when testimony is given to support a charge of perjury. But the absence of a quorum of a committee at the time a witness willfully fails to produce subpoenaed documents is not a valid defense in a prosecution for contempt where the witness failed to raise that objection before the committee. *United States v Bryan*, 339 US 323 (1950); *United States v Fleischman*, 339 US 349 (1950).

**Use of Written Statements**

Each committee is obliged to require, "so far as practicable," that each prospective witness file a written statement of his proposed testimony in advance and limit his oral presentation to a summary thereof. *Manual* § 708. At investigative hearings, witnesses are permitted, in the discretion of the committee, to submit brief, sworn statements in writing for inclusion in the committee record. *Manual* § 712.

**Witness Fees**

Witnesses are reimbursed for their expenses pursuant to House Rule XXXV. That rule sets the same *per diem* as is authorized by the Committee on House Oversight for Members and employees of the House. *Manual* § 931. Some committees, in their rules, prescribe procedures for disbursing such fees, such as the signing of appropriate vouchers.

**§ 25. — Rights or Privileges of Witnesses****Generally; Under the Constitution**

Committee investigations must be conducted consistently with the United States Constitution and Bill of Rights, particularly the First, Fourth, and Fifth Amendments. Witnesses appearing at investigative hearings cannot be compelled to give evidence against themselves. They cannot be subjected to unreasonable search and seizure. Nor can the First Amendment freedoms of

speech, press, religion, or political belief and association be abridged. *Watkins v United States*, 354 US 178 (1957).

### **The Privilege Against Self-incrimination**

The privilege against self-incrimination may be invoked by a person subpoenaed to testify or produce materials before a House committee notwithstanding the fact that a congressional investigation is not a “criminal case” in the conventional sense. 3 Hinds §§ 1699, 2514. The assertion of the privilege against self-incrimination need take no particular form, provided the committee can reasonably be expected to understand it as an attempt to invoke the privilege. *Quinn v United States*, 349 US 155 (1955). At the same time, a witness may waive the privilege by failing to assert it, expressly disclaiming it, or testifying on the same matters concerning which he later claims the privilege. Deschler Ch 15 § 9. Thus, after testifying to an incriminating fact, a witness may not refuse to answer more questions on the same subject on the ground that such answers would further incriminate. *Rogers v United States*, 340 US 367 (1951).

### **Immunity Procedures**

Under a statute adopted in 1970, a witness who refuses to testify before a congressional committee on the basis of his privilege against self-incrimination may be granted immunity by court order and, under certain conditions, compelled to testify or provide information to the committee. Under the statute, the request for the court order must have been approved by two-thirds of the entire membership of the committee. 18 USC §§ 6002, 6005. Such statutes have been upheld as constitutional. *Application of U.S. Senate Select Committee on Presidential Campaign Activities*, D.C. D.C., 1973, 361 F Supp 1270. See also 6 Cannon § 354.

### **Under the Rules of the House**

A witness appearing at an investigative hearing before a committee of the House is entitled to certain rights or privileges under the rules of the House. See Rule XI clause 2(k). *Manual* § 712. Under these rules, the witness is entitled:

- To a copy of the committee rules.
- To be accompanied by counsel.
- To seek a closed hearing if the evidence tends to defame, degrade, or incriminate him.
- To terminate broadcast coverage of testimony being taken under subpoena (Rule XI clause 3(f)).
- To submit requests to subpoena additional witnesses.

- To submit brief and pertinent sworn statements in writing for inclusion in the committee record.
- To a transcript of his testimony if given in an open hearing.

Although the applicable rule permits witnesses to have counsel at investigative hearings, it is the witness, not counsel, who has ultimate responsibility for protecting his rights and invoking the procedural safeguards guaranteed under the rules of the House. The attorney for the witness may not, as a matter of right, present argument or make demands on the committee. See 89–2, Oct. 18, 1966, pp 27486–95.

