

# *Presidential Messages and Executive Communications*

## **§ 1. In General; Scope**

This chapter takes up the rules and practice governing Presidential messages and executive communications to the Congress or to the House alone. The transmittal of the budget and related documents by the President to Congress is treated elsewhere in this work,<sup>(1)</sup> as are House resolutions of inquiry and executive responses thereto.<sup>(2)</sup> Presidential messages dealing with vetoes and reasons for not approving legislation transmitted to the President are taken up more fully in another chapter,<sup>(3)</sup> as are most messages pertaining to the assembly of Congress<sup>(4)</sup> or to adjournments.<sup>(5)</sup>

The Constitution (art. II, § 3) dictates that the President shall from time to time give to the Congress information on the state of the Union, and recommend for consideration such measures as he shall judge necessary and expedient. Dates for submission of certain Presidential reports and messages are established by law.<sup>(6)</sup>

1. See Ch. 13, *supra*, and Ch. 41, *infra*.
2. See Ch. 15, *supra*.
3. See Ch. 24, *supra*.
4. See Ch. 1, *supra*.
5. See Ch. 40, *infra*.
6. For example, the date for the submission of the President's Budget for

There is a distinction between a Presidential message and an executive communication. A message from the President is addressed to the Congress, delivered through the door under seal, and laid before the House and read as soon as practicable after its reception. It sometimes requires House action. An executive communication, on the other hand, is addressed and delivered to the Speaker. It is usually referred by the Speaker to an appropriate committee without House action.<sup>(7)</sup> Receipt of the communication is noted in the Executive Communications portion of the *Congressional Record* for

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the next fiscal year has been established by law since 1974. See 31 USC §§ 1105, 1106. On one occasion, due to uncertainty over unfinished appropriations from the previous fiscal year and possible changes in mandatory programs and tax policy, the President satisfied 31 USC § 1105 by transmitting an incomplete budget and announcing his intention to subsequently submit supplementary material by a date certain. See 142 CONG. REC. 2335, 2336, 104th Cong. 2d Sess., Feb. 6, 1996. For more on the President's transmittal of the budget, see Ch. 13, *supra*, and Ch. 41, *infra*.

7. § 1.2, *infra*.

the day on which the message is referred.

The messenger delivering a Presidential message is introduced at the bar of the House with the words “Mr. [or Madam] Speaker, a message from the President.” The Speaker addresses the messenger as “Mr. [or Madam] Secretary.” Upon being recognized by the Speaker, the messenger of the President makes an announcement as follows:

I am directed by the President of the United States to deliver to the House a message in writing [or “sundry messages in writing” if there be more than one].

If the occasion requires, the messenger adds the following:

and to announce his approval of sundry House bills.<sup>(8)</sup>

There have been instances where, through inadvertence, non-relevant papers have been enclosed with a written message sent by the President; in such cases, he has been allowed to withdraw them.<sup>(9)</sup>

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### ***Receipt of Presidential Message as Privileged***

#### **§ 1.1 The receipt of a Presidential message is a matter**

8. 5 Hinds' Precedents § 6591.

9. *Id.* at § 6651.

**of high privilege and such a message is to be laid before the House and read as soon as practicable, the precedents of the House not justifying its being held at the desk until another legislative day.**

On June 24, 1968,<sup>(1)</sup> when the Chair announced he would lay before the House a message from the President, a parliamentary inquiry was raised as to the necessity of presenting a message in writing from the President on the date of its receipt:

The SPEAKER pro tempore.<sup>(2)</sup> The Chair lays before the House a message from the President of the United States.

Mr. [Durward G.] HALL [of Missouri]. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HALL. Mr. Speaker, in the opinion of the Chair is it necessary that a Presidential message when delivered in writing be presented to the Members of the House immediately or could it be held until the next legislative day?

The SPEAKER pro tempore. The Chair will advise the distinguished

1. 114 CONG. REC. 18330, 90th Cong. 2d Sess. For an instance where the House by unanimous consent authorized the Speaker to postpone the referral of a message until a later day, see § 3.1, *infra*.
2. Carl Albert (OK).

gentleman that when the House is in session, a message from the President is laid before the House.

Mr. HALL. Mr. Speaker, a further parliamentary inquiry, is this done by tradition, at the will of the Chair, or is it supported by a rule of the House?

The SPEAKER pro tempore. It is supported by the custom of the House and the provisions of the constitution.

