

Death

§ 1. In General

The death of a Member of the House, or of an officer or official of the House, invokes certain well-established procedures for accord- ing respect due to the memory of the deceased. Similar formalities, possibly more elaborate, are fol- lowed upon the death of a Presi- dent, Senator, head of state, or other national or foreign dig- nitary. These procedures are al- most always invoked by unani- mous consent or privileged resolu- tion. The procedures include the formal announcement of death, resolutions of sympathy, adjust- ment of the whole number of the House, appointment of Members to a funeral committee or commit- tees, adjournment as a mark of respect, and lying-in-state cere- monies.

When a Member dies, provision must be made for maintenance of a staff and offices until another Representative is elected to rep- resent the district.⁽¹⁾ Arrange- ments are also made for disposi- tion of the Member's papers.⁽²⁾ The House attends to these con- tingencies by unanimous consent or resolution.

The purpose of this chapter is to present both the procedures to

1. See § 4, *infra*.

2. See § 3, *infra*.

which the House traditionally ad- heres following a death and those rare procedures that the House has undertaken on other occa- sions.

The accounts of proceedings fol- lowing upon the deaths of some individuals will be found to be more detailed than others in order to reflect infrequent or anomalous proceedings that the House has undertaken.

The reader may wish to consult other chapters on such subjects as the assembly of Congress,⁽³⁾ Mem- bers' oath of office,⁽⁴⁾ party organi- zations,⁽⁵⁾ recesses,⁽⁶⁾ adjourn- ments,⁽⁷⁾ and House ceremonies.⁽⁸⁾

On the subject of death, for precedents prior to 1936, the read- er is referred to 5 Hinds' Prece- dents §§ 7107–7223, and 8 Can- non's Precedents, §§ 3560–3598.

§ 2. Effect of Death on House Business; Pre- sumptive Death of Mem- ber

The death of a Member is only formally recognized in one place

3. See Ch. 1, *supra*.

4. See Ch. 2, *supra*.

5. See Ch. 3, *supra*.

6. See Ch. 39, *infra*.

7. See Ch. 40, *infra*.

8. See Ch. 36, *supra*.

in the rules of the House.⁽¹⁾ Clause 5 of Rule XX provides that upon the death of a Member, the whole number of the House shall be adjusted accordingly.⁽²⁾ The death of the President, a Member, or other national or foreign leader may affect the scheduling of business in the House.⁽³⁾ Those scheduling decisions have varied over time depending on the person who has died and the House schedule at the time of the death. When a Member-elect dies before the House convenes for that Congress⁽⁴⁾ and the state has submitted his certificate of election, the Member-elect's name will be carried on the roll of Members at the inception of a Congress to establish a quorum.⁽⁵⁾ The name will be deleted from subsequent roll calls,⁽⁶⁾ after the new House is officially notified of the vacancy by announcement from the Clerk.

The death of a Member after his introduction of a bill does not preclude subsequent action on it as bills become the property of the

House when introduced.⁽⁷⁾ The House may authorize another Member to act as first sponsor of a bill or resolution for purposes of adding co-sponsors and requesting reprints of the measure when the actual first sponsor has died.⁽⁸⁾ The death of a Member does not invalidate his signature on a discharge petition but the signature may be withdrawn by his successor.⁽⁹⁾

Pursuant to a rule adopted in the 108th Congress, in the event of a vacancy in the Office of Speaker, including one as the result of death, a designated Member acts as Speaker pro tempore until the election of a Speaker or Speaker pro tempore.⁽¹⁰⁾ Pending the election of a Speaker or Speaker pro tempore, the Member acting as Speaker pro tempore may exercise such authorities of the Office of the Speaker as may be necessary and appropriate to that end.⁽¹¹⁾ Prior to the 108th Congress, when a Speaker died during a session of Congress, the Clerk generally called the House to order and presided until a new Speaker was elected.⁽¹²⁾

1. Rule XX clause 5, *House Rules and Manual* §1024b (2007). The Clerk has certain responsibilities upon the death of a Member or former Speaker. See *Id.* at Rule II clause 2.

2. See Ch. 4, *supra*.

3. See §§ 2.6, 2.8, *infra*.

4. See Chs. 1, 2, *supra*.

5. See § 2.12, *infra*.

6. See § 2.12, *infra*.

7. See § 2.11, *infra*.

8. See § 2.9, *infra*.

9. See § 2.10 *infra*.

10. See § 2.2, *infra*.

11. *Id.*

12. See §§ 2.2, 2.3, *infra*; Chs. 1, 6, *supra*.

The House may presume the death of a missing Member-elect and declare that Member's seat vacant. The authority for this derives from art. I, § 5 of the Constitution, which declares that each House shall be the judge of the qualifications of its Members. Once the seat is declared vacant, the Governor of the missing Member-elect's state may call a special election (or appoint a representative to serve until the next regular election) as required by art. I, § 2 of the Constitution. The House may declare the seat of a Member-elect vacant where a Member-elect is not able to take the oath or resign due to an incapacitating illness.⁽¹³⁾

Death of President

§ 2.1 Because of the funeral services for President John F. Kennedy, business and special orders scheduled for Monday, Nov. 25, 1963, were, by unanimous consent, transferred to Tuesday.

