Arms; James T. Molloy, Doorkeeper; and the Reverend James David Ford, Chaplain; presented themselves at the bar of the House and took the oath of office prescribed by law.

¶1.12 NOTIFICATION OF THE SENATE OF ORGANIZATION OF THE HOUSE

Mr. GEPHARDT submitted the following privileged resolution, which was considered and agreed to (H. Res. 2):

Resolved, That the Senate be informed that a quorum of the House of Representatives has assembled; that Thomas S. Foley, a Representative from the State of Washington, has been elected Speaker; and Donnald K. Anderson, a citizen of the State of California, has been elected Clerk of the House of Representatives of the One Hundred Third Congress.

¶1.13 COMMITTEE TO NOTIFY THE PRESIDENT OF THE UNITED STATES OF THE ASSEMBLY OF THE CONGRESS

Mr. GEPHARDT submitted the following privileged resolution, which was considered and agreed to (H. Res. 3):

Resolved, That a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The SPEAKER, pursuant to the foregoing resolution, announced the appointment of Messrs. GEPHARDT and MICHEL as members of the committee on the part of the House to join a like committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled and that the Congress is ready to receive any communication that he may be pleased to make.

¶1.14 NOTIFICATION TO THE PRESIDENT OF ELECTION OF CERTAIN OFFICERS

Mr. WHITTEN submitted the following resolution, which was considered and agreed to (H. Res. 4):

Resolved, That the Clerk be instructed to inform the President of the United States that the House of Representatives has elected Thomas S. Foley, a Representative from the State of Washington, Speaker; and Donnald K. Anderson, a citizen of the State of California, Clerk of the House of Representatives of the One Hundred Third Congress.

¶1.15 RULES OF THE HOUSE

Mr. GEPHARDT submitted the following privileged resolution (H. Res. 5):

Resolved, That the Rules of the House of Representatives of the One Hundred Second Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Second Congress, are adopted as the Rules of the House of Representatives of the One Hundred Third Congress, with the following amendments to the standing rules, to wit:

(1) In clause 5(a) of rule I, strike ''negative, if he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one or more from each side of the question to tell the Members in the affirmative and negative; which being reported, he shall rise and state the decision. However, if'' and insert in lieu thereof ''negative. If''.

(2) At the end of rule I add the following new clauses:

''11. There is established in the House of Representatives an office to be known as the Office of General Counsel for the purpose of providing legal assistance and representation to the House. Legal assistance and representation shall be provided without regard to political affiliation. The Office of General Counsel shall function pursuant to the direction of the Speaker, who shall consult with a Bipartisan Legal Advisory Group, which shall include the majority and minority leaderships. The Speaker shall appoint and set the annual rate of pay for employees of the Office of General Counsel.

''12. To suspend the business of the House for a short time when no question is pending before the House, the Speaker may declare a recess subject to the call of the Chair.''.

(3) After rule V, insert the following new rule VI:

''RULE VI.

''ADMINISTRATIVE OFFICIALS.

''director of non-legislative and financial services

''1. (a) The Director of Non-legislative and Financial Services shall be appointed for a Congress by the Speaker, the majority leader, and the minority leader, acting jointly. The Director may be removed by the House or by the Speaker. The Director shall be paid at the same rate of basic pay as the elected officers of the House.

''(b) The Director of Non-legislative and Financial Services shall have extensive managerial and financial experience.

''(c) Subject to the policy direction and oversight of the Committee on House Administration, the Director shall have operational and financial responsibility for functions assigned by resolution of the House.

''(d) Subject to the policy direction and oversight of the Committee on House Administration, the Director shall develop employment standards that provide that all employment decisions for functions under the Director's supervision be made in accordance with the non-discrimination provisions of clause 9 of rule XLIII and of rule LI, without regard to political affiliation, and solely on the basis of fitness to perform the duties involved. No adverse personnel action may be taken by the Director without cause.

''(e) All positions under the Director shall be subject to the provisions of the House Employees Position Classification Act.

''office of inspector general

''2. (a) There is established an Office of Inspector General.

