

unanimous consent for the immediate consideration of a bill (S. 376) fixing the representation of the majority and minority membership of the Joint Economic Committee.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5(a) of the Employment Act of 1946 (15 U.S.C. 1024(a)) is amended to read as follows:

“(a) There is established a Joint Economic Committee, to be composed of ten Members of the Senate, to be appointed by the President of the Senate, and ten Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. In each case, the majority party shall be represented by six Members and the minority party shall be represented by four Members.”

The bill was passed.<sup>(19)</sup>

### § 13. Appointment, Employment, and Compensation of Employees

Employment of staff by committees is covered by the House

19. S. 376 had passed the Senate on Jan. 18, 1967 [113 CONG. REC. 839, 90th Cong. 1st Sess.], and became law [Pub. L. No. 90-2] on Jan. 25, 1967 [113 CONG. REC. 1614, 90th Cong. 1st Sess., Jan. 26, 1967].

For information on joint committees, generally, see § 7, *supra*.

rules<sup>(20)</sup> or by committee funding resolutions with respect to investigative personnel.

Provisions affecting committee staffing have undergone significant changes between 1973 and 1979. The passage of House Resolution 988,<sup>(21)</sup> for example, effected changes [as of Jan. 3, 1975], with respect to the maximum number of professional staff members [from six to 18],<sup>(22)</sup> the maximum number of professional staff members available to the minority [from two to six],<sup>(23)</sup> the maximum number of clerical staff [from six to 12],<sup>(24)</sup> and, similarly, the maximum number of clerical staff available to the minority [from one to four].<sup>(25)</sup> Other changes include the relevant United States Code provisions setting permissible rates of staff pay,<sup>(26)</sup> the elimination of the requirement that professionals be

20. Rule XI clause 6, *House Rules and Manual* § 733 (1979).

21. 120 CONG. REC. 34470, 93d Cong. 2d Sess., Oct. 8, 1974.

22. Rule XI clause 6(a)(1), *House Rules and Manual* § 733(a) (1979).

23. Rule XI clause 6(a)(1), *House Rules and Manual* § 733(c) (1979).

24. Rule XI clause 6(b)(1), *House Rules and Manual* § 734(a) (1979).

25. Rule XI clause 6(b)(2), *House Rules and Manual* § 734(b) (1979).

26. Rule XI clause 6(e), *House Rules and Manual* § 735 (1979).

appointed without regard to political affiliation coupled with the prohibition against consideration of race, creed, sex, or age with respect to such appointments,<sup>(27)</sup> and the elimination of the requirement of semiannual reports to the Clerk for the printing in the Record of the names, salaries, and professions of committee employees.<sup>(28)</sup>

Each standing committee, subject to two provisions, may appoint, by majority vote of the committee up to 18 professional staff members.<sup>(1)</sup> Each such staff member is assigned to the chairman and the ranking minority party member of the committee, as the committee deems advisable.

One of the two aforementioned provisions, which pertains to minority staffing rights, provides:<sup>(2)</sup>

Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing committee (except the Committee on Standards of Official Conduct) so request, not more than six persons may be selected, by majority vote of the minority party members, for appointment

by the committee as professional staff members from among the number authorized by subparagraph (1) of this paragraph. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the professional staff until such appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.

Paragraph (f), which will be examined shortly, is the other relevant provision affecting the appointment of professional staff members (as well as clericals) and deals with the problem of the minority's authorization to appoint staff where the committee is already fully staffed.

A provision significantly affecting the appointment of committee staff, paragraph (d) of clause 5 of Rule XI, was adopted on Jan. 14, 1975 (H. Res. 5, 121 CONG. REC. 20, 94th Cong. 1st Sess.). The paragraph, relating to appointment of subcommittee staff, replaced the requirement of House Resolution 988 (93d Cong. 2d Sess.), that the minority party of a standing committee was enti-

27. Rule XI clause 6(a)2, *House Rules and Manual* §733(c) (1979).

28. *House Rules and Manual* §739 (1979).

