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Parliamentarian's Note: The doors were reopened after a member of the Committee on Rules, Ray J. Madden, of Indiana, called up House Resolution 1315, which provided for consideration of a joint resolution to suspend for the 1968 campaign the equal-time requirements of section 315 of the Communications Act of 1934 for President and Vice President.

§ 7. The Call in the Committee of the Whole

This section discusses quorum calls in the Committee of the Whole.[6]

Prior to revisions of the rule beginning in the 93d Congress, Rule XXIII clause 2[7] provided that in the absence of a quorum, which consists of 100 Members, the Chairman of the Committee of the Whole should invoke the procedure for a call of the roll under Rule XV clause 5,[8] to record names of Members by electronic device, unless, in his discretion, he ordered a call of the Committee to be taken under the procedure set forth in Rule XV clause 2(b),[9] to record names of those present by clerk tellers. Following completion of either of these counts, the Committee rose and the Chairman reported the names of the absentees to the House.[10] Those names were entered on the Journal. If a quorum of the Committee had appeared, the Committee resumed its sitting without motion. Other provisions to be discussed in more detail in the supplement, and presently cited in the annotations appearing in § 863 of the *House Rules and Manual,* relate to changes in clause 2, Rule XXIII adopted since the 93d Congress.[11] On Jan. 4, 1977, clause 2

6. See § 16, infra, for discussion of the point of order that a quorum is not present in the Committee of the Whole.

7. See *House Rules and Manual* § 863 (1979).

8. *House Rules and Manual* § 774b (1979).

9. *House Rules and Manual* § 771b (1979).

10. Rule XXIII clause 2, *House Rules and Manual* § 863 (1973).

11. Rule XXIII clause 2(a), *House Rules and Manual* § 863 (1981) provides as follows:

"A quorum of a Committee of the Whole shall consist of one hundred Members. The first time that a Committee of the Whole finds itself without a quorum during any day, the Chairman shall invoke the procedure for the call of the roll under clause 5 of Rule XV, unless, in his discretion he orders a call of the Committee to be taken by the procedure set forth in clause 1 or clause 2(b) of Rule XV: *Provided,* That the Chairman may in his discretion refuse to entertain a

was substantially changed to allow quorum calls only under the five minute rule where the Chair has put the question on a pending proposition, after a quorum of the Committee of the Whole has been once established on that day. The clause was amended again in the 96th Congress to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the chair to receive the Committee's report of absentees if a quorum has appeared, and to enable the Chairman to reduce to five minutes the period for a recorded vote immediately following a regular quorum call. In the 97th Congress the rule was amended to allow the Chairman the discretion of whether to entertain a point of order of no quorum during general debate. The last two sentences of the clause, permitting the Chair to vacate proceedings under the call in his discretion when a quorum appears, were added in the 93d Congress on Apr. 9, 1974.

The "automatic" vote by yeas and nays[12] is not permitted in the Committee of the Whole as it is in the House and in the House as in Committee of the Whole.[13]

point of order that a quorum is not present during general debate only. If on such call, a quorum shall appear, the Committee shall continue its business; but if a quorum does not appear, the Committee shall rise and the Chairman shall report the names of the absentees to the House. After the roll has been once called to establish a quorum during such day, the Chairman may not entertain a point of order that a quorum is not present unless the Committee is operating under the five-minute rule and the Chairman has put the pending motion or proposition to a vote; and if the Chairman sustains a point of order that a quorum is not present after putting the question on such a motion or proposition, he may announce that following a regular quorum call conducted pursuant to the previous provisions of this clause, he will reduce to not less than five minutes the period of time within which a recorded vote on the pending question may be taken if such a vote is ordered. If, at any time during the conduct of any quorum call in a Committee of the Whole, the Chairman determines that a quorum is present, he may, in his discretion and subject to his prior announcement, declare that a quorum is constituted. Proceedings under the call shall then be considered as vacated, and the Committee shall not rise but shall continue its sitting and resume its business."

12. Rule XV clause 4, *House Rules and Manual* § 773 (1979).

13. § 7.3, infra, and the annotation to Rule XV clause 4, *House Rules and Manual* § 774a (1979); see also § 2, supra, for a discussion of the distinctions between an automatic vote by yeas and nays under Rule XV clause 4, and the call of the House on motion under Rule XV clause 2.

