

Chapter CLII.¹

THE OATH.

1. Administration to the Speaker. Sections 6, 7.
 2. Limited jurisdiction of the Speaker in administering. Section 8.
 3. Challenging the right of a Member to be sworn. Sections 9–11.
 4. Administration before arrival of credentials. Sections 12, 13.
 5. Administration to Members away from House. Sections 14–19.
 6. Administration by Speaker pro tempore. Section 20.
 7. Relations to the quorum, reading of the Journal and Calendar Wednesday. Sections 21, 22.
-

6. While the oath has usually been administered to the Speaker by the Member of longest consecutive service, that practice is not always followed.—On May 19, 1919,² the oath of office was administered to Speaker Frederick H. Gillett, himself the “Father of the House,” by Mr. Joseph G. Cannon, of Illinois, who, though the Member of longest service, was one of the younger Members of the House in consecutive service.

7. On April 4, 1911,³ Mr. J. Fred C. Talbott, of Maryland, one of the older Members of the House, but not the oldest in consecutive service, administered the oath to Mr. Speaker Clark.

8. Previously it was the custom to administer the oath by State delegations, but beginning with the Seventy-first Congress Members elect have been sworn in en masse.—On April 15, 1929,⁴ following the administration of the oath of office to the Speaker elect, the Speaker⁵ after addressing the House announced:

The Chair asks the attention of all the Members of the House for a moment. The Chair has decided to practice an innovation in the manner of administering the oath of office to Members. The Chair has observed that under our general practice, where groups are sworn separately, the remainder of the House is apt to be in disorder. The Chair does not think that contributes to the dignity of this most important ceremony. The Chair thinks that it will more comport with the dignity and solemnity of this ceremony if he administers the oath to all Members of the body at once. The Chair, therefore, asks the Members desiring to take the oath of office to raise their right hands.

¹ Supplementary to Chapter V.

² First session Sixty-sixth Congress, Record, p. 8.

³ First session Sixty-second Congress, Record, p. 7.

⁴ First session Seventy-first Congress, Record, p. 25.

⁵ Nicholas Longworth, of Ohio, Speaker.

Whereupon the Members elect arose in a body and the oath was administered to all simultaneously.

9. When the right of a Member-elect to take the oath is challenged the Speaker has requested the Member to stand aside temporarily.—On April 11, 1921,¹ at the organization of the House, the Speaker was administering the oath to Members and the State of Kansas had been called, when Mr. Henry D. Flood, of Virginia, objected to the swearing in of Mr. Richard E. Bird, of Kansas. The Speaker having requested Mr. Bird to stand aside temporarily, Mr. James R. Mann, of Illinois, raised the point of order that the Speaker was not empowered to require a Member with proper credentials to stand aside.

After debate the Speaker² said:

The Chair thinks that the precedents are that in such cases the Member stands to one side, not at all as any evidence of the accuracy of the charge, but simply so that those whose rights are uncontested may be sworn in, and that then his case may be taken up.

Mr. Bird stood aside and the administration of the oath for Members was resumed and completed. Mr. Flood then offered a resolution referring to a special committee the question of Mr. Bird's right to be sworn in. A substitute directing the administration of the oath having been offered and agreed to, Mr. Bird was sworn in.

10. On May 19, 1919³ while the oath was being administered to Members by the Speaker at the organization of the House, Mr. Frederick W. Dallinger, of Massachusetts, when the State of Wisconsin was called, rose and objected to the swearing in of Victor Berger, of that State. Mr. Berger demanded to be heard on a question of privilege. The Speaker² declined to recognize him and the swearing in of Members continued. Later in the day Mr. Dallinger offered a resolution referring to a special committee the question of Mr. Berger's *prima facie* right to be sworn in. The resolution was agreed to, and, the proceedings so instituted subsequently resulting in a denial by the House of Mr. Berger's right, the oath was never administered.

11. On April 7, 1913,⁴ at the organization of the House, when the State of Michigan was called, during the administration of the oath to Members by the Speaker, Mr. Wm. H. Hinebaugh, of Illinois, challenged the right of Mr. H. Olin Young, of Michigan, to be sworn in.