1. Rule XI clause 6(a)(1), *House Rules and Manual* §733(a) (1979).

2. Rule XI clause 6(a)(2), *House Rules and Manual* §733(c) (1979).

tled, upon request of a majority of such minority, to one-third of the funds provided for the appointment of committee staff pursuant to each primary or additional expense resolution. The requirement of House Resolution 988 had become effective Jan. 3, 1975, and had superseded the provision originally added to the rules on Jan. 22, 1971 (H. Res. 5, 117 CONG. REC. 144, 92d Cong. 1st Sess.), which required "fair consideration" to the minority party of such standing committees in the appointment of committee staff personnel. Under clause 5 (d) (5) of Rule XI, staff positions made available to subcommittee chairmen and ranking minority members pursuant to the clause must be provided from staff positions available under clause 6 unless provided in a primary or additional expense resolution. (Additional investigative staff, including attorneys, clerks, and consultants, of committees are authorized by the Committee on House Administration and agreed to by the House in annual committee expense resolutions.)

As for the appointment and work assignments of committee professionals, the rules mandate that:<sup>(3)</sup>

3. Rule XI clauses 6(a)(3)–(5), *House Rules and Manual* § 733(d)(1979).

(3) The professional staff members of each standing committee—

(A) shall be appointed on a permanent basis, without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions;

(B) shall not engage in any work other than committee business; and

(C) shall not be assigned any duties other than those pertaining to committee business.

(4) Services of the professional staff members of each standing committee may be terminated by majority vote of the committee.

(5) The foregoing provisions of this paragraph do not apply to the Committee on Appropriations and to the Committee on the Budget.

With respect to committees' clerical staffing (including minority party staffing), nature of work and method of termination, the rules<sup>(4)</sup> state:

(b) (1) The clerical staff of each standing committee shall consist of not more than twelve clerks, to be attached to the office of the chairman, to the ranking minority party member, and to the professional staff, as the committee considers advisable. Subject to subparagraph (2) of this paragraph and paragraph (f) of this clause, the clerical staff shall be appointed by majority vote of the committee, without regard to race, creed, sex, or age. Except as provided by subparagraph (2) of this paragraph, the clerical staff shall han-

4. Rule XI clauses 6(b) (1)–(b)(4), *House Rules and Manual* §§ 734(a) 734(b) (1979).

dle committee correspondence and stenographic work both for the committee staff and for the chairman and the ranking minority party member on matters related to committee work.

(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing committee (except the Committee on Standards of Official Conduct) so request, four persons may be selected, by majority vote of the minority party members, for appointment by the committee to positions on the clerical staff from among the number of clerks authorized by subparagraph (1) of this paragraph. The committee shall appoint to those positions any person so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the position involved on the clerical staff until such appointment is made. Each clerk appointed under this subparagraph shall handle committee correspondence and stenographic work for the minority party members of the committee and for any members of the professional staff appointed under subparagraph (2) of paragraph (a) of this clause on matters related to committee work.

(3) Services of the clerical staff members of each standing committee may be terminated by majority vote of the committee.

(4) The foregoing provisions of this paragraph do not apply to the Committee on Appropriations and to the Committee on the Budget.

Paragraph 6(f),<sup>(5)</sup> as heretofore mentioned, addresses the problem of a request for the appointment of a minority professional or clerical staff member where no vacancy exists. The rule provides:

(f) If a request for the appointment of a minority professional staff member under paragraph (a), or a minority clerical staff member under paragraph (b), is made when no vacancy exists to which that appointment may be made, the committee nevertheless shall appoint, under paragraph (a) or paragraph (b), as applicable, the person selected by the minority and acceptable to the committee. The person so appointed shall serve as an additional member of the professional staff or the clerical staff, as the case may be, of the committee, and shall be paid from the contingent fund, until such a vacancy (other than a vacancy in the position of head of the professional staff, by whatever title designated) occurs, at which time that person shall be deemed to have been appointed to that vacancy. If such vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill that vacancy.

