

## C. HOUSE OFFICERS

## § 15. Qualifications

This division<sup>(13)</sup> discusses the officers of the House (other than the Speaker and Speaker pro tempore)—the Clerk, Sergeant at Arms, Doorkeeper, Postmaster<sup>(14)</sup> and Chaplain; it discusses their election,<sup>(15)</sup> compensation,<sup>(16)</sup> duties,<sup>(17)</sup> and the problem of vacancies and the selection of successors.<sup>(18)</sup>

Every officer of the Congress is authorized to determine the qualifications of all individuals before appointing them to subordinate positions and to discipline any employee under his supervision.<sup>(19)</sup> And any officer who violates the statutory prohibitions

13. Generally see 1 Hinds' Precedents Ch. 6 and 6 Cannon's Precedents Ch. 153, for precedents prior to 1936 which relate to House officers.

14. The Postmaster, whose duties are outlined in Rule VI of the *House Rules and Manual* § 654 (1973), is an officer of the House. See 1 Hinds' Precedents §§ 269–271 and 6 Cannon's Precedents § 34.

15. See § 16, *infra*.

16. See § 17, *infra*.

17. See §§ 18–21, *infra*.

18. See § 22, *infra*.

See also Ch. 37, *infra*, relating to resignations, and Ch. 38, *infra*, relating to deaths of officers.

19. 2 USCA § 60–1(a).

against assigning employees to positions for which they were not appointed,<sup>(20)</sup> against dividing salaries,<sup>(1)</sup> or against subletting duties of employees<sup>(2)</sup> may be removed from office.<sup>(3)</sup>

The House rules provide that no person who is an agent for the prosecution of any claim against the government, or who is interested in such claim other than as an original claimant, may serve as an officer or continue as an employee of the House.<sup>(4)</sup>

## § 16. Election

Although the Constitution<sup>(5)</sup> provides that, "The House . . . shall choose their Speaker and other officers . . .", it neither names the officers nor sets forth their method of selection. This gap has been filled by Rule II of the *House Rules and Manual* which provides that the Clerk, Sergeant at Arms, Doorkeeper, Postmaster, and Chaplain shall be elected "by viva voce vote" at the commence-

20. 2 USC § 85.

1. 2 USC § 86.

2. 2 USC § 87.

3. 2 USCA § 90.

4. Rule XLI, *House Rules and Manual* § 937 (1973).

5. U.S. Const. art. I, § 2.

ment of each Congress.<sup>(6)</sup> Despite this language, officers are usually chosen by resolution.<sup>(7)</sup>

At the commencement of a Congress, each party's caucus selects one nominee for each office.<sup>(8)</sup> The majority submits its slate of nominees and the minority usually submits a substitute resolution containing its slate.<sup>(9)</sup> The House then votes on these resolutions. Because of this practice, officers are actually chosen by party caucuses.

### ***Procedure at Commencement of Congress***

#### **§ 16.1 The House elects its officers by resolution.**

At the commencement of the 92d Congress, the chairman of the majority party caucus offered a resolution containing names of persons selected by it to serve as House officers:<sup>(10)</sup>

6. See 1 Hinds' Precedents § 187 for origin of the provision dealing with viva voce vote.
7. See §§ 16.1 et seq.
8. See Ch. 3, supra, for a discussion of the nomination of House officers in the party caucus.
9. See for example, § 16.1, infra, for an instance in which resolutions were offered. But see 111 CONG. REC. 20, 89th Cong. 1st Sess., Jan. 4, 1965, in which the minority did not offer a substitute resolution.
10. 117 CONG. REC. 13, 92d Cong. 1st Sess., Jan. 21, 1971.

MR. [OLIN E.] TEAGUE of Texas [Chairman of the Democratic Caucus]: Mr. Speaker, I offer a resolution (H. Res. 1) and ask for its immediate consideration.

The Clerk read the resolution as follows:

#### H. RES. 1

*Resolved*, That W. Pat Jennings, of the Commonwealth of Virginia, be, and he is hereby, chosen Clerk of the House of Representatives;

That Zeake W. Johnson, Jr., of the State of Tennessee, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives;

That William M. Miller, of the State of Mississippi, be, and he is hereby, chosen Doorkeeper of the House of Representatives;

That H. H. Morris, of the Commonwealth of Kentucky, be, and he is hereby, chosen Postmaster of the House of Representatives;

That Reverend Edward O. Latch D.D., of the District of Columbia, be, and he is hereby, chosen Chaplain of the House of Representatives.

Following introduction of this resolution, the chairman of the minority party caucus,<sup>(11)</sup> offered a substitute amendment containing the names of persons selected by the minority caucus to serve as officers:

MR. [JOHN B.] ANDERSON of Illinois [Chairman of the Republican Conference]: Mr. Speaker, I offer a substitute amendment. . . .

The Clerk read the substitute amendment, as follows:

11. Compare 111 CONG. REC. 20, 89th Cong. 1st Sess., Jan. 4, 1965, for an instance in which the minority did not offer a substitute amendment.

