gress, a Member or employee receiving such a subpoena informs the Speaker, as had been the practice under precedent (Deschler, ch. 11, § 14.8) before the rule was amended (July 30, 1998, p. 18298; May 3, 1999, p. 8040).

Under clause 2, the Speaker promptly lays before the House a communication notifying him of the receipt of a subpoena, but the rule does not require that the text of a subpoena be printed in the Record (July 31, 1992, p. 20602).

RULE IX

QUESTIONS OF PRIVILEGE

§ 698. Definition of 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, Delegates, or the Resident Commissioner, individually, in their representative capacity only.

§ 699. Precedence of questions of privilege.

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, Delegate, or Resident Commissioner 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. Oral announcement of the form of the resolution may be dispensed with by unanimous consent.

(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, 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.

This rule was adopted in 1880 (III, 2521). It merely defined what had been long established in the practice of the House but what the House had hitherto been unwilling to define (II, 1603). It was amended in the 103d Congress to authorize the Speaker to designate a time within a period of two legislative days for the consideration of a resolution to be 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 after that Member has announced to the House his intention to do so and the content of the resolution, and to divide the time for debate on a resolution offered from the floor as a question of privilege (H. Res. 5, Jan. 5, 1993, p. 49). Clause 2 was amended in the 106th Congress to permit the announcement of the form of the resolution to be dispensed with by unanimous consent, and clerical and stylistic changes were effected when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47).

§ 700. Questions of privileges of the House.

The body of precedent relating to questions of the privileges of the House includes rulings that span the adoption of standing rule IX in 1880. The rule was adopted "to prevent the large consumption of time which resulted from Members getting the floor for all kinds of speeches under the pretext of raising a question of privilege" (III, 2521). In a landmark decision on constitutional assertions of privilege, Speaker Gillett placed significant reliance on the history of rule IX by observing that it "was obviously adopted for the purpose of hindering the extension of constitutional or other privilege" (VI, 48). Under House practice, a resolution offered as a question of privilege is read in full by the Clerk (Oct. 10, 1998, p. 25420).

§ 701. Questions relating to organization.

The privileges of the House include questions relating to its organization (I, 22–24, 189, 212, 290), and the title of its Members to their seats (III, 2579–2587), which may be raised as questions of the privileges of the House even though the subject has been previously referred to committee (I, 742; III, 2584; VIII, 2307). Such resolutions include those: (1) to declare prima facie right to a seat, or to declare a vacancy, where the House has referred the questions of prima facie and final rights to an elections committee for investigation (H. Res. 1, Jan. 3, 1985, p. 381; H. Res. 52, Feb. 7, 1985, p. 2220; H. Res. 97, Mar. 4, 1985, p. 4277; H. Res. 121, Apr. 2, 1985, p. 7118; H. Res. 148, Apr. 30, 1985, p. 9801); (2) to raise various questions incidental to the right to a seat (I, 322, 328, 673, 742; II, 1207; III, 2588; VII, 2316), such as a resolution to declare a vacancy in the House because a Member-elect is unable to take the oath of office and to serve as a Member or to expressly resign the office due to an incapacitating illness (H. Res. 80, Feb. 24, 1981, p. 2916); (3) to declare neither of two claimants seated pending a committee report and decision of final right to the seat by the House (Jan. 3, 1961, pp. 23–25; Jan. 3, 1985, p. 381), including incidental provisions providing compensation for both claimants and office staffing by the Clerk (Jan. 3, 1985, p. 381) and to direct temporary seating of a certified Member-elect pending determination of final right notwithstanding prior House action declining to seat either claimant (Feb. 7, 1985, p. 2220; Mar. 4, 1985, p. 4277); and (4) to propose directly to dispose of a contest over the title to a seat in the House (Nov. 8, 1997, p. 25294; Nov. 9, 1997, p. 25721; Jan. 28, 1998, p. 175) or to dispose of such contest upon the expiration of a specified day (Oct. 23, 1997, p. 23231; Oct. 29, 1997, p. 23695; Oct. 30, 1997, p. 23959; Nov. 5, 1997, p. 24645).

A resolution electing a House officer is presented as a question of the privileges of the House (July 31, 1997, p. 17021). A resolution declaring vacant the Office of the Speaker is presented as a matter of high constitutional privilege (VI, 35). For further discussion with respect to the organization of the House and the title of its Members to seats, see §§ 18–30, 46–51, 56, and 58–60, *supra*.

§ 702. Questions relating to constitutional prerogatives.

The privileges of the House, as distinguished from that of the individual Member, include questions relating to its constitutional prerogatives in respect to revenue legislation and appropriations (see, *e.g.*, II, 1480–1501; VI, 315; Nov. 8, 1979, p. 31517; Oct. 1, 1985, p. 25418; June 16, 1988, p. 14780; June 21, 1988, p. 15425; Aug. 12, 1994, p. 21655). For a more thorough record of revenue bills returned to the Senate, see § 102, *supra*. Such a question of privilege may be raised at any time when the House is in possession of the papers (June 20, 1968, Deschler, ch. 13, § 14.2; Aug. 19, 1982, p. 22127), but not otherwise (Apr. 6, 1995, p. 10701). Such a question of privilege includes a resolution asserting that a conference report accompanying a House bill originated revenue provisions in derogation of the sole constitutional prerogative of the House and

resolving that such bill be recommitted to conference (July 27, 2000, p. 16565). The constitutional prerogatives of the House also include its function with respect to: (1) impeachment and matters incidental thereto (see § 604, *supra*); (2) bills "pocket vetoed" during an intersession adjournment (Nov. 21, 1989, p. 31156); (3) its power to punish for contempt, whether of its own Members (II, 1641–1665), of witnesses who are summoned to give information (II, 1608, 1612; III, 1666–1724), or of other persons (II, 1597–1640); and (4) questions relating to legal challenges involving the prerogatives of the House (Jan. 29, 1981, p. 1304; Mar. 30, 1982, p. 5890), including a resolution responding to a court challenge to the prerogative of the House to establish a Chaplain (Mar. 30, 1982, p. 5890). A resolution laying on the table a message from the President containing certain averments inveighing disrespect toward Members of Congress was considered as a question of the privileges of the House asserting a breach of privilege in a formal communication to the House (VI, 330).

