

The House then granted unanimous consent for the Speaker pro tempore<sup>(7)</sup> to declare a recess, subject to the call of the Chair, on the scheduled date.

**§ 3.19 By unanimous consent the House may authorize the Speaker, in advance, to determine the date of the joint meeting to hear a guest.**

On Oct. 17, 1945,<sup>(8)</sup> Mr. Brooks Hays, of Arkansas, arose to state a unanimous-consent request:

Mr. Speaker,<sup>(9)</sup> I have learned that Gen. Douglas MacArthur will shortly return to this country. I am sure that all the Members of the House will want to hear him address the Congress. I therefore ask unanimous consent, having discussed the matter with the Speaker and having consulted both the majority and minority leaders, that it be in order for the Speaker to declare a recess subject to the call of the Chair, at a date to be later named, during which period a joint meeting shall be held in this Chamber, at which time General MacArthur will address us.

Mr. Hays later added that according to his request, the joint meeting be held on a date agreeable to General MacArthur and to the Speaker. There was no objection.

7. James P. Priest (Tenn.).

8. 91 CONG. REC. 9756, 79th Cong. 1st Sess.

9. Sam Rayburn (Tex.).

**§ 4. Place of Meeting**

A constitutional provision relating to the location of the meetings of Congress (article I, section 5, clause 4) requires that either House obtain the consent of the other to sit in “any other Place than that in which the two Houses shall be sitting.” However, in none of its provisions does the Constitution direct where the annual assembly under the twentieth amendment is to take place.<sup>(10)</sup>

Congress has appointed by statute a seat of the federal government for the location of public offices and for the place of its meetings. Congress has affirmed its authority, as an attribute of national sovereignty, to establish a permanent seat of government,<sup>(11)</sup>

10. A general rule of statutory construction is that the acts of a legislative body meeting at an unauthorized place may be invalidated. Sutherland, *Statutes and Statutory Construction* §401 (3 ed. 1943). Federal courts do not, however, generally question the regularity of the proceedings of Congress. *Barry v U.S. ex rel Cunningham*, 279 U.S. 597, 619 (1929); *Yellin v U.S.*, 374 U.S. 109, 146 (1963).

11. See the Act of Mar. 3, 1790, Ch. 28, 1 Stat. 30, establishing the seat in the District of Columbia and locating it temporarily in Philadelphia. 4 USC §§71–72 now locates the per-

to change the seat of government,<sup>(12)</sup> and to permit the President to remove public offices or Congress itself under specified conditions.<sup>(13)</sup>

Congress therefore convenes for an opening session at the place determined by law to be the seat of government. The first two sessions of the First Congress assembled in New York City pursuant to a resolution of the Continental Congress.<sup>(14)</sup> By the Act of Mar. 3, 1790, the First Congress provided for the permanent seat of govern-

manent seat of government in the District.

12. Act of Mar. 3, 1790, Ch. 28, 1 Stat. 30. See also the post-Civil War debates on the authority of Congress to remove the seat of government, 28 ANNALS OF CONG. 346-75, 13th Cong. 3d Sess., Oct. 5-6, 1814.
13. The President is authorized under 2 USC §27 to convene Congress elsewhere than the seat of government in the case of contagious disease or other hazardous conditions. He may also remove all public offices from the seat of government in the event of disease. 4 USC §73. The Sixth Congress authorized the President by the Act of Apr. 24, 1800, Ch. 37, 2 Stat. 55, to accelerate preparations for the establishment of the seat of government in the District of Columbia.
14. Resolution of Sept. 13, 1788, 4 Journal of Continental Congress 866 (1823 ed.), cited at 3 Hinds' Precedents §3.

ment to be located in the District of Columbia as of December 1800, and designated Philadelphia as the interim seat between 1790 and 1800.<sup>(15)</sup> Since Nov. 17, 1800, the opening of the second session of the Sixth Congress, Congress has met in Washington, D.C.,<sup>(16)</sup> although there was extended debate after the War of 1812 on a Senate bill to move the seat of government elsewhere.<sup>(17)</sup>

