

The Members

A. INTRODUCTORY

§ 1. In General; Rights and Privileges; Term of Office

Membership in the House of Representatives entitles the Members to compensation, to miscellaneous privileges and allowances, and to immunities protecting their independence and integrity. But a Member-elect must first satisfy the House that he has met all the qualifications for membership required of him. Those rights, immunities, and qualifications are the subject of this chapter.⁽¹⁾

Ancillary matters dealing primarily with parliamentary procedure, such as questions of privilege relating to Members,⁽²⁾ are treated elsewhere.

The qualifications for membership, are mandated by the United States Constitution.⁽³⁾ Members'

allowances and the methods of disbursement thereof are governed by statute, principally title 2 of the United States Code. Other matters relating to Members, such as seniority and derivative rights, are based on the custom and practice of the House.

The term of office for a Member is mandated by the 20th amendment to the Constitution to begin on Jan. 3 of the odd-numbered year for which elected, and to extend for two years to noon on Jan. 3 of the next odd-numbered year.⁽⁴⁾ Prior to the ratification of the amendment, the terms of

1. Delegates and Resident Commissioners enjoy in full or in part the rights and duties arising from congressional membership. Their status is analyzed specifically in §3, *infra*, and other sections refer to them where applicable.
2. For privilege, see Ch. 11, *infra*.
3. See U.S. Const. art. I, §2, clause 2.

4. Section 1 of the amendment, ratified in 1933, states that the terms of Senators and Representatives shall end "at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified", and section 2 states that the first assembly of a Congress "shall begin at noon on the 3d day of January, unless they shall by law appoint a different day." For commentary on the provisions, see *House Rules and Manual* §6 (comment to U.S. Const. art. I, §2, clause 1) and §279 (comment to amendment 20) (1973).

Members had begun on Mar. 4 of the odd-numbered years and terminated on Mar. 3 two years later.⁽⁵⁾ If Congress assembles for its first session after Jan. 3, Representatives-elect receive salary from Jan. 3 if credentials have been filed with the Clerk of the House.⁽⁶⁾

Under the Code of Official Conduct, a Member is prohibited from accepting any gift of substantial value from any person or organization having a direct interest in legislation.⁽⁷⁾ A Member is required to disclose the amounts of any gifts received for campaign expenditures, which are likewise regulated and must be kept separate from personal funds under

5. A joint committee of the First Congress determined that under a resolution of the Continental Congress (First Congress to meet on Mar. 4, 1789) and under U.S. Const. art. I, §2, clause 1 (Members to be chosen every second year), the terms of Representatives and Senators of the first class commenced on the 4th of March and terminated two years later on Mar. 3 (see 1 Hinds' Precedents §§3, 11). That construction was followed until the adoption of the 20th amendment.
6. 2 USC §34.
7. Rule XLIII clause 4, *House Rules and Manual* §939 (1973).

The Code of Conduct was adopted in the 90th Congress (see §1.1, *infra*). For matters relating to the Code of Conduct, see Ch. 12, *infra*.

the code.⁽⁸⁾ In relation to "honorariums," a Member is prohibited from accepting more than the usual and customary value thereof,⁽⁹⁾ and he is required to disclose honorariums from a single source aggregating \$300 or more.⁽¹⁰⁾

By statute, Congress has consented, pursuant to article I, section 9, clause 8, to the acceptance by a federal employee of a foreign decoration awarded him, subject to the approval of the division of the government in which he is employed and the concurrence of the Secretary of State.⁽¹¹⁾ When

