

the Senate and private organizations for the same travel,

deserves the censure of the Senate; and he is so censured for his conduct, which is contrary to accepted morals, derogates from the public trust expected of a Senator, and tends to bring the Senate into dishonor and disrepute.

On June 23, 1967, the Senate adopted the first portion of the resolution of censure relating to the use of political funds by Senator Dodd for private purposes:<sup>(16)</sup>

*Resolved*, (A) That it is the judgment of the Senate that the Senator from Connecticut, Thomas J. Dodd, for having engaged in a course of conduct over a period of five years from 1961 to 1965 of exercising the influence and power of his office as a United States Senator, as shown by the conclusions in the investigation by the Select Committee on Standards and Conduct, to obtain, and use for his personal benefit, funds from the public through political testimonials and a political campaign, deserves the censure of the Senate; and he is so censured for his conduct, which is contrary to accepted morals, derogates from the public trust expected of a Senator, and tends to bring the Senate into dishonor and disrepute.

The Senate then proceeded to consider and agree to the remainder of the resolution, censuring Senator Dodd for improper use and solicitation of travel funds.

16. 113 CONG. REC. 17011, 90th Cong. 1st Sess.

**§ 12.4 A committee on elections recommended that a contestee would be subject to censure by the House but not to forfeiture of his seat where there were mitigating circumstances involved in his violation of the Corrupt Practices Act.**

On May 21, 1936,<sup>(17)</sup> a committee on elections reported in the election contest case of *McCandless v King*, for the seat of Delegate from Hawaii. In its report, House Report No. 2736, the committee concluded that there were mitigating circumstances in the contestee's failure to fully comply with the reporting requirements of the Corrupt Practices Act. The committee recommended that Mr. Samuel Wilder King be declared entitled to the seat but stated in its report that Mr. King could be subject to censure by the House.

On June 2, 1936, the House adopted House Resolution 521, declaring the contestee, Mr. King, entitled to the seat.<sup>(18)</sup>

### **§ 13. Investigations by Standing Committees**

Investigations of specific elections or election practices are usu-

17. 80 CONG. REC. 7765, 74th Cong. 2d Sess.

18. 80 CONG. REC. 8705, 74th Cong. 2d Sess.

ally undertaken by the Committee on House Administration.<sup>(19)</sup> Such investigations have been undertaken pursuant to the statutory election contest procedures or under the general investigatory power conferred by the House.<sup>(20)</sup>

The House may by resolution authorize the Committee on House Administration to investigate the right of a Member-elect to his seat,<sup>(1)</sup> where his right is impeached by charges and allegations of improper campaign conduct and of election irregularities.

Investigations have also been undertaken by select committees created to review election campaigns and proceedings. In recent Congresses, a select committee to investigate campaign expenditures has been created at the end of one Congress to investigate pending elections and to report findings to the succeeding Congress.<sup>(2)</sup>

19. See §13.4, *infra*. Investigations conducted under the election contest statutes, see generally Ch. 9, *infra*.

20. See also §13.2, *infra*, where the House authorized the committee to investigate elections where contests had not been formally presented.

1. See §§13.2–13.4, *infra*.

Challenging the right to be sworn and referring the right to a committee for investigation, see Ch. 2, *supra*.

2. See §14, *infra*.

The Committee on Standards of Official Conduct has some jurisdiction over the investigation of campaign contributions.<sup>(3)</sup>

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### *Necessary Parties*

**§ 13.1 The House dismissed an election contest because the individual filing the notice was not a candidate for the House, although a Member objected that the House in such a case had power to refer the matter to a standing or a special committee in order to investigate charges.**

On Jan. 19, 1965,<sup>(4)</sup> a resolution was under consideration declaring an individual incompetent to bring a contest for a seat in the House, since the individual filing notice was not a candidate for the

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A select committee to investigate campaign expenditures has recommended to the succeeding Congress that the right of a Member-elect to his seat be reserved for decision and investigated (see §13.5, *infra*).

Committees, their jurisdiction, powers and procedures, see Ch. 17, *infra*.

3. See §13.6, *infra*.

4. 111 CONG. REC. 951–57, 89th Cong. 1st Sess.