Furthermore, paragraph (d) of clause 5 of Rule XI provides for appointment of subcommittee staff professionals in certain cases:

From the funds provided for the appointment of committee staff pursuant

5. Rule XI clause 6(f), *House Rules and Manual* §737 (1979).

to primary and additional expense resolutions—

(1) The chairman of each standing subcommittee of a standing committee of the House is authorized to appoint one staff member who shall serve at the pleasure of the subcommittee chairman.

(2) The ranking minority party member of each standing subcommittee on each standing committee of the House is authorized to appoint one staff person who shall serve at the pleasure of the ranking minority party member.

Two other rules' provisions affect minority staff members. For one, they must be accorded equitable treatment with respect to the fixing of rate of pay, assignment of work facilities, and accessibility of committee records.<sup>(6)</sup> In addition, the provisions which allow a majority of the minority party to request certain minority staffing are expressly clarified to indicate that where the maximum number of minority professional and clerical staff allotted (i.e., six and four, respectively) has already been met, the minority is not entitled to any additional appointments.<sup>(7)</sup>

Committees, of course, are not obliged to appoint staff on the basis of partisan considerations. Upon an affirmative vote of the

6. Rule XI clause 6(g), *House Rules and Manual* § 737 (1979).

7. Rule XI clause 6(h), *House Rules and Manual* § 737 (1979).

majority of the members of each party, they may choose to employ nonpartisan staff in lieu of or in addition to committee staff designated exclusively for the majority or minority party.<sup>(8)</sup>

As noted above, clause 5(d) of Rule XI removed the entitlement of one-third investigative funds for minority staff contained in House Resolution 988 (93d Cong. 2d Sess.), and substituted the provisions entitling the ranking minority member of each subcommittee to appoint one minority employee to be assigned and paid out of the statutory entitlement under clause 6 unless funded separately in an investigative resolution reported by the Committee on House Administration. The following resolution (H. Res. 237, 121 CONG. REC. 5979, 94th Cong. 1st Sess., Mar. 11, 1975), reported by the Committee on House Administration, is typical of those providing for the appointment of investigative personnel:

*Resolved*, That, effective January 3, 1975, the expenses of the investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries, acting as a whole or by subcommittee, not to exceed \$477,500, including expenditures for the employment of investigators, attorneys, individual consultants, or organizations

8. Rule XI clause 6(i), *House Rules and Manual* § 738 (1979).

thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed \$100,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Merchant Marine and Fisheries shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Salary considerations regarding committee staffers are set by clause 6(c) of Rule XI<sup>(9)</sup> which states that:

**9.** Rule XI clause 6(c), *House Rules and Manual* § 735 (1979).

Each employee on the professional staff, and each employee on the clerical staff, of each standing committee, is entitled to pay at a single per annum gross rate, to be fixed by the chairman, which does not exceed the highest rate of basic pay, as in effect from time to time, of level V of the Executive Schedule in section 5316 of Title 5, United States Code, except that two professional staff members of each standing committee shall be entitled to pay at a single per annum gross rate to be fixed by the chairman, which does not exceed the highest rate of basic pay, as in effect from time to time, of level IV of the Executive Schedule in section 5315 of Title 5, United States Code.

It should be noted that no committee may appoint any experts or personnel detailed or assigned from any department or agency of the government, except with the written permission of the Committee on House Administration.<sup>(10)</sup>

Finally, the lack of applicability to the Committees on Appropriations and on the Budget of the provisions regarding the numbers and party makeup of their staff has heretofore been noted. With respect to these specific committees, the rules provide:<sup>(11)</sup>

**10.** Rule XI clause 6(e), *House Rules and Manual* § 737 (1979).

**11.** Rule XI clause 6(d), *House Rules and Manual* § 736 (1979). The provision affecting the Committee on the Budget had been omitted from the rule by H. Res. 988, 120 CONG. REC.