8. Rule XLIII clauses 6, 7, *House Rules and Manual* §939 (1973). For disclosure of campaign expenditures, see Ch. 8, *infra*.
9. Rule XLIII clause 5, *House Rules and Manual* §939 (1973) prohibits Members from receiving more than the "usual and customary value" for making a speech, writing for publication, or other similar activity. The rule was adopted in the 90th Congress (see §1.1, *infra*).
10. Rule XLIV, part A, clause 3(d) (financial disclosure), *House Rules and Manual* §940 (1973). The portion of the rule relating to disclosure of honorariums was adopted in the 91st Congress (see §1.2, *infra*).
11. 5 USC §7342(d) approves a decoration "tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance." In the absence of the requisite approval and concurrence,

such an award is tendered to a Member of the House, it is the Speaker's function to approve or disapprove of the accepting and wearing of the award.⁽¹²⁾ In one instance where the Speaker himself was tendered such an award, a private law was enacted so as not to place him in the position of reviewing his own application.⁽¹³⁾

An incidental privilege drawn from statute is the right of a Member, Delegate, and the Resident Commissioner to nominate persons for appointment to the United States military academies.⁽¹⁴⁾ Their power extends to nominating alone, as the power to appoint is held by the President.⁽¹⁵⁾

the decoration must be deposited as the property of the United States. See 22 USC § 2625 for the disposal of nonapproved decorations.

12. See *House Rules and Manual* § 159 (comment to U.S. Const. art. I, § 9, clause 8) (1973).
13. See § 1.4, *infra*.
14. The principle provisions are 10 USC § 4342 (United States Military Academy), 10 USC § 6954 (United States Naval Academy), and 10 USC § 9342 (United States Air Force Academy).
For an occasion where a Member resigned from the House under threat of expulsion for allegedly having sold appointments to military academies, see 2 Hinds' Precedents § 1273. The House excluded him when he was re-elected to the same Congress (1 Hinds' Precedents § 464).
15. "All cadets are appointed by the President." 10 USC § 4342(d); 10

Since 1964, each Congressman has been entitled to a maximum quota of five nominated positions in each of the academies at any one time.⁽¹⁶⁾ The Delegate from the District of Columbia and the Resident Commissioner from Puerto Rico are entitled to nominate for five openings,⁽¹⁷⁾ and the Delegates from Guam and the Virgin Islands are entitled to nominate for one opening.⁽¹⁸⁾ Members may request from the secretary of the respective branch of the armed services the name of the

USC § 9342(d). "Midshipmen at the Naval Academy shall be appointed by the President alone." 10 USC § 6953. The latter provision was passed on Aug. 10, 1956, 70 Stat. 429, Ch. 1041, to make clear that the appointment power rested in the President alone. See note to 10 USCA § 6953.

See also *Walbach v U.S.*, 93 Ct. Cl. 494 (1941), holding that Members of Congress have no power of appointment to the Military Academy, but can only nominate for positions.

16. 10 USC § 4342(a)(4) (Military Academy); 10 USC § 6954(a) (4) (Naval Academy); 10 USC § 9342 (a) (4) (Air Force Academy).
17. 10 USC § 4342(a) (5), (7) (Military Academy); 10 USC § 6954(a) (5), (7) (Naval Academy); 10 USC § 9342(a) (5), (7) (Air Force Academy).
18. 10 USC § 4342(a) (6), (9) (Military Academy); 10 USC § 6954(a) (6), (9) (Naval Academy); 10 USC § 9342(a) (6), (9) (Air Force Academy).

Congressman or other nominating authority responsible for the nomination of a named individual to an academy.⁽¹⁹⁾

The Members are also allotted quotas for nomination of persons to the Merchant Marine Academy, depending on state population.⁽²⁰⁾

Cross References

Rights and status of Members before being sworn, see Ch. 1, *supra* (assembly of Congress) and Ch. 2, *supra* (enrolling Members and administering the oath).

Number and apportionment of Members, see Ch. 8, *infra*.

Rights and duties of Members in committees, see Ch. 17, *infra*.

Conduct, punishment, censure, and expulsion of Members, see Ch. 12, *infra*.

Status of Members-elect and Delegates-elect, see Ch. 2, *supra*.

Resignation of Members, see Ch. 37, *infra*.

Personal privilege of Members, see Ch. 11, *infra*.

