

§ 19. Duties of the Sergeant at Arms

This section describes and discusses the duties of the Sergeant at Arms.⁽⁴⁾

The general duties of the Sergeant at Arms are prescribed by the House rules (Rule IV clause 1) and by statute. Under these provisions, the Sergeant at Arms maintains order, including execution of arrest warrants for persons cited for contempt of the House or a committee, and keeps accounts for the pay mileage and pays Members, Delegates, and the Resident Commissioner from Puerto Rico. The symbol of his office is a mace, which is borne by him while enforcing order on tire floor.⁽⁵⁾

Other rules and statutes impose specific duties to maintain order.

4. See other chapters for discussions of those functions and duties of the Sergeant at Arms relating to House facilities and Capitol grounds (Ch. 4, *supra*), subpoenas served on him (Ch. 11, *infra*), contempt proceedings (Ch. 13, *infra*), investigations and inquiries (Ch. 15, *infra*), and calls of the House (Ch. 20, *infra*).
5. Rule IV clause 2, *House Rules and Manual* § 650 (1973); 2 USCA § 79.

Collateral reference: Johnson, Zeake W., Jr., *The Mace of the House of Representatives of the United States*, 7th ed., Government Printing Office, Washington, D.C. (1969).

As the officer charged with enforcing the authority of the House, the Sergeant at Arms, under the rules, strictly enforces the prohibition against Members walking across or out of the Hall of the House while the Speaker addresses the House,⁽⁶⁾ appoints officers to send for and arrest absent Members when so ordered by the Speaker after a call of the House by 15 Members including the Speaker,⁽⁷⁾ and brings absent Members before the House.⁽⁸⁾

6. Rule XIV clause 7, *House Rules and Manual* § 763 (1973).
7. Rule XV clause 2, *House Rules and Manual* § 768 (1973).
8. Rule XV clause 4, *House Rules and Manual* § 773 (1973).

During a call of the House, the Sergeant at Arms is required to arrest absent Members wherever they may be found (4 Hinds' Precedents § 3017), detains those who are present, and brings in absentees (4 Hinds' Precedents §§ 3045–3048). Pursuant to a proper motion, he reports progress in securing a quorum (6 Cannon's Precedents § 770).

By order of the House, after a Member's complaint of unlawful arrest, the Sergeant at Arms on one occasion investigated and amended the return of his warrant (4 Hinds' Precedents § 3021). See also 6 Cannon's Precedents § 686, form of resolution for the arrest of Members absent without leave; and 4 Hinds' Precedents § 3043, form of warrant and discussion of authority to issue warrants.

It should also be noted that the Speaker, under Rule I clauses 2 and 3 (requiring the Speaker to preserve order and have general control of the Hall, corridors, and passages of the House), may impose certain additional duties on the Sergeant at Arms. For example, at the direction of the Speaker, the Sergeant at Arms has enforced order with the mace,⁽⁹⁾ cleared the galleries,⁽¹⁰⁾ and, on one occasion, arrested a spectator and confined him briefly.⁽¹¹⁾

The Sergeant at Arms has been granted statutory authority to preserve order outside the Hall of the House. He is one of those who sits on the Capitol Police Board, which directs the activities of the Capitol Police.⁽¹²⁾ With the Sergeant at Arms of the Senate, he develops regulations to preserve the peace and to secure the Capitol from defacement; and he may arrest and detain any person violating these regulations until such

9. See Cannon's Precedents § 258.

10. 2 Hinds' Precedents § 1352.

11. 2 Hinds' Precedents § 1605.

12. 40 USCA § 212a. In this capacity the Sergeant at Arms controls the regulation of vehicular traffic (40 USCA § 2121 ; selects officers (40 USCA § 206 and 206a); pays salaries (40 USCA § 207); selects uniforms (40 USCA § 210); and approves suspensions made by the captain (40 USCA § 208).

person can be brought before the proper authorities for trial.⁽¹³⁾

Several statutes deal with the duty of the Sergeant at Arms to keep the accounts and pay Members.⁽¹⁴⁾ Continuity of disbursement is ensured by statute. For example, to prevent an interruption in disbursement after a Congress adjourns, the Sergeant at Arms remains in office until his successor is chosen.⁽¹⁵⁾ In case of the disability of the Sergeant at Arms, the Treasurer of the United States disburses the pay of Members, Delegates, and the Resident Commissioner from Puerto Rico.⁽¹⁶⁾ The Sergeant at Arms is authorized to purchase insurance to protect the funds of his office. The premiums are paid out of the contingent fund of the House until otherwise provided by law.⁽¹⁷⁾ He may not receive additional com-

13. 40 USCA § 193.