Subject to appropriations hereby authorized, the Committee on Appropriations and the Committee on the Budget may appoint such staff, in addition to the clerk thereof and assistants for the minority, as it determines by majority vote to be necessary, such personnel, other than minority assistants, to possess such qualifications as the committee may prescribe.

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***Resolutions Authorizing Committee Approval of Continued Employment in New Congress***

**§ 13.1 Authorization for committees to approve employment and compensation of employees held over from a previous Congress was provided for by resolution.**

On Jan. 3, 1961,<sup>(12)</sup> Speaker Sam Rayburn, of Texas, recognized Majority Leader John W. McCormack, of Massachusetts, who offered a resolution by unanimous consent:

Mr. Speaker, I offer a resolution (H. Res. 16) and ask for its immediate consideration.

The Clerk read the resolution as follows:

*Resolved*, That standing committees of the House shall have author-

34470, 93d Cong. 2d Sess., but was reinserted by H. Res. 5, 121 CONG. REC. 20, 94th Cong. 1st Sess., on Jan. 14, 1975.

12. 107 CONG. REC. 27, 87th Cong. 1st Sess.

ity to approve the employment and compensation of committee employees (other than special and select committee employees) from the effective date of the beginning of each Congress, or such subsequent date as their service commenced.

The resolution was agreed to.<sup>(13)</sup>

**§ 13.2 Doubt having been expressed as to the House's legal authority to compensate committee employees held over from the 82d Congress prior to the election of the standing committees of the 83d Congress, the House adopted a resolution authorizing its standing committees to approve the employment and compensation of committee employees.**

On Jan. 22, 1953,<sup>(14)</sup> Speaker Joseph W. Martin, Jr., of Massachusetts, recognized Majority Leader Charles A. Halleck, of Indiana, who offered the following resolution (H. Res. 107) and asked for its immediate consideration:

*Resolved*, That standing committees of the House shall have authority to

13. For a similar instance, see 105 CONG. REC. 16, 86th Cong. 1st Sess., Jan. 7, 1959.
14. 99 CONG. REC. 498, 83d Cong. 1st Sess.

The *Congressional Record* and the House Journal (p. 126) indicate that this resolution was called up as privileged, although not reported by committee.

approve the employment and compensation of committee employees from January 3, 1953, or such subsequent date as their service commenced.

The resolution was then agreed to.<sup>(15)</sup>

*Parliamentarian's Note:* Mr. Clare E. Hoffman, of Michigan, sought to have the House consider a more detailed resolution (H. Res. 108)<sup>(16)</sup> regarding "holdover" committee employees, and had obtained consent from the House to speak for five minutes on the subject. House Resolution 107, however, was agreed to prior to the Chair's recognition of Mr. Hoffman; so he did not offer his resolution.<sup>(17)</sup>

**§ 13.3 The House has approved a resolution authorizing committees to approve the employment and compensation of employees held over from the previous Congress until committees were elected in the new Congress.**

On Jan. 3, 1957,<sup>(18)</sup> Speaker Sam Rayburn, of Texas, recog-

15. See the *Parliamentarian's Note* at § 13.3, *infra*.

16. 99 CONG. REC. 500, 83d Cong. 1st Sess.

17. For an insight into the legal views of the Comptroller General's Office regarding the "holdover" employee issue, see *id.* at p. 501.

18. 103 CONG. REC. 50, 85th Cong. 1st Sess.

nized Majority Leader John W. McCormack, of Massachusetts, who offered the following resolution (H. Res. 13):

*Resolved,* That standing committees of the House shall have authority to approve the employment and compensation of committee employees from January 3, 1957, or such subsequent date as their service commenced.