***Presidential Messages and Executive Communications Distinguished***

**§ 1.2 Unlike a Presidential message, which is delivered through the door and laid before the House, a communication from one of the executive departments or other element of the executive branch, including a communication from the President, is referred by the Speaker directly to the appropriate committee without announcement to the House.**

On May 28, 1969,<sup>(1)</sup> in response to a parliamentary inquiry, Speaker John W. McCormack, of Massachusetts, stated that a communication from the President had on that date been referred to committee without an announcement to the House.

Mr. [H. R.] GROSS [of Iowa]. Mr. Speaker, a parliamentary inquiry.

1. 115 CONG. REC. 14217, 91st Cong. 1st Sess.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. GROSS. Is there pending on the Speaker's desk a communication from the Postmaster General?

The SPEAKER. The Chair will respond by saying that there is a communication from the President on the postal service system. It has been referred to the Committee on Post Office and Civil Service.

Mr. GROSS. Mr. Speaker, when was the referral made?

The SPEAKER. The Chair will advise the gentleman that the referral was made after it was received this afternoon, as are all other communications of a similar nature.

**§ 1.3 Executive communications, although customarily referred to committee under the applicable House rule,<sup>(1)</sup> may, at the discretion of the Speaker, be handled in the same manner as Presidential messages and laid before the House.**

On Feb. 1, 1964,<sup>(2)</sup> Speaker John W. McCormack, of Massachusetts, laid before the House a communication from the President transmitting an appendix to the budget. The appendix had been received in the Speaker's Rooms after the House adjourned on Jan. 31. The President had previously,

1. Rule XIV clause 2, *House Rules and Manual* § 873 (2007).

2. 110 CONG. REC. 1580, 1581, 88th Cong. 2d Sess.

on Jan. 21, 1964,<sup>(3)</sup> transmitted a message to the House with the 1965 budget of the United States Government.<sup>(4)</sup>

The SPEAKER laid before the House the following communication from the President of the United States; which was read and referred to the Committee on Appropriations and ordered to be printed:

THE WHITE HOUSE,  
*Washington, February 1, 1964.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: I have the honor to transmit herewith the Budget of the U.S. Government, 1965—Appendix.

This appendix contains further information and detail concerning the proposals made in the Budget of the United States, 1965, which was transmitted with my message of January 21, 1964, to the Congress.

Respectfully yours,

LYNDON B. JOHNSON.

On Feb. 3, 1998,<sup>(5)</sup> Speaker pro tempore Robert Goodlatte, of Virginia, laid before the House a communication from the President transmitting the budget for fiscal

year 1999, which had been received in the Speaker's Rooms on Feb. 2, when the House was not in session. Ordinarily, the President's budget is transmitted under seal as a Presidential message and delivered to the Clerk if the House is not in session.<sup>(6)</sup>

The SPEAKER pro tempore (Mr. GOODLATTE) laid before the House the following communication from the President of the United States:

THE WHITE HOUSE,  
*Washington, February 2, 1998.*

Hon. NEWT GINGRICH,  
*Speaker of the House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to 31 U.S.C. 1105, attached is the Budget of the United States Government for Fiscal Year 1999.

Sincerely,

WILLIAM J. CLINTON.

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EXECUTIVE COMMUNICATIONS,  
ETC.

Under clause 2 of rule XXIV,<sup>(7)</sup> executive communications were taken from

**3.** *Id.* at pp. 704–712.

**4.** *Parliamentarian's Note:* The communication transmitting the appendix was laid down in the manner of a message from the President in order to maintain consistency in the treatment of the budget and related documents.

**5.** 144 CONG. REC. 517, 642, 643, 105th Cong. 2d Sess.

**6.** For similar examples of messages transmitted to the Speaker (rather than the Clerk) when the House was not in session, see 144 CONG. REC. 1224, 105th Cong. 2d Sess., Feb. 11, 1998, and 126 CONG. REC. 9148, 9149, 96th Cong. 2d Sess., Apr. 28, 1980.

**7.** Now *House Rules and Manual* § 873 (2007).

the Speaker's table and referred as follows: . . .

6752. A communication from the President of the United States, transmitting the Budget of the United States Government, Fiscal Year 1999, pursuant to 31 U.S.C. 1105(a); (H. Doc. No. 105-177); to the Committee on Appropriations and ordered to be printed.

On Oct. 10, 1963,<sup>(8)</sup> Speaker John W. McCormack, of Massachusetts, laid before the House a communication from the President dealing with the sale of surplus American wheat to Russia, which message was read and referred to the Committee on Agriculture.