Elections and campaigns of Members, see Ch. 8 and Ch. 9, *infra*.

Party organization and Members, see Ch. 3, *supra*.

Collateral Reference

Senate Report, Armed Services Committee, Report Relating to the Nomination and Selection of Candidates for

19. 10 USC §4342(h) (Military Academy); 10 USC §6954(e) (Naval Academy); 10 USC §9342(h) (Air Force Academy).

20. See 46 USC §1126(b)(1).

Appointment to the Military, Naval, and Air Force Academies, 88th Cong. 2d Sess. (1964).

Gifts, Awards, and Honorariums

§ 1.1 The House adopted in the 90th Congress a standing rule restricting the acceptance of gifts and honorariums by Members.

On Apr. 3, 1968, the House passed House Resolution 1099, reported from the Committee on Standards of Official Conduct, providing for a Code of Official Conduct to become part of the rules of the House.⁽¹⁾ Clause 4 of the resolution prohibited a Member (or officer or employee of the House) from accepting a gift of “substantial” value from persons, corporations, or organizations having a direct interest in legislation before Congress.⁽²⁾ Clause 5 of the resolution prohibited a Member (or officer or employee of

1. 114 CONG. REC. 8811, 90th Cong. 2d Sess. Debate on the resolution begins at p. 8777.

2. Rule XLIII clause 4, *House Rules and Manual* §939 (1973). When the House was considering the resolution, Charles M. Price (Ill.), Chairman of the Committee on Standards of Official Conduct, explained clause 4 at 114 CONG. REC. 8878.

the House) from accepting an honorarium in excess of the usual and customary value of such services.⁽³⁾

§ 1.2 The House amended in the 91st Congress the rules relating to financial disclosure to require disclosure by Members of certain honorariums.

On May 26, 1970, the House passed House Resolution 796, reported by the Committee on Standards of Official Conduct, amending standing Rule XLIV on financial disclosure.⁽⁴⁾ One section of the resolution amended paragraph 3 of part A of Rule XLIV by adding the requirement that Members (or officers and employees of the House) disclose honorariums from a single source aggregating \$300 or more.⁽⁵⁾

3. Rule XLIII clause 5, *House Rules and Manual* §939 (1973). The Chairman of the Committee on Standards of Official Conduct explained clause 5 at 114 CONG. REC. 8778, 8779.
4. 116 CONG. REC. 17020, 91st Cong. 2d Sess. Debate on the resolution begins at p. 17013.
5. Rule XLIV, part A, clause 3(d), *House Rules and Manual* §940 (1973). Charles M. Price (Ill.), Chairman of the Committee on Standards of Official Conduct, explained the amendment at 116 CONG. REC. 17014.

Receipt of Foreign Awards

§ 1.3 Before Congress consented by statute to the acceptance by federal employees of foreign decorations,⁽⁶⁾ the House practice was to pass bills authorizing named Members to accept and wear awards tendered by foreign governments.

On July 23, 1956,⁽⁷⁾ the House passed H.R. 12358, discharged from the Committee on Foreign Affairs. The bill authorized four Members of the House to accept and wear the award of the Cross of Grand Commander of the Royal Order of the Phoenix, tendered by the Government of the Kingdom of Greece. The bill also provided that notwithstanding contrary provisions of the United States Code, the said Members could

6. By the Foreign Gifts and Decorations Act of 1966, Pub. L. No. 89-673, 80 Stat. 952, as amended, Pub. L. No. 90-83, 81 Stat. 208 (codified as 5 USC §7342), Congress has granted its consent to the accepting, retaining, and wearing by a federal employee of a decoration tendered in recognition of active field service or awarded for other outstanding or unusually meritorious performance, subject to the approval of his employer and to the concurrence of the Secretary of State.
7. 102 CONG. REC. 14121, 14122, 84th Cong. 2d Sess.

wear and display such decorations.