''(b) The Inspector General shall be appointed for a Congress by the Speaker, the majority leader, and the minority leader, acting jointly.

''(c) Subject to the policy direction and oversight of the Committee on House Administration, the Inspector General shall be responsible only for—

''(1) conducting periodic audits of the financial functions under the Director of Non-legislative and Financial Services, Clerk, Sergeant-at-Arms, and Doorkeeper;

''(2) informing the Director or other officer who is the subject of an audit of the results of that audit and suggesting appropriate curative actions;

''(3) notifying the Speaker, the majority leader, the minority leader, and the chairman and ranking minority party member of the Committee on House Administration in the case of any financial irregularity discovered in the course of carrying out responsibilities under this rule; and

''(4) submitting to the Speaker, the majority leader, the minority leader, and the chairman and ranking minority party member of the Committee on House Administration and to the Subcommittee on Administrative Oversight of the Committee on House Administration a report of each audit conducted under this rule.

''(d) The position of Inspector General, and all positions under the Inspector General, shall be subject to the provisions of the House Employees Position Classification Act.''.

(4) Amend rule IX to read as follows:

''QUESTIONS OF PRIVILEGE.

''1. Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; and second, those affecting the rights, reputation, and conduct of Members, individually, in their representative capacity only.

''2. (a)(1) A resolution reported as a question of the privileges of the House, or offered from the floor by the majority leader or the minority leader as a question of the privileges of the House, or offered as privileged under clause 1, section 7, article I of the Constitution, shall have precedence of all other questions except motions to adjourn. A resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House shall have precedence of all other questions except motions to adjourn only at a time or place, designated by the Speaker, in the legislative schedule within two legislative days after the day on which the proponent announces to the House his intention to offer the resolution and the form of the resolution.

''(2) The time allotted for debate on a resolution offered from the floor as a question of the privileges of the House shall be equally divided between (A) the proponent of the resolution, and (B) the majority leader or the minority leader or a designee, as determined by the Speaker.

''(b) A question of personal privilege shall have precedence of all other questions except motions to adjourn.''.

(5) In clause 1 of rule X—

(a) in paragraph (e)(1), strike the antepenultimate sentence;

(b) in paragraph (l), strike ''Committee on Interior and Insular Affairs'' and insert in lieu thereof ''Committee on Natural Resources'';

(c) in paragraph (q), strike ''(3)'';

(d) in paragraph (r)(2) strike ''Bureau of Standards'' and insert in lieu thereof ''National Institute of Standards and Technology'';

(e) in paragraph (r)(4) strike ''Aeronautics and''; and

(f) redesignate paragraphs (l), (m), and (n) as (n), (l), and (m), respectively.

(6) In clause 3 of rule X—

(a) in paragraph (e), strike ''Committee on Interior and Insular Affairs'' and insert in lieu thereof ''Committee on Natural Resources''; and

(b) in paragraph (j), amend subparagraph (3) to read as follows:

''(3) The Speaker, the majority leader, the minority leader, and the chairman and ranking minority party member of the Committee on House Administration shall be informed by the chairman of the subcommittee of any matter that, by reason of a tie vote, cannot be resolved by the subcommittee.''.

(7) In clause 6 of rule X—

(a) in paragraph (f), insert after the first sentence the following: ''At any time after an original appointment, the Speaker may remove Members or appoint additional Members to select and conference committees;

(b) in paragraph (h), strike ''that is considering legislation reported from a committee on which they serve''; and

(c) strike paragraph (i).

(8) In clause 2 of rule XI—

(a) in paragraph (i)—

(i) strike ''during five-minute rule and'' from the caption;

(ii) strike subparagraph (1); and

(iii) strike the designation of the remaining text as subparagraph (2);

(b) in paragraph (l)(2)(A), strike ''present.'' and insert in lieu thereof ''present, which shall be deemed the case if the records of the committee establish that a majority of the committee responded on a rollcall vote on that question. No point of order shall lie with respect to a measure or recommendation on the ground that it was reported without a majority of the committee actually present unless such point of order was timely made in committee.''; and

(c) in paragraph (l)(3), strike ''committee (A) shall include the oversight findings'' and insert in lieu thereof ''committee shall include (A) the oversight findings''.