On Nov. 25, 1963,⁽¹⁾ after the assassination of President John F. Kennedy, Mr. Abraham J. Multer,

13. See *Parliamentarian's Note* at § 2.17, *infra*.

1. 109 CONG. REC. 22694, 88th Cong. 1st Sess.

of New York, asked for a transfer of business to the following day:

Mr. MULTER. Mr. Speaker, I ask unanimous consent that the business in order for today shall be in order on tomorrow, and that special orders in order for today shall be transferred to tomorrow and shall precede those presently scheduled for tomorrow.

The SPEAKER pro tempore.⁽²⁾ Is there objection to the request of the gentleman from New York?

There was no objection.

Parliamentarian's Note: Consideration of a House joint resolution continuing appropriations had been scheduled for that date.

Death of Speaker

§ 2.2 Rule I clause 8⁽¹⁾ provides for a Speaker to designate a Member to act as Speaker pro tempore in a limited capacity in the event of the Speaker's death. It provides that (1) in the event of a vacancy in the Office of Speaker, including one as the result of death, a designated Member acts as Speaker pro tempore until the election of a Speaker or Speaker pro tempore;⁽²⁾ (2) that pending the election of a Speaker or

2. James C. Wright, Jr. (TX).

1. *House Rules and Manual* § 632 (2007).

2. *Id.*

Speaker pro tempore, the Member acting as Speaker pro tempore may exercise such authorities of the Office of the Speaker as may be necessary and appropriate to that end;⁽³⁾ and (3) as soon as practicable after the Speaker's election and whenever he deems it appropriate thereafter, the Speaker shall deliver to the Clerk a list of Members in the order in which they should act as Speaker pro tempore.⁽⁴⁾

On Mar. 13, 2003,⁽⁵⁾ Speaker pro tempore Marsha Blackburn, of Tennessee, made the following announcement:

The Chair announces that on February 10, 2003, the Speaker delivered to the Clerk a letter listing Members in the order in which each shall act as Speaker pro tempore under clause 8(b)(3) of rule I.

Parliamentarian's Note: Rule I clause 8(b)(3)(C)⁽⁶⁾ also provides that for the purposes of appointing a Speaker pro tempore under this rule, a vacancy in the Office of the Speaker may exist by reason of the physical inability of the

3. *Id.*

4. *Id.*

5. 149 CONG. REC. 6118, 108th Cong. 1st Sess.

6. *House Rules and Manual* §632 (2007).

Speaker to discharge the duties of the Office.

§ 2.3 Prior to the rules change in the 108th Congress, when a Speaker died during a session of Congress, the Clerk called the House to order, announced the death, and presided until a new Speaker was chosen.

On June 4, 1936,⁽¹⁾ the House was called to order at 11 o'clock a.m. by South Trimble, Clerk of the House. He announced the death of Speaker Joseph W. Byrns, of Tennessee, and advised that the selection of a Member to preside as Speaker was in order.

The CLERK. Gentlemen of the House of Representatives, it becomes my sad and painful duty to announce to the House the sudden death of your beloved Speaker, the Honorable JOSEPH W. BYRNS, a Representative from the State of Tennessee.

Speaker BYRNS presided over the House on yesterday, presumably in his accustomed good health, but shortly after his arrival at his apartment he was stricken and soon thereafter passed away. In his death this House has suffered the loss of an able, fair, and impartial presiding officer; the country a legislator of long experience, a statesman of courage and marked ability; and his State of Tennessee a noteworthy citizen.

1. 80 CONG. REC. 9016, 9017, 74th Cong. 2d Sess.

The duty of selecting one to preside over the deliberations of the House now rests upon you.

Following this statement by the Clerk, Mr. John J. O'Connor, of New York, offered a resolution that Majority Leader William B. Bankhead, of Alabama, be elected Speaker, and moved for its adoption. The Clerk read the resolution and it was agreed to by voice vote.

Mr. O'CONNOR. Mr. Clerk, in view of the unfortunate circumstance in which we find ourselves, and with no disrespect to our beloved Speaker who has left us, it becomes necessary, in order that the House may function and the machinery of government may not stop, that the House proceed to the election of a Speaker.

I present the following resolution and move its adoption.

The Clerk read as follows:

House Resolution 543

Resolved, That Hon. WILLIAM B. BANKHEAD, a Representative from the State of Alabama, be, and he is hereby, elected Speaker of the House of Representatives.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. WILLIAM B. BANKHEAD, as Speaker of the House of Representatives.

The CLERK. The question is on agreeing to the resolution.

The resolution was agreed to.