In General

§ 7.1 Where there is a failure of a quorum in the Committee of the Whole and the roll is called, it is a quorum of the Committee (100) and not of the House which must appear under Rule XXIII clause 2.[14]

On Oct. 12, 1966,[15] a quorum of the Committee of the Whole appeared under the following circumstances.

> MR. [JOHN P.] SAYLOR [of Pennsylvania]: Mr. Chairman, I make the point of order that a quorum is not present.
>
> THE CHAIRMAN:[16] The Chair will count. [After counting.] Ninety-five Members are present, not a quorum.
>
> The Clerk will call the roll.
>
> The Clerk called the roll, and the following Members failed to answer to their names: . . .
>
> Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. King of Utah, the Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12047), and finding itself without a quorum, he had directed the roll to be called, when 211 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.
>
> The Committee resumed its sitting.

§ 7.2 Where a Committee of the Whole finds itself without a quorum, the Chair directs the Clerk to call the roll; at the completion thereof the Committee automatically rises and the Chairman reports the result of the roll call and reports the names of the absentees, whereupon the Speaker directs that the names of the absentees be spread upon the Journal and that the Committee resume its session if a quorum has appeared on the roll call.

On May 14, 1930,[17] the Chairman, Scott Leavitt, of Montana, directed the Clerk to call the roll.

> MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Chairman, I make the point of order that there is no quorum present.
>
> THE CHAIRMAN: The gentleman from Mississippi makes the point of order that there is no quorum present. The Chair will count. [After counting.] Seventy-one Members are present, not a quorum. The Clerk will call the roll.
>
> The Clerk called the roll, and the following Members failed to answer to their names: . . .
>
> THE CHAIRMAN: The committee will rise and report to the House.

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14. See *House Rules and Manual* § 836 (1979).

15. 112 CONG. REC. 26247, 26248, 89th Cong. 2d Sess.

16. David S. King (Utah).

17. 72 CONG. REC. 2152, 71st Cong. 2d Sess. See also 74 CONG. REC. 899, 71st Cong. 3d Sess., Dec. 16, 1930.

Thereupon the committee rose; and the Speaker pro tempore having resumed the chair, Mr. Leavitt, Chairman of the Committee of the Whole House on the state of the Union, having under consideration the bill (H.R. 2152) to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the United States Department of Agriculture in acquiring and diffusing useful information regarding agriculture, and for other purposes, reported that that committee had found itself without a quorum, that he had ordered the roll to be called, whereupon it was developed that there were present 255 Members, and he submitted the names of the absentees.

THE SPEAKER PRO TEMPORE:[18] A quorum is present. The committee will resume its session.

The committee resumed its session.

Parliamentarian's Note: The precedents carried in this section predate amendments to the Rules of the House since the 93d Congress which limit quorum calls in the Committee of the Whole and which permit the Committee to continue its business following the appearance of a quorum without the Speaker having to take the Chair. See the introduction to this section.

§ 7.3 The provisions of Rule XV clause 4,[19] which permit a member to object to a vote where a quorum is not present, are applicable only in the House; an automatic vote by yeas and nays is not in order in the Committee of the Whole.

On June 7, 1973,[20] during consideration of H.R. 7446, to establish the American Revolution Bicentennial Administration, Chairman Henry B. Gonzales, of Texas, clarifies the procedures applicable in the Committee of the Whole.[1]

THE CHAIRMAN: The question is on the amendments offered by the gentleman from Pennsylvania (Mr. Williams).

The question was taken; and the Chairman announced that the noes appeared to have it.

MR. [LAWRENCE G.] WILLIAMS: Mr. Chairman, I demand a recorded vote.

THE CHAIRMAN: A recorded vote has been demanded.

MR. WILLIAMS: Mr. Chairman, I withdraw that. I make the point of order that a quorum is not present, and I object to the vote on that basis.

THE CHAIRMAN: The Chair advises the gentleman from Pennsylvania that that procedure is not in order in the Committee of the Whole.

MR. WILLIAMS: Mr. Chairman, I make a point of order. I object to the

18. John Q. Tilson (Conn.).

19. See *House Rules and Manual* § 773 (1979).

20. 119 CONG. REC. 18521, 93d Cong. 1st Sess.