Similarly, on July 25, 1956,⁽⁸⁾ the House passed H.R. 12396 authorizing a Member to accept and wear the award of the medal for distinguished military service, tendered by the President of the Republic of Cuba

Again, on July 25, 1956,⁽⁹⁾ the House authorized by H.R. 12408 two Members of the House and an ambassador to accept and wear the award of the Order Al Merito della Repubblica Italiana tendered by the Government of the Republic of Italy.

§ 1.4 Where the Speaker was tendered a decoration from a foreign country, the House agreed to a joint resolution authorizing him to accept and wear the decoration, in order to avoid a conflict of interest.

On Dec. 21, 1970,⁽¹⁰⁾ the House passed House Joint Resolution 1420, authorizing Speaker John W. McCormack, of Massachusetts, to accept and wear an award conferred by the Government of the

8. 102 CONG. REC. 14557, 14558, 84th Cong. 2d Sess.
9. 102 CONG. REC. 14564, 84th Cong. 2d Sess.
10. 116 CONG. REC. 43068, 91st Cong. 2d Sess.

Republic of Italy. The resolution stated in section 2 that the Speaker could wear and display the decoration notwithstanding 5 USC § 7342 or any other provision of law to the contrary.

Parliamentarian's Note: 5 USC § 7342 provides for the granting of the consent of Congress to officers and employees of the government to accept certain gifts and decorations from foreign governments under enumerated conditions. Under section 6 of that statute, the Speaker must approve the presentation of such awards to Members of the House. In this instance the House passed the resolution to avoid a possible conflict wherein the Speaker would approve an award to himself.

Communications With Executive Branch

§ 1.5 The Committee on Standards of Official Conduct, under authority of the House rules, has issued guidelines for Members and employees in communicating with federal agencies on constituent matters.⁽¹¹⁾

11. Under Rule XI clause 19(e) (4), House Rules and Manual § 720 (1973), the Committee on Standards of Official Conduct may issue, on request, advisory opinions with respect to the general propriety of any cur-

On Jan. 26, 1970, Charles M. Price, of Illinois, the Chairman of the Committee on Standards of Official Conduct, inserted in the Record an advisory opinion which established guidelines for Members and employees in communicating with departments and agencies of the executive branch in relation to problems and complaints of constituents.⁽¹²⁾

Standing of Member-elect to Sue House Officer

§ 1.6 The Speaker announced the institution of a suit by an excluded Member-elect to enjoin the Speaker and other defendants from enforcing the resolution excluding the plaintiff from the House, and seeking a writ of mandamus directing the Speaker to administer him the oath of office as a Member of the 90th Congress.

On Mar. 9, 1967,⁽¹³⁾ Speaker John W. McCormack, of Massachusetts, informed the House that a summons had been issued, in connection with a suit brought by Mr. Adam C. Powell, Jr., of New

York, and by other parties plaintiff, against Mr. McCormack and against the following Members and officers of the House: Carl Albert, of Oklahoma, Majority Leader, Gerald R. Ford, of Michigan, Minority Leader, Mr. Emanuel Celler, of New York, Mr. Arch A. Moore, Jr., of West Virginia, W. Pat Jennings, Clerk, Zeake W. Johnson, Jr., Sergeant at Arms, and William M. Miller, Doorkeeper.

The summons and the complaint were inserted in the *Congressional Record*.⁽¹⁴⁾ The summons prayed for an injunction against enforcement of House Resolution 1 of the 90th Congress, excluding Mr. Powell from the House of Representatives, and sought a writ of mandamus directing the Speaker to administer Mr. Powell the oath of office as a Member of the Congress.⁽¹⁵⁾ The Supreme Court later held, in the final determination of the suit referred to by the Speaker, that Mr. Powell was improperly excluded from the House.⁽¹⁶⁾

rent or proposed conduct of a Member or employee.

12. 116 CONG. REC. 1077, 91st Cong. 2d Sess.; see also Ch. 12, *infra*.

13. 113 CONG. REC. 6035, 90th Cong. 1st Sess.