For a discussion of the relationship of the House and its Members to the courts, see §§ 290–291b, *supra.* For examples of Senate messages requesting the return of Senate measures that intruded on the constitutional prerogative of the House to originate revenue measures, see § 565, *supra.* For a discussion of the prerogatives of the House with respect to treaties affecting revenue, see § 597, *supra*.

The ordinary rights and functions of the House under the Constitution are exercised in accordance with the rules without precedence as matters of privilege (III, 2567). Neither the enumeration of legislative powers in article I of the Constitution nor the prohibition in the seventh clause of section 9 of that article against any withdrawal from the Treasury except by enactment of an appropriation renders a measure purporting to exercise or limit the exercise of those powers a question of the privileges of the House, because rule IX is concerned not with the privileges of the Congress, as a legislative branch, but only with the privileges of the House, as a House (Feb. 7, 1995, p. 3905; Dec. 22, 1995, p. 38501; Jan. 3, 1996, p. 40; Jan. 24, 1996, p. 1248; Feb. 1, 1996, p. 2245; Oct. 10, 1998, p. 25420; Nov. 4, 1999, pp.28528–33; June 6, 2002, p. ——; Oct. 2, 2002, pp. ——, ——, ——, ——; Oct. 3, 2002, pp. ——, ——). For example, the following legislative propositions have been held not to involve a question of constitutional privileges of the House: (1) a resolution requiring a committee inquiry into the extent to which the right to vote was denied under the provisions of the 14th amendment (VI, 48); and (2) a resolution alleging an unconstitutional abrogation of a treaty by the President, and calling on the President to seek the approval of Congress before such abrogation (June 6, 2002, p. ——). On the other hand, an extraordinary question relating to the House vote required by the Constitution to pass a joint resolution extending the ratification period of a proposed constitutional amendment was raised as a question of privilege where the House had not otherwise made a separate determination on that procedural question and where

consideration of the joint resolution had been made in order (Speaker O'Neill, Aug. 15, 1978, p. 26203).

§ 703. Questions relating to official conduct.

The privileges of the House include certain questions relating to the conduct of Members, officers, and employees (see, *e.g.*, I, 284, 285; III, 2628, 2645–2647). Under that standard, the following resolutions have been held to constitute questions of the privileges of the House: (1) a resolution directing the Committee on Standards of Official Conduct to investigate illegal solicitation of political contributions in the House Office Buildings by unnamed sitting Members (July 10, 1985, p. 18397); (2) a resolution establishing an ad hoc committee to investigate allegations of "ghost" employment in the House (Apr. 9, 1992, p. 9029); (3) a resolution directing a committee to further investigate the conduct of a Member on which it has reported to the House (Aug. 5, 1987, p. 22458); (4) a resolution directing the Committee on Standards of Official Conduct to report to the House the status of an investigation pending before the committee (Nov. 17, 1995, p. 33846; Nov. 30, 1995, p. 35075); (5) a resolution appointing an outside counsel (Sept. 19, 1996, p. 23851; Sept. 24, 1996, p. 24525); (6) a resolution to commit other matters to an outside counsel already appointed by the committee (June 27, 1996, p. 15917); (7) a resolution directing the committee to release the report of an outside counsel (Sept. 19, 1996, p. 23852; Sept. 24, 1996, p. 24526); (8) a resolution making allegations concerning the propriety of responses by officers of the House to court subpoenas for papers of the House without notice to the House, and directions to a committee to investigate such allegations (Feb. 13, 1980, p. 2768); (9) a resolution making allegations of improper representation by counsel of the legal position of Members in a brief filed in the Court and directions for withdrawal of the brief (Mar. 22, 1990, p. 4996); (10) a resolution making allegations of unauthorized actions by a committee employee to intervene in judicial proceedings (Feb. 5, 1992, p. 1601); (11) a resolution directing the Clerk to notify interested parties that the House regretted the use of official resources to present to the Supreme Court of Florida a legal brief arguing the unconstitutionality of congressional term limits, and that the House had no position on that question (Nov. 4, 1991, p. 29968); (12) a resolution alleging a chronology of litigation relating to the immunity of a Member from civil liability for bona fide official acts and expressing the views of the House thereon (May 12, 1988, p. 10574); (13) a resolution directing the Committee on Standards of Official Conduct to establish an investigative subcommittee and appoint outside counsel to investigate certain allegations against a Member (Oct. 8, 2004, p. ——); (14) a resolution alleging, among other things, the improper and unilateral firing of nonpartisan staff of the Committee on Standards of Official Conduct and directing the Speaker to appoint a bipartisan task force to address the efficacy of that committee so as to restore public confidence in the ethics process (Mar. 15, 2005, p. ——; Apr. 14, 2005, p. ——) and directing the committee to appoint nonpartisan professional staff (June 9, 2005, p. ——). For a discussion

of disciplinary resolutions meting out punishment for violations of standards of official conduct, which constitute questions of the privileges of the House, see §§ 62–66, *supra*.