Immediately thereafter, the resolution was agreed to.<sup>(19)</sup>

*Parliamentarian's Note:* Under modern practice, "continuing resolutions" for committee investigative staff are considered by unanimous consent unless reported from the Committee on House Administration (see detailed discussion at footnote 20 in the introduction to section 4, "Committee Expenses; Use of Contingent Fund," *supra*).

***Use of Contingent Fund to Compensate Investigative Personnel Pending Separate Funding Resolutions for Each Committee***

**§ 13.4 The House agreed to a privileged resolution pro-**

The *Congressional Record* and the House Journal (p. 18) indicate that this resolution was called up as privileged, although not reported by committee.

19. A similar resolution was approved in the preceding Congress, see 101 CONG. REC. 13, 84th Cong. 1st Sess., Jan. 5, 1955.

**viding for payment out of the contingent fund of amounts necessary to compensate investigative personnel of House committees pending the adoption of resolutions authorizing the reconstitution of such investigative committees in the 89th Congress.**

On Jan. 28, 1965,<sup>(20)</sup> by direction of the Committee on House Administration, Mr. Samuel N. Friedel, of Maryland, called up the following privileged resolution (H. Res. 146):

*Resolved,* That there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to pay the compensation for services performed during the thirty-day period beginning January 3, 1965, by each person (1) who, on January 2, 1965, was employed by any standing committee or any select committee of the Eighty-eighth Congress and whose salary was paid under authority of a House resolution adopted during the Eighty-eighth Congress, and (2) who is certified by the chairman of the appropriate committee as performing such services for such committee during such thirty-day period. Such compensation shall be paid such person at a rate not to exceed the rate he was receiving on January 2, 1965.

The resolution was agreed to immediately.

20. 111 CONG. REC. 1427, 89th Cong. 1st Sess.

*Parliamentarian's Note:* While House Resolution 146 is more broadly worded than its purpose would require, the resolution was intended to cover only the committees' investigative staffs, since funds for the payment of the standing committees' professional and clerical personnel are carried in the annual legislative appropriation acts. Thus, there is no gap in the payment of these individuals' salaries once the rules are adopted and the committees established in a new Congress and their continued employment approved by those committees at their organizational meetings in accordance with Rule XI clause 6. The salaries of investigative personnel, on the other hand, are dependent upon the passage of resolutions authorizing the committees to make investigations and providing funds therefor.

**§ 13.5 A resolution not formally reported by the Committee on House Administration, providing for payment from the contingent fund of salaries of investigative personnel of standing and select committees for a three-month period (pending adoption of annual committee funding resolutions) was called up by unanimous consent and agreed to.**

On Jan. 15, 1973,<sup>(21)</sup> Wayne L. Hays, of Ohio, Chairman of the Committee on House Administration, offered the following resolution (H. Res. 130), and sought unanimous consent to have it considered immediately:

*Resolved*, That there shall be paid out of the contingent fund of the House of Representatives for the period beginning January 3, 1973, and ending at the close of March 31, 1973, such sums as may be necessary for the continuance of the same necessary projects, activities, operations, and services, by contract or otherwise (including payment of staff salaries for services performed), and for the accomplishment of the same necessary purposes, undertaken by each standing or select committee of the House in the calendar year 1972 on the same basis and at not to exceed the same rates utilized in 1972. Payments of salary for services performed in the period beginning January 3, 1973, and ending at the close of March 31, 1973, shall be made to each person—

(1) (A) who, on January 2, 1973, was employed by a standing or select committee in the Ninety-second Congress and whose salary was paid under authority of a House resolution adopted in that Congress or (B) who was appointed after January 2, 1973, to fill a vacancy, existing on or occurring after that date, in a position created under authority of such House resolution; and

(2) who is certified by the chairman of such committee as performing such

services for such committee in such period.

