

# Officers

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## Research References

- 1 Hinds §§ 186–283
- 2 Hinds §§ 1307–1418
- 6 Cannon §§ 23–37, 247–282
- 1 Deschler Ch 6 §§ 1–22
- Manual §§ 428, 621–635, 650–653, 861

## § 1. House Officers; Elections

### In General

The Constitution directs that the House choose its Speaker and other officers. U.S. Const. art. I § 2. The “other officers” not specified by title in the Constitution have carried various titles. Currently, they are the Clerk, Sergeant at Arms, Chief Administrative Officer, and Chaplain. *Manual* § 635. Of these, only the Speaker has traditionally been chosen from the sitting membership of the House. *Manual* § 26. The Constitution does not limit his selection from among that class, but the practice has been invariably followed. The Speaker’s term of office thus expires at the end of his term of office as a Member, whereas the other House officers continue in office until their successors are chosen and qualified. 1 Hinds § 187.

In the 102d Congress, the position of the Postmaster, for many years an elected officer of the House, was eliminated with the adoption of the House Administrative Reform Resolution. *Manual* § 654a. The Doorkeeper of the House, formerly an elective officer of the House, was not reestab-

lished when the rules were adopted for the 104th Congress (*Manual* § 651d), the responsibilities of that position being transferred to the Sergeant at Arms.

There are other offices established in the rules of the House or by statute. Persons are appointed, not elected to these offices. Rule I contains authority for the offices the General Counsel (clause 11) and for an Historian (clause 10). Rule VI describes the duties of the Inspector General. The duties and appointing authority for the positions of Parliamentarian, Legislative Counsel and Law Revision Counsel are carried in law. See *Manual* §§ 992, 996.

### **Election of Speaker**

Under the modern practice, the Speaker is elected by *viva voce* vote on a roll call by a majority of those present (1 Hinds § 204; *Manual* § 27). The Clerk appoints tellers for this election but the House, and not the Clerk, decides by what method it shall elect. 1 Hinds § 210. The motion to proceed to the election of Speaker is privileged (8 Cannon § 3883) and debatable unless the previous question be ordered (*Manual* § 312). The House may ask candidates for Speaker to state their views before proceeding to election. 1 Hinds § 218.

In two instances the House chose a Speaker by plurality of votes, but confirmed the choice by majority vote. In 1849, the House had been in session 19 days without being able to elect a Speaker, no candidate having received a majority of the votes cast. The voting was *viva voce*, each Member when called naming the candidate for whom he voted. Finally, after the fifty-ninth ballot, the House adopted a resolution declaring the Speaker to be elected by a plurality. 1 Hinds § 221. In 1856, the House was again in the midst of a struggle over the election of a Speaker. One hundred and twenty-nine ballots had been taken without any candidate receiving the majority of the votes cast. The House then adopted a resolution permitting the election to be decided by a plurality. 1 Hinds § 222.

### **Election of Other Officers**

The Clerk, Sergeant at Arms, Chief Administrative Officer, and Chaplain are elected for each Congress by resolution. Deschler Ch 6 § 16 (with forms); 93–1, Jan. 3, 1973, p 16. At the commencement of a Congress, each party's caucus selects one nominee for each such office. The majority submits its slate of nominees and the minority usually submits a substitute resolution containing its slate. The House then votes on these resolutions (Deschler Ch 6 § 16), which may be offered by the caucus chairmen (92–2, Sept. 25, 1972, p 8718). Such a resolution is offered from the floor as

privileged (92–2, June 21, 1972, p 21691), and may be divided for a separate vote for the Chaplain, an uncontested office (95–1, Jan. 4, 1977, p 52).

### **Oath**

Each officer of the House takes the oath prescribed by law. 5 USC § 3331 (with form). The oath is administered to them by the Speaker. Deschler Ch 6 § 17. An officer elected to hold an additional office concurrently takes a separate oath for the additional office. Deschler Ch 6 § 17.1. The oath is administered by the Speaker to those officers who have been elected by the House (92–2, Sept. 25, 1972, p 8718; 94–1, Dec. 17, 1975, p 41324), and sometimes to those who have been appointed on a temporary basis (92–2, June 30, 1972, p 23665; 94–1, Nov. 17, 1975, p 36901), although generally an appointee does not appear at the bar to take the oath but subscribes thereto in writing when he accepts the appointment. Deschler Ch 6 § 17.2; 89–2, Mar. 14, 1966, p 5712. The oath has been administered to an officer-elect prior to the effective date of his election. 92–2, June 26, 1972, p 22387. Generally, see OATHS.