14. *Id.* at pp. 6035–40.

15. *Id.* at p. 6038.

16. *Powell v McCormack*, 395 U.S. 486 (1971), discussed in § 9, *infra*.

For other briefs and memoranda relating to the suit brought by Mr. Powell, see 113 CONG. REC. 8729–62, 90th Cong. 1st Sess., Apr. 10, 1967.

Standing of Members to Sue in Representative Capacity

§ 1.7 The Members of Congress have standing to sue in their representative capacity where the suit would enable them to inquire into certain actions in the discharge of their constitutional duties regarding legislation.

On May 25, 1971, Mr. Parren J. Mitchell, of Maryland, was recognized, under a previous order of the House, to address the House for 20 minutes.⁽¹⁷⁾ Mr. Mitchell informed the House that he and 12 other Members of the House had filed on Apr. 7, 1971, a suit in a U.S. District Court asserting that the war in Indochina was illegal because it lacked a decision by Congress to fight such war.

Mr. Mitchell then inserted in the Record copies of the complaint and all briefs filed in that action. The complaint indicated that Mr. Mitchell and the other Members were filing suit in their official capacity as Representatives in Congress.

In *Mitchell v Laird*, the court, in upholding the standing of the Members of the House to bring the suit in their representative capacity, said:

17. 117 CONG. REC. 16846, 92d Cong. 1st Sess.

However, plaintiffs are not limited by their own concepts of their standing to sue. We perceive that in respects which they have not alleged they may be entitled to complain. If we, for the moment, assume that defendants' actions in continuing the hostilities in Indo-China were or are beyond the authority conferred upon them by the Constitution, a declaration to that effect would bear upon the duties of plaintiffs to consider whether to impeach defendants, and upon plaintiffs' quite distinct and different duties to make appropriations to support the hostilities, or to take other legislative actions related to such hostilities, such as raising an army or enacting other civil or criminal legislation. In our view, these considerations are sufficient to give plaintiffs a standing to make their complaint. Cf. *Flast v Cohen*, 392 U.S. 83 (1968); *Association of Data Processing Service Organizations, Inc. v Camp*, 397 U.S. 150 (1970); *Barlow v Collins*, 397 U.S. 159 (1970).⁽¹⁸⁾

On Jan. 26, 1970,⁽¹⁹⁾ Mr. Jerry L. Pettis, of California, addressed the House in relation to a brief which he and 31 other Members had filed in the Federal Appellate Court in the District of Columbia

18. See *Mitchell v Laird*, 488 F2d 611 (D.C. Cir. 1973).

For other decisions relating to standing to file suit in an official capacity, see *Reed et al. v The County Commissioners*, 277 U.S. 376 (1928); *Coleman v Miller*, 407 U.S. 433 (1939).

19. 116 CONG. REC. 1089, 1090, 91st Cong. 21 Sess.

in a case brought against the Civil Aeronautics Board. Mr. Pettis and the other Members had asked the court to reverse the decision of the board that had recently allowed all domestic interstate airlines to put fare increases into effect. The brief and memoranda filed by those Members, inserted in the Record,⁽²⁰⁾ stated that “petitioners are proceeding in their capacities as users of the airways and Representatives of their respective constituencies and of other members of the public who travel by air.”⁽¹⁾

On June 23, 1971, there was inserted in the Record by Mr. Robert C. Eckhardt, of Texas, a brief in support of a motion for intervention in an action in the United States District Court for the District of Columbia.⁽²⁾ The case involved the application by the U.S. government for an injunction against the publication by the Washington Post of a Defense Department test study on the Vietnam conflict.⁽³⁾ The brief stated

20. *Id.* at pp. 1089 et seq.

1. *Id.* at p. 1090.

2. 117 CONG. REC. 21750–54, 92d Cong. 1st Sess.