### § 26. — Proceedings Against Recalcitrant Witnesses

An individual who fails or refuses to comply with a House subpoena may be cited for contempt of Congress. The Supreme Court has found the subpoena power to be an “indispensable ingredient” of the legislative powers granted to Congress by the Constitution. *Eastland v United States Servicemen’s Fund*, 421 US 491 (1975). Although the Constitution does not expressly grant Congress the power to punish witnesses for contempt, that power has been deemed an inherent attribute of the legislative authority of Congress. See *Anderson v Dunn*, 19 US 204 (1821). To supplement this inherent power, the Congress in 1857 adopted an alternative statutory contempt procedure; under this statute, the refusal to comply with a congressional subpoena is punishable by fine and imprisonment. 2 USC § 194. For comprehensive discussion, see CONTEMPT POWER.

### § 27. Media Coverage of Hearings and Meetings

Radio, television and still photography coverage of open committee hearings or meetings is governed by the House rules. Rule XI clause 3. *Manual* §§ 720–725. In the 104th Congress, the requirement that a committee vote to permit coverage of open meetings and hearings was eliminated. H. Res. 6, § 105, Jan. 4, 1995.

## E. Committee Reports

### § 28. In General

#### Necessity of Report; Chairman’s Duty to Report

It has been a rule of the House since 1880 that bills reported from a committee must be accompanied by written reports. Rule XVIII clause 2. Reported bills that are not accompanied by a written report are not placed

on a calendar and are not considered in the House except by unanimous consent. 8 Cannon § 2783.

The report of a committee is in the nature of argument or explanation. The report on a legislative measure does not itself come before the House for amendment or other specific action. 4 Hinds § 4674; Deschler Ch 17 § 58. And the Speaker makes no determinations as to the sufficiency of a report. 2 Hinds § 1339.

It is the duty of each committee chairman to “promptly” report measures approved by the committee to the House. Rule XI clause 2(l)(1). *Manual* § 713a. Under this rule, if the report on such a measure is not filed by the chairman of the committee, a majority of its members may file a written request for the filing of the report. Within seven calendar days (exclusive of the days on which the House is not in session) after the filing of the request, the committee report itself is to be filed. Excepted from this rule are certain reports of the Committee on Rules and reports on resolutions of inquiry. *Manual* § 713b.

### **Committee Authorization or Approval**

When a committee concludes consideration of a bill, a motion to order the measure reported is in order. 4 Hinds § 4667. In this respect, the House has adhered to the principle that the reporting of a measure must be authorized by the committee acting together at a formal meeting of the committee with a quorum present (4 Hinds § 4585; 8 Cannon § 2221); reports are admissible in the House only when authorized by a vote taken at a meeting with the committee actually assembled (8 Cannon §§ 2221, 2222, 2249).

Objection being made that the text of a report does not reflect the actions of a committee, the question as to the reception of the report is submitted to the House (4 Hinds § 4591); and if a bill is held improperly reported, the bill is not entitled to a place on the calendar (4 Hinds § 3117). But after the House has voted to consider a report (4 Hinds § 4598) or after consideration has begun in the House (7 Cannon § 2225), it is too late to raise the question of authorization or to question the validity of the committee’s action in reporting the bill (4 Hinds § 4599; 8 Cannon § 2223).

The rules of the House do not require that committees separately approve legislative reports. A point of order that a committee did not vote to approve a report as required by the rules of the committee is properly made in committee and not in the House. Deschler Ch 17 § 58.5.

### **Recommittal**

The failure of a committee report to comply with the House rules—such as the Ramseyer rule (*Manual* § 745)—relative thereto may result in auto-

matic recommittal of the bill if a point of order is sustained. See, for example, 8 Cannon § 2237. However, the committee may file a supplemental report to correct technical errors in its initial report, and recommittal would not be required in such a case. If the bill is recommitted because of a defective report, further proceedings are *de novo* and all committee formalities necessary to the first report are likewise necessary to authorize a second report. 8 Cannon § 2221.

### **Adverse or Unfavorable Reports**

A committee may report a bill adversely (*Manual* § 744) even though the committee originated the bill. 4 Hinds § 4659. A committee may also report a bill to the House with no recommendation for action (4 Hinds §§ 4661, 4662). If the committee is unable to agree on a recommendation for action, it may submit a statement of this fact in the report (4 Hinds § 4665), in which case the report may include minority views alone (2 Hinds § 945) or simply set forth the propositions representing the opposing contentions (3 Hinds § 2497; 4 Hinds § 4664).