Parliamentarian's Note: Speaker Byrns died in his apartment in the Mayflower Hotel in Wash-

ington, D.C., at approximately 12:15 a.m., June 4, 1936. He was the first Speaker to die while Congress was in session, and the third Speaker to die in office. (Speaker Michael C. Kerr [Ind.] died Aug. 19, 1876, between sessions of the 44th Congress. Speaker Henry T. Rainey [Ill.] died Aug. 19, 1934, after the second session of the 73d Congress had adjourned.) When the House adjourned on June 3, 1936, it had agreed to meet at 11 o'clock a.m. the next morning. The Speaker having died the morning of June 4, the House met as scheduled and elected Rep. Bankhead as Speaker.⁽²⁾

Four years later, Speaker Bankhead died in office. On Sept. 16, 1940,⁽³⁾ the Clerk of the House called the House to order at 12 o'clock noon and announced the death of Speaker Bankhead:

The CLERK. Members of the House of Representatives, it becomes my sad and painful duty, as Clerk of the House of Representatives, to inform you officially that your beloved Speaker passed away yesterday morning at the Naval Hospital in this city.

2. See § 6.10, *infra*, for a resolution of sympathy adopted by the House, and § 11.1, *infra*, for a House resolution inviting distinguished guests to attend the funeral in the Hall of the House.
3. 86 CONG. REC. 12231-34, 76th Cong. 3d Sess.

America has lost one of her greatest statesmen and patriots, the House of Representatives a most able and eloquent Speaker, and the State of Alabama a noble and courageous son.

In accordance with the rules and practice of the House of Representatives, it now becomes the duty of this House to elect a Speaker. What is the pleasure of the House?

Speaker Bankhead died in the Naval Hospital in Washington, D.C., at 1:35 a.m., Sept. 15 and was thus the second Speaker to die while Congress was in session.

Following announcement by the Clerk of the death of Speaker Bankhead, Mr. John W. McCormack, of Massachusetts, offered a resolution that Mr. Sam Rayburn, of Texas, be elected Speaker. The resolution was agreed to by voice vote. The Clerk appointed a committee to escort Mr. Rayburn to the Chair, where the oath was administered by Mr. Adolph J. Sabath, of New York.

Mr. McCORMACK. Mr. Clerk, in view of the unfortunate circumstances in which the House finds itself, and with a feeling of very profound respect for the memory of our beloved Speaker who has left us, it becomes necessary, in order that the House may continue to function and the machinery of Government may go on, that the House proceed to the election of a Speaker.

I therefore offer the following resolution, and move its adoption:

The Clerk read as follows:

HOUSE RESOLUTION 602

Resolved, That Hon. SAM RAYBURN, a Representative from the

State of Texas, be, and he is hereby, elected Speaker of the House of Representatives.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. SAM RAYBURN as Speaker of the House of Representatives.

The resolution was agreed to.

§ 2.4 The Clerk called the House to order at the beginning of the second session of the 87th Congress and announced that Speaker Rayburn had died during the *sine die* adjournment.

On Jan. 10, 1962,⁽¹⁾ the Clerk of the House, Ralph R. Roberts, called the House to order.

Speaker Sam Rayburn, of Texas, presided over the House for the last time on Aug. 30, 1961. On Aug. 31, he departed from Washington for his home in Texas, and Majority Leader John W. McCormack, of Massachusetts, was elected (by resolution) Speaker pro tempore during the absence of the Speaker.

The first session of the 87th Congress adjourned *sine die* on Sept. 27, 1961. Speaker Rayburn died on Nov. 16, 1961, in Bonham, Texas.

The House met at 12 o'clock noon and was called to order by the Honorable Ralph R. Roberts, Clerk of the House.

1. 108 CONG. REC. 5, 87th Cong. 2d Sess. See also Chs. 1, 2, and 6, *supra*.

The CLERK. Members of the House of Representatives, the time has arrived for the meeting of the 2d session of the 87th Congress. Since the last session of Congress the great and beloved Speaker of the House has departed this life.

The Clerk of the House, in conformity with the rules, has called the House to order for the purpose of electing a Speaker. The roll will be called to ascertain whether a quorum is present.

The Clerk will call the roll. . . .

The CLERK. Four hundred and eleven Members having answered to their names, a quorum is present.

ELECTION OF SPEAKER

The CLERK. Nominations for Speaker of the House of Representatives are now in order. . . .

The CLERK. The tellers agree in their tally. The total number of votes cast was 414, of which the Honorable JOHN W. MCCORMACK received 248, and the Honorable CHARLES A. HALLECK received 166. Two voted "present." Therefore, the Honorable JOHN W. MCCORMACK of Massachusetts is the duly elected Speaker of the House of Representatives for the 87th Congress.

The Clerk appoints the following Members to escort the Speaker-elect to the Chair: The gentleman from Indiana [Mr. HALLECK] and the gentleman from Oklahoma [Mr. ALBERT].

(The Doorkeeper announced the Speaker-elect of the House of Representatives, who was escorted to the Chair by the committee of escort.)