Mr. Charles L. Bartlett, of Georgia, protested:

I enter my protest, Mr. Speaker, and insist that the Speaker ought not to have the right to stand aside any Member from being sworn upon the mere suggestion of a Member who may or may not himself be sworn or whose own title to a seat may be at stake, in the face of the regular certificate of the governor of a sovereign State to the effect that that Member has been elected.

The Speaker⁵ said:

There is no question but what under the precedents the Speaker has the right to ask a Member to stand aside where there is any controversy about his right to take the oath.

¹ First session Sixty-seventh Congress, Record, p. 6.

² Frederick R. Gillett, of Massachusetts, Speaker.

³ First session Sixty-sixth Congress, Record, p. 8.

⁴ First session Sixty-third Congress, Record, p. 64.

⁵ Champ Clark, of Missouri, Speaker.

Mr. Young stood aside and the administration of the oath to Members was resumed and concluded. Mr. Hinebaugh thereupon offered a resolution referring the question of Mr. Young's right to a seat in the House to a special committee. A substitute directing that the oath be administered forthwith was adopted, and Mr. Young was immediately sworn in.

12. Members without certificates but of whose election there was no question have been sworn in by unanimous consent pending the arrival of their credentials.—On May 19, 1919,¹ when at the organization of the House the Speaker² directed that Members be called to take the oath, Mr. Frank W. Mondell, of Wyoming, sent to the Clerk's desk a list of sixteen Members-elect whose certificates had not been received, but with regard to whose election there was no question, and asked unanimous consent that they be sworn in pending the arrival of their credentials.

There being no objection, those so listed were called when their respective States were reached, and came forward and took the oath with their respective State delegations.

13. It has been the custom to swear in Members whose credential have not arrived if the statement was made that there was no question of their election.—On December 3, 1917,³ at the opening of the second session, after several Members presenting regular certificates of election had been sworn in, the request was made that the oath be administered to Mr. Earl H. Beshlin, of Pennsylvania. Mr. Beshlin held a certificate from the district canvassing board as provided by law, but the State Department had not yet issued a certificate.

Mr. Martin B. Madden, of Illinois, objected on the grounds that the administration of the oath under such circumstances might establish an undesirable precedent. Mr. John J. Fitzgerald, of New York, replied that for a number of years it had been the uniform practice of the House to swear in Members without certificates if the statement was made that there was no question of their election. Mr. Madden thereupon withdrew his objection and Mr. Beshlin was sworn in.

14. By authority of the House the oath may be administered to a Member away from the House and by another than the Speaker.

While the selection of a deputy to administer the oath is within the Speaker's discretion, he is constrained by custom to appoint a Member of the House and where that is inexpedient designates an official authorized to administer oaths.

Where the oath has been administered away from the House and by another than the Speaker, the House has by resolution received and accepted the oath.

Resolutions relating to the administration of the oath are of high privilege.

¹ First session Sixty-sixth Congress, Record, p. 8.

² Frederick H. Gillett, of Massachusetts, Speaker.

³ Second session Sixty-fifth Congress, Record, p. 4.

Forms of resolutions authorizing and accepting oaths administered away from the House.

On January 4, 1928,¹ Mr. Thomas S. Butler, of Pennsylvania, presented, as privileged, the following resolution:

Whereas George S. Graham, a Representative from the State of Pennsylvania from the second district thereof, has been unable from sickness to appear in person to be sworn as a Member of the House, and there being no contest or question as to his election: Therefore be it

Resolved, That the Speaker, or a deputy named by him, be, and he is hereby, authorized to administer the oath of office to said George S. Graham at Mount Sinal Hospital in New York, N.Y., and that the said oath when administered as herein authorized shall be accepted and received by the House as the oath of office of the said George S. Graham.

The resolution having been agreed to, the Speaker² in response to an inquiry from Mr. Finis J. Garrett, of Tennessee, said:

The resolution gives the Speaker a free hand in designating the person who may administer the oath, but the Speaker would feel bound by the precedents.

The Chair would, if possible, designate some Member of the House, but failing in that, he would have to designate some person who has the right to administer oaths.