### **Multiple Reports; Supplemental Reports**

The report of a committee must be confined to a single volume (§ 29, *infra*), and ordinarily only one report is filed on each bill. Indeed, it has been held that two reports may not be filed (from the Committee on Rules) to accompany the same rule or order of business. Deschler Ch 17 § 58.2. However, the rules permit the filing of a supplemental report to correct a technical error in a previous report, and unanimous consent is not required. Deschler Ch 17 § 64.1. The failure of a committee report to comply with the Ramseyer rule, for example, may be remedied by a supplemental report. 8 Cannon § 2247. But the authority to file a supplemental report to correct a technical error in a previous report does not include the authority to file a supplemental report to change a statement of legislative intent contained in the initial report. Deschler Ch 17 § 64.1 (note) or to include additional views not timely submitted for inclusion with the report. And unanimous consent is required for a committee to file a supplemental report containing substantive interpretations of a previously reported bill. 95–1, Oct. 25, 1977, p 35006.

### **Reporting Bills With Amendments; “Clean” Bills**

A committee may report a bill with various amendments for the consideration of the House. Where a bill has been extensively amended in the committee, its members may instruct the chairman to incorporate the changes into an amendment in the nature of a substitute or to introduce a

“clean” bill, which reflects the committee’s action. If the latter course is chosen, the new bill must be introduced through the hopper. In either case, the committee cannot vote to report until it has the perfected text before it. See 93–1, July 23, 1973, pp 25476–82.

### **§ 29. Form and Contents of Report; Inflationary Impact Statements, Cost Estimates, and Oversight Findings**

Committee reports are governed as to form and content by the rules of the House. 90–1, July 12, 1967, p 18558. Those rules require that committee reports be printed (*Manual* § 821) and confined to a single volume (*Manual* § 714). Verbal statements will not be received in the House as the report of a committee. 4 Hinds §§ 4654, 4655. Any amendments referred to in the report are keyed by page and line references to the measure as printed when originally referred; such references need not correspond to the pages and lines of the reported measure. Deschler Ch 17 § 59.2.

Matters which must be included in a committee report on any public bill or resolution include:

- The total number of votes cast in a roll call vote in committee for or against the reporting of the measure and on any amendment thereto, and the names of those voting for or against. *Manual* § 713d.
- An inflationary impact statement. *Manual* § 713f.
- Estimates and comparisons as to the costs anticipated in carrying out the measure over specified periods of time. *Manual* § 748b.
- Oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X. *Manual* § 713e.
- A summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight. *Manual* § 713e.
- A description of the measure’s applicability to the Legislative Branch under the Congressional Accountability Act of 1955. *Manual* § 713g.
- Identification and cost-estimates of federal mandates under the Unfunded Mandates Reform Act of 1995. *Manual* § 1007.
- Minority and/or supplementary views if properly submitted. *Manual* § 714.
- The statement required by the Congressional Budget Act of 1974, if the measure provides new budget authority or new or increased tax expenditures. *Manual* § 713e.
- The estimate and comparison prepared by the Congressional Budget Office (if timely submitted). *Manual* § 713e.

Reports of the Committee on Appropriations on general appropriation bills, and of the Committee on Rules, have additional requirements. *Manual* §§ 731, 844b.

### § 30. Comparative Prints; The Ramseyer Rule

#### Generally

The Ramseyer rule was first incorporated into the House rules in 1929. It was named for its author, C. William Ramseyer. 8 Cannon § 2234. This rule provides that whenever a committee reports a measure repealing or amending a statute, the committee report is to include the text of the statute and a comparative print showing the proposed omissions and insertions by stricken-through type and italics, parallel columns, or other appropriate typographical devices. *Manual* § 745. The purpose of the rule is to inform Members of any changes in existing law to occur through the proposed legislation. Deschler Ch 17 § 60; 88–1, Dec. 3, 1963, p 23036.

The Ramseyer rule requires that the statute proposed to be amended be quoted in the report; it is not sufficient that it is incorporated in the bill. 8 Cannon § 2238. However, a comparative print need only be prepared for the affected part of the law, assuming that the reported measure does not affect other parts of that law. Deschler Ch 17 § 60.6. If the bill amends existing law by the addition of a proviso, the report should quote in full the section immediately preceding the proposed amendment. 8 Cannon § 2237.