1. See also 117 CONG. REC. 40054, 92d Cong. 1st Sess., Nov. 9, 1971; and 116 CONG. REC. 42232, 42233, 91st Cong. 2d Sess., Dec. 17, 1970.

vote on the ground that a quorum is not present, and I request a rollcall vote.

I can object to the vote on the grounds that a quorum is not present and insist on my point of order.

THE CHAIRMAN: Not in the Committee of the Whole, the Chair wishes to advise.

The gentleman may be advised that he may wish to raise a point of order that a quorum is not present.

MR. WILLIAMS: That is exactly what I have done.

THE CHAIRMAN: But the gentleman must be advised that during proceedings of the Committee of the Whole, an automatic vote is not a proper request.

MR. WILLIAMS: Mr. Chairman, I make a point of order against the vote previously taken on the basis that a quorum is not present.

THE CHAIRMAN: The gentleman from Pennsylvania raises the point of order that a quorum is not present. Is that what the gentleman wishes?

MR. WILLIAMS: No. I demand a recorded vote.

THE CHAIRMAN: The Chair will remind the gentleman from Pennsylvania that that demand has been withdrawn.

MR. WILLIAMS: I did withdraw it before. I am now requesting a recorded vote.

THE CHAIRMAN: The gentleman from Pennsylvania now demands a recorded vote on his amendments.

A recorded vote was refused.

So the amendments were rejected.

§ 7.4 Although an automatic vote by yeas and nays may not be taken in the Committee of the Whole, a Member may make a point of order that a quorum is not present.

On Feb. 8, 1950,[2] during consideration of H.R. 2945, a bill to adjust postal rates, an objection was raised to a vote in the Committee of the Whole.

THE CHAIRMAN:[3] The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. Hagen) there were—ayes 76, noes 21.

MR. [HAROLD C.] HAGEN [of Minnesota]: Mr. Chairman, I object to the vote on the ground that a quorum is not present.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. RANKIN: A quorum is not necessary to vote in the Committee of the Whole and a vote in the Committee of the Whole cannot be forced by a point of no quorum.

THE CHAIRMAN: The Chair will state to the gentleman from Mississippi that the rules require a quorum of a hundred in the Committee of the Whole.

MR. RANKIN: But the gentleman objected to the vote on the ground there was no quorum present.

MR. HAGEN: There was not a quorum present as disclosed by the announcement of the vote.

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2. 96 CONG. REC. 1678, 1679, 81st Cong. 2d Sess.

3. Chet Holifield (Calif.).

MR. RANKIN: It is all right to make a point of no quorum; that is one thing; but to object to the vote on the ground that a quorum is not present is something else.

THE CHAIRMAN: The Chair will count. [After counting.] One hundred and sixty-six Members are present, a quorum.

So the amendment was agreed to.

§ 7.5 Although a point of order that a quorum is not present is in order in the Committee of the Whole, it does not precipitate an automatic vote by yeas and nays, notwithstanding the fact that it was raised immediately after a vote on which less than a quorum voted

See the proceedings of Aug. 21, 1950,[4] during consideration in the Committee of the Whole of H.R. 9313, a bill to amend the Agricultural Act of 1949.[5]

§ 7.6 In a statement preceding introduction of the electronic voting system, the Speaker announced a revised schedule of the electric bell and light signals, including a provision for votes in the Committee of the Whole.

On Jan. 15, 1973,[6] Speaker Carl Albert, of Oklahoma, announced the revised schedule of legislative electric bell and light signals.

The Chair has directed that the bell and light system be utilized in the following manner:

One bell indicates a teller vote, taken in accordance with clause 5, Rule I (Members indicate their preference by walking up the center aisle and being counted by Members who are named as tellers by the Chair. This is not a recorded vote).

Two bells indicate an electronically recorded vote, either demanded under the Constitution by one-fifth of those present (in the House) or by one-fifth of a quorum under clause 5, Rule I (either in the House or in Committee of the Whole). Two bells may also indicate a recorded vote under clause 5 Rule I whenever Members are to record their votes by depositing ballot cards in the "aye" or "no" boxes. *The two bells will be repeated five minutes after the first ring* to give Members a second notice of the vote in progress.