On January 5,³ under the authority conferred by the resolution the Speaker appointed to administer the oath to Mr. Graham, Mr. Royal H. Weller, a Member from New York, who on January 10,⁴ reported:

Mr, Speaker, on January 5 I was appointed by the Speaker to administer the oath of office to my distinguished colleague, Mr. George S. Graham, of Pennsylvania. Mr. Graham was in the Mount Sinai Hospital in New York, and on January 9, pursuant to House Resolution 72, I swore Mr. Graham in as a Member of the House. The oath was administered in conformity with the rules of the House, and I offer the following privileged resolution and move its adoption.

The resolution was received as privileged and was agreed to as follows:

Whereas George S. Graham, a Representative for the State of Pennsylvania, from the second district thereof, has been unable from sickness to appear in person to be sworn as a Member of this House, but has sworn to and subscribed the oath of office before the Hon. Royal H. Weller, authorized by resolution of this House to administer the oath, and the said oath of office has been presented in his behalf to the House, and there being no contest or question as to his election: Therefore.

Resolved, That the said oath be accepted and received by the House as the oath of office of the said George S. Graham as a Member of this House.

15. On April 22, 1929,⁵ Mr. William W. Hastings, of Oklahoma, proposed, as privileged, the following resolution, which was agreed to:

Whereas James V. McClintic, a Representative from the State of Oklahoma, from the seventh district thereof, has been unable from sickness to appear in person to be sworn as a Member of the House, and there being no contest or question as to his election: Therefore be it

Resolved, That the Speaker, or deputy named by him, be, and he is hereby, authorized to administer the oath of office to said James V. McClintic at Rochester, Minn., and that the said oath, when administered as herein authorized shall be accepted and received by the House as the oath of office of the said James V. McClintic.

¹First session Seventieth Congress, Record, p. 966.

²Nicholas Longworth, of Ohio, Speaker.

³Record, p. 1045.

⁴Record, p. 1256.

⁵First session Seventy-first Congress, Record, p. 279.

The Speaker¹ thereupon appointed as deputy to administer the oath, under the resolution, Vernon Gates, of Rochester, Minn., judge of the third judicial district.

On May 3² the Speaker laid before the House this communication, which was read by the Clerk.

ROCHESTER, MINN., *April 30, 1929.*

Hon. NICHOLAS LONGWORTH,

Speaker House of Representatives, Washington, D.C.

SIR: In accordance with your designation of me, pursuant to Resolution 27, adopted by the House of Representatives, to administer the oath of office to Representative-elect James V. McClintic, of the seventh district of the State of Oklahoma, I have the honor to report that on the 30th day of April, 1929, at the city of Rochester, county of Olmsted, and State of Minnesota, I administered the oath of office to Mr. McClintic, form prescribed by section 1757 of the Revised Statutes of the United States, being the form of oath administered to Members of the House of Representatives, to which Mr. McClintic subscribed.

I have the honor to be, yours respectfully,

VERNON GATES.

The following privileged resolution, offered by Mr. Hastings, was then agreed to:

Whereas James V. McClintic, a Representative from the State of Oklahoma, from the seventh district thereof, has been unable from sickness to appear in person to be sworn as a Member of this House, but has sworn to and subscribed the oath of office before Judge Vernon Gates, authorized by resolution of this House to administer the oath, and the said oath of office has been presented in his behalf to the House, and there being no contest or question as to his election: Therefore

Resolved, That the said oath be accepted and received by the House as the oath of office of the said James V. McClintic as a Member of this House.

16. On May 1, 1929,³ on motion of Mr. Guy E. Campbell, of Pennsylvania, the House agreed to this resolution:

Whereas John J. Casey, a Representative from the State of Pennsylvania from the twelfth district thereof, has been unable from sickness to appear in person to be sworn in as a Member of the House, and there being no contest or question as to his election: Therefore be it

Resolved, That the Speaker, or a deputy named by him, be, and he is hereby authorized to administer the oath of office to said John J. Casey at Ancon, Canal Zone, and that the said oath, when administered as herein authorized, shall be accepted and received by the House as the oath of office of the said John J. Casey.

The Speaker¹ thereupon designated Frank H. Wang, notary public at Ancon, Canal Zone, to administer the oath of office to Mr. Casey.