3. Civil Action No. 1235–71, U.S. District Court for the District of Columbia. The controversy was resolved by the Supreme Court in *N.Y. Times Co. v U.S.*, 403 U.S. 713 (1971), where the court ruled the federal

that the Members of Congress had standing to sue as intervenors because of their “interest in not being deprived of information which would normally flow to them but for an intervening act of government restraining that flow.”

On June 28, 1971, Mr. Eckhardt inserted in the *Congressional Record* a second brief on the same case, filed on behalf of 27 Members of Congress in opposition to the injunction.⁽⁴⁾ The brief described the interest of the Members of Congress in the suit as follows:

The Members of Congress, on whose behalf this brief is filed, have a vital interest in the outcome of these cases, distinct from that of the plaintiff, the defendants, or the general public. As members of the national legislature they must have information of the kind involved in these suits in order to carry out their law-making and other functions in the legislative branch of the government. They seek to vindicate here a legislative right to know.

In addition as elected representatives of the people in their districts, Members of Congress have a particular and profound interest in having their constituents obtain all the information necessary to perform their functions as voters and citizens. More than any other officials of government, Members

government could not restrain publication of the information.

4. Mr. Eckhardt’s introduction of the brief appears at 117 CONG. REC. 22561, 92(Cong. 1st Sess.

of Congress have relations with the public that gives them a crucial concern with the public's right to know.⁽⁵⁾

§ 1.8 In the 92d Congress, a Senator instituted an action in a federal district court to challenge the constitutionality of a pocket veto by the President, and was held to have standing to bring such suit in his representative capacity.

On Aug. 9, 1972, Senator Edward M. Kennedy, of Massachusetts, addressed the Senate in relation to his efforts to seek a judicial determination of the legal and constitutional issues surrounding the President's pocket veto power. He contended that the action of the President in withholding his approval of the Family Practice of Medicine Act (S. 3418) did not result in a pocket veto because it took effect while the Congress was on a brief holiday recess, and not adjourned *sine die* after a Congress or after a session.⁽⁶⁾

By unanimous consent, Senator Kennedy inserted in the *Congressional Record* a statement of his contentions, his complaint before the District Court for the District of Columbia, and other materials

relating to the vetoed bill.⁽⁷⁾ In the case to which Senator Kennedy referred,⁽⁸⁾ the United States Court of Appeals for the District of Columbia Circuit held, in reliance upon *Sierra Club v Morton*, 405 U.S. 727 (1972), *Flast v Cohen*, 392 U.S. 83 (1968), *Association of Data Processing Organizations, Inc. v Camp*, 397 U.S. 150 (1970), *Coleman v Miller*, 307 U.S. 433 (1939), and *Baker v Carr*, 369 U.S. 186 (1962), that the appellee, a United States Senator, had standing to maintain a suit, in his capacity as an individual Senator who voted in favor of a bill, to challenge the effectiveness of a Presidential "pocket veto" during an intra-session recess of Congress.

On the issue of standing, the court concluded that "appellee's object in this lawsuit is to vindicate the effectiveness of his vote. No more essential interest could be asserted by a legislator. We are satisfied, therefore, that the purposes of the standing doctrine are fully served in this litigation."

The court then held, on the issue whether the bill allegedly pocket-vetoed became a law, that it did become a law, an intra-ses-

5. *Id.* at . 22562.

6. 118 CONG. REC. 27457, 92d Cong. 2d Sess.

7. 118 CONG. REC. 27457-61, 92d Cong. 2d Sess.

8. See *Kennedy v Sampson*, ___ F2d ___ (D.C. Cir., Aug. 14, 1974).

sion adjournment not preventing the return of a vetoed bill to Congress where appropriate arrangements had been made for receipt of Presidential messages during the adjournment. (The Secretary of the Senate had been authorized by unanimous consent to receive messages from the President during the adjournment to a day certain.)⁽⁹⁾

§ 1.9 The Senate adopted a resolution authorizing payment from its contingent fund of expenses incurred by a Senator as a party in litigation involving the Speech and Debate Clause of the United States Constitution, and providing for the appointment of a select committee to appear as amicus curiae before the United States Supreme Court and to file a brief on behalf of the Senate in the action.