Two bells, a brief pause, followed by two bells indicates a yea and nay vote taken under the provisions of Rule XV, clause 1, by a call of the roll. *The bells will be sounded again when the Clerk reaches the "R's" in the first call of the roll.*

Three bells indicate a quorum call, either by means of the electronic system (Rule XV, clauses 2 and 5) or by means of tellers (Rule XV, clause 2(b)).

4. 96 CONG. REC. 12960, 12961, 81st Cong. 2d Sess.
5. See § 16.2, infra.
6. 119 CONG. REC. 1055–57, 93d Cong. 1st Sess.

The bells will be repeated five minutes after the first ring to give Members a second notice of the quorum call in progress.

Four bells indicate an adjournment of the House.

Five bells indicate a recess of the House.

Six bells indicate a civil defense warning.

Counting Members

§ 7.7 Where a point of order that a quorum is not present in the Committee of the Whole is made, a motion that the Committee rise is privileged. In the event that the motion is defeated, but by a vote which fails to indicate the presence of a quorum, the Chair may count those present in the Chamber who failed to vote; if those, together with those who did vote, constitute a quorum, the Chair so announces and the Committee proceeds with its business.

On Jan. 10, 1931,[7] the Chairman, John Q. Tilson, of Connecticut, in order to make a quorum, counted Members he observed not voting.

MR. [TILMAN B.] PARKS [of Arkansas]: Mr. Chairman, I make a point of order of no quorum.

THE CHAIRMAN: The gentleman from Arkansas [Mr. Parks] makes a point of order that there is no quorum present.

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Chairman, I move that the committee do now rise.

THE CHAIRMAN: The gentleman from Wisconsin [Mr. Stafford] moves that the Committee do now rise.

The question was taken, and the Chairman announced that the noes appeared to have it.

MR. STAFFORD: Mr. Chairman, I ask for tellers on the vote.

Tellers were ordered and the gentleman from Wisconsin [Mr. Stafford] and the gentleman from Arkansas [Mr. Parks] were appointed tellers.

The committee again divided, and the tellers reported that there were—ayes 2 and noes 87.

So the motion to rise was rejected.

THE CHAIRMAN: The Chair will count. [After counting.] The Chair has been able to count over 20 Members in the Chamber who did not pass between the tellers. A quorum is present.

MR. PARKS: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. PARKS: On the report of the tellers there were 87 in the negative and 2 in the affirmative. Is that correct?

THE CHAIRMAN: That is correct.

MR. PARKS: Does the Chair announce that that number constitutes a quorum?

THE CHAIRMAN: It is not a quorum, but the Chair counted more than 20 Members who did not pass between the tellers. There are more than 100 Members present in the Chamber at this moment by count of the Chair. A

7. 74 CONG. REC. 1946, 71st Cong. 3d Sess.

quorum is present, and the gentleman from Mississippi is recognized.

§ 7.8 After the Chairman of the Committee of the Whole announced that a quorum was not present, a quorum was established on a teller vote rejecting a motion that the Committee rise.

On Feb. 28, 1945,[8] during consideration of H. R. 2374, the first defense appropriation bill of 1945, a quorum was established on a teller vote.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:[9] The Chair will count. [After counting.] Fifty-eight Members are present, not a quorum.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Missouri.

The question was taken; and on a division (demanded by Mr. Cannon of Missouri) there were—ayes 27, noes 52.

MR. CANNON of Missouri: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Cannon of Missouri and Mr. Taber.

The Committee again divided; and the tellers reported that there were—ayes 57, noes 61.

So the motion was rejected.

THE CHAIRMAN: A quorum is present. The gentleman from New York is recognized.

§ 7.9 Parliamentarian's Note: The Chair's count of a quorum is not subject to verification or appeal, and in recent practice, the Chair has refused to recognize a demand for tellers to verify his count of a quorum.

On May 20, 1949,[10] during consideration of H.R. 4591, providing for pay, allowances, and physical disability retirement for members of the armed forces, the Chair[11] refused tellers.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count. [After counting.] One hundred and five Members are present, a quorum.

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I demand tellers.

THE CHAIRMAN: The gentleman from Georgia has demanded tellers. The gentleman from Wisconsin made the point of order that a quorum was not present. The Chair counted 105 Members present. At this time there is no question before the House on which tellers can be ordered.

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8. 91 CONG. REC. 1576, 1577, 79th Cong. 1st Sess.