On May 6⁴ the Speaker laid before the House the following communication:

THE PANAMA CANAL, WASHINGTON OFFICE,
Washington, May 3, 1929.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,

Washington, DC.

DEAR SIR: The following self-explanatory radiogram, dated the 2d instant, as received by this office to-day from the Governor of the Panama Canal, Balboa Heights, Canal Zone:

"Referring to cablegram 1st instant from Clerk House of Representatives to Frank H. Wang notary public, inform Speaker of House that oath of office was administered to-day by Wang to Representative John J. Casey and certification been mailed to Speaker."

Very respectfully.

A. L. FLINT, *Chief of Office.*

¹ Nicholas Longworth, of Ohio, Speaker.

² Record, p. 845.

³ First session Seventy-first Congress, Record, p. 738.

⁴ Record, p. 912.

The House then adopted the usual resolution of acceptance, offered by Mr. Edgar R. Riess, of Pennsylvania.

17. Instance wherein the House authorized administration of affirmation of office.

Form of resolutions relating to the administration of affirmation.

On April 16, 1929,¹ Mr. George P. Darrow, of Pennsylvania, offered the following resolution as privileged and requested immediate consideration:

Whereas W. W. Griest, a Representative from the State of Pennsylvania, from the tenth district thereof, has been unable from sickness to appear in person to be affirmed as a Member of the House, and there being no contest or question as to this election: Therefore be it

Resolved, That the Speaker, or a deputy named by him, be, and he is hereby, authorized to administer the affirmation of office to said W. W. Griest at Lancaster, Pa., and that the said affirmation, when administered as herein authorized, shall be accepted and received by the House as the affirmation of office of the said W. W. Griest.

The resolution having been considered and agreed to, the Speaker² deputized Charles L Landis, judge of the county of Lancaster, Pa., to administer the affirmation of office.

Subsequently, on May 1, 1929,³ the following communication was laid before the House by the Speaker:

LANCASTER, PA., *April 30, 1929.*

Hon. NICHOLAS LONGWORTH,

Speaker of the House of Representatives, Washington, D. C.:

I hereby certify that I have this day administered to Hon. W. W. Griest, Member of the House of Representatives from the tenth congressional district of Pennsylvania, the following affirmation of office:

"Do you solemnly affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear due faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter; so help you God?"

CHAS. I. LANDIS,

President Judge of the Second Judicial District of Pennsylvania.

A resolution of acceptance, offered by Mr. Darrow, was then agreed to as follows:

Whereas W. W. Griest, a Representative from the State of Pennsylvania, from the tenth district thereof, has been unable from sickness to appear in person to be affirmed as a Member of this House, but has affirmed to and subscribed the affirmation of office before Judge Charles I. Landis, authorized by resolution of this House to administer the affirmation, and the said affirmation of office has been presented in his behalf to the House, and there being no contest or question as to his election: Therefore

Resolved, That the said affirmation be accepted and received by the House as the affirmation of office of the said W. W. Griest as a Member of this House.

18. On March 11, 1933,⁴ the House agreed to resolutions authorizing the Speaker to administer the oath of office without the Hall of the House to Mr. Andrew

¹ First session Seventy-first Congress, Record, p. 46.

² Nicholas Longworth, of Ohio, Speaker.

³ Record, p. 738.

⁴ First session Seventy-third Congress, Record p. 239.

J. Montague, of Virginia, and Mr. Wilburn Cartwright, of Oklahoma, who on account of illness were unable to appear in person to be sworn.

On March 13,¹ following the approved of the Journal, the Speaker² said:

The Chair desires to inform the House that pursuant to the authority conferred upon him, he did, on Saturday, March 11, 1933, administer the oath of office to the Honorable Andrew J. Montague at Garfield Memorial Hospital and the Honorable Wilburn Cartwright at Walter Reed Hospital in the city of Washington, D. C.

Mr. Bertrand H. Snell, of New York, inquired as to the nature of the change affected in the status of a Member-elect by the administration of the oath.

The Speaker replied:

He then becomes a full-fledged Member of the House of Representatives, without question. As a Member-elect he enjoys many of the privileges, but in order to become a Member he must take the oath prescribed by law. He then has actually become a Member.