House and was not a proper party to bring the contest:

H. RES. 126

Whereas James R. Frankenberry, a resident of the city of Bronxville, New York, in the Twenty-Fifth Congressional District thereof, has served notice of contest upon Richard L. Ottinger, the returned Member of the House from said district, of his purpose to contest the election of Richard L. Ottinger; and

Whereas it does not appear that said James R. Frankenberry was a candidate for election to the House of Representatives from the Twenty-Fifth Congressional District of the State of New York, at the election held November 3, 1964: Therefore be it

*Resolved*, That the House of Representatives does not regard the said James R. Frankenberry as a person competent to bring a contest for a seat in the House and his notice of contest, served upon the sitting Member, Richard L. Ottinger, is hereby dismissed.

Mr. Carl Albert, of Oklahoma, spoke in favor of the resolution:

MR. ALBERT: Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, the purpose of this resolution is to dismiss a contest brought against the gentleman from New York [Mr. Ottinger]. The notice of contest was given by letter dated December 19, 1964, by Mr. James R. Frankenberry, of 40 Woodland Avenue, Bronxville, N.Y. Mr. Frankenberry attempts to initiate this contest under the provisions of Revised Statutes 105 to 130, as amended, 2 United States Code 201-226 inclusive.

Mr. Speaker, the House is the exclusive judge of the election, returns, and qualifications of its Members under article I, section 5, of the Constitution of the United States.

The application of the statutes in question is justifiable by the House and by the House alone—*In re Voorhis*, 296 Federal Report 673.

Mr. Speaker, under the law and under the precedents, Mr. Frankenberry is not a proper party to contest the election of the gentleman from New York [Mr. Ottinger]. He is not a proper contestant within the applicable statutes, because he would not be able, if he were successful, to establish his right to a seat in the House. The contest involving Locke Miller and the gentleman from Ohio, Mr. Michael Kirwan, in 1941, is directly in point, as reported in the Congressional Record, volume 87, part 1, page 101. . . .

Mr. Speaker, the issue in the case brought by Locke Miller and the notice filed by Mr. Frankenberry are identical except that in the former case Locke Miller had been a candidate for the disputed office in the primary. The statutes under which this proceeding is initiated do not provide, and there is no case on record that we have been able to find to the contrary, that a person not a party to an election contest is eligible to challenge an election under these statutes.

Clearly under the precedent to which I have made reference, Mr. Frankenberry is not a contestant for a seat in the House, and his contest should be dismissed.

Therefore, Mr. Speaker, I urge adoption of the resolution.

Mr. Charles E. Goodell, of New York, arose to object to the resolution, stating:

. . . [T]he Corrupt Practices Act provides specifically for the taking of depositions and testimony which can be submitted to the House Committee on Administration. . . .

I would hope, therefore, that the House will defeat this resolution and that the matter will then go to the House Administration Committee for proper and deliberate action where the facts may be presented and where we may consider whether the Member should actually in this case be seated permanently.

There are many precedents with reference to the campaign contributions and excessive expenditures where the House has denied a Member a seat. Certainly, whatever our party, we must recognize in this kind of a situation that the reputation and dignity of the U.S. House of Representatives is involved. We should see to it that a full and complete hearing is held.

Mr. James C. Cleveland, of New Hampshire, addressed the House, following the conclusion of Mr. Goodell's remarks, citing many precedents to the effect that any person could challenge the election of a Member and that such challenge should be referred to the Committee on House Administration, to consider the facts and to determine whether the Member should finally be seated.

The House adopted the resolution.

### ***House Authorization for Committee Investigations***

#### **§ 13.2 The Committee on House Administration was**

**authorized by the House to conduct an investigation during adjournments or recesses of election contests which had not been formally presented to the House.**

On July 25, 1947,<sup>(5)</sup> the Committee on House Administration was given investigatory authority in relation to certain election-contest cases in the 80th Congress which had not yet been formally presented to the House:

#### COMMITTEE ON HOUSE ADMINISTRATION—CONTESTED ELECTIONS

MR. [RALPH A.] GAMBLE [of New York]: Mr. Speaker, by direction of the Committee on House Administration, I offer a privileged resolution (H. Res. 337) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That notwithstanding any adjournment or recess of the Eightieth Congress, testimony and papers received by the Clerk of the House in any contested-election case shall be transmitted by the Clerk to the Speaker for reference to the Committee on House Administration in the same manner as though such adjournment or recess had not occurred: *Provided*, That any such testimony and papers referred by the Speaker shall be printed as House documents of the next succeeding session of the Congress.

