

Resignations

A. Introduction

§ 1. Scope of Chapter

This chapter covers resignations from the House of Representatives (with occasional illustrative instances from the Senate). Also addressed are resignations from committees, boards, and commissions and resignations of certain officers and staff of the House.

Because the process of resignation relates to a number of other House procedures, the reader may wish to consult other chapters, particularly those dealing with the assembly of Congress (Ch. 1, *supra*), party organizations in the House (Ch. 3, *supra*), officers, officials, and employees (Ch. 6, *supra*), committees (Ch. 17, *supra*), and House-Senate conferences (Ch. 33, *supra*).

§ 2. Background

The resignation of a Member from the House, whether presented to the executive authority of the State concerned or to the Speaker of the House, becomes ef-

fective on its stated terms and ordinarily may not be withdrawn.⁽¹⁾

1. 2 Hinds' Precedents §1213 and 6 Cannon's Precedents §65 (addressing whether a proposal to withdraw a resignation may be privileged). Extracts from the Judiciary Committee report in 6 Cannon's Precedents §65 state without citation that resignations are "self-acting" and may not be withdrawn. In one case a Member was not permitted by the House to withdraw a resignation. 2 Hinds' Precedents §1213. However, the House has allowed withdrawal in the case of defective resignation. 6 Cannon's Precedents §229 (Member had not actually transmitted, or withdrawal had overtaken, letter of resignation); §5.1, *infra* (Member had transmitted resignation to improper State official). A Member may appoint a future date for his resignation to take effect and, until the arrival of the date, participate in the proceedings of the House. 2 Hinds' Precedents §§1220–1225, 1228, 1229; 6 Cannon's Precedents §§227, 228; §5.1, *infra*. The modern practice of resignations with prospective effective dates has engendered a possible distinction between those including explicit language of irrevocability and others (see §5, *infra*). For a State to prospectively perceive a vacancy by reason of a prospective resignation, it presumably must be

Acceptance of the resignation of a Member is unnecessary, and the refusal of the executive authority of a State to accept a resignation does not operate to continue membership in the House of the individual who submitted the resignation.⁽²⁾

The resignation of an individual from office as a Representative

assured that the resignation is irrevocable. A Member may include in a letter of prospective resignation a statement of intention that the resignation be “irrevocable” in order to allay any concern about the prospect of withdrawal. See 147 CONG. REC. 9892, 107th Cong. 1st Sess., June 5, 2001; 149 CONG. REC. 1750, 1751, 107th Cong. 1st Sess., Jan. 27, 2003; and §5.1, *infra*. In some cases executive authorities of States have been able to issue writs of election on the basis of time-contingent resignations, thereby producing Representatives-elect to fill vacancies almost immediately (see §5.1, *infra* [Rep. Neugebauer succeeding Rep. Combest]). In at least one case a Representative-elect was chosen to fill a vacancy even before the vacancy existed in fact (see §5.1, *infra* [Rep. Sullivan succeeding Rep. Largent]). In §5.6, *infra*, a resignation was effective on the election of a successor (Virginia; Dec. 1, 1944). In §5.7, *infra*, a resignation was effective on the scheduling of a special election (South Carolina; Jan. 18, 1965). In §5.12, *infra*, a delayed effective date for a resignation was disallowed (New York; Nov. 26, 1951).

2. 6 Cannon’s Precedents § 65.

creates a vacancy in the representation in the House of Representatives from the resigned Representative’s State within the meaning of clause 4, §2 of art. I of the Constitution, such that the executive authority thereof may issue a writ of election.⁽³⁾

Letters of resignation are presented as privileged.⁽⁴⁾

A Member may submit his resignation whenever he or she considers it necessary, whether the House is in session or adjourned. A resignation ordinarily becomes effective on its stated terms or on receipt by the executive authority of the State concerned. The fact that the House is not in session to receive notification of a resignation does not delay a resigning Member’s appointment to another office.⁽⁵⁾

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3. On occasion a Member who resigned has been reelected to the same House. 2 Hinds’ Precedents §§ 1210, 1212, 1256; 111 CONG. REC. 1452, 89th Cong. 1st Sess. Jan. 28, 1965; 111 CONG. REC. 13774, 89th Cong. 1st Sess., June 16, 1965; 129 CONG. REC. 114, 98th Cong. 1st Sess., Jan. 6, 1983; and 129 CONG. REC. 2575, 89th Cong. 1st Sess., Feb. 22, 1983.
 4. 2 Hinds’ Precedents § 1167.
 5. Compare 117 CONG. REC. 32413, 92d Cong. 1st Sess., Sept. 20, 1971 and 117 CONG. REC. 32239, 92d Cong. 1st Sess., Sept. 17, 1971 (relating to the appointment to the Senate of Mr. Robert T. Stafford [VT], who previously had submitted his resignation to the House). See also §5.11,

The first resignation from the House took place in 1791, after lengthy debate as to its permissibility.⁽⁶⁾ The British Parliament did not allow resignations,⁽⁷⁾ and it was asserted in the House that the U.S. Congress should adhere to this practice. However, the view prevailed that there was little analogy between the House of Representatives and Parliament and, further, that the U.S. Constitution does not prohibit the resignation of a Member of Congress.

It is desirable that a Member's resignation be sent to the House as well as the executive authority of the Member's State. It is necessary, on one hand, for the executive authority of the State to know when a Member resigns so the executive authority can fulfill the constitutional obligation to issue a writ of election to fill the vacant seat and, on the other hand, for the House to know of the resignation so that its records

may accurately reflect the current membership.⁽⁸⁾

A Member who is resigning generally submits the Member's resignation simultaneously to the House and to the executive authority of the Member's State. When this is not done, it is customary for whomever has received the resignation to notify the other.⁽⁹⁾

8. U.S. Const. art. I, § 2; Rule XX clause 5(d), *House Rules and Manual* § 1024b (2007).

9. § 3.2, *infra*. See also Ch. 8, §§ 9.1–9.3, *supra*. When a Member purports to resign directly to the Speaker, rather than to the pertinent official of the Member's State, the Executive authority of the State concerned is notified. *House Rules and Manual* § 22 (2007). When a Member does not inform the House, the Executive authority of the Member's State has done so. 2 Hinds' Precedents §§ 1193, 1194; 6 Cannon's Precedents § 232. On occasion the House has learned of the resignation of a Member by the presentation of credentials of the Member's successor. 2 Hinds' Precedents §§ 1195, 1356. When the fact of a resignation has not appeared either from the credentials of a successor or otherwise, the Clerk has been ordered to inquire, or the House has ascertained the vacancy from information given by other Members.

infra, where the resignation of Rep. Melvin R. Laird (WI) bearing the date of his swearing in as Secretary of Defense, was laid before the House two days later.

6. 2 Hinds' Precedents § 1230.

7. See Todd, Alpheus, *Practices and Privileges of Parliament*, Rogers & Thompson, Toronto, 1840, pp. 89–91.