

peated calls to order (Jefferson's Manual, see *House Rules and Manual* § 366 [1973]).

No criticism of the Senate (Jefferson's Manual, see *House Rules and Manual* § 372 [1973]), nor personal abuse, innuendo or ridicule of the President (Jefferson's Manual, see *House Rules and Manual* § 370 [1973]).

Punishment by House of a Member for things of which the House has cognizance (Jefferson's Manual, see *House Rules and Manual* §§ 303 et seq. [1973]).

### § 5. Abuse of Mailing or Franking Privileges

The House Commission on Congressional Mailing Standards provides guidance and assistance on the use of franking privileges by Members. The commission is authorized to prescribe regulations governing the proper use of the franking privilege.<sup>(1)</sup>

Complaints respecting alleged misuse of the franking provisions in title 39 of the United States Code<sup>(2)</sup> are considered by the commission for the Members, and its

1. 2 USC §§ 501 et seq., Pub. L. No. 93-191, 87 Stat. 742 (1973), Pub. L. No. 93-255, 88 Stat. 52 (1974).

The Select Committee on Standards and Conduct of the Senate performs the same function for the Senate (2 USC § 502).

2. 39 USC §§ 3210-3213(2), 3215, 3218, 3219.

decisions on facts are final. If the commission finds that a serious and willful violation has occurred or is about to occur, it refers the matter to the House Committee on Standards of Official Conduct.<sup>(3)</sup>

### § 6. Absences From the House; Indebtedness

Congress has enacted statutes (a) directing the Sergeant at Arms of the House to deduct from the monthly payment to a Member the amount of his salary for each day that he has been absent from the House unless such Member assigns as the reason for such absence the illness of himself or of some member of his family;<sup>(4)</sup> (b) directing the deduction from the salary of a Member for each day that he withdraws without leave from his seat;<sup>(5)</sup> (c) directing the deduction by the Sergeant at Arms from any salary or expense money due a Member for his delinquent indebtedness to the House.<sup>(6)</sup>

If an employee of the House becomes indebted to the House or to the trust fund account in the of-

3. 2 USC § 501(e).

4. 2 USC § 39 (1856).

5. 2 USC § 40 (1862).

6. 2 USC § 40a (1934).

office of the Sergeant at Arms, and fails to pay such indebtedness, the chairman of the committee or the elected officer of the House having jurisdiction of the activity under which indebtedness arose, is authorized to certify to the Clerk the amount of the indebtedness, and the Clerk is authorized to withhold the amount from any funds which are disbursed by him to or on behalf of such employee.<sup>(7)</sup>

### § 7. Misconduct in Elections or Campaigns

Elections and election contests are treated comprehensively elsewhere in this work.<sup>(8)</sup> However, it should be pointed out here that disputes involving alleged misconduct of a Member may be initiated in the House by the defeated candidate pursuant to the Federal Contested Elections Act.<sup>(9)</sup> Such contests may also be instituted by means of (a) a protest or memorial filed in the House by an elector of the district involved, (b) a protest or memorial filed by any other person, or (c) a motion made by a Member of the House.<sup>(10)</sup>

7. 2 USC §89a (1958).

8. See Chs. 8, 9, *supra*.

9. 2 USC §§318 et seq., Pub. L. No. 91-138, 83 Stat. 284 (1969). See also Chs. 8, 9, *supra*.

10. H. REPT. NO. 91-569, 91st Cong. 1st Sess., Oct. 14, 1969, "Federal Contested Elections Act," p. 2.

Allegations in election contests pertaining to violations of federal and state corrupt practices acts are considered by the Committee on House Administration.<sup>(11)</sup>

Prior to the Supreme Court decision in *Powell v McCormack*, 395 U.S. 486 (1969) in which the Court held that qualifications of a Member-elect other than age, citizenship, and inhabitancy may not be judged by the House in connection with the initial or final right to a seat of such person, both Houses had adopted the premise that violation of a Corrupt Practices Act, federal or state, constituted grounds for exclusion of a Member-elect (see Frank L. Smith, of Illinois, "Senate Election, Expulsion and Censure Cases from 1793 to 1972," p. 133; *Farr v McLane*, 6 Cannon's Precedents 75; *Gill v Catlin*, 6 Cannon's Precedents §79). Although such violations are not grounds for disqualification, evidence thereof may still be given to appropriate prosecuting attorneys for use in an investigation of fraud, misconduct, or irregularities affecting election results.

11. Rule XI, House Rules and Manual §693 (1973). Prior to the adoption of the Legislative Reorganization Act of 1946, 60 Stat. 812, ch. 455, contests were considered by several House elections committees.