The resolution was agreed to. . . .

5. 93 CONG. REC. 10210, 80th Cong. 1st Sess.

## COMMITTEE ON HOUSE ADMINISTRATION—CONTESTED-ELECTION CASES

MR. GAMBLE: Mr. Speaker, by direction of the Committee on House Administration, I offer a privileged resolution (H. Res. 338) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That notwithstanding any adjournments or recesses of the first session of the Eightieth Congress, the Committee on House Administration is authorized to continue its investigations in the contested-election cases of Mankin against Davis, Lowe against Davis, and Wilson against Granger. For the purpose of making such investigations the committee, or any subcommittee thereof, is authorized to sit and act during the present Congress at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

The resolution was agreed to. . . .

## COMMITTEE ON HOUSE ADMINISTRATION—CONTESTED-ELECTION CASES

MR. [KARL M.] LECOMPTE [of Iowa]: Mr. Speaker, I offer a privileged resolution (H. Res. 339) to implement the resolution just passed and ask for its immediate consideration.

The Clerk read the resolution, as follows:

*Resolved*, That the expenses of the investigations to be conducted pursuant to House Resolution 338, by the Committee on House Administration, acting as a whole or by subcommittee, not to exceed \$5,000, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee or subcommittee, signed by the chairman of such committee, or subcommittee, and approved by the Committee on House Administration.

The resolution was agreed to.

*Parliamentarian's Note:* Under Rule XI, clause 2(m) as amended effective Jan. 3, 1975 (H. Res. 988, 93d Cong. 2d Sess.), all standing committees of the House now have the power to issue subpoenas whether the House is in session, has recessed, or has adjourned.

**§ 13.3 A resolution providing for the subpoena of witnesses and the procurement of ballot boxes and election records, in an investigation of a contested election case, is presented as a matter of privilege.**

On Jan. 7, 1930,<sup>(6)</sup> House Resolution 113 was offered as privi-

6. 72 CONG. REC. 1187, 71st Cong. 2d Sess. See also 3 Hinds' Precedents § 2586, where a resolution providing for an investigation of the election of

leged. The resolution related to the subpoena of witnesses and the procurement of ballot boxes, election returns, and election record books in a committee investigation of a contested election case. After a Member arose to object to the privileged status of the resolution, Speaker Nicholas Longworth, of Ohio, ruled that the resolution was a privileged matter, as follows:

THE SPEAKER: The question is on agreeing to the resolution.

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, I reserve a point of order on the resolution. I do not think it is privileged.

MR. [WILLIS G.] SEARS [of Nebraska]: Mr. Speaker, I move the adoption of the resolution.

MR. [BERTRAND H.] SNELL [of New York]: I would like to ask the gentleman a question about the resolution. Is this the usual form or the usual action that the Committees on Elections take to get people before them? I supposed there was just a general form for subpoenaing witnesses and that was all that was necessary. I have never known of a resolution of just this character.

THE SPEAKER: As the Chair caught the reading of the resolution, it not only provides for the presence of witnesses, but also provides for bringing before them the ballot boxes, and so forth. The Chair thinks it would be necessary to have such a resolution to bring that about.

a Member was ruled a question of privilege.

MR. [CASSIUS C.] DOWELL [of Iowa]: The resolution, Mr. Speaker, is certainly in order.

THE SPEAKER: The Chair thinks it is a privileged matter.

MR. SNELL: I suspect it is a privileged matter, coming from a Committee on Elections, but what I had in mind was whether this was the usual form under which we proceed in such cases.

THE SPEAKER: The Chair can not recall an immediate precedent, but the Chair would think this is the proper way to cover the appearance of witnesses under the circumstances set forth.

**§ 13.4 Where the Committee on House Administration was authorized to investigate the right of two contestants to a seat and ordered a recount of the ballots under its general investigatory power, final compensation to the contestants was paid out of the contingent fund, since the recount was not undertaken under the election contest statutes.**

On Jan. 3, 1961,<sup>(7)</sup> the House adopted House Resolution 1, offered by Mr. Clifford Davis, of Tennessee, providing that the question of the right of either of the two contestants for a seat from Indiana (J. Edward Roush

7. 107 CONG. REC. 23-25, 87th Cong. 1st Sess.

and George O. Chambers) be referred to the Committee on House Administration, and providing that until that committee had reported, neither could take the oath of office.