Where a committee reports a bill with amendments, the comparative print required by the rule must show the changes in existing law proposed by the bill as amended, rather than by the bill as introduced. 87–1, Sept. 22, 1961, p 20823. The rule is applied where there has been a multiple referral of a measure to two or more committees pursuant to Rule X clause 5 (*Manual* § 700).

#### Application of Rule

To fall within the purview of the Ramseyer rule, a bill must repeal or amend a statute in terms, and a general reference to the subject treated in a statute without proposing a specific amendment is not sufficient. 8 Cannon § 2235. Provisions in a bill which merely waive certain statutory requirements or grant an exemption therefrom are not specifically amendatory of existing law, and therefore are not subject to the Ramseyer rule requirements. Deschler Ch 17 § 60.7. Thus, the Ramseyer rule has been held inapplicable to a joint resolution extending the period for state ratification of a constitutional amendment submitted to the states, where the resolution did not specifically change the deadline for ratification, but merely extended the period “notwithstanding” any provision in the prior law. 95–2, Aug. 15, 1978, p 26204.

The Ramseyer rule is applicable whenever a committee “reports” a bill repealing or amending “any statute or part thereof.” *Manual* § 745. Thus the rule is not applicable to:

- A bill changing the rules of evidence for the District of Columbia courts. Deschler Ch 17 § 6.8.
- Bills discharged from a committee (as distinguished from bills reported by a committee). Deschler Ch 17 § 60.10.
- Bills amending simple resolutions. 8 Cannon § 2239.
- Special orders providing for the consideration of a bill. 8 Cannon § 2244.

The Ramseyer rule is not applicable to reports accompanying simple resolutions. 93–2, Sept. 30, 1974, p 32956. However, a Ramseyer-type comparative print is required under clause 4(d) of Rule XI whenever the Committee on Rules reports a resolution repealing or amending a rule of the House or part thereof. *Manual* § 731. This clause is applicable to resolutions reported from the Committee on Rules which propose the direct repeal or amendment of a rule of the House, but does not apply to resolutions which merely provide temporary waivers of rules during the consideration of particular legislative business. 94–1, Mar. 20, 1975, p 7677; 94–1, Mar. 24, 1975, p 8418. Nor does it apply to a special order providing for the consideration of a bill with textual modifications that would effect certain changes in House rules on enactment of the bill into law, but not itself repealing or amending any rule. 103–1, May 27, 1993, p \_\_\_\_.

The Ramseyer rule applies to general appropriation bills where such bills include legislative provisions (8 Cannon § 2241); indeed, appropriation bills are subject to a separate provision of the House rules requiring that the report contain a concise statement of the affect of any direct or indirect changes in the application of existing law. *Manual* § 844b.

### **Substantial Compliance**

A Ramseyer rule violation may occur even though the bill in question proposes but one minor and obvious change in existing law. 8 Cannon § 2236. Under the doctrine of substantial compliance, however, the Speaker has overruled Ramseyer points of order on the rationale that the committee had substantially complied with the requirements of the rule and deviations were minor and inconsequential. Deschler Ch 17 §§ 60.11–60.14. Thus the Speaker has upheld a report even though it contained errors in typography and punctuation, and failed to indicate a relatively insignificant date change. 89–1, July 26, 1965, p 18100.

**Points of Order**

The point of order that a report fails to comply with the Ramseyer rule is properly made when the bill is called up in the House and before the House has resolved into the Committee of the Whole for its consideration. 8 Cannon §§ 2243, 2245; Deschler Ch 17 §§ 60.15–60.18. The point of order does not lie in the Committee of the Whole. 89–2, July 25, 1966, p 16840. Thus, the proper time to raise the point of order is when the motion is made to go into the Committee of the Whole to consider the bill. If that motion is withdrawn, the Chair is not obliged to rule on the point of order. 96–1, Dec. 3, 1979, p 34385.

When a point of order is raised that a report is in violation of the Ramseyer rule, it is incumbent on the proponent of the point of order to cite the specific statute which will be amended by the pending bill. 8 Cannon § 2246.

A point of order will not lie against a committee report merely because the comparative print required by the Ramseyer rule includes laws which are not affected by the reported bill but which are included to give full information to the Members. 88–1, Dec. 3, 1963, p 23036.