Although the Congress has had but three seats of government, it has occupied numerous structures or buildings. The New York and Philadelphia Chambers were located in public halls,<sup>(18)</sup> and Con-

15. Ch. 28, 1 Stat. 30.
16. Congress had originally provided to begin meeting in the District of Columbia on the first Monday in December, 1800. Act of Mar. 3, 1790, Ch. 28, §6, 1 Stat. 30. By the Act of May 13, 1800, Ch. 67, 2 Stat. 85, the effective date was moved forward to the third Monday in November, Nov. 17, 1800. On that date a quorum of the House was not present in Washington and the House adjourned to begin legislative business on Nov. 18. 10 ANNALS OF CONG. 782, 6th Cong. 2d Sess.
17. 28 ANNALS OF CONG. 346-75, 13th Cong. 3d Sess., Oct. 5-6, 1814. The Senate bill was defeated in the House.
18. In New York City the Congress sat in Federal Hall, Broad and Wall Streets, and in Philadelphia it occupied Congress Hall, 6th and Chest-

gress has frequently been forced to vacate the Capitol building in Washington due to repairs. Since 1800, the longest period during which Congress has absented itself from the Capitol building was because of the War of 1812, when the British Army nearly destroyed the Capitol by fire.<sup>(19)</sup> For over a year following the war, Congress sat in a makeshift Chamber located in another public building appointed by Presidential proclamation for the use of Congress.<sup>(20)</sup> For another five years both Houses sat at a temporary Capitol built on Capitol Hill by private citizens for the express use of Congress,<sup>(1)</sup> and leased by the federal government.<sup>(2)</sup> On three occasions during the 20th

nut. *Guide to the Congress of the United States* 370 (1971), Congressional Quarterly, Inc.

19. *Guide to the Congress of the United States* 373 (1971), Congressional Quarterly, Inc.

20. A Presidential message appointed the "public building heretofore allotted for the Post and other public offices." 28 ANNALS OF CONG. 10, 13th Cong. 3d Sess., Sept. 19, 1814 (message dated Sept. 17, 1814).

1. See 29 ANNALS OF CONG. 10 14th Cong. 1st Sess., Dec. 4, 1815.

2. Act of Dec. 8, 1815, Ch. 1, 3 Stat. 251 (authorizing the President to lease the new building on Capitol Hill pending repairs to the Capitol building).

century, the House and the Senate have vacated their respective Chambers in the Capitol building pending repairs or remodeling.<sup>(3)</sup> Although the Senate remained during those periods within the Capitol, occupying the former Supreme Court Chamber,<sup>(4)</sup> the House moved across the street to the caucus room of the New House Office Building.<sup>(5)</sup> Neither the House nor the Senate construed those temporary shifts in the place of meeting, which altered the structural location but

3. The first occasion lasted from Nov. 22, 1940, 86 CONG. REC. 13715, 76th Cong. 3d Sess., until Jan. 2, 1941. See the letter of Mr. David Lynn, Architect of the Capitol, at 13715, recommending that the entire roof construction over both Chambers be taken down and replaced by modern fire-proof construction. From July 1, 1949, to Jan. 2, 1950, Congress once again left its Chambers pending repairs. See House resolution, June 28, 1949, 90 CONG. REC. 8571, 81st Cong. 1st Sess. The last period of repairs requiring the removal of the House lasted from Sept. 1, 1950 to Jan. 1, 1951. See House resolution returning the House to its Chamber, Dec. 28, 1950, 96 CONG. REC. 17021-22, 81st Cong. 2d Sess.