In the 102d and 103d Congresses, a large number of resolutions relating to the operation of the "bank" in the Office of the Sergeant-at-Arms and the management of the Office of the Postmaster were presented as questions of the privileges of the House. The former category included resolutions: (1) terminating all bank and check-cashing operations in the Office of the Sergeant-at-Arms and directing the Committee on Standards of Official Conduct to review GAO audits of such operations (Oct. 3, 1991, p. 25435); (2) instructing the Committee on Standards of Official Conduct to disclose the names and pertinent account information of Members and former Members found to have abused the privileges of the "bank" in the Office of the Sergeant-at-Arms (Mar. 12, 1992, p. 5519); (3) instructing the Committee on Standards of Official Conduct to disclose further account information respecting Members and former Members having checks held by that entity (Mar. 12, 1992, p. 5534); (4) mandating full and accurate disclosure of pertinent information concerning the operation of that entity (Mar. 12, 1992, p. 5551); (5) responding to a subpoena for records of that entity (Apr. 29, 1992, p. 9453); (6) responding to a contemporaneous request for such records from a Special Counsel (Apr. 29, 1992, p. 9763); and (7) authorizing an officer of the House to release certain documents in response to another such request from the Special Counsel (May 28, 1992, p. 12790). The latter category included resolutions: (1) directing the Committee on House Administration to conduct a thorough investigation of the operation and management of the Office of the Postmaster in light of recent press allegations of wrongdoing (Feb. 5, 1992, p. 1589); (2) creating a select committee to investigate the same matter (Feb. 5, 1992, p. 1599); (3) requiring an explanation of a reported interference with authorized access to a committee investigation of that matter (Apr. 9, 1992, p. 9024); (4) redressing a perception of obstruction of justice by recusing the General Counsel to the Clerk from matters relating to the investigation of that matter (Apr. 9, 1992, p. 9076); (5) directing the Speaker to explain the lapse of time before the House received notice that several Members and an officer of the House had received subpoenas to testify before a Federal grand jury investigating that matter (May 14, 1992, p. 11309); (6) directing the Committee on House Administration to transmit to the Committee on Standards of Official Conduct and to the Department of Justice all records obtained by its task force to investigate that matter (July 22, 1992, p. 18786); (7) directing the Committee on Standards of Official Conduct to investigate violations of confidentiality by staff engaged in the investigation of that matter (July 22, 1992, p. 18795); (8) directing the Committee on House Administration to release transcripts of the proceedings of its task force to investigate that matter, where the investigation was ordered as a question of privilege and its results had been ordered reported to the House (July 22, 1992, p. 18796; July 23, 1992, p. 19125); (9) directing the Com-

mittee on House Administration to redress the inaccurate naming of a Member in minority views accompanying a report on that matter (July 23, 1992, p. 19121); (10) directing the public release of official papers of the House relating to an investigation by the Committee on House Administration's task force to investigate the operation and management of the Office of the Postmaster (July 22, 1993, p. 16634); (11) directing the public release of transcripts and other relevant documents relating to an investigation by the Committee on House Administration's task force to investigate the operation and management of the Office of the Postmaster unless two designees of the bipartisan leadership agree to the contrary (June 9, 1994, p. 12437); and (12) directing the Committee on Standards of Official Conduct to defer any investigation relating to the operation of the former Post Office until assured that its inquiry would not interfere with an ongoing criminal investigation, as well as a resolution directing the Committee on Standards of Official Conduct to proceed with the investigation (Mar. 2, 1994, p. 3672).

In the 105th Congress a 12-member bipartisan task force appointed by the Majority and Minority Leaders conducted a comprehensive review of the House ethics process. During the deliberations of the task force, the House imposed a moratorium on raising certain questions of privilege under this rule with respect to official conduct and on the filing or processing of ethics complaints. The moratorium was imposed in the expectation that the recommendations of the task force would include rules changes relating to establishment and enforcement of standards of official conduct for Members, officers, and employees of the House (Feb. 12, 1997, p. 2058). The moratorium was extended through September 10, 1997 (July 30, 1997, p. 16958). The task force recommendations ultimately were reported from the Committee on Rules and were adopted with certain amendments (H. Res. 168, Sept. 18, 1997, p. 19340).

§ 704. Questions relating to integrity of proceedings.

The privileges of the House include questions relating to the integrity of its proceedings, including the processes by which bills are considered (III, 2597–2601, 2614; IV, 3383, 3388, 3478), such as the constitutional question of the vote required to pass a joint resolution extending the State ratification period of a proposed constitutional amendment (Speaker O'Neill, Aug. 15, 1978, p. 26203). Privileges of the House also include: (1) resignation of a Member from a select or standing committee (Speaker Albert, June 16, 1975, p. 19054; Speaker O'Neill, Mar. 8, 1977, pp. 6579–82); (2) newspaper charges affecting the honor and dignity of the House (VII, 911); and (3) the conduct of representatives of the press (II, 1630, 1631; III, 2627; VI, 553).

Admission to the floor of the House constitutes a question of privilege (III, 2624–2626), including a resolution alleging indecorous behavior of a former Member and instructing the Sergeant-at-Arms to ban the former Member from the floor, and rooms leading thereto, until the resolution

of a contested election to which he was party (H. Res. 233, Sept. 18, 1997, p. 19340).

The accuracy and propriety of reports in the Congressional Record also constitute a question of privileges of the House (V, 7005–7023; VIII, 3163, 3461, 3463, 3464, 3491, 3499; Apr. 20, 1936, p. 5704; May 11, 1936, p. 7019; May 7, 1979, p. 10099), including a resolution: (1) asserting that a Member's remarks spoken in debate were omitted from the printed Record, directing that the Record be corrected and requiring the Clerk to report on the circumstances and possible corrective action (July 29, 1983, p. 21685); (2) directing the Committee on Rules to investigate and report to the House within a time certain on alleged alterations of the Congressional Record (Jan. 24, 1984, p. 250); and (3) addressing whether the Record should constitute a verbatim transcript (May 8, 1985, p. 11072; Feb. 7, 1990, p. 1515). Although a motion to correct the Congressional Record based on improper alterations or insertions may constitute a question of privilege, mere typographical errors or ordinary revisions of a Member's remarks do not form the basis for privileged motions to correct the Record (Apr. 25, 1985, p. 9419; see § 690, *supra*). A resolution directing the placement of an asterisk in the Congressional Record to note alleged inaccuracies in the State of the Union address (but not alleging improper transcription of that address) was held not to constitute a question of privilege (Oct. 20, 2003, p. ——).