During its investigation, the Committee on House Administration conducted a recount of all the ballots cast in the election, under its general power to investigate rather than under the election contest statutes.<sup>(8)</sup>

On June 13, 1961, the House confirmed the right of Mr. Roush to the seat, pursuant to the report of the committee (H. Res. 339). The House adopted a privileged resolution, House Resolution 340, providing for expenditures from the contingent fund to pay the salary and certain expenses to the duly elected Member and the payment of certain expenses incurred by the contestant. They were not reimbursed for expenses pursuant to the election contest statutes since the recount had been ordered by the Committee on House Administration under its investigative power.<sup>(9)</sup>

### ***Election Investigation Resolutions as Privileged***

#### **§ 13.5 A resolution from the Committee on House Admin-**

8. See 107 CONG. REC. 10160, 87th Cong. 1st Sess., June 13, 1961.

9. See H. Res. 340, 107 CONG. REC. 10160 (June 13, 1961) and 10391 (June 14, 1961), 87th Cong. 1st Sess.

**istration affirming the right of a Member to his seat, after investigation of alleged fraud and dishonesty in his election, is reported and considered as privileged.**

On Sept. 8, 1959,<sup>(10)</sup> Mr. Robert T. Ashmore, of South Carolina, reported as privileged House Resolution 380 from the Committee on House Administration, relating to the right of a Member to his seat. The House adopted the resolution:

Whereas the Committee on House Administration has concluded its investigation of the election of November 4, 1958, in the Fifth Congressional District of Arkansas pursuant to House Resolution 1; and

Whereas such investigation reveals no cause to question the right of Dale Alford to his seat in the Eighty-sixth Congress; Therefore be it

*Resolved*, That Dale Alford was duly elected a Representative to the Eighty-sixth Congress from the Fifth Congressional District of Arkansas, and is entitled to a seat therein.

*Parliamentarian's Note:* The Select Committee to Investigate Campaign Expenditures, of the 85th Congress, had recommended, after investigating the elections in the fall of 1958, that Member-elect Alford not be seated pending an investigation of election irregularities. He was administered

10. 105 CONG. REC. 18610, 18611, 86th Cong. 1st Sess.

the oath, but his final right to a seat was referred for investigation to the Committee on House Administration, which investigated allegations of fraud and dishonesty in the conduction of the congressional election for the Fifth Congressional District of Arkansas.<sup>(11)</sup>

### ***Investigations of Campaign Contributions***

**§ 13.6 In the 91st Congress, the House rules were amended to confer upon the Committee on Standards of Official Conduct jurisdiction over the raising, reporting, and use of campaign contributions for House candidates, and jurisdiction over investigation of such matters.**

On July 8, 1970,<sup>(12)</sup> William M. Colmer, of Mississippi, Chairman of the Committee on Rules called up House Resolution 1031, amending the rules of the House in relation to the jurisdiction of the Committee on Standards of Official Conduct over campaign

11. See the remarks of Mr. Thomas P. O'Neill, Jr. (Mass.) on the Alford-Hays election at 105 CONG. REC. 3432-34, 86th Cong. 1st Sess., Mar. 5, 1959.

12. 116 CONG. REC. 23138-41, 91st Cong. 2d Sess.

contributions. The House passed the resolution, to confer upon that committee jurisdiction over the raising, reporting, and use of campaign contributions for candidates for the House. The committee was also given jurisdiction to investigate such matters and to report findings to the House.

*Parliamentarian's Note:* In the 94th Congress, legislative jurisdiction over campaign contributions was given to the Committee on House Administration (H. Res. 5, Jan. 14, 1975).