Compliance with the Ramseyer rule may be waived by unanimous consent or by special rule. Deschler Ch 17 §§ 60.19, 60.20. However, a special order providing for the consideration of a bill, unless specifically waiving points of order, does not preclude the point of order that the report on such a bill fails to comply with the Ramseyer rule. 8 Cannon § 2245.

**Recommittal**

Where a report on a bill fails to comply with the provisions of the Ramseyer rule and a point of order is sustained on that ground, the bill is recommitted to the committee reporting it. 8 Cannon § 2237; Deschler Ch 17 § 60.2. Further proceedings are *de novo* and the bill must again be considered and reported by the committee as if no previous report had been made. 8 Cannon § 2249.

**§ 31. Printing; Referral to Calendars****Generally**

Unless a report is privileged for immediate consideration (§ 33, *infra*), it is delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker. *Manual* § 743. Privileged reports are filed from the floor while the House is in session and referred to the appropriate calendar and ordered printed by the Speaker. Deschler Ch 17 § 58.

Referrals, including sequential referrals, see INTRODUCTION AND REFERRAL.

### **Correction of Errors**

Under a rule of the House, a bill reported adversely is laid on the table unless the reporting committee or a Member requests its reference to a calendar. *Manual* §744. Nonprivileged reports on resolutions adversely reported are not printed unless a request is made that they be referred to a calendar. Deschler Ch 17 §59.1; 86–1, July 15, 1959, p 13493. But reports on certain kinds of resolutions, such as resolutions of inquiry, are considered privileged, and are reported as such, whether favorable or adverse, and are printed and referred. See *Manual* §857.

A “star print” of a committee report or reported bill is a reprint intended to correct errors in the first printing of the report. A “star print” may be authorized without House permission where the error was made by the Government Printing Office. 95–2, June 23, 1978, p 18806.

### **§ 32. Supplemental, Minority, and Additional Views**

The members of a committee who are in the minority may not make a report or present a proposition of legislation, but have the right to file views to accompany the report. 4 Hinds §§4601–4605. Unless filed with the report, minority views may be presented only by consent of the House (4 Hinds §4600; 8 Cannon §2231).

The House rules contain the requirement that committee reports include supplemental, additional, or minority views of any committee member who gives notice, at the time of the approval of the report, of his intent to file such views within three calendar days, not counting Saturdays, Sundays or legal holidays when the House is in session on those days and not counting the partial day on which the bill is ordered reported. Within the three-day time frame, the Member is entitled to file such views, in writing and signed by him, with the clerk of the committee. *Manual* §714. Under this rule, committee members may now file their views as a matter of right, and if one member makes a timely request for filing views, all other members of the committee may submit views for inclusion in the report up to the time that member submits his views. Deschler Ch 17 §64.

### **§ 33. Filing Reports**

Nonprivileged reports are filed by delivering them to the Clerk for reference to the calendars under the direction of the Speaker. *Manual* §743.

Privileged reports are filed from the floor and referred to the appropriate calendar by the Speaker. Deschler Ch 17 § 58.

Ordinarily, a committee report on a bill or other measure reported to the House must accompany the reported measure. *Manual* § 821. Permission to file a committee report at other times is sometimes obtained by unanimous consent. Deschler Ch 17 § 62. Permission to file a privileged report when the House is not in session may be obtained by unanimous consent (94-1, Oct. 9, 1975, p 32604) but not by motion (97-2, Dec. 17, 1982, p 31951).

Unanimous consent has been granted to permit a standing committee:

- To file a report after *sine die* adjournment. 87-2, Oct. 5, 1962, p 22618.
- To have until midnight to file a report. Deschler Ch 17 §§ 62.4-62.6.
- To file a report after the House has adjourned on a particular day. 93-2, Jan. 21, 1974, p 139.

The House may extend the time for a select committee to file a report pursuant to a simple resolution (94-2, Jan. 29, 1976, pp 1631-41) or by agreement to a unanimous-consent request (94-2, Aug. 2, 1976, p 25086). An extension of time to file has been given to a joint committee pursuant to a joint resolution (95-1, Feb. 7, 1977, p 3796) or to a unanimous-consent request agreed to in each House (86-1, Feb. 26, 1959, p 3049).