The protection of House records constitutes a question of the privileges of the House, especially when records are demanded by the courts (III, 2604, 2659, 2660–2664; VI, 587; Sept. 18, 1992, p. 25750; see also § 291, *supra*). Privileges of the House involving records also include resolutions: (1) furnishing certain requested information to an Independent Counsel investigating covert arms transactions with Iran (June 4, 1992, p. 13664); (2) responding to a request of a law enforcement official regarding the timing of the public release of official papers of the House (July 22, 1993, p. 16624); (3) directing a committee to investigate press publication of a report that the House had ordered not to be released (Speaker Albert, Feb. 19, 1976, p. 3914); (4) directing the public release of transcripts and other relevant documents relating to an investigation by the Committee on House Administration's task force to investigate the operation and management of the Office of the Postmaster unless two designees of the bipartisan leadership agreed to the contrary (June 9, 1994, p. 12437); and (5) alleging that a Member willfully abused his power as chairman of a committee by unilaterally releasing records of the committee in contravention of its rules (adopted "protocol"), and expressing disapproval of such conduct (May 14, 1998, p. 9279). However, a resolution directing a standing committee to release executive-session material referred to it as such by special rule of the House was held to propose a change in the rules and, therefore, not to constitute a question of the privileges of the House under rule IX (Sept. 23, 1998, p. 21562).

A question regarding the accuracy of House documents constitutes a question of privileges of the House (V, 7329), including resolutions: (1) asserting that a printed transcript of joint subcommittee hearings contained unauthorized alterations of the statements of subcommittee members in the prior Congress and that unauthorized alterations may have occurred in other committee hearing transcripts, and proposing the creation of a select committee to investigate and report back by a date certain (June 29, 1983, p. 18279); (2) alleging the unauthorized creation and falsification of documents distributed to the general public at a committee hearing and resolving that the Speaker take appropriate measures to ensure the integrity of the legislative process and report his actions and recommendations to the House (Oct. 25, 1995, p. 29373); (3) alleging that a committee report contained descriptions of recorded votes (as required by clause 3(b) of rule XIII) that deliberately mischaracterized certain amendments and directing the chairman of the committee to file a supplemental report to change those descriptions (May 3, 2005, p. ——). The privileges of the House also include: (1) the integrity of its Journal (II, 1363; III, 2620) and messages (III, 2613); (2) unreasonable delay in transmitting an enrolled bill to the President (Oct. 8, 1991, p. 25761); and (3) a concurrent resolution directing the Clerk of the House and the Secretary of the Senate to produce official duplicates of certain legislative papers (Oct. 5, 1992, p. 32064). For a discussion of the privileged status of a request of one House for the return of a measure messaged to the other, see § 565, *supra*.

A resolution alleging that the Chair had improperly ordered the interruption of audio broadcast coverage of certain House proceedings constitutes a question of privileges of the House (Mar. 17, 1988, p. 4180), as does a resolution providing for an experiment in the telecasting and broadcasting of House proceedings (Speaker O'Neill, Mar. 15, 1977, p. 7607). Similarly, a resolution authorizing and directing the Speaker to provide for the audio and visual broadcast coverage of the Chamber while Members are voting has been held to present a question of the privileges of the House, because rule V (formerly clause 9 of rule I), which requires complete and unedited audio and visual coverage of House proceedings and coverage of record votes, had not been implemented (Apr. 30, 1985, p. 9821).

A resolution alleging intentional abuse of House practices and customs in holding a vote open for approximately three hours for the sole purpose of circumventing the initial will of the House and directing the Speaker to take such steps as necessary to prevent further abuse constitutes a question of the privileges of the House (Dec. 8, 2003, p. ——).

Alleged improprieties in committee procedures, including charges of committee inaction (III, 2610), secret committee conferences (VI, 578), refusal to make staff study available to certain Members and to the public (Feb. 14, 1939, p. 1370), refusal to give hearings or allow petitions to be read (III, 2607), refusal to permit committee member to take photostatic copies of committee files (Aug. 14, 1957, p. 14739), and a determination whether

a committee violated House rules by voting to take allegedly defamatory testimony in open session (June 30, 1958, p. 12690), were all held not to give rise to a question of the privileges of the House. However, the following resolutions were held to give rise to questions of the privileges of the House: (1) alleging that the chairman of a committee directed his staff to request the Capitol Police to remove minority party members from a committee room where they were meeting during the reading of an amendment, alleging that the chairman deliberately and improperly refused to recognize a legitimate and timely objection by a member of the committee to dispense with the reading of that amendment, resolving that the House disapproves of the manner in which the chairman conducted the markup, and finding that the bill considered at that markup was not validly ordered reported (July 18, 2003, p. ——) and resolving that the House disapproves of the manner in which the chairman summoned the Capitol Police as well as the manner in which he conducted the markup, finding that the bill considered at that markup was not validly ordered reported, and calling for a police report to be placed in the Record (July 23, 2003 p. ——); (2) alleging, among other things, the improper and unilateral firing of nonpartisan staff of the Committee on Standards of Official Conduct and directing the Speaker to appoint a bipartisan task force to address the efficacy of that committee so as to restore public confidence in the ethics process (Mar. 15, 2005, p. ——; Apr. 14, 2005, p. ——) and directing the committee to appoint nonpartisan professional staff (June 9, 2005, p. ——); (3) alleging that the chairman of a committee intentionally violated House rules and abused his power as chairman during a minority day of hearings under clause 2(j) of rule XI and directing the chairman to schedule a further day of hearings (June 16, 2005, p. ——).