Death of Member

§ 2.5 The former tradition of the House was to postpone

scheduled business and immediately adjourn out of respect upon the death of one of its Members. The more recent practice is that the House considers a resolution of sympathy sometime during the legislative day that provides in part that "when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased" and continues with further business.⁽¹⁾

On Oct. 1, 2002,⁽²⁾ the following resolution was offered by Rep. Neil Abercrombie, of Hawaii. Following its adoption, the House proceeded onto other business, including motions to suspend the rules and later adjourned in memory of the deceased.⁽³⁾

H. RES. 566

Resolved, That the House has heard with profound sorrow of the death of the Honorable PATSY T. MINK, a Representative from the State of Hawaii.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be

1. See also Ch. 36, *supra*, for memorial services for former Members.
2. 148 CONG. REC. 18777, 107th Cong. 2d Sess.
3. *Id.* at p. 18815.

necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of applicable accounts of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

§ 2.6 The former tradition of the House was to postpone scheduled business and immediately adjourn out of respect upon the death of one of its sitting Members.

On June 23, 1969,⁽¹⁾ Mr. H. R. Gross, of Iowa, obtained unanimous consent to transfer a special order (in view of an anticipated early adjournment out of respect for the late Mr. William H. Bates, of Massachusetts).

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the special order I have for this afternoon be transferred to tomorrow.

The SPEAKER.⁽²⁾ Without objection, it is so ordered.

There was no objection.

Immediately after consent to Mr. Gross' request, certain Senate bills and joint and concurrent res-

1. 115 CONG. REC. 16795, 91st Cong. 1st Sess.
2. John W. McCormack (MA).

olutions were referred. The death of Mr. Bates was then announced and the remainder of the day's session was devoted to eulogies, concluding with a resolution (H. Res. 450) of sympathy offered by Mr. Silvio O. Conte, of Massachusetts. The final resolving clause called for the House to adjourn as a further mark of respect.⁽³⁾

§ 2.7 The House was not in session on a Wednesday of a legislative week to allow Members to attend funeral services for a deceased colleague.

Rep. George E. Brown, of California, died on July 15, 1999. On July 22, 1999,⁽¹⁾ Rep. Pete Sessions, of Texas, made the following announcement with regard to Wednesday, July 28, 1999, during remarks on the legislative schedule for the following week:

Mr. SESSIONS. . . . [I]t is my understanding the House will be in pro forma session and that no votes will be held in accommodation of Republican and Democrat Members who wish to attend services for our colleague, George Brown.

Parliamentarian's Note: The House was not in session on Wednesday, July 28, 1999.

§ 2.8 By unanimous consent, the vote on final passage of a

3. 115 CONG. REC. 16801, 91st Cong. 1st Sess.
1. 145 CONG. REC. 17312, 106th Cong. 1st Sess.

bill in the House was postponed until a later time on that day, due to the absence of a funeral committee that was attending the services for a deceased colleague.

On Aug. 12, 1970,⁽¹⁾ the Committee of the Whole rose and the Chairman reported a bill (H.R. 17570) back to the House. The bill was ordered to be engrossed and read a third time, and Speaker pro tempore Carl Albert, of Oklahoma, put the question on the passage of the bill:

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken, and the Speaker pro tempore announced that the "ayes" appeared to have it.

Mr. [William L.] SPRINGER [of Illinois]. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

I ask unanimous consent in view of the fact that there are Members attending the funeral of our deceased colleague, Mr. G. Robert Watkins, that the vote be taken on this measure at a time not earlier than 4 o'clock.

The SPEAKER pro tempore. Does the gentleman withdraw his point of order?

Mr. SPRINGER. Mr. Speaker, I withdraw the point of order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The vote will be put over until not sooner than 4 o'clock.

Parliamentarian's Note: In accordance with a provision of House Resolution 1183, a resolution of sympathy was adopted on Aug. 10, 1970.⁽²⁾ Pursuant to the announcement of the death of Mr. G. Robert Watkins, of Pennsylvania, the Speaker pro tempore appointed a committee to attend the funeral of the late Member. This committee consisted of: (1) the senior Member of the Pennsylvania delegation; (2) the Majority and Minority Leaders and Minority Whip; (3) the remainder of the Pennsylvania delegation in order of seniority, and (4) other Members who desired to attend, in order of seniority.

[The absence of these Members who were attending the funeral at the time the vote was called on H.R. 17570, accounted for the absence of a quorum.]

Thus, Mr. Springer continued, after noting the absence of a quorum, to propose that by unanimous consent the vote be postponed.

§ 2.9 The House by unanimous consent may authorize a

1. 116 CONG. REC. 28510, 28511, 91st Cong. 2d Sess.

2. 116 CONG. REC. 28100, 91st Cong. 2d Sess.

Member to act as first sponsor of a bill for the purposes of adding co-sponsors and requesting reprints pursuant to Rule XII clause 7⁽¹⁾ where the actual first sponsor has died.