Amendment offered by Mr. Anderson of Illinois as a substitute for the remainder of House Resolution 1:

*Resolved*, That Joe Bartlett, of the State of Ohio, be, and he is hereby, chosen Clerk of the House of Representatives;

"That Robert T. Hartmann, of the State of Maryland, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives;

"That William R. Bonsell, of the Commonwealth of Pennsylvania, be, and he is hereby, chosen Doorkeeper of the House of Representatives;

"That Tommy Lee Winebrenner, of the State of Indiana, be, and he is hereby, chosen Postmaster of the House of Representatives."

After the substitute amendment was offered, the Speaker called for votes first on the amendment and then on the majority resolution:

THE SPEAKER [John W. McCormack, of Massachusetts]: The question is on the substitute amendment.

The substitute amendment was rejected.

THE SPEAKER: The question is on the resolution offered by the gentleman from Texas (Mr. Teague).

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER: Will the officers elected present themselves at the bar of the House and take the oath of office?

The officers-elect presented themselves at the bar of the House and took the oath of office.

**§ 16.2 Where the minority does not contest the majority's nominee for Chaplain, it may request a separate vote for that office.**

Under the normal procedure for electing House officers, the chairman of the majority caucus offers a resolution which contains the names of the party's nominees for officers. The chairman of the minority caucus offers a substitute resolution containing the names of his party's nominees. However, when the minority does not contest the majority's nominee for a particular office, the chairman of the minority caucus may ask for a division of the House so that Members may have a separate vote on the uncontested office.

For example, on Jan. 10, 1967,<sup>(12)</sup> and Jan. 3, 1969,<sup>(13)</sup> members of the minority, Mr. Leslie C. Arends, of Illinois, and Mr. John B. Anderson, of Illinois, respectively, requested a division on the resolution so that a separate and unanimous vote could be held for the office of the Chaplain because the minority caucus, the Republican Conference, did not offer a candidate for that office. Thus, Mr. Anderson made the following statement.<sup>(14)</sup>

MR. ANDERSON of Illinois [Chairman of the Republican Conference]: Mr.

12. 113 CONG. REC. 27, 90th Cong. 1st Sess.

13. 115 CONG. REC. 35, 91st Cong. 1st Sess.

14. 115 CONG. REC. 34, 91st Cong. 1st Sess., Jan. 3, 1969.

Speaker, I have a substitute to offer to the resolution [majority resolution for the election of officers], but before offering the substitute I request that there be a division on the question on the resolution so that we may have a separate vote on the office of Chaplain.

THE SPEAKER [John W. McCormack, of Massachusetts]: The gentleman from Illinois demands a division in relation to the election of the Chaplain.

The question is on agreeing to that portion of the resolution providing for the election of the Chaplain [which was agreed to]. . . .

### *Sergeant at Arms*

#### **§ 16.3 The Clerk has been elected to serve concurrently as Sergeant at Arms, following the death of the incumbent.**

On July 8, 1953,<sup>(15)</sup> following the death that day of the Sergeant at Arms, William F. Russell, a Member, Charles A. Halleck, of Indiana, offered and the House agreed to the following resolution (H. Res. 323):

*Resolved*, That Lyle O. Snader, of the State of Illinois, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives to serve in that capacity until another person is chosen by the House of Representatives to be and duly qualifies as Sergeant at Arms: *Provided*, That the said Lyle O. Snader shall serve as Sergeant at Arms notwithstanding his concurrent incum-

15. 99 CONG. REC. 8242, 83d Cong. 1st Sess.

bency as Clerk of the House of Representatives, but for his additional duties as Sergeant at Arms he shall receive no compensation additional to that he receives as Clerk of the House of Representatives.

On the same date, the House<sup>(16)</sup> and Senate<sup>(17)</sup> passed the following joint resolution (H.J. Res. 292):<sup>(18)</sup>

*Resolved*. That Lyle O. Snader, of the State of Illinois, be, and he is hereby, authorized, notwithstanding the provisions of any other law, to serve concurrently as Clerk and Sergeant at Arms of the House of Representatives until another person is chosen by the House of Representatives to be and duly qualifies as Sergeant at Arms; and while the said Lyle O. Snader is so serving the compensation received by him as Clerk of the House of Representatives shall be in full discharge for any services rendered by him to the House of Representatives during such period of concurrent services.

The joint resolution was offered in the House by Mr. Halleck, the Majority Leader.

#### **§ 16.4 A temporary appointee to the office of Sergeant at Arms has been elected Sergeant at Arms.**

16. *Id.*

17. 99 CONG. REC. 8203, 83d Cong. 1st Sess.

18. *Parliamentarian's Note*: This joint resolution was enacted to remove doubt about the necessity to pay dual compensation, a practice prohibited by statute (5 USC § 58). See also § 17.3, *infra*.