14. Pay and mileage to be paid to Members (2 USC §§ 78, 80); statement of sums disbursed (2 USC § 84); adjustment of accounts during a fixed fiscal year (2 USC § 81). See also 2 USC § 39, which provides for deduction of salary for absence from House; 2 USC § 40a, which provides for deduction from salary for delinquent indebtedness; and 2 USC § 80a, which provides for disbursement of gratuity appropriations.

15. 2 USC 83.

16. 31 USC § 148.

17. 2 USC § 81c. See also § 19.4, *infra*.

pensation for performing his duties.⁽¹⁸⁾

The Sergeant at Arms, at the commencement of each regular session, submits to the House a written statement of sums drawn and disbursed and periodically reports accounts to the General Accounting Office,⁽¹⁹⁾ which receives and examines his accounts and certifies to him balances arising thereon according to the character of the account.⁽²⁰⁾ And he conducts on the-spot audits of the appropriated and trust funds of his office not less frequently than once each six months.⁽¹⁾ Amounts necessary to adjust for incorrect payments resulting from errors not caused by bad faith or lack of due care in the trust fund account of the Sergeant at Arms may be paid out of the contingent fund of the House on vouchers authorized and approved by the Committee on House Administration.⁽²⁾

In addition to his major duties of preserving order and keeping

18. 2 USC § 77.

19. 31 USC §§ 496, 497.

20. 31 USC § 72. See § 19.3, *infra*, for discussion of *Romney v United States*, 167 F2d 521 (D.C. Cir. 1948), cert. denied 334 U.S. 847 (1948), which held that 31 USC § 72, 496, and 497, apply to the Sergeant at Arms.

1. 2 USC § 81a.

2. 2 USC § 81b.

accounts of pay and mileage, the Sergeant at Arms has several other duties imposed by rules, statutes, and precedents. He has a duty, in the absence of the Clerk, (1) to preside until a Speaker is elected,⁽³⁾ (2) to prepare the roll of Members-elect prior to the commencement of a Congress,⁽⁴⁾ and (3) to send a certificate of the number of Representatives to which each state is entitled to the Governors following each decennial census.⁽⁵⁾ The Sergeant at Arms secures suitable office space in home districts of Members,⁽⁶⁾ ensures that a monument is erected whenever a deceased Member is interred in the Congressional Cemetery,⁽⁷⁾ and, with the Architect of the Capitol and the Sergeant at Arms of the Senate, serves on the Capitol Guide Board which oversees the Capitol Guide Service.⁽⁸⁾

3. As a "duty imposed by law or custom relative to the organization of the House", presiding before the election of a Speaker is a statutory responsibility imposed by 2 USC § 26.

See also § 20.8, *infra*, in which the Doorkeeper presided because the Clerk had died and the Sergeant at Arms was absent.

4. 2 USC § 26.

5. 2 USC § 2a(b).

6. 2 USC § 122.

7. 2 USC § 51.

8. 40 USC § 851.

Keeping Accounts of Pay and Mileage

§ 19.1 The House by resolution has authorized the Sergeant at Arms to transfer funds from balances available to him in several accounts under his administrative control to meet Members' payrolls pending enactment of an appropriations bill carrying funds for that purpose.

On May 28, 1969,⁽⁹⁾ a Member, Samuel N. Friedel, of Maryland, by direction of the Committee on House Administration, offered and the House agreed to the following resolution (H. Res. 425):

Resolved, That the Clerk of the House and Sergeant at Arms be and is hereby directed to pay such sum as may be necessary, from the balance available of the 1968 appropriation and the various funds of the 1969 appropriation, where balances may be available, for the House of Representatives to meet the May and June payroll of Members, officers of the House, and employees of the House. Moneys expended from these funds and/or appropriations by the Sergeant at Arms and the Clerk will be repaid to the funds and/or appropriations from the Sergeant at Arms and Clerk's supplemental appropriation upon its approval.⁽¹⁰⁾

9. 115 CONG. REC. 14165-67, 91st Cong. 1st Sess.