Such salary shall be paid to such person at a rate not to exceed the rate he was receiving on January 2, 1973 (or, in the case of a person appointed after January 2, 1973, to fill any such vacancy, not to exceed the rate applicable on January 2, 1973, to the vacant position), plus any increase in his rate of salary which may have been granted for periods on and after January 3, 1973, pursuant to section 5 of the Federal Pay Comparability Act of 1970.

Sec. 2. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with law.

Mr. H. R. Gross, of Iowa, cast light on the purpose and effect of House Resolution 130 in the course of the following exchange:<sup>(1)</sup>

MR. GROSS: . . . I understand that this is an interim resolution which would expire effective as of March 31.

MR. HAYS: This is a resolution, if not identical, certainly similar to other resolutions that we introduced at the beginning of Congress to allow committee staffs to be paid until such time as committee chairmen and the ranking members have had a chance to appear before the Accounts Subcommittee on House Administration and justify appropriation, which would then be brought to the floor of the House.

MR. GROSS: Do I understand that while vacancies on committee staffs

21. 119 CONG. REC. 1057, 93d Cong. 1st Sess.

1. *Id.* at pp. 1057, 1058.

may be filled during the interim period, it is not the intention of the Committee on House Administration in bringing this resolution to the floor that committee staffs be augmented or increased pending the submission of justifications for committee staffs?

MR. HAYS: The gentleman is exactly right. They can fill vacancies but not add to. I might go further and state that in the case of select committees these will not apply until they have been reconstituted by, first, the Committee on Rules and then brought before the House to be reconstituted.

It is my understanding some of them may be reconstituted very shortly. In that case this will cover them on the same prorated basis as they had in the previous Congress.

*Parliamentarian's Note:* Mr. Hays was obliged to offer the resolution by unanimous consent inasmuch as the Committee on House Administration had not been elected and therefore had not formally met and ordered the resolution reported.

***Resolutions Effecting Temporary Staff Salary Payments From Contingent Fund During Second Session***

**§ 13.6 A resolution providing for the payment from the contingent fund of salaries of committee personnel, pending adoption of the regular committee funding resolutions, is reported and called**

**up as privileged by the Committee on House Administration.**

On Jan. 27, 1972,<sup>(2)</sup> by direction of the Committee on House Administration, Mr. Frank Thompson, Jr., of New Jersey, called up and obtained immediate consideration of the following privileged resolution (H. Res. 769):

*Resolved,* That there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to pay the compensation for services performed during the period beginning January 3, 1972, and ending at the close of January 31, 1972, by each person (1) who, on January 2, 1972, was employed by a standing committee or any select committee of the Ninety-second Congress and whose salary was paid under authority of a House resolution adopted during the Ninety-second Congress, or who was appointed after January 2, 1972, to fill an existing vacancy or a vacancy occurring subsequent to January 2, 1972, and (2) who is certified by the chairman of the appropriate committee as performing such services for such committee during such period.

As Mr. Thompson explained, the purpose of the resolution was to allow all of the committees of the House to expend moneys at the level which the House authorized them to spend during the previous year for a period of one month.

2. 118 CONG. REC. 1532, 92d Cong. 2d Sess.

Thus, committee chairmen would have time to prepare their budgets for the coming year while the Subcommittee on Accounts [of the Committee on House Administration] would have an opportunity to schedule hearings on the committee's budgetary needs for 1972.<sup>(3)</sup>

*Parliamentarian's Note:* The rules provide<sup>(4)</sup> that certain committees "shall have leave to report at any time" on certain matters. The Committee on House Administration enjoys such a privilege regarding "all matters of expenditure of the contingent fund of the House [among other subjects]."

**§ 13.7 A resolution from the Committee on House Administration, providing for payment from the contingent fund of salaries of investigative personnel of standing and select committees for a three-month period (pending adoption of annual committee funding resolutions) is reported and called up as privileged.**

3. For a similar example, see H. Res. 96 at 115 CONG. REC. 1075, 91st Cong. 1st Sess., Jan. 16, 1969.
4. H. Jour. 1602, 92d Cong. 2d Sess. (1972); see also Rule XI clause 4(a), *House Rules and Manual* §726 (1979).