### **§ 2. Removal From Office**

Both the Speaker and the House have the authority to remove the Clerk, Sergeant at Arms, and Chief Administrative Officer. Rule II. *Manual* § 635. An officer of the House may be removed from office pursuant to the adoption of a simple resolution (1 Hinds §§ 288–290), which may be offered as a matter of privilege (1 Hinds § 284; 6 Cannon § 35). The Speaker may be removed at the will of the House. *Manual* § 315. As a basis for removal, the House has considered allegations:

- That the Clerk altered and falsified a House document (1 Hinds § 284).
- That the Clerk was negligent in the administration of the contingent fund (1 Hinds § 283) or had misappropriated House funds (1 Hinds § 287).
- That an officer was guilty of misconduct or corruption in office (1 Hinds §§ 288, 289).

### **§ 3. The Speaker**

The Speaker is the Presiding Officer of the House, and is charged with numerous duties and responsibilities by law and by the House rules. His term of office begins on his election and the taking of his oath of office. The term ends on the expiration of the Congress in which he was elected, unless he has resigned, died, or been removed from office. Deschler Ch 6 § 1. He cannot serve for more than four consecutive Congresses. Rule I clause 7(b) (adopted in 1995).

As the Presiding Officer of the House, the Speaker maintains order (*Manual* § 622), manages its proceedings, and governs the administration of its business. Deschler Ch 6 §§ 2–8. The major functions of the Speaker with respect to the consideration of measures on the floor include recognizing Members who seek to address the House (*Manual* § 749), construing and applying the House rules (*Manual* § 624), and putting the question on matters arising on the floor for a vote (*Manual* § 629).

The Speaker's role is an impartial one and his rulings serve to protect the rights of the minority. 88–1, June 4, 1963, pp 10151–65. In seeking to protect the interests of the minority, he has even asked unanimous consent that an order of the House be vacated where the circumstances so require. 89–1, May 18, 1965, p 10871.

#### § 4. — Jurisdiction and Duties; Rulings

The Speaker presides over all regularly scheduled House business. His duties include:

- Calls to order and the approval of the Journal. *Manual* § 621.
- The reference of bills and other matters to committee. *Manual* § 700.
- The disposition of business on the Speaker's table. *Manual* §§ 882, 883.
- The designation of a Speaker pro tempore (*Manual* § 633), and the appointment of Chairmen of the Committee of the Whole (*Manual* § 861a).
- Recognizing Members, putting unanimous-consent requests, and stating motions. Deschler Ch 6 §§ 3.14 *et seq.*
- Supervision of the timing of debate and other proceedings in the House. Deschler Ch 6 § 3.25.
- Ruling on points of order and answering parliamentary inquiries. Deschler Ch 6 § 3.
- Making appointments pursuant to statute, the House rules, and House resolutions (Deschler Ch 5 § 6). Appointments to committees, see COMMITTEES.
- Certification to a U.S. Attorney of persons found to be in contempt of a House committee. Deschler Ch 6 §§ 3.40 *et seq.*
- Declaring the House in recess pursuant to his inherent power in the event of an emergency (Deschler Ch 6 § 3.44), or pursuant to the House rules or to a House resolution authorizing him to take such action (See RECESS).

The Speaker also:

- Signs various documents, including warrants and subpoenas. *Manual* § 624.
- Makes preliminary decisions as to questions of privilege. 3 Hinds §§ 2649, 2650, 2654.
- Determines the presence of a quorum, conducts quorum counts, and counts certain votes. 4 Hinds § 2932; *Manual* §§ 55, 629, 810.

- Announces the absence of a quorum without unnecessary delay. 6 Cannon § 652.
- Maintains order in debate. *Manual* § 760.
- Administers censure by direction of the House. 6 Cannon §§ 236, 237.
- Designates Members to travel on official business of the House. *Manual* § 634b.
- Appoints Members to conference committees. *Manual* § 536.
- Declares the House adjourned when the hour previously fixed for adjournment arrives. 5 Hinds § 6735.

