

§ 4. Administration of Member's Offices Following Death

When a Member of the House dies, staff members are retained on the payroll of the House, under the direction of the Clerk, to carry on the functions of the deceased Member's office until a new Member is elected. This insures continuing congressional service to the Member's District. The Clerk has the authority to terminate staff, and with the approval of the Committee on House Administration, appoint such staff as required to operate the office until a successor is elected.⁽¹⁾

The Washington office of a deceased Member remains open until a new Member is elected to the vacancy. District offices may be kept open until a successor is elected. Any official bills of an office that are unpaid at the time of a Member's death will be processed by the Clerk of the House.

The deceased Member's frank can no longer be used after his death. The staff will use the Clerk's frank in conducting the official business of the office until a new Member is elected.

No staff travel is authorized after a Member's death, except

1. See Rule II clause 2(i)(1), *House Rules and Manual* § 653 (2007).

under special circumstances and as approved by the Clerk.

There is no time limit imposed on the sorting and shipment of a deceased Member's personal official papers. Usually a designated office employee assists the next of kin in the collection and disposition of personal papers.

Prior to the 108th Congress, when a Speaker died during a session of Congress, the Clerk generally called the House to order and presided until a new Speaker was elected.⁽²⁾ Following the presumptive death of two Members-elect (including the Majority Leader in the 93rd Congress), the House adopted several resolutions to address administration of those offices.⁽³⁾

Death of Speaker

§ 4.1 Rule I clause 8⁽¹⁾ provides for a Speaker to designate a Member to act as Speaker pro tempore in a limited capacity in the event of his death. It provides that in the event of a vacancy in the Office of Speaker, including

2. See §§ 4.1–4.3, *infra*; Chs. 1, 6, *supra*.

3. See §§ 4.3–4.5, *infra*.

1. *House Rules and Manual* § 632 (2007).

one as the result of death, a designated Member acts as Speaker pro tempore until the election of a Speaker or Speaker pro tempore and that pending the election of a Speaker or Speaker pro tempore, the Member acting as Speaker pro tempore may exercise such authorities of the Office of the Speaker as may be necessary and appropriate to that end.

§ 4.2 Prior to the 108th Congress, upon the death of the Speaker, the Clerk called the House to order, announced the death of the Speaker, and presided over the House until the election of a new Speaker.

On Jan. 10, 1962,⁽¹⁾ the Clerk of the House⁽²⁾ called the House to order, announced the death of the Speaker,⁽³⁾ and presided over the election of a new Speaker.

Parliamentarian's Note: Speaker Rayburn presided over the House for the last time on Aug. 30, 1961. On Aug. 31, 1961,⁽⁴⁾ Majority Leader John W. McCormack, of

1. 108 CONG. REC. 5, 6, 87th Cong. 2d Sess.
2. Ralph R. Roberts.
3. Sam Rayburn (TX).
4. See 107 CONG. REC. 17765, 17766, 87th Cong. 1st Sess. (H. Res. 445).

Massachusetts, was elected (by resolution) to be Speaker pro tempore during the absence of the Speaker.

The first session of the 87th Congress adjourned *sine die* on Sept. 27, 1961. Speaker Rayburn died on Nov. 16, 1961, in Bonham, Texas.

In response to inquiries during the adjournment period, the Leadership agreed that upon the death of the Speaker the authority of the Speaker pro tempore terminated, and that the Clerk was the proper official to call the House to order on the day appointed for reconvening.⁽⁵⁾

On Jan. 10, 1962,⁽⁶⁾ the Clerk called the House to order:

The House met at 12 o'clock noon and was called to order by the Honorable Ralph R. Roberts, Clerk of the House.

The CLERK. Members of the House of Representatives, the time has arrived for the meeting of the 2d session of the 87th Congress. Since the last session of Congress the great and beloved Speaker of the House has departed this life.

5. For other instances in which the Clerk called the House to order upon the death of a Speaker, see 86 CONG. REC. 12231, 76th Cong. 3d Sess., Sept. 16, 1940 (Speaker Bankhead); 80 CONG. REC. 9016, 74th Cong. 2d Sess., June 4, 1936 (Speaker Byrns); and 79 CONG. REC. 9, 74th Cong. 1st Sess., Jan. 3, 1935 (Speaker Rainey).
6. 108 CONG. REC. 5, 87th Cong. 2d Sess.

The Clerk of the House, in conformity with the rules, has called the House to order for the purpose of electing a Speaker. The roll will be called to ascertain whether a quorum is present.

The Clerk will call the roll.

CALL OF THE HOUSE

The Clerk called the roll. . . .

The CLERK. Four hundred and eleven Members having answered to their names, a quorum is present.

Inasmuch as election of a new Speaker is the first order of business in the House when a vacancy in this office has occurred, Members-elect do not participate either in the alphabetical call of the roll or in the election of the Speaker since they had not yet been sworn into office. Resignations tendered during the adjournment *sine die* were not laid before the House prior to the vote for Speaker, but the names of those who had resigned were stricken from the roll and were not called to establish the quorum or to elect the Speaker.

This corrects an anomaly in 1 Hinds § 224, where, in 1820, several unsworn Members-elect were permitted to vote for Speaker to fill a vacancy in the second session. That instance runs contrary to the precedent cited herein.

Presumptive Death of Members-elect

§ 4.3 The House agreed to a resolution offered from the

floor which, in part, continued on the clerk-hire rolls the clerical assistants in the employ of the Majority Leader at the close of the preceding Congress until such time as the vacancy caused by his absence (and presumptive death) could be filled by a special election.