(9) Amend rule XII to read as follows:

''RESIDENT COMMISSIONER AND DELEGATES.

''1. The Resident Commissioner to the United States from Puerto Rico and each Delegate to the House shall be elected to serve on standing committees in the same manner as Members of the House and shall possess in such committees the same powers and privileges as the other Members.

''2. In a Committee of the Whole House on the state of the Union, the Resident Commissioner to the United States from Puerto Rico and each Delegate to the House shall possess the same powers and privileges as Members of the House.''.

(10) In clause 5 of rule XIII, strike ''clause 4 of rule XXVII'' and insert in lieu thereof ''clause 3 of rule XXVII''.

(11) In clause 5 of rule XV—

(a) insert ''(a)'' before the first sentence;

(b) strike the last two sentences; and

(c) add the following new paragraph at the end:

''(b) The Speaker may, in his discretion, reduce to not less than five minutes the time within which a rollcall vote by electronic device may be taken—

''(1) after a rollcall vote has been ordered on a motion for the previous question on a resolution reported by the Committee on Rules providing a special order of business, on the question of adoption of such resolution, if the question of adoption follows without intervening business the vote on the motion for the previous question;

''(2) after a rollcall vote has been ordered on an amendment reported from the Committee of the Whole House on the state of the Union, on any subsequent amendment to that bill or resolution reported from the Committee of the Whole; or

''(3) after a rollcall vote has been ordered on a motion to recommit a bill, resolution, or conference report thereon, on the question of passage or adoption, as the case may be, of such bill, resolution, or conference report thereon, if the question of passage or adoption follows without intervening business the vote on the motion to recommit.''.

(12) In rule XXI, strike clause 8.

(13) In clause 1(a) of rule XXIII, insert ''Member, Resident Commissioner, or Delegate as'' before ''Chairman''.

(14) At the end of clause 2 of rule XXIII, add the following new paragraph:

''(d) Whenever a recorded vote on any question has been decided by a margin within which the votes cast by the Delegates and the Resident Commissioner have been decisive, the Committee of the Whole shall automatically rise and the Speaker shall put that question de novo without intervening debate or other business. Upon the announcement of the vote on that question, the Committee of the Whole shall resume its sitting without intervening motion.''.

(15) In clause 1(c) of rule XXVIII, strike ''(but only on the day after the calendar day on which the Member making the motion announces to the House his intention to do so and the form of the motion)'' and insert in lieu thereof ''(but in either case only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion)''.

(16) In clause 2(b) of rule XXVIII, insert ''(1)'' after ''(b)'' and add the following new subparagraph at the end:

''(2) During consideration of such an amendment to a general appropriation bill, if the original motion offered by the floor manager proposes to change existing law, then pending such original motion and before debate thereon one motion to insist on disagreement to the amendment proposed by the Senate shall be preferential to any other motion to dispose of that amendment if offered by the chairman of a committee having jurisdiction of the subject matter of the amendment or by a designee. Such a preferential motion shall be separately debatable for one hour equally divided between its proponent and the proponent of the original motion. The previous question shall be considered as ordered on such a preferential motion to its adoption without intervening motion.''.

(17) Amend rule XXX to read as follows:

''USE OF EXHIBITS.

''When the use of any exhibit in debate is objected to by any Member, it shall be determined without debate by a vote of the House.''.

(18) In rule XLVI, amend clause 4 to read as follows:

''4. A Member may not send any mass mailing outside the congressional district from which the Member was elected.''.

(19) Amend rule LI to read as follows:

''EMPLOYMENT PRACTICES.

''1. The Committee on House Administration shall have authority to issue rules and regulations applying the rights and protections of the Fair Labor Standards Act in the House, including, but not limited to, determination of exemption categories, permitting the use of compensatory time as compensation under the maximum work week provisions of the Act, describing the recordkeeping requirements and providing that such recordkeeping provisions do not apply with respect to employees exempted pursuant to the Committee's Rules and Regulations.