9. John J. Sparkman (Ala.).

10. 95 CONG REC. 6556, 81st Cong. 1st Sess. See also 8 Cannon's Precedents §§ 3112–3118.

11. Oren Harris (Ark.).

§ 7.10 The Chair kept a constant count of the Members present in a Committee of the Whole to forestall counting due to points of no quorum and his count was not subject to challenge by a demand for tellers thereon.

On May 4, 1933,[12] during consideration of H.R. 5390, a deficiency appropriation bill, Chairman Sam D. McReynolds, of Tennessee, kept a constant count of Members.

MR. [T. JEFF] BUSBY [of Mississippi]: Mr. Chairman, I make the point of order that there is not a quorum present. I think this is going to be a good speech.

THE CHAIRMAN: The Chair will count. [After counting.] One hundred and ten gentlemen present, a quorum.

MR. BUSBY: Mr. Chairman

THE CHAIRMAN: The Chair has kept the House counted with a view to being able to state how many gentlemen are in the Chamber.

MR. BUSBY: Mr. Chairman, I have some rights in this matter, and they are not to be dealt with in this sort of way.

MR. [EDWARD W.] GOSS [of Connecticut]: Mr. Chairman, I make the point of order that there can be no appeal from the decision of the Chair.

MR. BUSBY: I ask for tellers on the count of the Chair.

THE CHAIRMAN: The Chair will state for the information of the Committee that the Chair has been sitting here counting the House, and has kept a memorandum of the number. There were 92 gentlemen in the House when the point was made, and some 15 or 20 have come in from the cloakroom since.

MR. BUSBY: Mr. Chairman, I ask for tellers on the count of the Chair.

THE CHAIRMAN: It is only necessary for the Chair to announce the number present.

MR. BUSBY: I ask for tellers on the count of the Chair. Does the Chair refuse to proceed?

MR. GOSS: Mr. Chairman, I make the point of order there can be no appeal from the decision of the Chair.

THE CHAIRMAN: The point of order is sustained, and the gentleman from Minnesota will proceed.

The Motion to Rise

§ 7.11 In the Committee of the Whole a quorum is not required on a motion to rise.

On May 31, 1972,[13] during consideration of H.R. 13918, a bill to provide improved financing for the corporation for public broadcasting, Chairman Robert N. Giaimo, of Connecticut, ruled out of order a point of no quorum while a motion to rise was pending.

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I move that the Committee do now rise.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, on that motion I demand tellers.

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12. 77 CONG. REC. 2894, 73d Cong. 1st Sess.

13. 118 CONG. REC. 19353, 92d Cong. 2d Sess.

THE CHAIRMAN: The gentleman from Iowa is demanding tellers on the motion that the Committee do now rise?

MR. GROSS: That is correct, Mr. Chairman.

THE CHAIRMAN: The Chair will state to the gentleman that the Chair has not yet put the motion.

The question is on the motion offered by the gentleman from West Virginia that the Committee do now rise.

The question was taken; and the Chairman announced that the ayes appeared to have it.

MR. GROSS: Mr. Chairman, on that I demand tellers.

Tellers were refused.

MR. GROSS: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will advise the gentleman from Iowa that a quorum is not needed upon the motion that the Committee do now rise.

The motion was agreed to.

§ 7.12 Pending the Chair's count of a quorum, a motion that the Committee of the Whole rise is in order because that motion does not require a quorum for adoption.

On June 4, 1948,[14] the Chairman, W. Sterling Cole, of New York, stated that a motion that the Committee rise does not require a quorum.[15]

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I move that the Committee rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York.

MR. TABER: Mr. Chairman, on that I demand tellers.

MR. COOLEY: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COOLEY: Is the motion of the gentleman from New York in order pending the determination as regards the presence of a quorum?

THE CHAIRMAN: The gentleman's motion is in order. A quorum is not necessary upon a motion that the Committee rise.

Tellers were ordered, and the Chairman appointed as tellers Mr. Taber and Mr. Cannon.

The Committee divided; and the tellers reported that there were—aye 1, noes 64.

So the motion was rejected.

THE CHAIRMAN: Evidently a quorum is not present.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

§ 7.13 Where a point of order is made that a quorum is not present in the Committee of

14. 94 CONG. REC. 7178, 80th Cong. 2d Sess.