On Jan. 3, 1973,⁽¹⁾ House Resolution 8 was offered by Mr. F. Edward Hébert, of Louisiana. The clause pertinent to retention of the late Majority Leader's employees read as follows:

Resolved, That there shall be paid from the contingent fund of the House, until otherwise provided by law, such sums as may be necessary to compensate the clerical assistants designated by former Representative Hale Boggs in the 92nd Congress and borne upon the clerk hire pay rolls of the House of Representatives at the close of the 92nd Congress at the rates of compensation then payable to said clerical assistants, until a successor is elected to fill the vacancy in the Second Congressional District of the State of Louisiana caused by the absence of Representative-elect Hale Boggs: *Provided*, that the Clerk is authorized to make, from time to time, such salary adjustments as he deems advisable with respect to all of the aforementioned employees.

§ 4.4 The House by unanimous consent considered and

1. 119 CONG. REC. 27, 93d Cong. 1st Sess.

agreed to a resolution offered from the floor which, in part, directed the Clerk to appoint to the House clerk-hire rolls two designated employees of a former Majority Leader until the vacancy caused by his death could be filled.

On Jan. 3, 1973,⁽¹⁾ House Resolution 8 was offered by Mr. F. Edward Hébert, of Louisiana. The clause pertaining to Majority Hale Boggs' employees is as follows:

Resolved, That effective January 3, 1973, the Clerk of the House is authorized and directed to appoint James T. Nickens and Harry D. Debuys, two clerks on the pay roll of the Office of the Majority Leader at the close of the 92nd Congress, to the clerk hire pay rolls of the House of Representatives at the rates of compensation then payable to said clerks, until a successor is elected to fill the vacancy caused by the absence of Representative-elect Hale Boggs; *Provided*, that the Clerk is authorized to make, from time to time, such salary adjustments as he deems advisable with respect to the aforementioned two employees.

The resolution was agreed to.

§ 4.5 The House considered and agreed to a resolution which provided, in part, that those clerical assistants employed by a deceased Member-elect at the close of the

1. *Ibid.*

preceding Congress be carried on the clerk-hire rolls until the vacancy in the new Congress caused by his death could be filled by special election. The resolution also authorized the Clerk to fill two vacancies on the deceased Member's staff and to adjust the salaries of all the employees in that office.

The relevant paragraph of House Resolution 9, offered by Mr. Thomas P. O'Neill, Jr., of Massachusetts, on Jan. 3, 1973,⁽¹⁾ appears below:

Resolved, That there shall be paid out of the contingent fund of the House, until otherwise provided by law, such sums as may be necessary to compensate the clerical assistants designated by the late Nick Begich and borne upon the clerk hire payrolls of the House of Representatives at the close of the 92d Congress at the rates of compensation then payable to said clerical assistants, until a successor is elected to fill the vacancy caused by the death of the said Nick Begich; *Provided*, That the Clerk of the House is hereby authorized to employ two additional employees, to fill the vacancy on the staff of the late Nick Begich caused by the death of Russell L. Brown of Alaska and to fill the other vacancy on that staff which has occurred since the death of the late Nick Begich, and there shall be paid from the contingent fund such additional sums as may be required to compensate the employees so designated at a rate to be determined by the Clerk: *Provided further*, that the

1. *Ibid.*

Clerk is authorized to make, from time to time, such salary adjustments as he deems advisable with respect to all of the aforementioned employees. . . .

The resolution was agreed to.

§ 4.6 By unanimous consent, the House considered a resolution offered from the floor which, in part, provided for payment from the contingent fund of necessary office and travel expenses of a former Member until the vacancy caused by his death was filled.

On Jan. 3, 1973,⁽¹⁾ Mr. Thomas P. O'Neill, Jr., of Massachusetts, rose to offer House Resolution 9, which dealt both with authorizing expenditures in connection with the widow's gratuity and as well with expenses for the office of the late Member-elect Nick Begich, of Alaska. The relevant portion of the resolution stated as follows:

Resolved, That there shall be paid from the contingent fund of the House, until a successor is elected to fill the vacancy caused by the death of Representative-elect Nick Begich, such sums as may be required for the Clerk of the House to:

(1) pay all necessary expenses required to maintain in operation the three offices in the State of Alaska, and the one office in the District of Columbia, operated by the late Representative Nick Begich at the close of the 92d Congress;

1. *Ibid.*

(2) provide such office expenses, including telephone allowance, equipment rental, stationery, and postage, as the Clerk deems essential to the operation of these aforementioned offices;

(3) pay the expenses of travel between Washington, D.C., and the State of Alaska, and within the State of Alaska, for such personnel as the Clerk may specifically designate and authorize to travel in connection with their official duties as clerical assistants in the aforementioned offices.

The resolution was agreed to.

Parliamentarian's Note: The Speaker received written requests from Mr. Begich's staff for appointment of additional interim staff to handle constituent problems in Alaska pending election of a new Representative. (Mr. Begich had been elected at-large.) In one letter, Mr. Begich's administrative aide requested he be authorized by resolution to hire additional interim staff. The Speaker decided to confer that authority upon the Clerk of the House, who was also empowered to make pay adjustments pursuant to the five percent cost-of-living adjustment available as of Jan. 1, 1973.

§ 5. Announcement of Death; Accounting for Vacancies

The death of a Member (including the Speaker) and often of