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Announcements of Resignations and Communications of Foreign Governments

§ 7.9 At the organization of a new Congress, the Speaker laid before the House responses of foreign governments to resolutions extending greetings to them.

On Jan. 5, 1955,⁽²⁰⁾ Speaker Sam Rayburn, of Texas, laid before the House a communication from Thruston B. Morton, Assistant Secretary of State, informing the House that the legislative assembly of the Gold Coast had passed a resolution on Oct. 27, 1954, thanking the Congress of the United States for the greetings contained in a joint resolution of the 83d Congress, and ex-

tending an invitation to a congressional delegation to represent the United States at the ceremonies marking the attainment of independence for the Gold Coast.

§ 7.10 Letters notifying the Speaker of resignations effective during adjournment *sine die* are laid before the House upon the convening of a new Congress.

On Jan. 4, 1965,⁽¹⁾ Speaker John W. McCormack, of Massachusetts, laid before the House a letter from Mr. Ross Bass, of Tennessee, resigning his seat in the House of Representatives, and a letter from Frank G. Clement, the Governor of Tennessee, informing the Speaker of the receipt of the resignation of Mr. Bass.

B. PROCEDURE

§ 8. Procedure Before Adoption of Rules

Before the House has reached the stage of organization where the standing rules are adopted, no specific rules of procedure are

20. 101 CONG. REC. 11, 12, 84th Cong. 1st Sess.

1. 111 CONG. REC. 25, 89th Cong. 1st Sess.

technically binding upon the House,⁽²⁾ except those required by the Constitution.⁽³⁾ Where organi-

2. Although at one time the House provided for adopted rules to continue in succeeding Congresses (5 Hinds' Precedents §6743), it was finally determined in 1889 and 1890 that one House could not by rule bind its successor (5 Hinds' Precedents §6747).

3. The Constitution requires in art. I, §5, clause 1 that a quorum be

zation proceeds smoothly, the lack of rules does not hamper the House in its completion of opening business.⁽⁴⁾ Where, however, election contests arise, or debate and challenges prevent the completion of the call of the Clerk's roll, the House may find it necessary to adopt, before the Speaker's election, specific rules as to debate and decorum, in order to facilitate the organization of the House.⁽⁵⁾ The House may either draft a specific rule authorizing the officers of the preceding Congress to preserve order and decorum,⁽⁶⁾ or temporarily adopt from the rules of the preceding House only that portion relating to order and decorum⁽⁷⁾ Similarly, the House may provide by specific rule, before the election of the Speaker, for limitation on debate,⁽⁸⁾ and for opening sessions with prayer.⁽⁹⁾

present to do business but authorizes a smaller number to adjourn from day to day and to compel the attendance of absent Members. Art. I, §5, clause 3 requires a Journal to be kept and authorizes one-fifth of the Members present to order the yeas and nays.

4. See, *e.g.*, §§5.1, 6.1, and 7.1, *supra*.
5. See, generally, 1 Hinds' Precedents §§93–102.
6. See 1 Hinds' Precedents §101.
7. See 1 Hinds' Precedents §§96–98, 102.
8. See 1 Hinds' Precedents §§94–95.
9. See 1 Hinds' Precedents §§99–100.

While the Clerk is presiding he does recognize Members,⁽¹⁰⁾ but only those whose names are on the roll,⁽¹⁰⁾ and will entertain the motion to adjourn,⁽¹²⁾ the demand for a yeas and nays vote,⁽¹³⁾ the motion to correct the roll,⁽¹⁴⁾ the motion to proceed to the election of a Speaker,⁽¹⁵⁾ and the motion to elect a chairman in place of the Clerk.⁽¹⁶⁾

As to other proposed motions, the general rule is that the Clerk may entertain only those propo-

10. 1 Hinds' Precedents §74.
11. 1 Hinds' Precedents §86. The Clerk may refuse to recognize a Member-elect who seeks to interrupt the call of the roll, particularly if the name of the Member-elect is not on the roll. 1 Hinds' Precedents §84.
12. See 1 Hinds' Precedents §§67, 89, 92. The House may adjourn for more than one day prior to the election of a Speaker. 1 Hinds' Precedents §89.
13. 1 Hinds' Precedents §91.
14. 1 Hinds' Precedents §§19–21, 25. In some cases, it has been held that the Clerk may not entertain the motion to correct the roll, on the ground that the preparing of the Clerk's roll is governed by statute (2 USC §26) and is not discretionary. See 1 Hinds' Precedents §§22–24.
15. See 1 Hinds' Precedents §§212–14.
16. See 1 Hinds' Precedents §66. When the Clerk refused to put any motion except that to adjourn, a Member-elect offered a resolution to elect a chairman from the floor. 1 Hinds' Precedents §67.

sitions consistent with the organization of the House.⁽¹⁷⁾ One Clerk refused to entertain any motion but that to adjourn, and even declined to put a motion to approve the last day's Journal.⁽¹⁸⁾ Other Clerks have presided at convening over the passage of resolutions, pertinent to organization, where the previous question and the motion to lay on the table were invoked.⁽¹⁹⁾

Debates over the Clerk's authority as presiding officer⁽²⁰⁾ have, however, established a number of procedural guidelines; there is no longer any question as to the Clerk's power to preside at the beginning of a Congress,⁽¹⁾ nor is there doubt that he lacks authority to resolve election contests before the election of a Speaker.⁽²⁾

17. 1 Hinds' Precedents § 80. See, in general, § 5, *supra*.

18. 1 Hinds' Precedents §§ 67, 92. The refusal of the Clerk to entertain the motion to approve the last day's Journal prevented the reading of the Journal for several days. 1 Hinds' Precedents § 92.