15. See also 80 CONG. REC. 3459, 74th Cong. 2d Sess., Mar. 9, 1936.

the Whole and the Chair announces that a quorum is not present, a motion that the Committee rise is in order before the Chair directs the Clerk to call the roll as provided in Rule XXIII clause 2.[16]

Instance where a quorum was established (on a teller vote) on the vote by which the Committee of the Whole rejected a motion to rise and the Committee then continued its business.

On May 26, 1966,[17] during consideration of H.R. 13712, the fair labor standards amendments of 1966, the Committee of the Whole resumed business after a teller vote.[1]

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:[2] The Chair will count. [After counting.] Sixty-seven Members are present, not a quorum.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Chairman, I move that the Committee do now rise. On that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Albert and Mr. Arends.

The Committee divided, and the tellers reported that there were—ayes 3, noes 108.

So the motion was rejected.

THE CHAIRMAN: A quorum is present.

The gentleman from Illinois [Mr. Collier] is recognized.

Consequences of Refusal to Rise

§ 7.14 Where a Committee of the Whole finds itself without a quorum and on motion refuses to rise, the Chair directs the Clerk to call the roll under Rule XXIII clause 2.[3]

On May 3, 1933,[4] during consideration of H.R. 5390, the third deficiency appropriation bill, the Chairman, Sam D. McReynolds, of Tennessee, directed the Clerk to call the roll.

THE CHAIRMAN: The Chair will count only Members. The Chair will count. [After counting.] One hundred and one Members present, a quorum. . . .

MR. [WILLIAM A.] AYRES of Kansas: Mr. Chairman, I yield 15 minutes to

16. See *House Rules and Manual* § 863 (1979).

17. 112 CONG. REC. 11621, 89th Cong. 2d Sess.

1. See also 74 CONG. REC. 886, 71st Cong. 3d Sess., Dec. 16, 1930, for another illustration of this principle.

2. Charles M. Price (Ill.).

3. See *House Rules and Manual* § 863 (1979).

4. 77 CONG. REC. 2834, 73d Cong. 1st Sess.

the gentleman from Ohio [Mr. Truax]. . . .

MR. [T. JEFF] BUSBY [of Mississippi]: Mr. Chairman, a quorum evidently is not present. I make the point of order that a quorum is not present. We should not be proceeding with a handful of Members. I am going to insist that a quorum remain present.

THE CHAIRMAN: The Chair will count. [After counting.] Sixty-eight Members are present; not a quorum.

MR. AYERS of Kansas: Mr. Chairman, I move that the Committee do now rise.

The question was taken, and the Chairman announced that the noes seemed to have it.

MR. [JOSEPH W.] BYRNS [of Tennessee]: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed Mr. Ayres of Kansas and Mr. Busby to act as tellers.

The Committee divided; and the tellers reported there were ayes 1 and noes 76.

So the motion was rejected.

THE CHAIRMAN: Evidently there is not a quorum present. The Clerk will call the roll.

MR. BUSBY: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. BUSBY: Is the roll call automatic?

THE CHAIRMAN: There is no automatic roll call.

MR. BUSBY: I understand no motion has been made that there be a call of the House.

THE CHAIRMAN: The gentleman from Mississippi [Mr. Busby] suggested that there was not a quorum present. No quorum is present. The Committee has refused to rise. The Clerk will call the roll.

MR. BUSBY: Mr. Chairman, I make the point of order that the roll call is not in order, because there is no authority for a roll call in Committee of the Whole.

THE CHAIRMAN: The Chair overrules the point of order. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Proceedings When Committee of the Whole Rises

§ 7.15 Where the Committee of the Whole rises and The Chairman thereof reports to the House that, pursuant to Rule XXIII clause 2,[5] he caused the roll to be called in Committee to establish the presence of a quorum, the House automatically resolves back into Committee.

On Apr. 6, 1967,[6] the House, after receiving a report from The Chairman of the Committee of the Whole, resolved itself back into the Committee.[7]

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5. See *House Rules and Manual* § 863 (1979).

6. 113 CONG. REC. 8600, 90th Cong. 1st Sess.