"nondiscrimination in employment

''2. (a) Personnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), disability, or age.

''(b) Interpretations under paragraph (a) shall reflect the principles of current law, as generally applicable to employment.

''(c) Paragraph (a) does not prohibit the taking into consideration of—

''(1) the domicile of an individual with respect to a position under the clerk-hire allowance; or

''(2) the political affiliation of an individual with respect to a position under the clerk-hire allowance or a position on the staff of a committee or a position under all support offices, except as otherwise stated in the Rules of the House of Representatives.

"procedure

''3. The procedure for consideration of alleged violations of clause 2 consists of three steps as follows:

''(a) step I, Counseling and Mediation, as set forth in clause 5;

''(b) step II, Formal Complaint, Hearing, and Review by the Office of Fair Employment Practices, as set forth in clause 6; and

''(c) step III, Final Review by Review Panel, as set forth in clause 7.

"office of fair employment practices

''4. There is established an Office of Fair Employment Practices (hereafter in this rule referred to as the ''Office''), which shall carry out functions assigned under this rule. Employees and Hearing Officers of the Office shall be appointed by, and serve at the pleasure of, the Chairman and the ranking minority party member of the Committee on House Administration, acting jointly, and shall be under the administrative direction of the Clerk of the House of Representatives. The Office shall be located in the District of Columbia.

"step i: counseling and mediation

''5. (a) An individual aggrieved by an alleged violation of clause 2 may request counseling by counselors in the Office, who shall provide information with respect to rights and related matters under that clause. A request for counseling shall be made not later than one hundred and eighty days after the alleged violation and may be oral or written, at the option of the individual. The period for counseling is thirty days, unless the employee and the Office agree to reduce the time period. The Office may not notify the employing authority of the counseling before the beginning of mediation or the flling of a formal complaint, whichever occurs first.

''(b) If, after counseling, the individual desires to proceed, the Office shall attempt to resolve the alleged violation through mediation between the individual and the employing authority.

"step ii: formal complaint, hearing, and review by the office of fair employment practices

''6. (a) Not later than thirty days after the end of the counseling period, the individual may file a formal complaint with the Office. Not later than ten days after filing the formal complaint, the individual may file with the Office a written request for a hearing on the complaint.

''(b) The hearing shall be conducted—

''(1) not later than forty days after filing of the written request under paragraph (a);

''(2) on the record by a Hearing Officer of the Office appointed under the procedures set forth in clause 4; and

''(3) to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 555 and 556 of title 5, United States Code.

''(c) Not later than thirty days after the hearing, the Office shall issue a written decision to the parties. The decision shall clearly state the issues raised by the complaint, and shall contain a determination as to whether a violation of clause 2 has occurred.

"step iii: final review by review panel

''7. (a) In General. Not later than twenty days after issuance of the decision under clause 6, any party may seek formal review of the decision by filing a written request with the Office. The formal review shall be conducted by a panel constituted at the beginning of each Congress and composed of—

''(1) two elected officers or employees of the House of Representatives, appointed by the Speaker;

''(2) two employees of the House of Representatives appointed by the minority leader of the House of Representatives;

''(3) two members of the Committee on House Administration (one of whom shall be appointed as chairman of the panel), appointed by the Chairman of that Committee; and

''(4) two members of the Committee on House Administration, appointed by the

ranking minority party member of that Committee.

If any member of the panel withdraws from a particular review, the appointing authority for such member shall appoint another officer, employee, or Member of the House of Representatives, as the case may be, to be a temporary member of the panel for purposes of that review only.

''(b) The review under this clause shall consist of a hearing (conducted in the manner described in clause 6(b)(3)), if such hearing is considered necessary by the panel, and an examination of the record, together with any statements or other documents the panel deems appropriate. A tie vote by the panel is an affirmation of the decision of the Office. The panel shall complete the review and submit a written decision to the parties and to the Committee on House Administration not later than sixty days after filing of the request under paragraph (a), except that when the House has adjourned sine die, in which case an extension of up to sixty additional days is authorized.