### § 34. Calling Up; Time to Report

#### Privileged and Nonprivileged Reports Distinguished

Certain committee reports may be called up as privileged under the rules and precedents of the House. If privileged, a report may be filed from the floor at any time; its consideration is preferential and does not require a special rule from the Rules Committee. Deschler Ch 17 § 63. The report may be privileged even though the measure in question is reported adversely. 6 Hinds § 413; 8 Cannon § 2310; Deschler Ch 17 § 63.3.

Privileged status is accorded to:

- Reports on Presidential vetoes. Deschler Ch 17 §§ 63.1, 63.2.
- Reports on impeachments. Deschler Ch 17 § 63.3.
- Reports on questions involving the privileges of the House, such as reports relating to the refusal of a witness to testify or produce documents. Deschler Ch 17 §§ 63.4-63.7.
- Reports by those committees specified by the House rules which are authorized to report at any time on particular matters, subject to applicable layover requirements. *Manual* § 726.

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- Reports which may be reported at any time by specific authorization of a House resolution. Deschler Ch 17 § 63.10.
- Reports on measures which may be reported at any time pursuant to statute, as in the case of certain resolutions of disapproval. Deschler Ch 17 § 63.11 (note).

As noted above, certain committees are, by rule of the House, given leave to report at any time on matters particularized in the rule. Rule XI clause 4(a). *Manual* § 726. This privilege to report at any time does not extend to matters not specified by the rule (4 Hinds § 4622; 8 Cannon § 2286). The committees with leave to report at any time on specified matters under this rule are shown in the table below:

<b>Committee</b>	<b>Eligible Matters and Measures</b>
Rules	Rules, joint rules, and the order of business.
Appropriations	General appropriation bills, certain joint resolutions continuing appropriations, but not appropriations for specific purposes (8 Cannon § 2285).
Budget	Budget concurrent resolutions under the Congressional Budget Act of 1974.
House Oversight	Enrolled bills; election contests; printing; noncurrent House records; contingent fund expenditures.
Standards of Official Conduct	Certain resolutions recommending action with respect to a Member, officer, or employee.

The right to report at any time is said to carry with it the right to consideration at any time (4 Hinds § 3131), subject to applicable layover requirements (see § 35, *infra*), provided it is not in conflict with other rules of the House or with some matter enjoying a higher privilege in the order of business. 8 Cannon § 2291. Measures reported under a leave to report at any time yield to questions of privilege (6 Cannon § 557) and to measures already given a priority by a special order (4 Hinds §§ 3175, 3176).

Where a committee has been given the privilege of reporting at any time with respect to a certain matter, it may report Senate bills as well as House bills under the privileged status given. Deschler Ch 17 § 63.10.

Nonprivileged reports are made by delivering them to the Clerk. *Manual* § 743. Reports privileged under the rules, on the other hand, must be made from the floor (4 Hinds § 3146; 8 Cannon § 2230) and lose their privilege when reported by delivery to the Clerk (unless subsequently reported from the floor). 8 Cannon § 2233. Reports accorded privileged status for consideration by statute are excepted from the general rule that privileged reports must be filed from the floor in order to preserve their privilege. Deschler Ch 17 § 63.11.

### **Who May Call Up; Reading**

A committee ordinarily authorizes its chairman to submit and call up its report (4 Hinds § 4669) and he may do so even though he has not concurred therein (4 Hinds § 4670). But the committee may authorize other members of the committee to present reports (4 Hinds § 4669) and under some circumstances minority members of the committee have been ordered to present the report of the committee. 4 Hinds §§ 4672, 4673; 8 Cannon § 2315. Reports are not normally read by the Clerk on the floor. Indeed, the reading of the report is in order only in the time of debate (5 Hinds §§ 5292, 5294), and a report may not be read by a Member in his debate time without leave of the House (5 Hinds § 5293).

### **Withdrawal**

The chairman of a committee, having made a report to the House in accordance with instructions from his committee, may not withdraw it except by consent of the House (4 Hinds § 4690; 8 Cannon § 2312). And when placed on the calendar, a bill is not subject to further consideration by the committee reporting it (8 Cannon §§ 2218, 2307).