On Jan. 11, 1954,<sup>(19)</sup> the House agreed to the following resolution:

*Resolved*, That William R. Bonsell of the State of Pennsylvania, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives.

Mr. Bonsell had served as acting Sergeant at Arms since appointment by the Speaker, pursuant to 2 USCA 75a-1(a), on Sept. 15, 1953.<sup>(20)</sup>

**§ 16.5 A Sergeant at Arms was elected following the resignation of the incumbent.**

On Sept. 25, 1972,<sup>(1)</sup> the Sergeant at Arms, Zeake W. Johnson, Jr., of Tennessee, having tendered his resignation, Mr. Olin E. Teague of Texas, offered and the House agreed to the following resolution (H. Res. 1134):

*Resolved*, That Kenneth R. Harding of the Commonwealth of Virginia be, and he is hereby chosen Sergeant at Arms of the House of Representatives, effective on October 1, 1972.

Mr. Harding, the Sergeant at Arms-elect, presented himself at the bar of the House and took the oath of office.<sup>(2)</sup>

19. 100 CONG. REC. 134, 83d Cong. 2d Sess.

20. See §22.2, *infra*, for discussion of appointment of Mr. Bonsell as acting Sergeant at Arms.

1. 118 CONG. REC. 31999, 32000, 92d Cong. 2d Sess.

2. See §22.3, *infra*, for discussion of circumstances preceding the election of Mr. Harding.

***Doorkeeper***

**§ 16.6 A Doorkeeper was elected following the death of the incumbent.**

On Feb. 5, 1943,<sup>(3)</sup> the House agreed to the following resolution:

*Resolved*, That Ralph R. Roberts, of the State of Indiana, be, and he is hereby, chosen Doorkeeper of the House of Representatives.

The incumbent Doorkeeper, Joseph J. Sinnott, had died on Jan. 27, 1943.<sup>(4)</sup>

***Chaplain***

**§ 16.7 A Chaplain who resigned because of illness was elected Chaplain emeritus.**

On Jan. 30, 1950,<sup>(5)</sup> Mr. John W. McCormack, of Massachusetts, offered and the House agreed to the following House resolution (H. Res. 453):

*Resolved*, That immediately following his resignation as Chaplain of the House of Representatives, James Shera Montgomery be, and he is hereby, appointed Chaplain emeritus of the House of Representatives, with salary at the basic rate of \$2,350 per annum, payable monthly, to be paid out of the contingent fund

3. 89 CONG. REC. 634, 78th Cong. 1st Sess.

4. See 89 CONG. REC. 421, 78th Cong. 1st Sess., Jan. 28, 1943, for announcement of Doorkeeper's death.

5. 96 CONG. REC. 1095, 81st Cong. 2d Sess.

of the House until otherwise provided by law.<sup>(6)</sup>

**§ 16.8 A Chaplain was elected following resignation of the incumbent.**

On Jan. 30, 1950,<sup>(7)</sup> Mr. Francis E. Walter, of Pennsylvania, offered and the House agreed to the following House resolution (H. Res. 454):

*Resolved*, That Rev. Bernard Braskamp, of the District of Columbia, be, and he is hereby, chosen Chaplain of the House of Representatives.

Rev. Braskamp succeeded Rev. Montgomery.

**§ 16.9 A temporary appointee as Chaplain during one Congress was elected Chaplain at the commencement of the next Congress.**

On Jan. 10, 1967,<sup>(8)</sup> at the commencement of the 90th Congress,

6. After the House agreed to the above resolution, the Speaker laid before the House a letter of resignation from Rev. Montgomery which indicated that the reason for his action was illness. The resignation was accepted without objection.

See also 6 Cannon's Precedents §31, for letter of resignation of Rev. Henry N. Couden as Chaplain and House resolution electing him Chaplain emeritus. Rev. Montgomery succeeded Rev. Couden.

7. 96 CONG. REC. 1097, 81st Cong. 2d Sess.
8. 113 CONG. REC. 27, 90th Cong. 1st Sess.

Rev. Edward Gardiner Latch, D.D., L.H.D., who had served as acting Chaplain since his appointment on Mar. 14, 1966,<sup>(9)</sup> was elected Chaplain of the House in an uncontested vote.

**§ 17. Oath; Compensation**

Rule II of the *House Rules and Manual* provides that each person who is elected to the office of Clerk,<sup>(10)</sup> Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain, ". . . shall take an oath to support the Constitution of the United States, and for the true and faithful discharge of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House . . ." <sup>(11)</sup>

The officers of the House take the following oath:

I, AB, do solemnly swear (or affirm) that I will support and defend the Con-

9. See §22.4, *infra*, for appointment of Rev. Latch.
10. Administration of the oath to the Clerk by the Speaker is required by statute, 2 USC §25. Although the Speaker is not required to administer the oath to any other officer, he does so in practice (see 1 Hinds' Precedents §81).
11. See 1 Hinds' Precedents §187, indicating that the requirement that the officers be sworn to keep the secrets of the House is obsolete.