19. An exceptional instance wherein the Senate authorized the administration of the oath to a Senator elect by deputy and outside the Senate Chamber.—On May 3, 1929,³ Mr. George W. Norris, of Nebraska, offered the following resolution:

Whereas Henrik Shipstead, a Senator elect from the State of Minnesota, has been unable from sickness to appear in person to be sworn as a Member of the Senate, and there being no contest or question as to his election: therefore be it

Resolved, That the President of the Senate, or deputy named by him, be, and he is hereby, authorized to administer the oath of office to said Henrik Shipstead, and that the said oath, when administered as herein authorized, shall be accepted and received by the Senate as the oath of office of the said Henrik Shipstead.

The resolution having been considered by unanimous consent, and passed, the President⁴ pro tempore designated John C. Crockett, Chief Clerk of the Senate, as deputy to administer the oath.

On May 6,⁵ the Vice President⁶ laid before the Senate the following report, which was read and filed:

WASHINGTON, D.C., *May 4, 1929.*

Hon. CHARLES CURTIS,

President of the Senate.

SIR: In accordance with your designation of me, under authority of Senate Resolution 52, agreed to on the calendar day of May 3, 1929, to administer the oath of office to Henrik Shipstead, Senator elect from the State of Minnesota, I have the honor to report that I this day administered to Mr. Shipstead the oath of office prescribed by section 1757 of the Revised Statutes of the United States, being the form of oath administered to Members of the Senate, to which Mr. Shipstead subscribed.

I have the honor to be, very respectfully,

JOHN C. CROCKETT,
Chief Clerk United States Senate.

¹ Record p. 282.

² Henry T. Rainey, of Illinois, Speaker.

³ First session Seventy-first Congress, Record, p. 833.

⁴ George H. Moses, of New Hampshire, President pro tempore.

⁵ Record, P. 869.

⁶ Charles Curtis, Vice President.

20. Instance wherein the Speaker pro tempore administered the oath to a Member.—On March 20, 1920,¹ Mr. Jacob L. Milligan, from the third Missouri district, Member-elect to the seat resigned by Joshua, W. Alexander, appeared and presented his credentials, and was sworn in by Speaker pro tempore Joseph Walsh, of Massachusetts, whose designation as Speaker pro tempore by the Speaker² had been formally approved³ by the House.

21. Instance wherein the oath was administered in the absence of a quorum.

Adminstration of the oath before the reading of the Journal and while a point of no quorum was pending.

On April 29, 1910,⁴ the House was called to order by the Speaker⁵ and the Clerk proceeded to read the Journal, when Mr. Robert L. Henry, of Texas, made the point of order that no quorum was present.

Thereupon the Speaker, announcing that he would contribute to the presence of a quorum, laid before the House credentials showing the election of Mr. James S. Havens, Member-elect from New York to succeed Mr. James B. Perkins, deceased.

Mr. Havens then came forward and took the oath of office.

22. It has been held in order to administer the oath to a Member during a roll call, in the absence of a quorum, or on Calendar Wednesday.—On March 16, 1910,⁶ this being Calendar Wednesday, Mr. Robert Turnbull, of Virginia, presented his credentials and was sworn in.

Subsequently Mr. John J. Fitzgerald, of New York, made the point of order that nothing was in order except the call of the committees under the Calendar Wednesday rule.

Mr. James R. Mann, of Illinois, inquired:

Would the gentleman contend that under the Calendar Wednesday rule the swearing in of a new member was out of order?

After debate the Speaker⁵ said:

The oath could be administered even in the absence of a quorum, because, perchance, the presence of the Member might make a quorum, and the taking of the oath could interrupt a roll call; and yet any question touching the eligibility of a Member might arise which would consume all of Calendar Wednesday.

¹ Second session Sixty-sixth Congress, Record, p. 4644.

² Frederick H. Gillett, of Massachusetts, Speaker.

³ Second session Sixty-sixth Congress, Record, p. 4179.

⁴ Second session Sixty-first Congress, Record, P. 5569.

⁵ Joseph G. Cannon, of Illinois, Speaker.

⁶ Second session Sixty-first Congress, Record, p. 3242.