10. *Parliamentarian's Note*: This resolution was passed to provide payroll

§ 19.2 The House by resolution may authorize the payment to the Sergeant at Arms of an amount to cover additional mileage for Members for attendance at a meeting of the Congress at a date earlier than that to which it adjourned.

On Aug. 7, 1948,⁽¹¹⁾ a Member, Ralph A. Gamble, of New York, offered the following resolution (H. Res. 715):

Resolved, That the Clerk of the House of Representatives is authorized and directed to pay to the Sergeant at Arms of the House of Representatives not to exceed \$171,000 out of funds appropriated under the head "Contingent expenses of the House," fiscal year 1949, for additional mileage of Members of the House of Representatives, Delegates from Territories, and the Resident Commissioner from Puerto Rico, at the rate authorized by law. . . .

THE SPEAKER [Joseph W. Martin, Jr., of Massachusetts]: . . . The question is on suspending the rules and passing the resolution.

Two-thirds having voted in favor thereof, the rules were suspended and the resolution was passed.

§ 19.3 The Sergeant at Arms must periodically report ac-

funds because the Committee on House Administration had been advised that funds previously appropriated were exhausted.

11. 94 CONG. REC. 10247, 80th Cong. 2d Sess.

counts to the General Accounting Office.

The alleged embezzlement of funds by a Sergeant at Arms led to a judicial review of the applicability of statutes which require accounts to be reported to the General Accounting Office.⁽¹²⁾ Applying statutes dealing with duties of the Sergeant at Arms to keep accounts for the pay and mileage of Members⁽¹³⁾ and draw requisitions for the compensation and mileage of Members,⁽¹⁴⁾ as well as other statutes,⁽¹⁵⁾ the Court of Appeals for the District of Columbia Circuit affirmed the conviction of the former Sergeant at Arms, Kenneth Romney, for presenting to the General Accounting Office certain false statements of accounts and concealing a shortage by trick, scheme, and device (18 USC §80).⁽¹⁶⁾

12. See *Romney v United States*, 167 F2d 521 (D.C. Cir. 1948); cert. den. 334 U.S. 847 (1948).

13. 2 USC §78.

14. 2 USC §80.

15. These statutes provide for: submitting to the House a statement of disbursements (2 USC §84); inquiring into compliance with certain statutory provisions by the Committee on [House Administration (2 USC §91); examining accounts by (2 USC §72) and submitting accounts to (31 USC §496, 497) the General Accounting Office.

16. See *Romney v United States*, 167 F2d 521, at 522, 528 (D.C. Cir. 1948); cert. den. 334 U.S. 847 (1948).

In reaching this decision, the court held that a statute requiring the General Accounting Office to receive and examine all accounts⁽¹⁷⁾ applies to the House and that statutes requiring disbursing officers to submit accounts to the General Accounting Office monthly⁽¹⁸⁾ or more frequently⁽¹⁹⁾ apply to the Sergeant at Arms.⁽²⁰⁾ Mr. Romney's contention, based on statutes⁽¹⁾ and rules,⁽²⁾ that these reporting duties do not apply to the House because that body acts as its own auditor, was rejected.

The court held that, "Cash in the hands of such an official [disbursing officer] manifestly con-

17. 31 USC §72.

18. 31 USC §496.

19. 31 USC §497.

20. See *Romney v United States*, 167 F2d 521, at 524, 525 (D.C. Cir. 1948); cert. den. 334 U.S. 847 (1948).

1. 2 USC §84, which requires the Sergeant at Arms to submit to the House a statement of disbursements; 2 USC §91, which directs the Committee on House Administration to inquire into compliance with certain statutory provisions; and 2 USC §97, which provides for the establishment of a temporary committee on accounts of the House.