4. See, *e.g.*, Senate resolution of Nov. 22, 1940, 86 CONG. REC. 13709, 76th Cong. 3d Sess.

5. See, *e.g.*, House resolution of June 28, 1949, 95 CONG. REC. 8571, 81st Cong. 1st Sess.

not the place of the seat of government, to require the consent of the other House.<sup>(6)</sup> Therefore, a simple House resolution suffices to adjourn the House to meet in another structure at the seat of government.<sup>(7)</sup>

On occasion the House provides for meetings elsewhere than in its Chamber for reasons other than repair. Joint meetings may be held in the Senate Chamber,<sup>(8)</sup>

6. See §4.1, *infra*. Compare the remarks of Mr. Clare E. Hoffman (Mich.), at 90 CONG. REC. 11683, 81st Cong. 1st Sess., Aug. 17, 1949, contending that the House was not a competent, legal tribunal since it was sitting in the caucus room without having obtained prior Senate consent. Mr. Hoffman argued in his remarks that the “over-whelming weight of legal authority . . . is to the effect that, as to courts and legislative bodies, the word ‘place’ cannot be stretched to cover the territorial limits of the city, township, county, or state.” He concluded that a joint resolution was required to ratify the otherwise *ultra vires* action of the House.

7. A simple House resolution provided for the removal of the House from the old Chamber to the new Hall in the south wing of the extension of the Capitol on Dec. 14, 1857. 5 Hinds’ Precedents §7271.

8. For attendance of the House in the Committee of the Whole at impeachment proceedings in the Senate Chamber, see 3 Hinds’ Precedents §2351. See Ch. 36, *infra*, for joint meetings.

and informal meetings may be held in other facilities, such as the Library of Congress.<sup>(9)</sup> Those types of assemblies, as well as ceremonies and processions held outside the House Chamber,<sup>(10)</sup> do not usually constitute official sessions of the House,<sup>(11)</sup> which stands in recess in order to attend.<sup>(12)</sup> The House is, however, officially in session for inaugural ceremonies at the east front of the Capitol, as reflected by the traditional form of the resolution to participate in inaugural ceremonies.<sup>(13)</sup>

9. See §§4.3–4.5, *infra*.

10. The House does not attend ceremonies outside the Capitol building as an organized body. 5 Hinds’ Precedents §§7061–64. The House has discussed but not settled the question as to its power to compel a Member to attend an occasion of ceremony outside the Hall. 2 Hinds’ Precedents §1139.

11. Rule XXXI, *House Rules and Manual* §918 (1973), requires that the Hall of the House be used only for legislative business and caucus meetings, except where the House by resolution agrees to participate in ceremonies therein. Rule XXIX, *House Rules and Manual* §914 (1973), provides for secret sessions to be held in the Hall of the House.

12. For an instance where the House attended funeral services in the Senate Chamber without an adjournment or recess, see 5 Hinds’ Precedents §7045.

13. See §4.7, *infra*.

***Meeting in a Structure Other Than the Capitol***

**§ 4.1 The House may, without the consent of the Senate, provide for a meeting of the House in the caucus room of a House office building without violating the constitutional prohibition against meeting in another place without the consent of the other House.**

On Aug. 17, 1949,<sup>(14)</sup> Mr. Clare E. Hoffman, of Michigan, stated a point of order, as follows;

MR. HOFFMAN: Mr. Speaker, I make a point of order. My point of order is that inasmuch as the House is now sitting in the committee room of the Ways and Means Committee in the New House Office Building and that the Senate has not consented to the action which the House took some time previously, the House is not a competent, legal tribunal, qualified under the Constitution to act. I want to be heard.

THE SPEAKER:<sup>(15)</sup> The Chair is ready to rule. The Chair overrules the point of order.

MR. HOFFMAN: May I not cite the provision of the Constitution?

THE SPEAKER: The Chair is ready to rule and has ruled on that question four times.<sup>(16)</sup> The Chair does not de-

14. 95 CONG. REC. 11651, 81st Cong. 1st Sess.

15. Sam Rayburn (Tex.).

16. The Speaker had ruled on Aug. 1, Aug. 2, Aug. 4, and Aug. 5, 1949,

sire to hear the gentleman on the point of order.

MR. HOFFMAN: May I cite the section?