Many matters have been held to be beyond the scope of the Speaker's responsibility under the rules. The Speaker does not:

- Construe the legislative effect of a pending measure (*Manual* § 627) or the merits thereof (Deschler Ch 6 § 4.20).
- Respond to hypothetical questions (Deschler Ch 6 §§ 4.13 *et seq.*; *Manual* § 627); render anticipatory rulings on amendments (96–1, May 9, 1979, p 10486), or answer inquiries based on hypothetical assumptions (Deschler Ch 6 § 4.14).
- Determine questions that are within the province of the Chairman of the Committee of the Whole (5 Hinds § 6987; *Manual* § 846b).
- Pass on the constitutionality of the House rules (95–1, Sept. 8, 1977, p 28123; 95–1, Sept. 12, 1977, p 28801) or of amendments offered to pending bills (95–2, May 22, 1978, p 13325), or render other judgments on the validity of pending legislation (8 Cannon § 2225; 94–2, Sept. 22, 1976, p 31874).
- Resolve questions as to the consistency of an amendment with the measure to which it is offered (*Manual* § 466), or with an amendment which has already been adopted (5 Hinds § 5781; 95–1, Sept. 15, 1977, p 29440).
- Answer inquiries as to the availability or meaning of amendments not yet offered. 97–1, June 25, 1981, p 14082.
- Decide whether a Member should be allowed to display an exhibit in debate (Deschler Ch 6 § 4.10), except under the Speaker's duty to preserve decorum (*Manual* § 622).
- Rule on the sufficiency or effect of committee reports (Deschler Ch 6 §§ 4.22, 4.23; *Manual* § 627).
- Rule on ambiguities in legislative language. Deschler Ch 6 § 4.24.
- Construe the consequences of a pending vote. Deschler Ch 6 §§ 4.27, 4.28.
- Respond to parliamentary inquiries as to whether the failure of House conferees to follow a proposed course of action would be beyond their scope of authority. 8 Cannon § 2246; 97–1, Oct. 29, 1981, p 26049.
- Rule out bills because they are already before the House in another form. 2 Hinds §§ 1325, 1327.
- Determine whether a Member should be censured (2 Hinds § 1275) or whether an office he holds is incompatible with his membership (6 Cannon § 253), these being matters for the House to decide.

## § 5. — Participation in Debate and Voting

### Debate

Although the Speaker's usual role is that of the Presiding Officer, there have been many instances in which he has made a statement from the Chair or where he has relinquished the Chair and participated in the debate on the floor. *Manual* § 353. See also 86–2, June 23, 1960, p 14088; 87–2, May 8, 1962, p 7981; 88–2, June 18, 1964, p 14344. He may take the floor for purposes of debate both in the House (Deschler Ch 6 §§ 5.1, 5.2) and in the Committee of the Whole (86–2, Aug. 31, 1960, p 18734; 87–2, Mar. 29, 1962, p 5398; 87–2, May 8, 1962, p 7962). If the Speaker is to participate in debate on the floor of the House, it is his practice to call another Member to the Chair to serve as Speaker pro tempore. 2 Hinds § 1360; *Manual* § 358.

### Voting

Under the early rules of the House, the Speaker was barred from voting except under certain circumstances. 5 Hinds § 5964. Today, the Speakers have the same right as other Members to vote but rarely exercise it. *Manual* § 632. Under the modern House rules, the Speaker may vote on any matter that comes before the House. He is required to vote where his vote would be decisive or where the House is engaged in voting by ballot. Rule I clause 6. *Manual* § 632. The duty of giving a decisive vote may be exercised after the intervention of other business, if a correction of the roll shows a condition wherein his vote would be decisive. 5 Hinds §§ 6061–6063. On an electronic vote, the Chair directs the Clerk to record him and verifies that instruction by submitting a vote card. 101–2, Oct. 17, 1990, p \_\_\_\_.

## § 6. — The Speaker Pro Tempore

### Appointment or Election

A Speaker pro tempore is usually designated by the Speaker or elected by the House. Less frequently, he is designated by the Speaker and approved by the House. Deschler Ch 6 §§ 10 *et seq.* For a period not to exceed three legislative days, he is designated by the Speaker; for longer periods, the Speaker pro tempore is approved or elected by the House. *Manual* §§ 633, 634. A Member is sometimes designated Speaker pro tempore by the Speaker, and then, subsequently, is elected by the House. 93–2, Feb. 20, 1974, p 3514.