2. Rule IV clause 1, *House Rules and Manual* §648 and 649 (1973) which provides that the Sergeant at Arms keep accounts of pay and mileage of Members.

tinues to be the property of the government until it has actually been disbursed by him to persons lawfully entitled to receive it”, and that ‘cash drawn from the Treasury by the Sergeant at Arms is properly reported in his accounts current as part of the item styled ‘Balance now due the United States.’”⁽³⁾

The court also rejected the appellant’s contention that falsification of the item of cash on hand did not violate the false claims statute [18 USC § 80] because cash ceased to be government property and became Members’ property at the moment the Sergeant at Arms received it from the Treasury. This contention was based on the appellant’s view that he held the money not as a disbursing officer, but as a private person acting as an agent for other private persons.⁽⁴⁾

Following this decision, Congress enacted 63 Stat. 482 (codified as 2 USC § 81a)⁽⁵⁾ which au-

thorized the Comptroller General to detail employees of the General Accounting Office to make on-the-spot audits of all receipts and disbursements pertaining to fiscal records of the Sergeant at Arms not less frequently than once each six months.

Purchasing Insurance

§ 19.4 The Sergeant at Arms may protect funds of his office by purchasing insurance out of the contingent fund of the House when authorized by simple resolution.

On Apr. 1, 1947,⁽⁶⁾ Apr. 1, 1949,⁽⁷⁾ and July 24, 1956,⁽⁸⁾ the House authorized the Sergeant at Arms to protect the funds of his office by purchasing insurance out of the contingent fund of the House.

In each instance, a Member introduced a resolution in the following form:

Mr. Speaker, by direction of the Committee on House Administration, I

Cong. 1st Sess., July 20, 1949 (passage in Senate); 95 CONG. REC. 10487, 81st Cong. 1st Sess., Aug. 1, 1949 (announcement in House of approval by the President).

6. 93 CONG. REC. 2971, 80th Cong. 1st Sess.
7. 95 CONG. REC. 3703, 81st Cong. 1st Sess.
8. 102 CONG. REC. 14241. 84th Cong.

3. See *Romney v United States*, 167 F2d 521, at 526, 527 (D.C. Cir. 1948); cert. den. 334 U.S. 847 (1948). [See also *Crain v United States*, 25 Ct. Cl. 204 (1890) which held that the Sergeant at Arms was a disbursing officer.]

4. See *Romney* at p. 525.

5. See 95 CONG. REC. 9475, 81st Cong. 1st Sess., July 14, 1949 (passage in House); 9. CONG. REC. 9755, 81st

submit a privileged resolution . . . and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That the Sergeant at Arms of the House of Representatives is authorized and directed to protect the funds of his office by purchasing insurance [in stated amounts], providing protection against loss with respect to such funds. Until otherwise provided by law, premiums on such insurance shall be paid out of the contingent fund of the House on vouchers signed by the Sergeant at Arms and approved by the Committee on House Administration.

In each case the resolution was agreed to and a motion to reconsider was laid on the table.

Regulation of Parking

§ 19.5 The Sergeant at Arms assigns space for outdoor parking of automobiles under direction of the Select Committee to Regulate Parking.

On June 28, 1967,⁽⁹⁾ a select committee charged with responsibility for outdoor parking on the House side of the Capitol was created.

MR. [B. F.] SISK [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 514 and ask for its immediate consideration.

⁹ 113 CONG. REC. 17791, 17792, 90th Cong. 1st Sess.

The Clerk read the resolution, as follows:

H. RES. 514

Resolved, (a) That there is hereby created select committee to be composed of three Members of the House of Representatives to be appointed by the Speaker, one of whom shall be designated as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

(b) The said committee is hereby authorized to exercise direction over the Sergeant at Arms of the House of Representatives in the assignment of space for outdoor parking of automobiles in squares 639, south of 635, and G92, located adjacent to the House Office Buildings, and for all other outdoor parking of automobiles on the House side of the United States Capitol Grounds. . . .

The resolution was agreed to.

§ 20. Duties of the Doorkeeper

Under Rule V clause 1, of the *House Rules and Manual*,⁽¹⁰⁾ the Doorkeeper enforces rules⁽¹¹⁾ relating to privileges of the Hall of the House. Under Rule V clause

¹⁰ See 1 Hinds' Precedents §260 for the origin of Rule V clause 1.

¹¹ These rules include Rule XXXI *House Rules and Manual* §918 (1973) relating to the Hall of the House; and Rule XXXII clauses 1, 2, *House Rules and Manual* §919-921 (1973), relating to admission to the floor.