Rep. Bruce Vento, of Minnesota, died on Oct. 10, 2000. Rep. Vento was the prime sponsor of H.R. 1239. On Oct. 24, 2000,⁽²⁾ the following unanimous consent agreement was entered into on the floor:

Mr. [Ed] MARKEY [of Massachusetts]. Mr. Speaker, I ask unanimous consent that I may hereafter be considered as the primary sponsor of H.R. 1239, a bill originally introduced by Representative Bruce Vento of Minnesota, for the purpose of adding co-sponsors and requesting reprintings under clause 7 of rule XII.

The SPEAKER pro tempore.⁽³⁾ Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

§ 2.10 Where a Member signed a discharge motion and subsequently died, his successor obtained unanimous consent that his predecessor's name be removed so that he might sign it.

1. *House Rules and Manual* § 825 (2007).
2. 146 CONG. REC. 23953, 106th Cong. 2d Sess.
3. Ed Pease (IN).

On Jan. 16, 1950,⁽¹⁾ Mr. John F. Shelley, of California, was recognized for a unanimous-consent request.

Mr. SHELLEY. Mr. Speaker, my predecessor, the Honorable Richard J. Welch, signed Discharge Petition No. 15. I desire to have my name entered on this petition. I ask unanimous consent that his name be taken off the petition so that I may sign it.

The SPEAKER.⁽²⁾ Is there objection to the request of the gentleman from California?

There was no objection.

§ 2.11 Bills become the property of the House when introduced and the House may act on a bill following the death of the Member that introduced it.

On June 24, 1964,⁽¹⁾ H.R. 7307, to amend the Internal Revenue Codes, was reported,⁽²⁾ and on June 29, 1964,⁽³⁾ the bill was agreed to. The proceedings were as follows:

Mr. [Wilbur D.] MILLS [of Arkansas]. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7307) to amend

1. 96 CONG. REC. 436, 81st Cong. 2d Sess. See also Ch. 18, § 1.5, *supra*.
2. Sam Rayburn (TX).
1. 110 CONG. REC. 14958, 88th Cong. 2d Sess.
2. H. Rept. No. 88-1516.
3. 110 CONG. REC. 15276, 15277, 88th Cong. 2d Sess.

the Internal Revenue codes of 1939 and 1954. . . .

The Clerk read the title of the bill.

The SPEAKER pro tempore.⁽⁴⁾ Is there objection to the request of the gentleman from Arkansas [Mr. MILLS]? . . .

Mr. MILLS. Mr. Speaker, I think it is appropriate to point out at this time that this is a bill which was sponsored by and considered in the committee during the lifetime of our distinguished late colleague, Hon. Howard Baker, and also in which there was a great deal of interest expressed by another former late colleague on the committee, the gentleman from Pennsylvania, Hon. William Green. Mr. Baker's name is still carried on the bill as the author of the bill. . . .

Parliamentarian's Note: Bills become the property of the House when introduced and the death of the sponsoring Member after introduction does not preclude subsequent action thereon. Thus, on one occasion, a bill was reported in the name of a Member who had been killed in an accident a few days earlier.⁽⁵⁾ On another occasion, the House has also concurred in the Senate amendment

4. Carl Albert (OK).

5. See 111 CONG. REC. 15698, 89th Cong. 1st Sess., July 6, 1965, where a bill (S. 956) was referred to the Committee of the Whole House on the state of the Union by Rep. T. Ashton Thompson (LA) who had been killed in an automobile accident on July 1, 1965.

to a bill that was introduced by a Member who had died earlier that year.⁽⁶⁾

Death of Member-elect

§ 2.12 When a Member-elect dies before the House convenes, his name is included on the roll call by states to establish a quorum, but is deleted from subsequent calls after the House is officially informed of his death.

On Jan. 4, 2005,⁽¹⁾ at the beginning of the 109th Congress, the Clerk of the 108th Congress called the House to order. Following the opening prayer, he caused the roll to be called by states, the Members-elect responding, in order to establish a quorum. Member-elect Robert T. Matsui, of California, had died on Jan. 1, 2005. His name was included on the roll of Members-elect for the quorum call because his certificate of election was on file with the Clerk. Following the quorum call, the Clerk

6. See 144 CONG. REC. 26456–58, Oct. 15, 1998, where the House concurred in the Senate amendment to H.R. 700 that was introduced by Rep. Sonny Bono (CA) who died on Jan. 5, 1998.

1. 151 CONG. REC. 36–39, 109th Cong. 1st Sess.

announced the vacancy and Member-elect Matsui's name was removed from the rolls.

On Jan. 3, 2001,⁽²⁾ at the beginning of the 107th Congress, the Clerk of the 106th Congress presided over the organization of the House. Member-elect Julian C. Dixon, of California, had died on Dec. 8, 2000, and the House adopted a resolution expressing sorrow over his death on that day while in "lame-duck" session of the 106th Congress. His certificate of election had been received and his name was included on the roll of Members-elect. After the quorum call, the Clerk announced the vacancy and Member-elect Dixon's name was removed from the rolls.