7. See also 115 CONG. REC. 9705, 91st Cong. 1st Sess., Apr. 21, 1969, for another illustration of this principle.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:[8] The Chair will count. [After counting.] A quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Dent, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 2512, and finding itself without a quorum, he had directed the roll to be called, when 376 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

§ 7.16 The Speaker does not conduct any business, even the reception of a message, while he occupies the chair to receive the report of The Chairman of the Committee of the Whole pursuant to Rule XXIII clause 2.[9]

On Apr. 21, 1969,[10] Speaker John W. McCormack, of Massachusetts, conducted no business other than to receive the report of the Chairman of the Committee of the Whole, when the Committee rose following a call of the Committee (under Rule XV clause 2). Immediately after the Committee resumed its sitting, it rose informally to permit the Speaker on behalf of the House to receive a message.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:[11] The Chair will count.

Forty Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 541, and finding itself without a quorum, he had directed the roll to be called, when 325 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

THE CHAIRMAN: The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The Speaker assumed the chair.

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8. John H. Dent (Pa.).

9. See *House Rules and Manual* § 863 (1979).

10. 115 CONG. REC. 9705, 91st Cong. 1st Sess.

11. Charles M. Price (Ill.).

THE SPEAKER: The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries.

THE SPEAKER: The Committee will resume its sitting.

§ 7.17 The Speaker pro tempore, having received the report of The Chairman of the Committee of the Whole that a quorum of the Committee appeared on a call of the roll under Rule XXIII clause 2,[12] immediately directs the Committee to resume its sitting and does not entertain points of no quorum.

On Aug. 2, 1967,[13] the Speaker pro tempore[14] refused to entertain a point of no quorum[1] under the following circumstances:

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:[2] The Chair will count.

Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Albert) having resumed the chair, Mr. Rostenkowski, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 5037, and finding itself without a quorum, he had directed the roll to be called, when 388 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

MR. WAGGONNER: Mr. Speaker——

THE SPEAKER PRO TEMPORE: For what purpose does the gentleman from Louisiana rise?

MR. WAGGONNER: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: That point of order is out of order. The Chair has just announced a quorum.

The Committee resumed its sitting.

§ 7.18 Where the Committee of the Whole resumed its sitting upon the establishment of a quorum, the pending question was the ordering of tell-

12. See *House Rules and Manual* § 863 (1979).
13. 113 CONG. REC. 21095, 90th Cong. 1st Sess.
14. Carl Albert (Okla.).
1. But see 6 Cannon's Precedents §§ 666, 667, in which points of no quorum were permitted following a rise of the Committee but before the Chairmen reported to the House. Those cases, however, are distinguishable from this precedent because in both instances the Committees had completed consideration of bills and the Chairmen had been instructed to report the Committee's conclusions.
2. Daniel D. Rostenkowski (Ill.).

ers which were demanded immediately prior to the point of no quorum.

On Mar. 23, 1970,[3] the Committee of the Whole resumed its sitting after the Chairman reported to the House that a quorum had appeared. When the Committee resumed its sitting, the pending business, the ordering of tellers, was considered.

THE CHAIRMAN:[4] The question is on the motion [to amend H.R. 15728, to permit the President to loan one submarine to Pakistan] offered by the gentleman from New York (Mr. Koch).

The question was taken; and on a division (demanded by Mr. Koch), there were—ayes 10, noes 50.

MR. [EDWARD I.] KOCH: Mr. Chairman, I demand tellers.

Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

Evidently a quorum is not present.

The Clerk will call the roll. . . .

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Price of Illinois) having resumed the chair, Mr. Dorn, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 15728, and finding itself without a quorum, he had directed the roll to be called, when 329 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman from South Carolina will state his parliamentary inquiry.

MR. RIVERS: Is the first order of business the ordering of tellers?

THE CHAIRMAN: The gentleman is correct. When the point of order was made that a quorum was not present, the gentleman from New York (Mr. Koch) had demanded tellers. The question before the Committee is on the question of ordering tellers.

Tellers were refused.

So the motion was rejected.

Point of No Quorum as Related to the Demand for Tellers

§ 7.19 After a point of no quorum was made, the Chairman of the Committee of the Whole indicated that he would not recognize a demand for a teller vote unless the point of order was withdrawn or a quorum established.

On Aug. 21, 1950,[5] during consideration of H.R. 9313, a bill to

3. 116 CONG. REC. 8562, 8563, 91st Cong. 2d Sess.

4. William J. Bryan Dorn (S.C.).

5. 96 CONG. REC. 12960, 12961, 81st Cong. 2d Sess.

amend the Agricultural Act of 1949, a demand for a teller vote was not entertained.