A Speaker pro tempore is elected pursuant to resolution (89–2, Mar. 15, 1966, p 5823; 94–2, May 21, 1976, p 15085), which may be offered by the

chairman of the caucus (89–2, Jan. 10, 1966, p 60) or by the Majority Leader (94–1, June 26, 1975, p 20967). A Speaker pro tempore by designation leaves the Chair pending the offering of a resolution electing him as Speaker pro tempore. 89–2, Jan. 10, 1966, p 6.

### **Oath of Office**

The oath of office is administered to an elected Speaker pro tempore, but not to a designated Speaker pro tempore. Deschler Ch 6 § 11. The oath is administered to an elected Speaker pro tempore by the Speaker himself (96–1, Dec. 20, 1979, pp 37317, 37318), by the Dean of the House (94–1, Mar. 26, 1975, p 8947), or by another Member (96–1, Nov. 5, 1979, p 30933).

### **Who May Serve**

The Speaker pro tempore must under the rules be a Member of the House. *Manual* § 633. He may be, and usually is, a member of the majority party (97–1, Nov. 23, 1981, p 28897), such as the Majority Leader (87–1, Sept. 27, 1961, p 21545; 97–1, Dec. 16, 1981, p 31850), or the Majority Whip (88–1, Nov. 18, 1963, p 22015), but the Dean of the House has served in that capacity (89–1, Jan. 19, 1965, p 946), and, on rare ceremonial occasions, the Minority Leader has been named as Speaker pro tempore (87–1, June 12, 1961, p 10035).

## **§ 7. — Powers and Functions**

### **Generally**

The Speaker pro tempore, as the occupant of the Chair, exercises many functions that would normally fall within the purview of the presiding officer. Routine functions that are within the scope of authority of a Speaker pro tempore are calling the House to order, making various announcements, answering parliamentary inquiries, putting the question, counting for a quorum, ruling on points of order, and designating another Speaker pro tempore. Deschler Ch 6 §§ 9, 10. An elected Speaker pro tempore may also administer the oath of office to a Member-elect. Deschler Ch 6 §§ 12.8, 14.8.

### **Designated Speaker pro tempore**

The authority of a Speaker pro tempore to exercise certain powers depends on whether he is designated, designated and approved, or elected. The powers of a designated Speaker pro tempore, as compared with those of an elected Speaker pro tempore, are relatively limited. Deschler Ch 6 § 10.

## § 8

### HOUSE PRACTICE

Absent unanimous consent or specific House approval, a designated Speaker pro tempore may not:

- Refer Presidential messages to committee. 89–2, Sept. 8, 1966, p 22049; 89–2, Jan. 24, 1966, p 909; 90–1, Aug. 31, 1967, p 24843.
- Announce appointments made by the Speaker pursuant to law. 96–1, Jan. 31, 1979, p 1511.
- Appoint conferees or make appointments of additional conferees. Deschler Ch 6 §§ 12.9, 12.10.
- Appoint Members to attend a funeral. Deschler Ch 6 § 12.14.

Under the former practice, only an elected Speaker pro tempore could sign enrolled bills in the absence of the Speaker. 96–1, Nov. 5, 1979, p 30933. The House in the 99th Congress amended Rule I clause 7 to authorize the Speaker to designate with the approval of the House a Member to sign enrolled bills as Speaker pro tempore (without being elected by the House). 99–1, Jan. 3, 1985, p 394.

#### **Elected Speaker pro tempore**

An elected Speaker pro tempore assumes a much greater scope of authority from the Speaker than a designated Speaker pro tempore. He may, for example, appoint conferees, appoint committees to inform the President of a pending adjournment, and preside at a joint session of Congress. Deschler Ch 6 § 14.

#### **§ 8. — Term of Office**

The term of office of a Speaker pro tempore may be for a limited time, such as one or two days (Deschler Ch 6 § 11) or only for a brief period during a day (Deschler Ch 6 § 11.7), but for periods of longer than three days, the approval of the House is required. *Manual* § 633. Such approval may be given by unanimous consent (Deschler Ch 6 § 11.14) or by resolution (94–1, Mar. 26, 1975, p 8947). This period may be extended beyond *sine die* adjournment to a day certain (97–1, Dec. 16, 1981, p 31850). The term of office normally ends when the Speaker resumes the Chair. Deschler Ch 6 § 11.