§ 705. Questions relating to comfort and convenience.

The privileges of the House include questions relating to the comfort and convenience of Members and employees (III, 2629–2636), such as resolutions concerning the proper attire for Members in the Chamber when the temperature is uncomfortably warm (July 17, 1979, p. 19008); as well as questions relating to safety, such as resolutions requiring an investigation into the safety of Members in view of alleged structural deficiencies in the West Front of the Capitol (July 25, 1980, pp. 19762–64); and directing the appointment of a select committee to inquire into alleged fire safety deficiencies in the environs of the House (May 10, 1988, p. 10286).

§ 706. May not effect change in rules.

A motion to amend the Rules of the House does not present a question of privilege (Speaker Cannon, sustained by the House, thereby overruling the decision of March 19, 1910 (VIII, 3376), which held such motion privileged (VIII, 3377)), and a question of the privileges of the House may not be invoked to effect a change in the rules or standing orders of the House or their interpretation (Speaker O'Neill, Dec. 6, 1977, pp. 38470–73; Sept. 9, 1988, p. 23298; July 30, 1992, p. 20339; Jan. 31, 1996, p. 1887), including directions to the Speaker infringing upon his discretionary power of recognition under

clause 2 of rule XVII (formerly clause 2 of rule XIV) (July 25, 1980, pp. 19762–64), for example, by requiring that he give priority in recognition to any Member seeking to call up a matter highly privileged pursuant to a statutory provision, over a member from the Committee on Rules seeking to call up a privileged report from that committee (Speaker Wright, Mar. 11, 1987, p. 5403), or by requiring that he state the question on overriding a veto before recognizing for a motion to refer (thereby overruling prior decisions of the Chair to change the order of precedence of motions) (Speaker Wright, Aug. 3, 1988, p. 20281). Similarly, a resolution alleging that, in light of an internationally objectionable French program of nuclear test detonations, for the House to receive the President of France in a joint meeting would be injurious to its dignity and to the integrity of its proceedings, and resolving that the Speaker withdraw the pending invitation and refrain from similar invitations, was held not to present a question of the privileges of the House because it proposed a collateral change in an order of the House previously adopted (that the House recess for the purpose of receiving the President of France) and a new rule for future cases (Jan. 31, 1996, p. 1887). A resolution collaterally challenging the validity or fairness of an adopted rule of the House by delaying its implementation was held not to give rise to a question of the privileges of the House (Feb. 3, 1993, p. 1974 (sustained by tabling of appeal)). A resolution directing that the party ratios of all standing committees, subcommittees, and staffs thereof be changed within a time certain to reflect overall party ratios in the House was held to constitute a change in the Rules of the House and not to constitute a proper question of the privileges of the House (the standing rules already providing mechanisms for selecting committee members and staff) (Jan. 23, 1984, p. 78). On the other hand, although the Rules of the House establish a procedure for fixing the ratio of majority to minority members on full committees and also provide that subcommittees are subject to the direction and control of the full committee (clause 1 of rule XI), a question of the privileges of the House is raised where it is alleged that subcommittee ratios should reflect full committee ratios established by the House and failure to do so denies representational rights at the subcommittee level (Oct. 4, 1984, p. 30042). A resolution alleging that a recitation of the Pledge of Allegiance at the start of each legislative day would enhance the dignity and integrity of the proceedings of the House and directing that the Speaker implement such a recitation as the practice of the House was held to propose a change in the rules and therefore not to give rise to a question of the privileges of the House (Sept. 9, 1988, p. 23298). A resolution directing that the reprogramming process established in law for legislative branch appropriations be subjected to third-party review for conformity with external standards of accounting but alleging no deviation from duly constituted procedure was held not to give rise to a question of the privileges of the House (May 20, 1992, p. 12005 (sustained by tabling of appeal)). A resolution to permit the Delegate of the District of Columbia to vote on articles of

impeachment of the President in contravention of statutory law and the Rules of the House was held to be tantamount to change in the rules and therefore not to constitute a question of the privileges of the House (Dec. 18, 1998, p. 27825). A resolution directing a standing committee to release executive-session material referred to it as such by special rule of the House was held to propose a change in the rules and, therefore, not to constitute a question of the privileges of the House (Sept. 23, 1998, p. 21562). A resolution expressing Congressional sentiment that the President should take specified action to achieve a desired public policy, even though involving executive action under a treaty (under which the Senate had exercised its prerogative to ratify), does not present a question of the privileges of the House, but rather is a legislative matter to be considered under ordinary rules relating to priority of business (June 6, 2002, p. ——).

A question of the privileges of the House may not be invoked to prescribe a special order of business for the House, because otherwise any Member would be able to attach privilege to a legislative measure merely by alleging impact on the dignity of the House based upon House action or inaction (June 27, 1974, p. 21596; Feb. 7, 1995, p. 3905; Dec. 22, 1995, p. 38501; Jan. 3, 1996, p. 40; Jan. 24, 1996, p. 1248; Feb. 1, 1996, p. 2245; Oct. 10, 1998, p. 25420; Nov. 4, 1999, pp.28528–33; June 6, 2002, p. ——; Oct. 2, 2002, pp. ——, ——, ——, ——; Oct. 3, 2002, pp. ——, ——). For example, the following resolutions have been held not to give rise to a question of the privileges of the House: (1) a resolution directing a committee to meet and conduct certain business (June 27, 1974, p. 21596; July 31, 1975, p. 26250); (2) a resolution alleging that the inability of the House to enact certain legislation constituted an impairment of the dignity of the House, the integrity of its proceedings, and its place in public esteem, and resolving that the House be considered to have passed such legislation (Jan. 3, 1996, p. 40; Jan. 24, 1996, p. 1248); and (3) a resolution precluding an adjournment of the House until a specified legislative measure is considered (Feb. 1, 1996, p. 2247). See also § 702, *supra*, for a discussion of legislative propositions purporting to present questions of the privileges of the House.