On Jan. 26, 1971,<sup>(5)</sup> Wayne L. Hays, of Ohio, Chairman of the Committee on House Administration, submitted a privileged report<sup>(6)</sup> on the following resolution (H. Res. 17), as to which he obtained immediate consideration:

*Resolved,* That there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to pay the salary for services performed in the period beginning January 3, 1971, and ending at the close of March 31, 1971, by each person—

(1)(A) who, on January 2, 1971, was employed by a standing or select committee in the Ninety-first Congress and whose salary was paid under authority of a House resolution adopted in that Congress or (B) who was appointed after January 2, 1971, to fill a vacancy, existing on or occurring after that date, in a position created under authority of such House resolution; and

(2) who is certified by the chairman of such committee as performing such services for such committee in such period.

Such salary shall be paid to such person at a rate not to exceed the rate he

5. 117 CONG. REC. 480, 92d Cong. 1st Sess.
6. In the 92d Congress, the three-day layover rule on committee reports was not applicable to the Committee on House Administration [Rule XI clause 27(d)(4), *House Rules and Manual* §735 (1971)]. The one-day rule in clause 32 was not applicable to a resolution of this type, it not being a primary funding resolution.

was receiving on January 2, 1971 (or, in the case of a person appointed after January 2, 1971, to fill any such vacancy, not to exceed the rate applicable on January 2, 1971, to the vacant position), plus any increase in his rate of salary which may have been granted for periods on and after February 1, 1971, pursuant to section 5 of the Federal Pay Comparability Act of 1970.<sup>(7)</sup>

*Parliamentarian's Note:* The privileged status of the resolution (H. Res. 17) in the instant case was derived directly from the rules. For more than 150 years,<sup>(8)</sup> House rules have granted privilege to certain reports of specified committees. In 1971, the Committee on House Administration had "leave to report at any time on . . . all matters of expenditure of the contingent fund of the House,"<sup>(9)</sup> among other subjects.

**§ 13.8 A resolution providing for payment for two months from the contingent fund of salaries of staff of a select committee of the previous**

7. For an explanation of why H. Res. 17 and similar resolutions would pertain solely to the salary needs of committees' investigative personnel, see the *Parliamentarian's Note* to § 13.4, *supra*.
8. See *House Rules and Manual* § 727 (1973).
9. H. Jour. 1656, 92d Cong. 1st Sess. (1971); see also Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

**Congress pending possible reconstitution of that committee is reported and called up as privileged by the Committee on House Administration.**

On Feb. 7, 1973,<sup>(10)</sup> Wayne L. Hays, of Ohio, Chairman of the Committee on House Administration, called up, by direction of that committee, the following privileged resolution (H. Res. 195):

*Resolved,* That there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to pay the salary, for services performed in the period beginning January 3, 1973, and ending at the close of February 28, 1973, of each person performing such services who is certified by that Member who was Chairman of the Select Committee on Crime in the Ninety-second Congress as being on the staff of that committee on January 2, 1973. Such salary shall be paid to each such person at a rate not to exceed the rate he was receiving on January 2, 1973, plus any increase in his rate of salary which may have been granted for periods on and after January 3, 1973, pursuant to section 5 of the Federal Pay Comparability Act of 1970.

Sec. 2. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with law.<sup>(11)</sup>

10. 119 CONG. REC. 3678, 93d Cong. 1st Sess.
11. See the *Parliamentarian's Note* to § 13.6, *supra*, regarding the privileged nature of such resolutions.

In the course of the ensuing discussion, Minority Leader Gerald R. Ford, of Michigan, initiated an exchange with Mr. Hays which pinpointed the intent of the proposal:

Do I understand the gentleman to say that this is a temporary expedient as far as he is concerned, that this is a very unusual situation where the committee actually went out of existence with the termination of the last Congress, and this Congress has taken no affirmative action to extend its life?