Death of an Officer

§ 2.13 In the case of a vacancy among the elected officers of the House, the Speaker is authorized by § 208 of the Legislative Reorganization Act of 1946 (2 USC § 75a-1) to appoint a person "to act as, and to exercise temporarily the duties of" the vacant office until a successor is elected.

Parliamentarian's Note: 2 USC § 75a-1 was enacted in response to

2. 147 CONG. REC. 19, 20, 107th Cong. 1st Sess.

the death of the Sergeant at Arms of the House, William F. Russell on July 8, 1953.⁽¹⁾ This statutory authority has not yet been used to fill a vacancy following the death of an officer.

Death of Sergeant at Arms

§ 2.14 The Sergeant at Arms of the House, William F. Russell, having died, the House by resolution elected the Clerk of the House, Lyle O. Snader, to serve temporarily and concurrently as Sergeant at Arms, without additional compensation, until another person should be elected and qualify as Sergeant at Arms. A joint resolution was also adopted and enacted into law to permit the Clerk of the House to serve concurrently as Sergeant at Arms and providing that his salary as Clerk of the House should be in full discharge for his services to the House during such concurrent service.

On July 8, 1953,⁽¹⁾ a resolution was adopted by the House on the death of its Sergeant at Arms,

1. See § 2.14, *infra*.

1. 99 CONG. REC. 8242, 83d Cong. 1st Sess. For further discussion, see Ch. 6, *supra*.

electing the Clerk of the House as Sergeant at Arms of the House, without additional compensation until another person could be chosen and qualify. The proceedings were as follows:

Mr. [Charles A.] HALLECK [of Indiana]. Mr. Speaker, I offer a joint resolution (H. J. Res. 292) and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That Lyle O. Snader, of the State of Illinois, be, and he is hereby, authorized, notwithstanding the provisions of any other law, to serve concurrently as Clerk and Sergeant at Arms of the House of Representatives until another person is chosen by the House of Representatives to be and duly qualifies as Sergeant at Arms; and while the said Lyle O. Snader is so serving the compensation received by him as Clerk of the House of Representatives shall be in full discharge for any services rendered by him to the House of Representatives during such period of concurrent service.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER.⁽²⁾ Mr. Snader will present himself at the bar of the House to take the oath of office.

Mr. Snader appeared at the bar of the House and took the oath of office.

Parliamentarian's Note: House Joint Resolution 292, enacted into law as Public Law No. 83-106, was passed to resolve conflicting

2. Joseph W. Martin, Jr. (MA).

opinions about whether one person could occupy two elective offices of the House at the same time and the necessity to pay dual compensation, which, if paid or required to be paid, might have made it illegal for one person to occupy two offices under Federal dual compensation laws.

Presumptive Death of Member

§ 2.15 At the inception of the 93d Congress, the Clerk reported to the House an action he had taken pursuant to the Speaker's instructions regarding the presumptive deaths of two Members-elect.

On Jan. 3, 1973,⁽¹⁾ prior to the election of a Speaker, the Clerk of the House, W. Pat Jennings, made the following announcement explaining action taken with regard to the presumptive deaths on Oct. 16, 1972, of Members-elect Nick Begich, of Alaska, and Hale Boggs, of Louisiana, the Majority Leader in the 92d Congress:

The CLERK. . . .

On December 20, 1972, the Speaker directed a letter to the Clerk of the House which the Clerk will read.

WASHINGTON, D.C.,
December 20, 1972.

1. 119 CONG. REC. 12, 93d Cong. 1st Sess.

Hon. W. PAT JENNINGS,
Clerk, House of Representatives,
Washington D.C.

DEAR MR. JENNINGS: When the 93rd Congress convenes on January 3, 1973, the House will be confronted with a situation which is unprecedented in our history. I refer, of course, to the probability that the Representatives-elect from the Second Congressional District of Louisiana and from the at-large seat in Alaska will not appear to take the oath of office at noon on that day.

While it is common knowledge that Representatives-elect Hale Boggs and Nick Begich, together with Russell L. Brown and Don Jonz of the State of Alaska, departed by plane from Anchorage, Alaska, on October 16, 1972 on a flight bound for Juneau, Alaska, and have been missing since that date, any action which the House might take to declare their seats vacant, or otherwise pertaining to their status as Representatives-elect, should, I believe, be based upon the most reliable and official documentary evidence available as of January 3, 1973.

I therefore request that you obtain, for transmittal to the House when it convenes on January 3, 1973, certified copies of any judicial determination and other relevant information then available with respect to the status of the persons in question. Such documentary evidence will then enable the House to more properly discharge its constitutional responsibility in this matter.

Sincerely,

CARL ALBERT.

The CLERK. Pursuant to the Speaker's instructions the Clerk has for-

warded to the Speaker a certified copy of the certificate of presumptive death of the Honorable NICK BEGICH, of Alaska.

Also contained in the certified information which the Clerk has forwarded to the Speaker is documentary evidence that the Honorable HALE BOGGS, a Representative-elect from the State of Louisiana, was a passenger on a flight from Anchorage, Alaska, to Juneau, Alaska, on October 16, 1972.