The SPEAKER laid before the House the following communication from the President of the United States, which was read, referred to the Committee on Agriculture, and ordered to be printed:

OCTOBER 10, 1963.

HON. JOHN W. MCCORMACK,  
*Speaker of the House of Representatives, Washington, D.C.*

DEAR MR. SPEAKER: In view of previous expression of congressional interest and concern, it is appropriate that I report to the Congress the reasons for this Government's decision not to prohibit the sale of surplus American wheat, wheat flour, feed grains, and other agricultural commodities for shipment to the Soviet Union and other Eastern European countries during the next several months. . . .

Sincerely,  
JOHN F. KENNEDY.

8. 109 CONG. REC. 19283, 19284, 88th Cong. 1st Sess.

**§ 1.4 In one instance, the Speaker announced to the House his receipt of an executive communication in advance of referring it to committee.**

On Mar. 19, 2003,<sup>(1)</sup> Speaker J. Dennis Hastert, of Illinois, announced to the House his receipt the previous evening of a communication from the President consistent with a law authorizing the use of military force. In order to quell false speculation as to the contents of the communication, the Speaker inserted the text of the communication into the *Congressional Record* and announced his intention to refer it to the Committee on International Relations in the regular course.

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. HASTERT. Mr. Speaker, and for the information of all Members, I am in receipt of a report from the President pursuant to the Use of Force Resolution approved by the Congress last year.

This report summarizes diplomatic and other peaceful means pursued by the United States, cooperating with foreign countries and international organizations to obtain Iraqi compliance

1. 149 CONG. REC. 6530, 108th Cong. 1st Sess.

with all relevant United Nations Security Council resolutions regarding Iraq.

Pursuant to House Rule XII, I will refer this report to the Committee on International Relations. In addition, for the information of Members, I will submit the document in its entirety for printing into the CONGRESSIONAL RECORD. . . .

Any further announcement will be shared with the Congress.

THE WHITE HOUSE,  
Washington, March 18, 2003.

Hon. J. DENNIS HASTERT,  
*Speaker of the House of Representatives,*  
Washington, DC.

DEAR MR. SPEAKER: Consistent with section 3(b) of the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243), and based on information available to me, including that in the enclosed document, I determine that:

(1) reliance by the United States on further diplomatic and other peaceful means alone will neither (A) adequately protect the national security of the United States against the continuing threat posed by Iraq nor (B) likely lead to enforcement of all relevant United Nations Security resolutions regarding Iraq; and

(2) acting pursuant to the Constitution and Public Law 107-243 is consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001.

Sincerely,

GEORGE W. BUSH.

**§ 1.5 A letter from the President, addressed to the Speaker and suggesting that the contents be brought “to the attention of your colleagues,” was, by unanimous consent, read and made a part of the proceedings of the House.**

On Dec. 12, 1967,<sup>(1)</sup> Speaker John W. McCormack, of Massachusetts, laid before the House a letter addressed to him by the President.

The SPEAKER. Without objection, the Clerk will read a letter received by the Speaker from the President of the United States.

There was no objection.

The Clerk read as follows:

THE WHITE HOUSE,  
Washington, D.C., December 6, 1967.

Hon. JOHN MCCORMACK,  
*Speaker of the House,*  
*U. S. House of Representatives.*

DEAR JOHN: On the third anniversary of his administration—Mexican President Diaz Ordaz held a press conference in which he was asked to comment on the present state of United States-Mexican relations. . . .

I bring these words of tribute to the U.S. Congress and the American people to your attention, thinking that you might want to bring them to the attention of your colleagues in the House of Representatives.

1. 113 CONG. REC. 35938, 90th Cong. 1st Sess.

Sincerely,  
 LYNDON B. JOHNSON.

***Message on Removal of Executive Officer***

**§ 1.6 The President has transmitted a message for the information of Congress giving his reasons for removing the Chairman of the Board of the Tennessee Valley Authority.**

On Mar. 23, 1938,<sup>(1)</sup> the Speaker<sup>(2)</sup> laid before the House the following message from the President; it was read, and, with the accompanying papers, referred to the Committee on Military Affairs and ordered printed.