MR. HAYS: That is correct. I am told that there is a good deal of hardship since the staff was not told that its tenure was over. This is an attempt to pay them after the 3d of January, and allow them to terminate in an orderly fashion this month unless the House in its wisdom decides to reconstitute that committee.

***Authorizing Staff of Expired Committee to Compile Report***

**§ 13.9 The House by unanimous consent considered and adopted a resolution authorizing designated staff members of the Select Committee on Research and Development (which expired with the 88th Congress) to compile in the 89th Congress a summary report of the work of the committee, authorizing funds for the payment of the personnel (out of the contingent fund of the**

**House), and giving the Committee on House Administration certain supervisory responsibilities over the personnel so employed.**

On Jan. 7, 1965,<sup>(12)</sup> Speaker John W. McCormack, of Massachusetts, recognized Mr. Richard Bolling, of Missouri, who thereupon sought unanimous consent for the immediate consideration of House Resolution 87. The resolution read as follows:

*Resolved*, That, during the period beginning January 3, 1965, and ending February 28, 1965, inclusive, there shall be paid out of the contingent fund of the House of Representatives on vouchers approved by the Committee on House Administration such sums as may be necessary to pay the compensation and other expenses of assimilating data, compiling a summary report which shall be printed as part II of House Report Numbered 1941 of the Eighty-eighth Congress, and otherwise closing the work of the Select Committee on Government Research established under authority of House Resolution 504, as amended, of the Eighty-eighth Congress. Such work shall be completed by the following persons under the direction of the Committee on House Administration, and they shall receive compensation at

12. 111 CONG. REC. 411, 89th Cong. 1st Sess.

The resolution was called up by unanimous consent, since the Committee on House Administration had not been constituted.

the basic rate set forth following their name: Robert L. Hopper, staff director, \$8,835; Stephen P. Strickland, chief clerk, \$6,600; Edward T. Fogo, staff assistant, \$6,600; Harry L. Selden, editor, \$6,600; Russell Saville, staff assistant, \$4,020; Rowena G. Lovette, administrative assistant, \$3,780; Catherine S. Cash, secretary, \$2,940.

The Committee on House Administration is authorized to employ a substitute for any such person not available to serve.

Reserving the right to object, Mr. Clarence J. Brown, of Ohio, pointed out that the Select Committee on Government Research had “died with the 88th Congress at noon on January 4. . . .”<sup>(13)</sup> He additionally stated that:<sup>(14)</sup>

. . . What this resolution really does, if adopted, is to permit the Committee on House Administration to spend some, \$16,000 or \$18,000 I believe to conclude the work of mailing

out the final reports of the select committee, itself, to the various universities and colleges of the country, and to the research organizations that are very much interested in it, during January and February, only. Also, I understand that the select committee . . . has turned back to the contingent funds of the House, under the jurisdiction of the Committee on House Administration, some \$250,000, from which these particular funds would be taken to maintain this small staff in order to wrap up, or to conclude, the work of the select committee and to send out the final reports. Is that correct?

Mr. Bolling replying in the affirmative, discussion proceeded briefly, after which the Speaker inquired as to whether there was any objection to the unanimous-consent request. No objection was heard, and the resolution was agreed to.

## C. COMMITTEE PROCEDURE

### § 14. Generally

Certain of the rules of the House pertain directly to committee procedure. All committees and subcommittees are expressly subject to House rules as “far as

applicable”; and each committee must adopt written rules “not inconsistent” with the rules of the House which “shall be binding” on each subcommittee thereof. Expressly deemed to be part of its parent committee, each subcommittee is “subject to the

**13.** For the original resolution creating what was then known as the Select Committee on Research and Development, see § 5.2, *supra*.

**14.** 111 CONG. REC. 411, 412, 89th Cong. 1st Sess.