§ 707. As distinct from privileged questions.

The clause of the rule giving questions of privilege precedence over all other questions except a motion to adjourn is a recognition of a well-established principle in the House, for it is an axiom of the parliamentary law that such a question "supersedes the consideration of the original question, and must be first disposed of" (III, 2522, 2523; VI, 595). As the business of the House began to increase it was found necessary to give certain important matters a precedence by rule, and such matters are called "privileged questions." But as they relate merely to the order of business under the rules, they are to be distinguished from "questions of privilege" which relate to the safety or efficiency of the House itself as an organ for action (III, 2718). It is evident, therefore, that a question of privilege takes precedence over a matter merely privileged under the rules (III, 2526–2530; V, 6454; VIII, 3465). Certain matters of business, arising under provisions of the Con-

stitution mandatory in nature, have been held to have a privilege which superseded the rules establishing the order of business, as bills providing for census or apportionment (I, 305–308), bills returned with the objections of the President (IV, 3530–3536), propositions of impeachment (see § 604, *supra*), and questions incidental thereto (III, 2401, 2418; V, 7261; July 22, 1986, p. 17306; Dec. 2, 1987, p. 33720; Jan. 3, 1989, p. 84; Feb. 7, 1989, p. 1726), matters relating to the count of the electoral vote (III, 2573–2578), resolutions relating to adjournment and recess of Congress (V, 6698, 6701–6706; Nov. 13, 1997, p. 26538), and a resolution declaring the Office of the Speaker vacant (VI, 35); but under later decisions certain of these matters which have no other basis in the Constitution or in the rules for privileged status, such as bills relating to census and apportionment, have been held not to present questions of privilege, and the effect of such decisions is to require all questions of privilege to come within the specific provisions of this rule (VI, 48; VII, 889; Apr. 8, 1926, p. 7147) (see § 702, *supra*).

A resolution that presents a proper question of the privileges of the House (alteration of subcommittee hearing transcripts) may propose the creation of a select investigatory committee with subpoena authority to report back to the House by a date certain (June 29, 1983, p. 18104), but may not appropriate funds for the investigating committee from the contingent fund (now referred to as "applicable accounts of the House described in clause 1(j)(1) of rule X") (VI, 395).

§ 708. Questions of personal privilege.

The privilege of the Member rests primarily on the Constitution, which gives to him a conditional immunity from arrest (§ 90, *supra*) and an unconditional freedom of debate in the House (III, 2670, § 92, *supra*). A menace to the personal safety of Members from an insecure ceiling in the Hall was held to involve a question of the highest privilege (III, 2685); and an assault on a Member within the Capitol when the House was not in session, from a cause not connected with the Member's representative capacity, was also held to involve a question of privilege (II, 1624). But there has been doubt as to the right of the House to interfere for the protection of Members, who outside the Hall, get into difficulties not connected with their official duties (II, 1277; III, 2678; footnote). Charges against the conduct of a Member are held to involve privilege when they relate to his representative capacity (III, 1828–1830, 2716; VI, 604, 612; VIII, 2479); but when they relate to conduct at a time before he became a Member they have not been entertained as of privilege (II, 1287; III, 2691, 2723, 2725). While questions of personal privilege normally involve matters touching on a Member's reputation, a Member may be recognized for a question of personal privilege based on a violation of his rights as a Member, such as unauthorized printed alterations in his statements made during a subcommittee hearing in a prior Congress (since the second phrase of this clause speaks to the "rights, reputation, and conduct of Members, individually") (June 28, 1983, p. 17674). A printed characterization by an officer of the House of a Mem-

ber's proposed amendments as "dilatory and frivolous" may give rise to a question of personal privilege (Aug. 1, 1985, p. 22542) as may the fraudulent use of a Member's official stationery as a "Dear Colleague" letter (Sept. 17, 1986, p. 23605). While a Member may be recognized on a question of personal privilege to complain about an abuse of House rules as applied to debate in which he was properly participating, he may not raise a question of personal privilege merely to complain that microphones had been turned off during disorderly conduct following expiration of his recognition for debate (Mar. 16, 1988, p. 4085).

Speaker Wright rose to a question of personal privilege to respond to a "statement of alleged violations" pending in the Committee on Standards of Official Conduct; and, pending the committee's disposition of his motion to dismiss, announced his intention to resign as Speaker and as a Member (May 31, 1989, p. 10440). Speaker Gingrich rose to a question of personal privilege to discuss his own official conduct previously resolved by the House, which question was based upon press accounts (Apr. 17, 1997, p. 5834). Speaker Hastert rose to a question of personal privilege to discuss the process for selecting a Chaplain, which question was based on press accounts (Mar. 23, 2000, p. 3478).

A Member rose to a question of personal privilege to discuss: (1) his own official conduct relative to his account with the "bank" operated by the Sergeant-at-Arms, which question was based on press accounts (Mar. 19, 1992, p. 6074); (2) reflections on his character in pointed descriptions of recorded votes taken in committee on a Member's amendments, included in a committee report under clause 3(b) of rule XIII, which question was based on the report and on certain media coverage thereof (May 5, 2005, p. ——; May 10, 2005, p. ——).