THE SPEAKER: The gentleman may extend his remarks to do that.<sup>(17)</sup>

**§ 4.2 A resolution is necessary to authorize the House to resume sitting in its Chamber after sitting in another structure.**

On Dec. 28, 1950,<sup>(18)</sup> Mr. Albert Thomas, of Texas, offered a resolution to adjourn, as follows:

MR. THOMAS: Mr. Speaker, I ask unanimous consent for the immediate consideration of House Resolution 894.

that the House was legally in session despite the provisions of the Legislative Reorganization Act of 1946, Ch. 753, §132, 60 Stat. 812, requiring adjournment by the end of July; he based his ruling on the decision that a continually existing national emergency precluded the operation of the Legislative Reorganization Act. 95 CONG. REC. 10486, 10591, 10777, 10858, 81st Cong. 1st Sess. See also §3.7, supra.

17. Mr. Hoffman's extension of remarks, at 95 CONG. REC. 11683, 81st Cong. 1st Sess., proposed that the term "place" in art. I, §5, clause 4 of the Constitution could not be stretched to include the territorial limits of a city, and that Senate consent was required for the House to sit as an authorized tribunal in the caucus room of the House office building.

18. 96 CONG. REC. 17021-22, 81st Cong. 2d Sess.

The Clerk read the resolution, as follows:

*Resolved*, That when the House adjourns Thursday, December 28, 1950, it adjourn to meet on Monday, January 1, 1951, at 12 o'clock meridian in the Hall of the House.

THE SPEAKER PRO TEMPORE:<sup>(19)</sup> Is there objection to the request of the gentleman from Texas?

MR. ARENDS:<sup>(20)</sup> Reserving the right to object, Mr. Speaker, will the gentleman explain the resolution to the House? I am sure we are interested in it.

MR. THOMAS: This resolution simply makes it legal for the House to move back into the Hall of the House, in the Capitol. It will be ready Monday.

The House agreed to the resolution.

### *Secret Meetings*

#### **§ 4.3 An off-the-record meeting on war progress has been ruled not an executive session of the House required to be held in the House Chamber.<sup>(1)</sup>**

On Oct. 18, 1943,<sup>(2)</sup> Majority Leader John W. McCormack, of Massachusetts, announced that

19. Wilbur D. Mills (Ark.).

20. Mr. Leslie C. Arends (Ill.).

1. Compare Rule XXIX, *House Rules and Manual* §914 (1973) which provides for secret sessions to be held in the House Chamber.

2. 89 CONG. REC. 8433, 78th Cong. 1st Sess.

the Members of the House would meet with the Chief of Staff of the Army and other generals in the auditorium of the Library of Congress, for an off-the-record meeting of the status of the war. Mr. John E. Rankin, of Mississippi, then addressed the Speaker as follows:

MR. RANKIN: Mr. Speaker, if I remember correctly, the statement of the gentleman is that this would be an executive session?

MR. MCCORMACK: Yes.

MR. RANKIN: Now, if we are going to hold executive sessions of the House, there is only one place that we are authorized by law to hold them, and that is in this Hall.

MR. MCCORMACK: This is not an executive session of Congress.

MR. RANKIN: It is going to be a secret session, and it ought to be, and it ought to be held in the Hall of the House of Representatives.

MR. MCCORMACK: This is not an executive session of Congress.

MR. RANKIN: It is unnecessary for the Congress of the United States to be going off to some other building to hear these leaders report on the war when we have the Hall of the House of Representatives built and equipped for that purpose.

Will not the gentleman modify his request to have that meeting here in this Hall?

THE SPEAKER:<sup>(3)</sup> The Chair would not recognize the gentleman for that purpose and the gentleman would not make such a request.

The time of the gentleman has expired.

3. Sam Rayburn (Tex.).

**§ 4.4 The Majority Leader of the House, in setting the time of a secret briefing of Members of Congress, did not state the place of meeting, where the place was to be kept confidential.**

On Jan. 23, 1945,<sup>(4)</sup> Speaker Sam Rayburn, of Texas, recognized Majority Leader John W. McCormack, of Massachusetts, to make the following announcement:

Mr. Speaker, I desire again to announce to the Members of the House that there will be a meeting held tomorrow morning at 9 o'clock. . . .

I am sure it will be a meeting we will all be pleased to attend as General Marshall and Admiral King will be there. I am unable to say who else will be there but these two outstanding leaders of our armed forces will be there to speak to us, as I have said, in an off-the-record discussion.