19. See 1 Hinds' Precedents §§ 68–70, 75–20.

20. See, in general, 1 Hinds' Precedents §§ 64–80.

1. For the derivation of the Clerk's authority to preside, see § 5, *supra*.

2. 2 USC § 26 and 2 USC §§ 381–96 strictly govern the preparation of the Clerk's roll and the procedure for election contests. See 6 Cannon's

In recent years, Members-elect have refrained from challenging the Clerk's roll or impeding the swift election of a Speaker,⁽³⁾ and there has been little if any contemporary dispute as to the procedure to be followed before the election of a Speaker.

After the election of the Speaker and before adoption of the standing rules, he entertains those motions which have been recognized by precedent to apply under general parliamentary law (§ 9 discusses those motions in detail). As no rule establishing an order of business has at that point been adopted, it is in order for any Member who is recognized by the Chair to offer a proposition relating to organization without asking the consent of the House.⁽⁴⁾ However, unanimous-consent requests and extensions of remarks are permitted at organization only in the Speaker's discretion, and when they are pertinent to organization. For example, remarks in honor of late Members of Congress are regularly admitted.⁽⁵⁾ (The House often adjourns out of

Precedents § 2, for an instance where the Clerk stated, as a basis for his actions, the terms of 2 USC § 26.

3. The last major contest over the election of a Speaker occurred in 1923. See 6 Cannon's Precedents § 24.

4. 4 Hinds' Precedents § 3060.

5. See §§ 8.1, 8.2, *infra*.

respect to deceased Members on opening day, after completing organizational business.)⁽⁶⁾ Messages are received during organization at the Speaker's discretion; an important Senate message may be received and read even between the ordering of the previous question on a proposition and the actual calling of a yea and nay vote.⁽⁷⁾

Unanimous-Consent Requests During Organization

§ 8.1 The Speaker announced, prior to the adoption of the rules, that he would recognize a Member to announce the death of the President pro tempore of the Senate, but that no other unanimous-consent request would be permitted except to correct the Record.

On Jan. 22, 1971,⁽⁸⁾ Speaker Carl Albert, of Oklahoma, made the following announcement:

The Chair would like to make an announcement at this time. The Chair is

6. See § 8.2, *infra*.
7. See § 8.3, *infra*. While the Clerk is presiding, however, messages even from the President are received but not read pending the election of a Speaker. See 5 Hinds' Precedents §§ 6747-49.
8. 117 CONG. REC. 131, 92d Cong. 1st Sess.

going to recognize the gentleman from Georgia (Mr. Landrum) at this time. This is for the purpose of announcing the death of a great Member of Congress.⁽⁹⁾

The Chair will take requests to correct the Record, but until we have adopted the rules of the House, the Chair will appreciate the indulgence of Members on other personal requests.

The Chair now recognizes the gentleman from Georgia.

§ 8.2 The Speaker may grant permission to all Members to extend remarks in the Record on opening day, where the House adjourns out of respect to a deceased Member.

On Jan. 10, 1966,⁽¹⁰⁾ Mr. Hale Boggs, of Louisiana, made the following request:

Mr. Speaker,⁽¹¹⁾ I ask unanimous consent that on today, and without making the procedure a precedent, all Members may have permission to extend their remarks in the Record and to include pertinent material therewith.

There were no objections. After further business, the House adjourned as a mark of respect to the late Honorable Herbert C. Bonner.

9. Senator Richard B. Russell, Jr. (Ga.).
10. 112 CONG. REC. 7, 36, 89th Cong. 2d Sess.
11. Speaker pro tempore Carl Albert (Okla.).

Interruption at Organization by Messages

§ 8.3 Before the adoption of rules, the Chair received a message from the Senate between the time the yeas and nays were ordered on the previous question and the time the roll was called.

On Jan. 3, 1969,⁽¹²⁾ after the ordering of the yeas and nays on a motion for the previous question, Speaker John W. McCormack, of Massachusetts, received a message from the Senate as to a concurrent resolution to fix the date of the electoral count. Following receipt of that message the roll was called on the pending yea and nay vote.

§ 9. Motions

As previously indicated, the House has before it, following the election of the Speaker, several substantive matters to resolve without the aid of standing rules.⁽¹³⁾ The swearing in of Mem-

bers, the election of officers, and even the adoption of rules themselves necessitate the putting of motions from the floor. Before rules are in effect, motions are governed in their admissibility and effect by precedent and by the general parliamentary law as applied in the House of Representatives.⁽¹⁴⁾ That general authority does not, however, preclude reliance by the Speaker on the rules of past Congresses as a basis for admitting certain motions. For example, the motion to recommit after the ordering of the previous question has been ruled applicable in the House prior to the adoption of rules because it was within the “spirit” of the rules of the past Congress.⁽¹⁵⁾ Therefore, in many instances the use of motions before the adoption of rules resembles more closely their use under the House rules than under Jefferson’s Manual.⁽¹⁾

(as well as on any legislation that may be considered), including debate, withdrawal, amendment, and consideration, raises a variety of procedural questions covered elsewhere (see § 12, *infra*).

12. 115 CONG. REC. 22, 91st Cong. 1st Sess.

13. There are often introduced, before the adoption of standing rules, resolutions relating to the adoption of the rules or to the swearing in of Members or to other organizational business. Action on such resolutions

14. See, in general, 5 Hinds’ Precedents §§ 6757–63; 8 Cannon’s Precedents §§ 3383–86.

15. See § 9.5, *infra*.

1. For motion practice generally, see Ch. 23, *infra*. Ch. 5, *infra*, discusses the applicability of Jefferson’s Man-