THE CHAIRMAN:[6] The question is on the amendment offered by the gentleman from Georgia [Mr. Davis].

The question was taken; and on a division (demanded by Mr. Davis of Georgia) there were ayes 21, noes 28.

MR. [JAMES C.] DAVIS of Georgia: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. DAVIS of Georgia: Mr. Chairman, I demand tellers.

THE CHAIRMAN: The gentleman withdraws his point of order that a quorum is not present?

MR. DAVIS of Georgia: I do not withdraw it. A parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DAVIS of Georgia: Was my point of order that a quorum is not present in order?

THE CHAIRMAN: The gentleman can make the point of order that a quorum is not present.

MR. DAVIS of Georgia: Mr. Chairman, I make that point of order, then.

THE CHAIRMAN: The Chair will count.

MR. DAVIS of Georgia: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DAVIS of Georgia: Mr. Chairman, if I insist on the point of order, will I then have an opportunity to have a roll-call vote on this question?

THE CHAIRMAN: Not in Committee of the Whole, no.

MR. DAVIS of Georgia: Mr. Chairman, another parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DAVIS of Georgia: Mr. Chairman, if I withdraw the point of order and ask for tellers, can I then obtain tellers if a sufficient number rises?

THE CHAIRMAN: The gentleman is correct. . . .

MR. DAVIS of Georgia: Mr. Chairman, a further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DAVIS of Georgia: Can the motion for tellers be made after a quorum is present?

THE CHAIRMAN: Yes.

§ 7.20 Where a Member, following a vote on an amendment, demands tellers and then immediately thereafter makes a point of order that a quorum is not present, the Chairman of the Committee of the Whole orders the Clerk to call the roll to establish Members' presence.

On Mar. 23, 1970,[7] Chairman W. J. Bryan Dorn, of South Carolina, ordered the Clerk to call the roll because a point of no quorum supersedes a demand for tellers.

THE CHAIRMAN: The question is on the motion [to amend H.R. 15728, to

6. Carl T. Durham (N.C.).

7. 116 CONG. REC. 8562, 8563, 91st Cong. 2d Sess.

permit the President to loan one submarine to Pakistan] offered by the gentleman from New York (Mr. Koch).

The question was taken; and on a division (demanded by Mr. Koch), were—ayes 10, noes 50.

MR. [EDWARD I.] KOCH: Mr. Chairman, I demand tellers.

Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

Evidently a quorum is not present.

The Clerk will call the roll.

MR. [F. EDWARD] HÉBERT [of Louisiana]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HÉBERT: Mr. Chairman, is it in order to call for a quorum when a call for a teller vote is asked for and should be in progress at that moment—you cannot interrupt a vote.

THE CHAIRMAN: The Chair will state that the gentleman from New York made the point that a quorum was not present.

MR. HÉBERT: No, no—the Record will show that he asked for a teller vote and then asked for a quorum.

THE CHAIRMAN: It is the understanding of the Chair that the gentleman asked for a teller vote and then made the point of order that a quorum was not present.

MR. HÉBERT: That is it—when he asked for a teller vote, he asked for a vote to be taken and that vote comes automatically. Having made that motion, he cannot get the other.

THE CHAIRMAN: The Chair will advise the distinguished gentleman from Louisiana that the Committee cannot do business without a quorum, and since it has been established a quorum is not present, the Chair has directed the Clerk to call the roll.

The Clerk will call the roll.

§ 8. Motions During the Call—To Adjourn

This section discusses the motion to adjourn only as it relates to quorums and calls of the House.[8] Article I, section 5 of the Constitution[9] provides that ". . . a Majority of each [House] shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day. . . ."

The rule which authorizes calls of the House on motion[10] does not mention adjournment. The rule which authorizes automatic votes by the yeas and nays,[11] however, provides that in the absence of a quorum "unless the House shall adjourn," there shall be a call of the House. Furthermore, the Speaker may entertain a motion to adjourn after the call has been completed, if the motion

8. See Ch. 40, infra, for discussion of adjournment generally.

9. *House Rules and Manual* §§ 52–57 (1979).

10. Rule XV clause 2(a), *House Rules and Manual* § 768 (1979).

11. Rule XV clause 4, *House Rules and Manual* § 773 (1979).