*Parliamentarian's Note:* The Members of the House were asked to keep the place of the meeting secret; it was held in the Coolidge Auditorium of the Library of Congress. The meeting, which dealt with the progress of the war, was attended by 316 House Members, the Commissioners from the Philippines and from Puerto Rico, the Delegate from Alaska, and 60 Members of the Senate.

4. 91 CONG. REC. 435, 79th Cong. 1st Sess.

***Joint Meetings and Ceremonies Outside the House Chamber***

**§ 4.5 The Majority Leader of the House announced an informal joint meeting of the Members of the two Houses, to be held in the Library of Congress.**

On May 23, 1950,<sup>(5)</sup> Majority Leader John W. McCormack, of Massachusetts, announced that on Wednesday next, May 31, 1950, the Members of the House would meet informally at the auditorium of the Library of Congress to hear Secretary of State Dean Acheson in connection with the meetings of the foreign ministers of the Atlantic Pact countries. The Speaker was authorized to declare a recess subject to the call of the Chair on Wednesday, May 31.

**§ 4.6 A joint meeting has been held in the Senate Chamber pursuant to an informal Senate invitation to the House, the unexpectedness of a guest's arrival precluding formal arrangements.**

On Dec. 26, 1941,<sup>(6)</sup> the Speaker pro tempore, William P. Cole, Jr.,

5. 96 CONG. REC. 7561, 81st Cong. 2d Sess.

6. 87 CONG. REC. 10119, 77th Cong. 1st Sess.

of Maryland, made the following announcement:

. . . On Wednesday last the majority leader of the Senate informed the Chair that he had, in the name of the Senate, extended an invitation to the Right Honorable Mr. Winston Churchill, Prime Minister of Great Britain, to attend the session of the Senate today at 12:30 o'clock p.m. and address them. Senator Barkley,<sup>(7)</sup> on behalf of the Senate, asked me to extend to the Members of the House an invitation to be present in the Senate Chamber today at that time to hear the Prime Minister. Owing to the shortness of the time, it was found impossible to make any formal arrangements. The Chair has informally accepted for the House the invitation of Senator Barkley, and those Members of the House who wish to hear the Prime Minister will form in line in the middle aisle, after the present occupant of the chair and the majority and minority leaders, and proceed to the Senate Chamber.

The House then recessed to attend the joint meeting in the Senate Chamber.

**§ 4.7 Pursuant to resolution, the House stands in session while attending the inaugural ceremonies on the east front of the Capitol.**

On Jan. 16, 1961,<sup>(8)</sup> the House agreed to the following resolution, offered by Mr. John W. McCormack, of Massachusetts:

*Resolved*, That when the House adjourns on Wednesday, January 18,

7. Sen. Alben W. Barkley (Ky.).

8. 107 CONG. REC. 730, 87th Cong. 1st Sess.

1961, it stand adjourned until 11 a.m. Friday, January 20, 1961; that upon convening at that hour the House proceed to the east front of the Capitol for the purpose of attending the inaugural ceremonies of the President and Vice President of the United States; and that upon the conclusion of the ceremonies the House stand adjourned until Monday, January 23, 1961.

**§ 5. Clerk as Presiding Officer; Authority**

On the opening day of the first session of a new Congress, the elected Clerk of the preceding Congress calls the House to order and presides until the election of a Speaker.<sup>(9)</sup> The main duties of the Clerk at the organization of the House are ascertaining a quorum through a call of the Clerk's roll, and presiding over the election of a Speaker.<sup>(10)</sup> In current practice, the organizational steps over which the Clerk presides consume only a small portion of opening day. The practice has not always been so, as Clerks have presided at some Congresses for a period of days and even weeks.<sup>(11)</sup>

9. 1 Hinds' Precedents §§ 64-65.

10. For a description of the organizational steps over which the Clerk presides, see § 5.1, *infra*. See also 1 Hinds' Precedents § 81. For detail on the preparation of the Clerk's roll, see Ch. 2, *infra*.

11. 1 Hinds' Precedents §§ 65, 67, 70, 204. In those instances, difficulties