#### **§ 9. Other House Officers**

##### **The Clerk**

The Clerk has specific responsibilities spelled out in House rules, in statutes, or as delegated to him by the House. He presides when a new Congress convenes (Rule III clause 1; *Manual* §§ 637–639); he has duties related to the conduct of House business, and he or his employees have respon-

sibilities relating to the processing of bills, the preparation of the Journal, and the taking and tallying of votes. To assist the House in its consideration of measures, the Clerk reads bills (*Manual* § 428), reads names alphabetically during the taking of certain votes and elections (*Manual* § 765), notes all questions of order and decisions thereon and places them in the Journal (*Manual* § 641), reports disorderly words of a Member who has been called to order (*Manual* § 761), certifies to the passage of all bills and resolutions (*Manual* § 643), makes corrections during engrossment (*Manual* § 479), and presents enrolled bills to the Speaker for signature and transmittal to the Senate (*Manual* § 575).

The Clerk also announces pairs after votes (*Manual* § 660), calls the Corrections Calendar (*Manual* § 746), reads motions (*Manual* § 776), receives petitions and private bills (*Manual* § 849), disseminates copies of amendments offered in the Committee of the Whole (*Manual* § 870), and provides a place where Members may sign discharge petitions (*Manual* § 908). The Clerk also has jurisdiction over the official reporters of the House, subject to the direction and control of the Speaker. *Manual* § 923.

In one instance, the Clerk carried out the duties of his own office as well as those of the Sergeant at Arms, having been elected to serve concurrently as Sergeant at Arms following the death of the incumbent. Deschler Ch 6 § 16.3.

The Clerk may designate and authorize one or more of his employees to perform the duties of his office during his absence, except for such duties as are imposed on him by statute. *Manual* § 647. The designation is laid before the House by the Speaker. 89–1, Feb. 16, 1965, p 2759; 92–1, Jan. 29, 1971, p 973; 95–1, Jan. 4, 1977, p 74. The designation may provide that such authorization is to remain in effect until revoked. 91–1, Oct. 29, 1969, p 32076.

### **Sergeant at Arms**

The duties of the Sergeant at Arms on the floor are prescribed by the House rules (Rule IV, *Manual* § 648) and by statute (2 USC § 79). Under these provisions, the Sergeant at Arms maintains order, and executes arrest warrants for persons cited for contempt of the House or a committee. In addition, he enforces the prohibition against Members walking across or out of the Hall of the House while the Speaker is addressing the House (*Manual* § 763), appoints officers to send for and arrest absent Members when so ordered by the Speaker under Rule XV clause 2 (*Manual* § 768), and brings absent Members before the House (*Manual* § 773).

**Chief Administrative Officer**

The Chief Administrative Officer of the House has the operational and financial responsibility for functions assigned to him by the Speaker and the Committee on House Oversight. He is subject to policy direction and oversight of the Speaker and the committee. He reports to the Speaker and to the committee. He reports semiannually on the financial and operational status of each function under his jurisdiction. Rule V, adopted in 1995.

**The Chaplain**

The Chaplain is responsible for offering a prayer at commencement of each day's sitting of the House. *Manual* § 655. The prayer, which does not require a quorum (Deschler Ch 6 § 21.1), is offered daily, whether the House had adjourned until the next day or recessed at its previous sitting. Deschler Ch 6 § 21.2.

There are often "guest chaplains." The daily prayer has been offered by visiting clergy of various denominations and nationalities. 92-1, Dec. 6, 1971, p 44882; 93-1, Oct. 23, 1973, p 34818. In the absence of the Chaplain, the prayer has been offered by a Member who was an ordained minister. 93-1, May 31, 1973, p 17441.

**§ 10. Vacancies**

The Speaker may make temporary appointments to fill vacancies in the offices of the Clerk, the Sergeant at Arms and the Chaplain. 2 USC § 75a-1. Pursuant to this authority, the Speaker has temporarily filled vacancies caused by the death of the Chaplain (89-2, Mar. 14, 1966, p 7512), or by the resignation of the Clerk (94-1, Dec. 17, 1975, p 41324), or Sergeant at Arms (102-2, Mar. 12, 1992, p \_\_\_\_). Such appointments are effective until such time as the House acts by the adoption of a resolution to fill the vacancy on a permanent basis. Such a resolution, which may be offered by the chairman of the party caucus, is privileged. 94-1, Dec. 17, 1975, p 41324.

The resignation of an elected officer of the House is subject to acceptance by the House. 102-2, Mar. 12, 1992, p \_\_\_\_.