A Member rose to a question of personal privilege based on press accounts concerning allegations by other Members that he, as a committee chairman, had been "buying votes" (Mar. 26, 1998, p. 4851). A committee chairman rose to a question of personal privilege based on press accounts containing statements impugning his character and motive by alleging intentional violation of rules as chairman of a committee conducting an investigation (May 12, 1998, p. 8838). A committee chairman rose to a question of personal privilege to discuss his own official conduct, which question was based on a letter of reproval reported by the Committee on Standards of Official Conduct (Oct. 5, 2000, p. 21048). A committee chairman rose to a question of personal privilege based on press accounts impugning his character to discuss his decision to direct his staff to request the Capitol Police to remove minority party members from a committee room where they were meeting during the reading of an amendment at a committee markup (July 23, 2003, p. ——).

A distinction has been drawn between charges made by one Member against another in a newspaper or in a press release (July 28, 1970, p. 26002) or in a "Dear Colleague" letter (Aug. 4, 1989, p. 19139; May 14, 1996, p. 11081), and the same when made on the floor (III, 1827, 2691,

2717). Charges made in newspapers against Members in their representative capacities involve privilege (III, 1832, 2694, 2696–2699, 2703, 2704; VI, 576, 621; VIII, 2479), even though the names of individual Members are not given (III, 1831, 2705, 2709; VI, 616, 617). But vague charges in newspaper articles (III, 2711; VI, 570), criticisms (III, 2712–2714; VIII, 2465), or even misrepresentations of the Member's speeches or acts or responses in an interview (III, 2707, 2708; Aug. 3, 1990, p. 22135), have not been entertained. A question of personal privilege may not ordinarily be based merely on words spoken in debate (July 23, 1987, p. 20861; Mar. 16, 1988, p. 4085; Nov. 16, 1989, p. 29569; Sept. 25, 1996, p. 24807; Sept. 21, 2001, p. ——; Mar. 31, 2004, p. ——) or conveyed by an exhibit in debate (June 28, 2000, p. 12723). However, a Member may raise a question of personal privilege based upon press accounts of another Member's remarks, in debate or off the floor, which impugn his character or motives (May 15, 1984, pp. 12207, 12211; May 31, 1984, p. 14620), or based upon newspaper accounts of televised press coverage of a committee hearing at which he was criticized derogatorily (Mar. 3, 1988, p. 3196).

§ 709. Precedence of questions of privileges of the House.

The body of precedent relating to the precedence of questions of privilege spans both the adoption of standing rule IX in 1880 and its amendment to require notice in certain cases in 1993.

A question of privilege may interrupt: (1) the reading of the Journal (II, 1630; VI, 637); (2) the consideration of a bill (or series of measures) that had been made in order by a special rule (III, 2524, 2525); (3) in an exceptional decision, where the rule thereon ordered the previous question to final passage without intervening motion, after consideration of the measure in the Committee of the Whole but before passage in the House (VI, 560); (4) under antiquated drafting conventions for special orders of business that ordered the previous question after debate, the consideration of certain matters on which the previous question has been ordered (III, 2532; VI, 561; VIII, 2688). A question of privilege takes precedence over (1) business in order on Calendar Wednesday (VI, 394; VII, 908–910), a "suspension day" (III, 2553; VI, 553), or over certain motions given precedence under a special rule (VI, 565); (2) reports from the Rules Committee before consideration has begun (VIII, 3491; Mar. 11, 1987, p. 5403); (3) call of the Consent Calendar on Monday (VI, 553), before that Calendar was repealed in the 104th Congress (H. Res. 168, June 20, 1995, p. 16574); (4) motions to resolve into the Committee of the Whole (VI, 554; VIII, 3461); (5) unfinished business, privileged under clauses 1 and 3 of rule XIV (formerly rule XXIV) (Speaker Albert, June 4, 1975, p. 16860). Because a resolution raising a question of the privileges of the House takes precedence over a motion to suspend the rules, it may be offered and voted on between motions to suspend the rules on which the Speaker has postponed record votes until after debate on all suspensions (May 17, 1983, p. 12486). In general, one question of privilege may not take precedence over another (III, 2534, 2552, 2581), and the Chair's power of recognition

determines which of two matters of equal privilege is considered first (July 24, 1990, p. 18916). While under rule IX a question of the privileges of the House takes precedence over all other questions except the motion to adjourn, the Speaker may, pursuant to his power of recognition under clause 2 of rule XVII (formerly clause 2 of rule XIV), entertain unanimous-consent requests for "one-minute speeches" pending recognition for a question of privilege, since such unanimous-consent requests, if granted, temporarily waive the standing Rules of the House relating to the order of business (Speaker O'Neill, July 10, 1985, p. 18394; Feb. 6, 1989, pp. 1676–82).

A Member's announcement of intent to offer a resolution as a question of privilege may take precedence over a special order reported from the Committee on Rules; but, where a special order is pending, such announcements are counted against debate on the resolution absent unanimous consent to the contrary (Oct. 28, 1997, pp. 23525, 23527).

While a question of privilege is pending, a message of the President is received (V, 6640–6642), but is read only by unanimous consent (V, 6639). A motion to reconsider may also be entered but may not be considered (V, 5673–5676). It has been held that only one question of privilege may be pending at a time (III, 2533), but having presented one question of privilege, a Member, before discussing it, may submit a second question of privilege related to the first and discuss both on one recognition (VI, 562). While a resolution raising a question of the privileges of the House has precedence over all other questions, it is nevertheless subject to disposition by the ordinary motions permitted under clause 4 of rule XVI, and by the motion to commit under clause 2 of rule XIX (formerly clause 1 of rule XVII) (Speaker Albert, Feb. 19, 1976, p. 3914; Apr. 28, 1983, p. 10423; Mar. 22, 1990, p. 4996).