*To the Congress of the United States:*

I transmit herewith for the information of the Congress my opinion setting forth the reasons which impelled me to remove Arthur E. Morgan, and my letter to him removing him, as a member and Chairman of the Board of the Tennessee Valley Authority. I further transmit the opinion of the Attorney General in regard to my power to remove for cause members of the Board of the Tennessee Valley Authority. I also append the transcript of the hearings which were laid before me on March 11, 18, and 21, 1938, and which I think merit the serious consideration of all those interested in the T. V. A. I have filed my letter to Arthur E. Mor-

1. 83 CONG. REC. 3952, 75th Cong. 3d Sess.
2. William B. Bankhead (AL).

gan and the transcript of the hearings, together with all exhibits marked for identification in the transcript, with the Secretary of State. . . .

FRANKLIN D. ROOSEVELT.  
 THE WHITE HOUSE, *March 23, 1938.*

***Messages Relating to the Office of the President***

**§ 1.7 The President customarily notifies the Congress officially, by message, of the death of a former President.**

On Jan. 23, 1973,<sup>(1)</sup> President Richard M. Nixon informed the House and Senate, by message, of the death of former President Lyndon Baines Johnson. When this message was laid before the House and read, it established a predicate for the adoption of a concurrent resolution<sup>(2)</sup> permitting the remains of the former President to lie in state in the Rotunda of the Capitol. Following

1. 119 CONG. REC. 1838, 1839, 93d Cong. 1st Sess. For the message from President William J. Clinton officially informing the House of the death of former President Richard Milhous Nixon, see Ch. 38 §5.2, *infra*. For the message from President George W. Bush officially informing the House of the death of former President Ronald Wilson Reagan, see Ch. 38 §5.1, *infra*. There apparently was no message officially informing the House of the death of former President Gerald R. Ford on December 26, 2006.
2. H. Con. Res. 90, 93d Cong. 1st Sess.

the adoption of the concurrent resolution, the House agreed to a resolution<sup>(3)</sup> expressing its profound sorrow on the death of the former President and authorizing the preparation of appropriate arrangements for House participation in the funeral.

The SPEAKER laid before the House the following message from the President of the United States:

*To the Congress of the United States:*

It is my sad duty to inform you officially of the death of Lyndon Baines Johnson, the thirty-sixth President of the United States. . . .

RICHARD NIXON.

THE WHITE HOUSE, *January 23, 1973.*

**§ 1.8 A Presidential resignation is transmitted not to the Congress but to the Secretary of State.**

Section 20 of title 3, United States Code, provides that the only evidence of a resignation of the office of President shall be an instrument in writing, subscribed by the President, and delivered to the office of the Secretary of State.<sup>(1)</sup>

3. H. Res. 152, 93d Cong. 1st Sess.

1. President Richard M. Nixon thus submitted his resignation on Aug. 9, 1974 in this manner. See Ch. 14, § 2.1, *supra*.

***Unwritten Presidential Messages***

**§ 1.9 When the Speaker, pursuant to an order of the House, appoints a committee to notify the President that the House has completed the business of the session and is prepared to adjourn, the President customarily responds by a verbal communication, which is transmitted to the House by an oral report given by a member of the committee.**

Since the first Congress began the practice, upon nearing the end of their business for a session and preparing to adjourn *sine die*, of notifying the President of their intention to so adjourn,<sup>(1)</sup> the House has continued and formalized this practice, which is now more of a ritual than an actual notification. In the modern practice, as the House nears the completion of its business for a session, a House resolution is offered as privileged calling for the appointment of a two-Member committee to notify the President.<sup>(2)</sup> The Speaker customarily appoints the Majority

1. See H. Jour. Vol. I, p. 129 or 1 Annals of Congress, p. 964, 1st Cong. 1st Sess., Sept. 29, 1789. See also Ch. 40, generally.

2. See, *e.g.*, 147 CONG. REC. 27600, 107th Cong. 1st Sess. Dec. 20, 2001;

and Minority Leaders to the committee, which then repairs to the Speaker's Office and at a convenient time places a telephone call to the President. Although the customary text of the House resolution specifies that the committee is to "join a similar committee of the Senate," in recent years the calls have been placed separately by the leaderships of the two bodies.