### **§ 35. “Layover” Requirements**

With certain exceptions, the House rules require that a committee report on a measure or matter be available to Members for three calendar days (excluding Saturdays, Sundays, and legal holidays, unless in session) before the measure may be considered in the House. The rule permits consideration of a measure on the third day a report is available rather than on the fourth day following its availability. *Manual* § 715. The three-day rule runs anew from the time of availability of a supplemental report to correct a technical error in a previous report. Deschler Ch 17 § 64.1.

Exempt from the three-day layover requirement are:

- Reports taking up a question involving the privileges of the House or affecting the dignity and integrity of its proceedings. Deschler Ch 17 § 63.16.
- Reports from the Committee on Rules on the order of business (*Manual* § 715), such reports being subject to a separate one-day layover requirement. *Manual* § 729a.
- Reports from the Committee on House Oversight on committee expense resolutions, such reports being subject to a separate one-day layover requirement. *Manual* § 732b.
- Budget Committee reports on concurrent resolutions on the budget, which are subject to a five-day availability requirement and an additional one-day availability requirement for any Rules Committee report thereon. Congressional Budget Act of 1974 § 305(a)(1).
- Declarations of war or national emergency. *Manual* § 715.
- Resolutions of approval or disapproval and impending actions or determinations by a government agency (*Manual* § 715), such as the Federal Trade Commission. 97-2, May 26, 1982, pp 12027-30.

Points of order against consideration of a bill for failure of the report thereon to be available for three days may be waived pursuant to a resolution from the Committee on Rules (95-1, July 29, 1977, p 25653), which waiver may be called up the same day reported from Rules without a two-thirds vote (*Manual* § 715).

### § 36. Points of Order Relating to Reports

#### Generally

A point of order will lie in the House against consideration of a measure on the ground that the committee report on it does not include votes on the motion to report or on amendments offered in committee (§ 16, *supra*) or does not comply with other House rules, such as the Ramseyer rule (§ 31, *supra*) or the cost-estimate requirement (§ 29, *supra*). Deschler Ch 17 § 58. Other requirements that provide a basis for a point of order against a committee report include provisions relating to:

- The availability of the report (*Manual* § 715).
- The quorum to order reported (*Manual* § 713c).
- Oversight findings (*Manual* § 713e).
- Government Reform and Oversight summary *Manual* § 713e).
- Inflationary impact statement (*Manual* § 713f).
- Fiscal ramifications (*Manual* § 713e).
- Statement on cost of federal mandate (Congressional Budget Act, § 425).

Points of order against consideration for noncompliance with the rules in the preparation of the report should be made in the House; a point of order that a committee report is not in proper form does not lie in the Committee of the Whole. 89–2, July 25, 1966, pp 16840, 16842.

The Chair does not rule on points of order relating to the sufficiency, insufficiency, or legal effect of committee reports, they being matters for the House to decide. 4 Hinds § 1339; Deschler Ch 17 §§ 58.3, 58.4. And a point of order will not lie against a committee report on the ground that an agency has failed to report to Congress in accordance with statute. 90–1, July 12, 1967, p 18558.

Points of order as to reports on appropriation bills, see APPROPRIATIONS.

### **Waiving Points of Order**

Defects in the reporting of a bill by a standing committee may be remedied in a proper case by:

- Adoption of a special rule from the Committee on Rules waiving the point of order. Deschler Ch 18 § 58.6.
- The granting of unanimous consent for the consideration of a bill, thereby waiving points of order against it and its report, if so stated. Deschler Ch 17 § 58.
- Consideration of the bill under suspension of the rules. Deschler Ch 17 § 58.

The House may adopt a special rule waiving points of order against consideration of a bill for failure of the report thereon:

- To include the number of votes cast for and against the motion to order the bill reported on a roll call vote in committee, in violation of the applicable House rule (*Manual* § 713d). 95–1, Mar. 24, 1977, p 8911.
- To be contained in one volume. 95–1, July 29, 1977, p 25653.
- To comply with the cost-estimate requirements. Deschler Ch 17 § 61.1; 94–2, June 11, 1976, p 17782.
- To contain oversight findings in violation of a House rule. 95–1, June 8, 1977, p 17965.
- To comply with the reporting requirements of § 402(a) of the Budget Act. 94–2, Sept. 29, 1976, p 33564.