§ 711. Precedence of questions of personal privilege.

When a Member proposes merely to address the House on a question of personal privilege, and does not bring up a resolution affecting the dignity or integrity of the House for action, the practice as to precedence is somewhat different. Thus, a Member rising to a question of personal privilege may not interrupt a call of the yeas and nays (V, 6051, 6052, 6058, 6059; VI, 554, 564), or take from the floor another Member who has been recognized for debate (V, 5002; VIII, 2459, 2528; Sept. 29, 1983, p. 26508; July 23, 1987, p. 20861), but he may interrupt the ordinary legislative business (III, 2531). A Member may address the House on a question of personal privilege even after the previous question has been ordered on a pending bill (VI, 561; VIII, 2688). Under modern practice, a question of personal privilege may not be raised in the Committee of the Whole (Sept. 4, 1969, p. 24372; Dec. 13, 1973, p. 41270), the proper remedy being that a demand that words uttered in the Committee of the Whole be taken down pursuant to clause 4 of rule XVII (formerly clause 5 of rule XIV); yet a breach of privilege occurring in the Committee of the Whole relates to the dignity of the House and is so treated (II, 1657). A question of per-

sonal privilege may not be raised while a question of the privileges of the House is pending (Apr. 30, 1985, p. 9808; May 1, 1985, p. 10003).

§ 712. Questions of privilege in relation to quorum.

During a call of the House in the absence of a quorum, only such questions of privilege as relate immediately to those proceedings may be presented (III, 2545). See also § 1024, *infra*.

§ 713. Consideration of questions of privilege.

Whenever it is asserted on the floor that the privileges of the House are invaded, the Speaker entertains the question (II, 1501), and may then refuse recognition if the resolution is not admissible as a question of privilege under the rule. A proper question of privilege may be renewed (Nov. 17, 1995, p. 33846). Although the early custom was for the Speaker to submit to the House the question whether a resolution involved the privileges of the House (III, 2718), the modern practice is for the Speaker to rule directly on the question (VI, 604; Speaker Wright, Mar. 11, 1987, p. 5404; Feb. 3, 1995, p. 3571; Feb. 7, 1995, p. 3905), subject to appeal where appropriate (Speaker Albert, June 27, 1974, p. 21596).

Under the form of the rule adopted in the 103d Congress, the Speaker may in his discretion recognize a Member other than the Majority or Minority Leader to proceed immediately on a resolution offered as a question of the privileges of the House without first designating a subsequent time or place in the legislative schedule within two legislative days (Speaker Foley, Feb. 3, 1993, p. 1974); and he is not required to announce the time designated to consider a resolution at the time the resolution is noticed but may announce his designation at a later time (Feb. 11, 1994, p. 2209). The Speaker does not rule on the privileged status of a resolution at the time that resolution is noticed, but only when the resolution is called up within two legislative days (Feb. 11, 1994, p. 2209; Sept. 13, 1994, p. 24389; Feb. 3, 1995, p. 3571).

Common fame has been held sufficient basis for raising a question (III, 2538, 2701); a telegraphic dispatch may also furnish a basis (III, 2539). A report relating to the contemptuous conduct of a witness before a committee gives rise to a question of the privileges of the House and may, under this rule, be considered on the same day reported notwithstanding the requirement of clause 4(a) of rule XIII (formerly clause 2(l)(6) of rule XI) that reports from committees be available to Members for at least three calendar days before their consideration (Speaker Albert, July 13, 1971, pp. 24720–23). But a Member may not, as matter of right, require the reading of a book or paper on suggesting that it contains matter infringing on the privileges of the House (V, 5258). In presenting a question of personal privilege the Member is not required in the first instance to offer a motion or resolution, but he must take this preliminary step in raising a question of general privileges (III, 2546, 2547; VI, 565–569; VII, 3464). A proposition of privilege may lose its precedence by association with a matter not of privilege (III, 2551; V, 5890; VI, 395). Debate on a question of privilege is under the hour rule (V, 4990; VIII, 2448), but the previous

question may be moved (II, 1256; V, 5459, 5460; VIII, 2672); since the 103d Congress, however, the rule has provided for divided control of the hour in the case of a resolution offered from the floor. Consideration of a resolution as a question of the privileges of the House has included an hour of debate on a motion to refer under clause 4 of rule XVI; a separate hour of debate on the resolution, itself, under clause 2 of rule XVII (formerly clause 2 of rule XIV); and a motion to commit (not debatable after the ordering of the previous question) under clause 2 of rule XIX (formerly clause 1 of rule XVII) (Mar. 12, 1992, p. 5557). Debate on a letter of resignation is controlled by the Member moving the acceptance of the resignation (Mar. 8, 1977, pp. 6579–82) if the resigning Member does not seek recognition (June 16, 1975, p. 19054). Debate on a question of personal privilege must be confined to the statements or issues which gave rise to the question of privilege (V, 5075–77; VI, 576, 608; VIII, 2448, 2481; May 31, 1984, p. 14623).

RULE X

ORGANIZATION OF COMMITTEES

Committees and their legislative jurisdictions

§ 714. Number and jurisdiction of standing committees.

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:

Under the Legislative Reorganization Act of 1946 (60 Stat. 812), the 44 committees of the 79th Congress were consolidated into 19, effective January 2, 1947. The total number of standing committees grew over time with the creation of the Committee on Science and Astronautics (now Science), established on July 21, 1958 (p. 14513); the Committee on Standards of Official Conduct, established on April 13, 1967 (p. 9425); the Committee on the Budget, established on July 12, 1974, by the Congressional Budget Act of 1974 (88 Stat. 297); and the Committee on Small Business, established as a standing committee effective January 3, 1975 (H. Res.