On Mar. 23, 1972,⁽¹⁰⁾ the Senate discussed its possible intervention in the case of *Gravel v United States*, involving the Speech and Debate Clause of the Constitution then pending in the Supreme

9. 116 CONG. REC. 43221, 91st Cong. 2d Sess., Dec. 22, 1970. See also Ch. 24, *infra*, for discussion of the veto power generally.

10. 118 CONG. REC. 9902, 9907, 9915, 9920, 9921, 92d Cong. 2d Sess.

Court of the United States, Senator Maurice R. Gravel, of Alaska, being a party thereto. The Senate adopted a resolution (S. Res. 280) authorizing the President pro tempore, Allen J. Ellender, of Louisiana, to appoint Members of the Senate to a committee to seek permission to appear as amicus curiae in the case:⁽¹¹⁾

RESOLUTION

Authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution

Whereas the Supreme Court of the United States on Tuesday, February 22, 1972, issued writs of certiorari in the case of Gravel against United States; and

Whereas this case involves the activities of the junior Senator from Alaska, Mr. Gravel; and

Whereas in deciding this case the Supreme Court will consider the scope and meaning of the protection provided to Members of Congress by article I, section 6, of the United States Constitution, commonly referred to as the "Speech or Debate" clause, including the application of this provision to Senators, their aides, assistants, and associates, and the types of activity protected; and

Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to deter-

11. *Gravel v United States*, 408 U.S. 606 (1972).

mine the relevancy and propriety of activity and the scope of a Senator's duties under the rules of the Senate and the Constitution; and

Whereas this case therefore concerns the constitutional separation of powers between legislative branch and executive and judicial branches of Government; and

Whereas a decision in this case may impair the constitutional independence and prerogatives of every individual Senator, and of the Senate as a whole; and

Whereas the United States Senate has a responsibility to insure that its interests are properly and completely represented before the Supreme Court: Now, therefore, be it

Resolved, That the President pro tempore of the Senate is hereby authorized to appoint a bipartisan committee of Senators to seek permission to appear as amicus curiae before the Supreme Court and to file a brief on behalf of the United States Senate; and be it further

Resolved, That the members of this bipartisan committee shall be charged with the responsibility to establish limited legal fees for services rendered by outside counsel to the committee, to be paid by the Senate pursuant to these resolutions; be it further

Resolved, That any expenses incurred by the Committee pursuant to these resolutions including the expense incurred by the Junior Senator from Alaska as a party in the above mentioned litigation in printing records and briefs for the Supreme Court shall be paid from the contingent fund of the Senate on vouchers authorized and signed by the President pro tempore of

the Senate and approved by the Committee on Rules and Administration; be it further

Resolved, That these resolutions do not express any judgment of the action that precipitated these proceedings; and be it further

Resolved, That the Secretary of the Senate transmit a copy of these resolutions to the Supreme Court.

MR. [MICHAEL J.] MANSFIELD [of Montana]: Mr. President, there are some recommendations relative to the counsel to be appointed from the Democratic side and three associate counsel to assist the chief counsel. Would the Chair make those nominations at this time on behalf of the majority?

THE PRESIDENT PRO TEMPORE: Under the resolution just agreed to, the Chair appoints the Senator from North Carolina (Mr. Ervin) chief counsel, and the Senator from Mississippi (Mr. Eastland), the Senator from Rhode Island (Mr. Pastore), and the Senator from Georgia (Mr. Talmadge) as associate counsel.

THE PRESIDING OFFICER (Mr. Stafford) subsequently stated: The Chair, on behalf of the President pro tempore, under Senate Resolution 280, makes the following appointments to the committee established by that resolution: The Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), the Senator from Maryland (Mr. Mathias), and the Senator from Ohio (Mr. Saxbe).

§ 2. Seniority and Derivative Rights

Seniority is a Member's length of service in the House or on a