"resolution by agreement

''8. If, after a formal complaint is filed under clause 6, the parties resolve the issues involved, the parties shall enter into a written agreement, which shall be effective—

''(1) in the case of a matter under review by the Office under clause 6, if approved by the Office; and

''(2) in the case of a matter under review by a panel under clause 7, if approved by the panel.

"remedies

''9. The Office or a review panel, as the case may be, may order one or more of the following remedies:

''(a) monetary compensation, to be paid from the clerk-hire allowance of a Member, or from personnel finds of a committee of the House or other entity, as appropriate;

''(b) monetary compensation, to be paid from the contingent fund of the House of Representatives;

''(c) injunctive relief;

''(d) costs and attorney fees; and

''(e) employment, reinstatement to employment, or promotion (with or without back pay).

"costs of attending hearings

''10. An individual with respect to whom a hearing is held under this rule shall be reimbursed for actual and reasonable costs of attending the hearing, if the individual resides outside the location of the hearing. Witnesses required to attend the hearings by the Hearing Officer as necessary to a fair and justiciable hearing shall be reimbursed for actual and reasonable costs of attending the hearing if they reside outside the location of the hearing. Expenses are to he paid from the contingent fund of the House of Representatives.

"prohibition of intimidation

''11. Any intimidation of, or reprisal against, any person by an employing authority because of the exercise of a right under this rule is a violation of clause 2.

"closed hearings and confidentiality

''12. All hearings under this rule shall be closed. All information relating to any procedure under this rule is confidential, except that a decision of the Office under clause 6 or a decision of a review panel under clause 7 shall be published, if the decision constitutes a final disposition of the matter.

"exclusivity of procedures and remedies

''13. The procedures and remedies under this rule are exclusive except to the extent that the Rules of the House of Representatives and the Rules of the House Committee on Standards of Official Conduct provide for additional procedures and remedies.

"requests for witnesses and information

''14. The Office of Fair Employment Practices and the Fair Employment Practices Review Panel may issue, and the addressees shall comply with, written requests for the production of documents and the attendance of witnesses, if such requests are necessary and relevant to the proper examination of the issues.

"internal procedures for resolution of possible violations

''15. It is the policy of the House of Representatives to encourage each employing authority to establish internal procedures for examining and resolving possible violations of this rule. To the greatest extent practicable, the Office of Fair Employment Practices shall take such action (consistent with the rights of the parties) as may be necessary to encourage initial use of such procedures.

"definitions

''16. As used in this rule—

''(a) the term ''employment position'' means, with respect to the House of Representatives, a position the pay for which is disbursed by the Clerk of the House of Representatives, or other official designated by the House of Representatives, and any employment position in a legislative service organization or other entity that is paid through funds derived from the clerk-hire allowance;

''(b) the term ''employing authority'' means, the Member of the House of Representatives or elected officer of the House of Representatives, or the Director of the Congressional Budget Office, with the power to appoint the employee;

''(c) the term ''Member of the House of Representatives'' means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

''(d) the term ''elected officer of the House of Representatives''''means an elected officer of the House of Representatives (other than the Speaker and the Chaplain).''.

(20) Strike rules LII and LIII.

Pending consideration of said resolution,

Mr. SOLOMON moved to refer the resolution to a select committee of five members, to be appointed by the Speaker, not more than three of whom shall be from the same political party, with instructions not to report back the same until it has conducted a full and complete study of, and made a determinination on, the constitutionality of those provisions which would grant voting rights in the Committee of the Whole to the Resident Commissioner from Puerto Rico and the Delegates from American Samoa, the District of Columbia, Guam and the Virgin Islands.

Mr. GEPHARDT moved to lay the motion on the table.

The question being put, viva voce,

Will the House lay on the table the motion to refer?

The SPEAKER announced that the yeas had it.

Mr. SOLOMON demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 224 / Nays 176

¶1.16 [Roll No. 3]

YEAS—224

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Edwards (CA)
Edwards (TX)
Engel
English (OK)
Eshoo
Espy
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Green
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hoagland
Hochbrueckner
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Markey
Martinez
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thornton
Thurman
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—176

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Frank (MA)