When the telephone call has been completed and the House is ready to adjourn, the "committee to notify the President" enters the Chamber by the west door, is announced by an officer of the House, and gives its report.<sup>(3)</sup>

### *Informal Visits to Congress*

#### **§ 1.10 On the occasion of an informal visit by the President to the House of Representatives, the House stood in recess and the President greeted Members, officers, and employees who filed through the well of the House.**

120 CONG. REC. 41855, 93d Cong. 2d Sess., Dec. 20, 1974.

3. See, *e.g.*, 139 CONG. REC. 32441, 103d Cong. 1st Sess., Nov. 26, 1993; 120 CONG. REC. 41857, 93d Cong. 2d Sess., Dec. 20, 1974. On occasion the House has adjourned *sine die* before receiving the committee's report. See, *e.g.*, 146 CONG. REC. 27083, 27084, 106th Cong. 2d Sess., Dec. 15, 2000.

On Jan. 28, 1969,<sup>(1)</sup> the House<sup>(2)</sup> stood in recess to receive, in the well of the House, the President of the United States:<sup>(3)</sup>

#### VISIT OF THE PRESIDENT

(Mr. ALBERT asked and was given permission to address the House for 1 minute.)

Mr. [Carl] ALBERT (of Oklahoma). Mr. Speaker, the House is highly honored today by a visit by the President of the United States. In view of that fact, Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare a recess subject to the call of the Chair.

The SPEAKER.<sup>(4)</sup> Without objection, it is so ordered.

There was no objection. . . .

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#### RECESS

The SPEAKER. The House will now stand in recess subject to the call of

1. 115 CONG. REC. 1984, 91st Cong. 1st Sess.
2. The Senate was twice visited informally by President Harry S Truman. On one occasion, President Truman sat in the chair he formerly occupied as a Senator, and the other was on the anniversary of the death of his predecessor. He addressed the body on both occasions. 93 CONG. REC. 9804, 9805, 80th Cong. 1st Sess., July 23, 1947; 95 CONG. REC. 4360, 4361, 81st Cong. 1st Sess., Apr. 12, 1949.
3. See § 2.14, *infra*, for an instance in which the Speaker declined a request from the President to address the House in actual session on pending legislation.
4. John W. McCormack (MA).

the Chair and the bells will be rung 15 minutes before the House meets again.

Accordingly (at 12 o'clock and 3 minutes p.m.), the House stood in recess subject to the call of the Chair.

*(At 12 o'clock and 4 minutes p.m., the President of the United States, escorted by the Majority Leader and the Minority Leader, entered the Chamber through the south door at the right of the Speaker's rostrum, and joined the Speaker in the Well of the House. The Minority Leader, the Majority Leader, the Speaker, and the President constituted the receiving line and Members formed in lines and filed into the Well to greet the President personally.)*

*(At 1 o'clock and 7 minutes p.m., the President, accompanied by the committee of escort and the Speaker, retired from the Hall of the House of Representatives.)*

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. FASCELL) at 1 o'clock and 25 minutes p.m.

## § 2. Receipt and Reading of Presidential Messages

In recent years, the President's annual state of the Union address has been delivered in person at a joint session of Congress, although the President may transmit the message in writing.<sup>(1)</sup> The Presi-

1. See §§ 3.3, 5.4, 5.5, *infra*. All Presidents from Thomas Jefferson through William H. Taft submitted their annual messages in writing.

dent may choose to transmit messages dealing with other matters of national consequence to Congress in writing. Examples of messages the President has transmitted in writing have included: advising the House of his intention to abide by the law requiring a cessation of certain U.S. military operations,<sup>(2)</sup> submitting reorganization plans,<sup>(3)</sup> announcing a country's declaration of war against the United States,<sup>(4)</sup> advising the House of the loss of an enrolled bill,<sup>(5)</sup> and transmitting his nomination of a person for appointment to the office of Vice President.<sup>(6)</sup>

Messages may be received and read in the absence of a quorum.<sup>(7)</sup>

The Clerk of the House receives messages from the President delivered when the House is not in

2. 119 CONG. REC. 28088, 93d Cong. 1st Sess., Aug. 3, 1973.

3. 149 CONG. REC. 2305, 108th Cong. 1st Sess., Feb. 4, 2003; 93 CONG. REC. 4380-83, 80th Cong. 1st Sess., May 1, 1947; 86 CONG. REC. 6637, 76th Cong. 3d Sess., May 22, 1940.

4. 88 CONG. REC. 4787, 77th Cong. 2d Sess., June 2, 1942; 87 CONG. REC. 9665, 9666, 77th Cong. 1st Sess., Dec. 11, 1941.

5. See § 2.13, *infra*.

6. See § 3.18, *infra*.

7. Until the 95th Congress, a quorum was required for the reading of a message. *House Rules and Manual* § 55 (2007). See also § 2.11, *infra*.