§ 2.16 At the inception of the 93d Congress, the Speaker laid before the House communications from the Clerk, transmitting documentary evidence of the presumptive death of a Member-elect and the declaration of a vacancy by the Governor; and transmitting documentary evidence indicating that the status of another missing Member-elect had not been officially determined by any state authority.

On Jan. 3, 1973,⁽¹⁾ Speaker Carl Albert, of Oklahoma, laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 2, 1973.

Hon. CARL ALBERT,

1. 119 CONG. REC. 15, 93d Cong. 1st Sess.

*The Speaker,
U. S. House of Representatives.*

DEAR MR. SPEAKER: This is in further reply to your letter of December 20, 1972, wherein you requested transmittal to the House of Representatives when it convenes on January 3, 1973, certified copies of any "judicial determinations and any other relevant information available" with respect to the status of Representative-elect Nick Begich from the at-Large seat of Alaska and Representative-elect Hale Boggs from the Second Congressional District of Louisiana.

Attached herewith is a certified copy of the Certificate of Presumptive Death, the Presumptive Death Jury Verdict, and Order signed by Alaska District Court Judge Dorothy D. Tyner on December 29, 1972, for the Honorable Nick Begich, at-Large Representative for Alaska, who was one of three passengers in an airplane that departed from Anchorage on a flight bound for Juneau, Alaska on October 16, 1972, and disappeared, together with Judge Tyner's covering letter of December 29, 1972, that was received this date. I have also received this date from the Alaska District Court a certified copy of the transcript of the Presumptive Death Hearing concerning the airplane's October 16, 1972, disappearance with its pilot and passengers, together with 45 color slides depicting the search areas which were shown to the hearing jury. Your attention is respectfully invited to pages 19, 20, 21, 26, 37, 50, 103 and 106 of the hearing transcript that discuss the presence of the Honorable Hale Boggs as a passenger on the October 16, 1972, Anchorage to Juneau flight that

disappeared. Additionally, I received the attached telegram this date from the Honorable William A. Egan, Governor of Alaska, conforming that on December 29, 1972, the day the Order that presumed death of the Honorable Nick Begich was signed by Judge Tyner, Governor Egan declared Alaska's only at-Large House seat vacant. It has been announced that Governor Egan also ordered a special election for March 6, 1973, to fill said vacancy.

Also attached herewith is a Certification executed by the Governor of Louisiana on December 21, 1972, and attested to by the Secretary of the State of Louisiana that contains a certified opinion of the Attorney General of Louisiana that no action has been taken by the Governor and that no action is before the courts of Louisiana that would in any way change the status of the Honorable Hale Boggs or modify the Election Proclamation for the General Election held in Louisiana on November 7, 1972, that was signed and issued by the Governor and countersigned by the Secretary of State under the seal of the State of Louisiana on December 11, 1972, certifying that the Honorable Hale Boggs was elected as Representative for the Second Congressional District of Louisiana and transmitted to the Clerk of the House in the Secretary of State's letter of December 12, 1972. I have this date received the attached telegram from the Secretary of State of Louisiana, advising that the situation in Louisiana has not changed the December 21, 1972, Certification of the Governor of Louisiana. Based on said Louisiana's Congressional Election Proclamation, the Honorable Hale Boggs has been enrolled by the Clerk

of the House as the Representative-elect from the Second Congressional District of Louisiana on the roll of Representatives-elect for the Ninety-Third Congress.

In the event the Clerk of the House receives or learns of any additional information prior to the convening of the Ninety-Third Congress, such information will be transmitted to the House of Representatives promptly.

In accordance with your previous oral directions, I have prepared draft resolutions related to this matter and have separately transmitted them to the Parliamentarian of the House of Representatives.

With kindest regards, I am

Sincerely,

W. PAT JENNINGS,
Clerk, U.S. House of Representatives.

STATE OF LOUISIANA,
Baton Rouge.

To the U.S. House of Representatives,

I, Edwin W. Edwards, Governor of Louisiana, do hereby certify to the United States House of Representatives that the Governor of Louisiana has not taken any action nor, according to the certified opinion of William J. Guste, Jr., Attorney General of the State of Louisiana, said certification being attached and made a part hereof, are there any actions before the Courts of Louisiana, nor has any other action been taken that would in any way change the status of the Honorable Hale Boggs or modify the election proclamation for the General Election held in Louisiana on November 7, 1972 that was certified, signed and issued by the Governor and the Secretary of State over the seal of the State of Louisiana

on December 11, 1972 for the Second Congressional District of Louisiana, and transmitted to the Clerk of the United States House of Representatives in the Secretary of State's letter of December 12, 1972.

Sincerely,

EDWIN EDWARDS,
Governor of Louisiana.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 2, 1973.

Hon. CARL ALBERT,
The Speaker,
U.S. House of Representatives.