### ***Senate Investigation Into Election of House Member***

**§ 13.7 A Senate resolution providing for an investigation into charges of election corruption involving a Member of the House was placed on the Senate Calendar and referred, on motion, to the Committee on Rules and Administration.**

On Mar. 8, 1960,<sup>(13)</sup> the Clerk of the Senate read Senate Resolution 285, offered by Senator John J. Williams, of Delaware. The resolution provided in part:

*Resolved,* That the Committee on Rules and Administration, or any duly authorized subcommittee thereof, is

13. 106 CONG. REC. 4899, 4900, 86th Cong. 2d Sess.

authorized and directed under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of the charges, with a view to determining the truth or falsity thereof, which have recently appeared in the public press that certain persons have sought, through corruptly offering various favors, privileges, and other inducements (including large sums of money), to induce certain individuals to lend their political support to one political party rather than to another, or to become candidates of one political party rather than of another, and that the offers made by such persons have in fact corruptly induced certain of such individuals to change their political affiliations or to lend their political support to one political party rather than to another. . . .

Remarks were made concerning the unusual course being pursued by the Senate in inquiring into the activities of a Member of the House:

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. President, normally, of course, one branch of Congress does not take account of the activities and behavior of a Member of the other branch on the theory that each House, of course, is the judge of the qualifications, behavior and conduct of its own Members. But I think it must be said, in fairness to the resolution proposed by the Senator from Delaware, that it is a fact that these reports which are given wide currency and so freely ven-

tilated in the press in all sections of the country become something of a reflection on the entire Congress as an institution.

Neither body in that sense escapes culpability in the eyes of the public when these charges are not refuted and when they are not rebutted. I believe that somehow, by some action, we should get to the very bottom of this subject. . . .

But certainly these reflections should not be permitted to continue without some action, without some answer, somewhere in the whole legislative establishment. Accordingly, recognizing the reluctance of one body to look into the affairs of its own Members, perhaps this is the only remedy which we have in order to sift the truth of these charges.

The resolution was directed towards an investigation of charges made by a columnist concerning alleged bribery and a candidate for public office, Mr. Adam C. Powell, of New York, a Member of the House of Representatives. Debate ensued on the resolution. Mr. Williams stated that he had called up the resolution for immediate consideration because he wished the entire Senate to vote upon it and not to have it referred to committee. Objection was made to its immediate consideration, and the resolution went over until the next day.

The resolution was again debated on Mar. 11, 1960,<sup>(14)</sup> and on

14. 106 CONG. REC. 5261-63, 86th Cong. 2d Sess.

May 4, 1960, when it was on motion referred to the Senate Committee on Rules and Administration.<sup>(15)</sup>

### § 14. Investigations by Select Committees

In recent Congresses (until the 93d Congress), a select committee to investigate campaign expenditures had been created by one Congress to study and review certain pending matters and to forward its findings to the next Congress for appropriate action and use.<sup>(16)</sup> Such findings have been used by the Committee on House Administration in judging and investigating election contests and the validity of certain elections.<sup>(17)</sup> In the 93d Congress, the House granted the Committee on House Administration subpoena power to

15. 106 CONG. REC. 9403-07, 86th Cong. 2d Sess.

16. See §§ 14.1-14.3, *infra*, for creation and funding of such select committees.

Select committees, their creation, powers and procedures, see Ch. 17, *infra*.

Investigations and inquiries generally, see Ch. 15, *infra*.

17. See §§ 14.4 et seq., *infra*. For a discussion of the jurisdictional overlap between the select committee and the Committee on House Administration, see § 14.6, *infra*.

conduct investigations into election contests and practices, thereby enabling the committee to assume the functions and duties of the select committee,<sup>(18)</sup> and effective Jan. 3, 1975, the Committee on House Administration as well as all other standing committees was given subpoena power, under Rule XI, clause 2(m), whether or not the House is in session.

The former Select Committee on Standards of Official Conduct had authority to investigate improper conduct by Members, including campaign activities.<sup>(19)</sup>

The Senate has established select committees to investigate improper campaign activities.<sup>(20)</sup>

#### *Creation of Select Committee to Investigate Campaign Expenditures*

#### **§ 14.1 In the 91st Congress, the House agreed to a privileged resolution, reported by the Committee on Rules, estab-**

18. See H. Res. 737, 93d Cong. 2d Sess.

19. See § 14.9, *infra*.

The Senate Select Committee on Standards of Official Conduct recommended the censure of a Senator, who was then censured by the Senate, for improper use and conversion of campaign funds, in the 90th Congress (see § 12.3, *supra*).

20. See §§ 14.10-14.12, *infra*.