DEAR MR. SPEAKER: This is an additional response to your letter of December 20, 1972, wherein you requested transmittal to the House of Representatives when it convenes on January 3, 1973, certified copies of any "judicial determinations and any other relevant information available" with respect to the status of Representative-Elect Nick Begich, from the at-large seat of Alaska and Representative-Elect Hale Boggs from the Second Congressional District of Louisiana.

I have this evening received from the Secretary of Defense the attached letter describing the air and sea rescue search efforts conducted by his department for the "aircraft which carried the Honorable Hale Boggs as a passenger . . . missing on a scheduled flight from Anchorage, Alaska to Juneau, Alaska since the sixteenth day of

October 1972." The Secretary of Defense "determined that further search would be of no avail [and] . . . informed the Commander-in-Chief Alaska Command to suspend further active search."

In the event the Clerk of the House receives or learns of any additional information prior to the convening of the Ninety-Third Congress, such information will be transmitted to the House of Representatives promptly.

With kindest regards, I am,

Sincerely,

W. PAT JENNINGS,

Clerk, House of Representatives.

§ 2.17 On the day of its convening for the 93d Congress, the House agreed to a privileged resolution, offered by the Chairman of the Democratic Caucus at the direction of the Caucus declaring vacant the seat of a Member-elect (the Majority Leader of the 92d Congress), based upon the ascertainment of the Clerk that he had been aboard a missing aircraft with another Member-elect whose presumptive death had been certified and whose seat had been declared vacant by state authority.

On Jan. 3, 1973,⁽¹⁾ Mr. Olin E. Teague, of Texas, was recognized

1. 119 CONG. REC. 15, 16, 93d Cong. 1st Sess.

to offer House Resolution 1, which the Clerk read, as follows:

H. RES. 1

Whereas a certificate of election has been received by the Clerk of this House showing the election of Hale Boggs as a Representative in the Ninety-third Congress from the Second Congressional District in the State of Louisiana; and

Whereas Representative-elect Hale Boggs has not appeared to take the oath of office as a Member of this House; and

Whereas the Clerk of the House of Representatives, acting at the direction of the Speaker of this House for the Ninety-second Congress, has ascertained that Representative Nick Begich and Hale Boggs, Members of the Ninety-second Congress, together with Russell L. Brown and Don E. Jonz of the State of Alaska, all of whom departed together by plane from Anchorage, Alaska, on October 16, 1972, on a flight bound for Juneau, Alaska, have been missing since that date and despite repeated and thorough searches have not been located; and

Whereas the District Court for the State of Alaska, Third Judicial District, after hearing witnesses and studying all available evidence relative to the disappearance of Representative Begich, Russell L. Brown and Don E. Jonz, has determined that these three men cannot be found alive after such a lapse of time and are presumed dead; and

Whereas as a result of the findings of the jury in the aforementioned judicial proceeding the judge of the said

court has signed certificates of presumptive death with respect to Representative Begich, Russell L. Brown and Don E. Jonz; and

Whereas no evidence has been presented to this House or is known to it which distinguishes the missing status of Representative-elect Hale Boggs from that of the three men for whom the aforementioned certificates of presumptive death have been issued; Therefore be it

Resolved, That based on information provided by its Clerk, this House of Representatives hereby determines that there is a vacancy in the Ninety-third Congress in the representation from the Second Congressional District in the State of Louisiana because of the absence of Representative-elect Hale Boggs.

Resolved, That the Speaker of the House is hereby directed to notify the Governor of the State of Louisiana of the existence of this vacancy so that appropriate measures to fill this vacancy may be undertaken by the Governor pursuant to Article I, Section 2 of the Constitution of the United States. . . .

The resolution was agreed to.

Parliamentarian's Note: The House may declare the seat of a Member-elect vacant where a Member-elect is not able to take the oath or resign due to an incapacitating illness. Gladys Noon Spellman, of Maryland, was elected to the 97th Congress. At the convening of that Congress, Member-elect Spellman was in a coma and unable to take the oath or re-

sign. During the debate on the resolution declaring her seat vacant, the Majority Leader⁽²⁾ inserted into the *Congressional Record* a letter from the Attending Physician indicating his opinion that she was unable to serve out her term of office.⁽³⁾ The House adopted by voice vote a resolution declaring the seat vacant on Feb. 24, 1981.⁽⁴⁾ Ms. Spellman died June 19, 1988.

§ 3. Death Benefits; Claims of Survivor's Spouse

When a Member of the House dies after the commencement of the Congress to which he had been elected, any unpaid salary and other sums due him at the date of death, are paid to his survivors in the order of precedence specified by statute.⁽¹⁾

The House Sergeant at Arms is authorized⁽²⁾ to defray the funeral expenses of the deceased Member and to defray the expenses of the surviving spouse, or minor children, or both, of the deceased

2. James C. Wright, Jr. (TX).

3. 127 CONG. REC. 2917, 97th Cong. 1st Sess., Feb. 24, 1981.

4. See *Id.* at pp. 2916, 2917 (H. Res. 80).

1. 2 USC § 38a.

2. See 2 USC § 124.